

**MEMORANDUM OF AGREEMENT
BETWEEN THE CENTRAL VIRGINIA TRANSPORTATION AUTHORITY
("CVTA") AND THE GREATER RICHMOND TRANSIT COMPANY ("GRTC")
REGARDING DISTRIBUTION AND USE OF 15% FUNDS UNDER CHAPTER
1235 OF THE 2020 VIRGINIA ACTS OF ASSEMBLY**

THIS MEMORANDUM OF AGREEMENT, effective this ____ day of _____, 2021 (the "Agreement"), is by and between CVTA and GRTC (collectively, the "Parties"), under Chapter 1235 of the 2020 Virginia Acts of Assembly ("Chapter 1235") concerning the distribution of proceeds from the Central Virginia Transportation Fund and related administrative matters.

WITNESSETH:

WHEREAS, the Central Virginia Transportation Fund and the CVTA were established by the Chapter 1235, Va. Code Ann. §§ 33.2-3700, *et seq.*, the local jurisdiction members of which include the counties of Henrico, Chesterfield, Hanover, New Kent, Powhatan, Goochland, Charles City, the City of Richmond, and the Town of Ashland (collectively and individually "City/County/Town"), which localities also comprise Planning District 15; and,

WHEREAS, the Chief Executive Officer of the GRTC serves as an *ex officio*, nonvoting member of the CVTA; and,

WHEREAS, in accordance with Va. Code Ann. § 33.2-3701, a special non-reverting fund for Planning District 15, known as the Central Virginia Transportation Fund was established on the books of the state Comptroller, comprised of taxes and fees levied in accordance with Va. Code §§ 58.1-638 58.1-2291, *et seq.*, and paid into the state treasury, interest earned on moneys in the fund and credited to it, and any other funds that may be received for the credit of the aforesaid fund (the "Fund"); and,

WHEREAS, proceeds of the Fund are distributed to CVTA for use in accordance with Va. Code § 33.2-3701; and,

WHEREAS, in accordance with, and subject to the requirements of Va. Code § 33.2-3701, fifteen percent (15%) of the revenues received by CVTA will be distributed to the GRTC, or its successor, to provide transit and mobility services in Planning District 15; and,

WHEREAS, among the other requirements of Chapter 1235, the GRTC will deposit all Fund revenues received from CVTA in a separate, special fund ("The GRTC Fund"); and,

WHEREAS, § 33.2-3701 further requires the GRTC to provide annually to CVTA sufficient documentation as required by CVTA showing that the revenues received from the Fund by the GRTC were applied in accordance with CVTA approval and the guidelines required by § 33.2-286; and,

WHEREAS, CVTA has a responsibility to see that the 15% Funds are properly spent, and that each recipient of Fund proceeds adhere to the statutory and other legal obligations that it has with regard to the Fund;

WHEREAS, CVTA has requested that each Authority member receiving proceeds from the Fund enter into a separate Memorandum of Agreement in order to implement the provisions of and comply with Chapter 1235 and each member receiving proceeds has agreed;

WHEREAS, each local government or agency member of the CVTA has agreed to be bound by all terms and conditions in a separate Memorandum of Agreement with CVTA (“CVTA/Member MOA”), for purposes of ensuring compliance with Chapter 1235 and all applicable requirements of the CVTA Act with regard to the receipt, maintenance, management, oversight, distribution, and use of all funds from the CVTA Fund;

NOW, THEREFORE, in consideration of the foregoing, which is hereby incorporated within this “Agreement” and the mutual undertakings of the parties, the CVTA and the GRTC agree as follows:

1. Use and Availability of Funds. The Parties acknowledge that, as more specifically provided under applicable law (and without any intent or agreement to affect or expand the interpretation of application of law), the CVTA revenues that are deposited into the CVTA Fund and available for use from time to time are subject to an appropriation by the General Assembly. Use of funds deposited into the Fund will be consistent with applicable state and federal law.

2. CVTA’s Management of CVTA Funds.

A. CVTA will manage the CVTA Fund and all funds therein and will receive from the Commonwealth's Comptroller regular distributions of the sums deposited in the special non-reverting fund created in the state treasury known as the Central Virginia Transportation Fund.

B. CVTA will accept each such distribution of funds and deposit them as it deems appropriate, and will manage such deposits, including investments thereof which will be made pursuant to CVTA’s investment policy and procedures as such may be revised from time to time, all in accordance with generally accepted accounting principles and all applicable legal requirements.

C. CVTA will provide to its governing board periodic reports of deposits on hand and all disbursements and expenditures thereof, and will obtain an annual audit of its financial records.

D. CVTA and each member receiving CVTA funds will use the funds solely for transportation purposes benefiting the communities within Planning District 15.

E. CVTA will segregate and distribute CVTA member funding according to the methodology described in the state code.

3. CVTA’s Administrative Expenses. Pursuant to §§ 33.2-3701(D) and 33.2-3706, CVTA will provide for the payment of its administrative and operating expenses from the CVTA Fund prior to calculating distributions and issuing payments of CVTA Fund proceeds to the member jurisdictions and agencies.

4. Establishment and Maintenance of Separate Account by GRTC. GRTC will create and administer a separate, special fund for the receipt of CVTA distributions and will deposit all funds from the CVTA in the separate, special fund, pursuant to § 33.2-3701(G).

5. CVTA's Distributions of 15% Funds to GRTC.

A. CVTA will make regular distributions of the 15% Funds to GRTC in accordance with applicable law and this Agreement. Such distributions will be received by and administered within the separate, special fund established by GRTC for this purpose, as described in paragraph 4 above.

B. Beginning no later than the month following final approval and execution of this Agreement by the parties, CVTA will begin to distribute to GRTC the 15% Funds, with interest at the rate earned by CVTA, if any; and, subject to CVTA's continued receipt of funds from the Comptroller, will continue to distribute to GRTC its respective 15% Funds on a monthly basis; provided that GRTC remains in compliance with the terms of this Agreement and all applicable provisions of law.

C. Prior to distributing funds, CVTA will notify GRTC of the amount of the intended distribution. GRTC will certify and accept the transfer amounts before funds are disbursed to it and confirm receipt of the funds.

6. CVTA Fund Distributions to GRTC.

A. All distributions of funds by CVTA to GRTC under this Agreement, outside of the 15% Funds, will be project based and effected by the reimbursement method only.

B. All requests for reimbursements will be submitted in a form and manner determined by and acceptable to CVTA.

C. Upon proper submission and after review and approval by CVTA will transmit payment to GRTC within thirty (30) days from receipt of the request for reimbursement and may be made via electronic transfer of funds, if the two parties so agree.

D. For certain projects and on a case-by-case basis, if necessary, GRTC may request pre-payment of project costs. In such cases, GRTC shall submit a request for pre-payment with sufficient information specifying the project, needs, justification, and amount to be pre-paid. The CVTA shall consider such requests on a case-by-case basis and is not bound to approve such requests.

E. Prior to distributing funds, CVTA will notify GRTC off the amount of the intended distribution. GRTC will certify and accept the transfer amounts before funds are disbursed to it and confirm receipt of the funds.

7. GRTC's Use of CVTA Funds. GRTC Revenue (15% Funds) from the CVTA must be applied to operating or capital needs as defined in GRTC's Regional Public Transportation Plan developed in conformance with the guidelines required by State Code §33.2-286 and as approved by the CVTA per the Central Virginia Transportation Authority Act.

8. GRTC Quarterly Reports and Annual Certification.

A. GRTC will provide the CVTA Finance Committee a quarterly report on expenditures by November 15, February 15, May 15, and August 15 of each year, beginning upon the execution of this Agreement.

B. GRTC will annually certify and provide CVTA a report on expenditures with sufficient information showing that the funds received from the CVTA were applied in compliance with CVTA requirements and applicable law. GRTC will submit its Annual Certification, report, and all supporting documentation to CVTA on or before December 1st of each year, showing that revenues received by GRTC from the CVTA were applied in accordance with the Regional Public Transportation Plan. GRTC will submit, as part of its Annual Certification or as a supplement, a financial report. The CVTA Finance Committee will review the submitted quarterly expenditure reports and the Annual Certification and formally adopt a resolution of acceptance of the reports and issue a memo of acknowledgement and acceptance of appropriate funds utilization within 90 days of report submittal.

C. In the event GRTC fails to provide quarterly expenditure reports or the Annual Certification as required above and no extension is granted by the CVTA, the CVTA Board may authorize the CVTA Finance Committee to withhold further distributions of GRTC's 15% Funds until the certification and supplemental information is provided in compliance with this Agreement. Once GRTC provides an acceptable certification and report with appropriate documentation, all withheld funds, inclusive of any interest accrued on such withheld funds, if any, will be made available for distribution to GRTC as soon as practicable.

D. In the event that the CVTA Finance Committee has concerns or identifies deficiencies with the details of any submitted quarterly expenditure reports and/or Annual Certification, the CVTA Finance Committee will notify GRTC of such issues or deficiencies and allow GRTC 30 days to respond or achieve compliance. If GRTC disputes the issues or deficiencies, GRTC and CVTA will allow a further 30 days to allow for a cooperative resolution. If, after this 30-day period, the parties are still in dispute, they will enter into third-party mediation, with such mediator being approved by both parties and under which the decision of said mediator shall be final and binding.

9. Regional Public Transportation Plan.

A. GRTC is charged under Chapter 1235 with developing a plan for regional public transportation ("Regional Public Transportation Plan" or "Plan") within Planning District 15 in collaboration with the Richmond Regional Transportation Planning Organization (RRTPO) in conformance with the guidelines required by § 33.2-286 of the *Code of Virginia*.

B. In order to complete the Regional Public Transportation Plan, GRTC will cooperate with the RRTPO's Public Transportation Work Group and will engage appropriate assistance from identified transportation consultants.

C. All costs associated with the Plan will be paid by GRTC from the 15% Funds GRTC receives from the CVTA.

D. GRTC will inform the CVTA concerning the Plan's development status on a regular basis or upon request by the CVTA.

E. GRTC will complete and submit the Plan to the CVTA within sufficient time to allow for CVTA's consideration and action prior to the end of the fiscal year.

10. Failure to Comply with Memorandum of Agreement.

A. In the event either party fails to perform any of its obligations under this Agreement, the other party will provide written notice to the Executive Director of the party of such failure or non-compliance.

B. The party in alleged default will cure or commence to cure the event of noncompliance within thirty (30) days of receipt of notice from the other party.

C. Upon its receipt and review of the notice of default from the party, the party in alleged default may dispute any matters set forth in such notice; and in such circumstances will advise the other party's Executive Director/Administrator that any such matter is in dispute.

D. In the event the party in alleged default fails to cure or commence to cure the event of noncompliance and diligently pursue completion thereof, the parties will immediately seek the assistance of a mediator or arbitrator to resolve the dispute. However, nothing will prohibit either party from pursuing all legal remedies that may be available to it at law or in equity to obtain compliance with the terms of this Agreement and applicable law.

11. GRTC's Obligation to Reimburse Misused Funds to CVTA.

A. Upon a final determination of misuse or misallocation of funds, in addition to the consequences set forth in Paragraph 8C, the CVTA Board may require GRTC to reimburse CVTA the full amount of such misused funds which shall include an additional sum in the amount of the accrued interest that would have been incurred on the funds had they remained unspent in the holding account and under the applicable interest rates of that account. Until the full amount is reimbursed to CVTA, CVTA Board may also withhold further distributions of the 15% Funds to GRTC.

12. Maintenance of Records by GRTC and CVTA. GRTC and CVTA will maintain all records relating to the 15% Funds and the use thereof for a minimum of five (5) years from the date the record was created. In addition to the foregoing, GRTC and CVTA will comply with the Virginia Public Records Act and all applicable state and federal laws with regard to the retention of public records.

13. Notice. Any notice required or permitted to be provided under this Agreement will be in writing and delivered in person, or sent by U.S. Mail to the below named representatives at the below addresses:

CVTA:

CVTA Administrator
Central Virginia Transportation Authority
c/o PlanRVA
9211 Forest Hill Avenue, Suite 200
Richmond, Virginia 23235

GRTC:

Chief Executive Officer
Greater Richmond Transit Company
301 East Belt Boulevard
Richmond, Virginia 23224

CVTA and GRTC may change their respective representative designated to receive notices for purposes of this Agreement by providing written notice of such change to the other party.

14. Entire Agreement. This Agreement constitutes the entire agreement between GRTC and CVTA and supersedes any prior understanding or agreement between them with regard to any of CVTA's distributions to GRTC of the 15% Funds; except that the parties understand and acknowledge that the VDOT/CVTA MOA referenced above has been expressly incorporated.

15. No Third-Party Beneficiaries. The provisions of this Agreement will inure to the benefit of, and bind GRTC and CVTA, but will not inure to the benefit of any other party or other persons.

16. Interpretation and Construction. This Agreement will be interpreted and construed in such a way as to give meaning to all of its term and conditions, consistent with applicable law, and where necessary, to reconcile those terms and conditions with applicable law and to give effect to its plain meaning. The parties acknowledge that this Agreement has been jointly developed, drafted, reviewed, and approved, that each has had the benefit of legal counsel during this process and, therefore, the Agreement will be interpreted and construed neutrally, without preference, and neither in favor of, nor to the detriment of either party.

17. Severability. If any provision of this Agreement or the application of the provision to any circumstance is invalid, illegal or unenforceable to any extent, the application of the remainder of the provision will not be affected, and will be enforceable to the fullest extent permitted by law, and the remainder of this Agreement will remain in full force and effect.

18. Amendments. Any amendment to this Agreement must be made in writing and signed by the authorized representatives of the GRTC and the CVTA.

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[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREFORE, the parties hereto, by their duly authorized representatives, have executed this Agreement as of the date and year aforesaid.

Central Virginia Transportation Authority

Attest:

Clerk

By: _____

Title: _____

Greater Richmond Transit Company

Attest:

Clerk

By: _____

Title: _____

DRAFT



Chesterfield County, Virginia

Office of the Treasurer



"Providing a FIRST CHOICE community through excellence in public service"

Rebecca R. Longnaker, CPA
Treasurer

Timothy M. McPeters
Chief Deputy Treasurer
Sherry J. Swanson
Chief Deputy Treasurer

March 1, 2021

Central Virginia Transportation Authority Finance Committee:

My position as the Treasurer of Chesterfield County also means that I serve the Central Virginia Transportation Authority (CVTA) under the fiscal agent agreement for banking and investment services. We have now received sales/use and fuel tax through January 31, 2021, putting a substantial balance in both the CVTA Regional and the CVTA GRTC bank accounts. I propose to open separate investment accounts for each of these funds with the Local Government Investment Pool (LGIP) and the VML/VACo Virginia Investment Pool (VIP). In light of the current economic climate, and the relative newness of the CVTA, it is best to have the funds invested and yet liquid to be available if needed.

As project plans begin to take shape and we have a forecast of when funds would be needed from either of these accounts, I will begin to invest in longer term vehicles. All investments will be governed by the policy in place for Chesterfield County, which adheres to that of the Code of Virginia Investment of Public Funds. As my office handles Chesterfield County's investment portfolio in-house, we are well equipped to handle the investment portfolio for CVTA.


For informational purposes, below are the most recently posted rates for February 2021 and I have included our most recent investment report as an example of the report that would be produced monthly for CVTA.

Immediate Liquidity:

LGIP	.11%
VIP	.12%

2 year maturities:

VIP 1-3 year	.16%
US Treasury	.13%
Callable Agencies	.15%


Rebecca R. Longnaker, CPA, MGT
Treasurer, Chesterfield County