

FIRST AMENDMENT TO THE AMENDED AND RESTATED COMPREHENSIVE AGREEMENT (RELATING TO THE GRANT OF A PERMIT) TO DEVELOP AND OPERATE THE ROUTE 895 CONNECTOR

This FIRST AMENDMENT TO THE AMENDED AND RESTATED COMPREHENSIVE AGREEMENT (RELATING TO THE GRANT OF A PERMIT) TO DEVELOP AND OPERATE THE ROUTE 895 CONNECTOR (this "Amendment") is made and entered into as of May _____, 2009 by and between the VIRGINIA DEPARTMENT OF TRANSPORTATION (the "Department"), an agency of the Commonwealth of Virginia (the "State"), the address of which Department is 1401 East Broad Street, Richmond, Virginia 23219; and TRANSURBAN (895) LLC, a Delaware limited liability company (the "Operator"), the address of which is c/o Transurban (895) US Holdings LLC, 405 Lexington Avenue, 43rd Floor, New York, New York 10017.

RECITALS

WHEREAS, the Department and the Concessionaire entered into the Amended and Restated Comprehensive Agreement (Relating to the Grant of a Permit) to Develop and Operate the Route 895 Connector, dated as of June 29, 2006 (the "Comprehensive Agreement"), by and between the Department and the Operator, pursuant to which, among other things, the limited access tollway known as the Route 895 Connector located in Richmond, Virginia (and informally known as the Pocahontas Parkway) is being managed and operated; and

WHEREAS, the Department and the Operator desire to amend the Comprehensive Agreement to implement certain corrections to such agreement upon the terms set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

1. SWAM Reporting. The third sentence in Section 11.03 of the Comprehensive Agreement is hereby amended to read as follows:

"The Operator is required to report, through the Department's Civil Rights Division, actual payments, retainage, minority status, and the work type of all subcontractors and suppliers, in accordance with regulations established by the Department."

2. Amendments to Exhibit H. Exhibit H to the Comprehensive Agreement is hereby amended as follows:

(a) The sub-section entitled "Quarterly and Annual Reporting" in Section F of Part I (General) is amended so that references to delivery of the quarterly reports by the Operator occur no later than 15 days after the end of each fiscal quarter of the Operator and delivery of the annual reports by the Operator occur no later than 30 days after the end of each fiscal year of the Operator. In the event that the Operator changes its fiscal year, it shall notify the Department of such change and shall provide

its annual report for its previously established fiscal year as well as for its new fiscal year and each new fiscal year thereafter.

(b) The sub-section entitled “Inspection Plan” in Section A of Part II (Maintenance) is amended as follows:

“Inspection Plan

Delivery: No later than 60 days before the Transitional Period is scheduled to end.

The Inspection Plan shall include, as a minimum, the following:

1. For each asset, the Operator’s expected program for routine inspections to be performed by Operator staff; and
2. For each asset, the Operator’s expected program for Extraordinary Maintenance and repair Work inspections to be performed by Operator staff.”

Inspection and inspection periods shall follow the Department guidelines.

(d) The sub-section entitled “Minimum Quality of Road at Transfer” in Part IV (Transfer Requirements) shall be renumbered from A. to B.

3. Definitions. Each capitalized term used and not otherwise defined herein shall have the meanings assigned to such term in the Comprehensive Agreement.
4. No Modification. This Amendment is limited to the matters set forth herein and shall not constitute a modification or waiver of any other provision of the Comprehensive Agreement. The parties hereto reconfirm the agreements, rights and remedies as set forth in the Comprehensive Agreement.
5. Headings. The headings herein are for convenience only and shall be ignored in construing this Amendment.
6. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.
7. Severability. In case any provision in or obligation under this Amendment shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.
8. Binding Effect; Successors. This Amendment shall be binding upon the Department and its successors and assigns and the Operator and its successors and assigns.

9. Counterparts. This Amendment may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile signatures of original signatures shall be deemed original signatures.

[signature page follows]

IN WITNESS WHERE, the parties, intending to be legally bound, have executed this Agreement on the date first written above.

VIRGINIA DEPARTMENT OF
TRANSPORTATION,
an agency of the Commonwealth of Virginia

By: _____
David S. Ekern, P.E.
Commonwealth Transportation Commissioner

TRANSURBAN (895) LLC,
a Delaware limited liability company

By: _____
Name:
Title: