

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

RESOLUTION 14-07

APPROVING INCREASE IN FY 2014 PAY-GO FUNDING ALLOCATION TO LOUDOUN COUNTY ROUTE 28 HOT SPOT IMPROVEMENT PROJECT

WHEREAS, the Northern Virginia Transportation Authority ("NVTA") is a political subdivision of the Commonwealth of Virginia created by the Northern Virginia Transportation Authority Act (the "NVTA Act"), Chapter 48.2, Title 15.2, Code of Virginia of 1950, as amended (the "Virginia Code"); and

WHEREAS, as provided by Section 15.2-4831 of the NVTA Act, NVTA embraces the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park (collectively, the "Member Localities"); and

WHEREAS, Planning District 8 established pursuant to Chapter 42 of Title 15.2 of Virginia Code is composed of the Member Localities; and

WHEREAS, NVTA prepared and on November 8, 2012, approved a regional transportation plan for Planning District 8 entitled "TransAction 2040 Regional Transportation Plan" ("TransAction 2040") pursuant to Section 15.2-4838 of the NVTA Act; and

WHEREAS, on April 3, 2013, the Virginia General Assembly adopted the Governor's substitute for House Bill 2313 ("HB 2313"), which provides, among other things, for transportation funding and related reform both on a statewide basis and on a regional basis for NVTA and Planning District 8; and

WHEREAS, HB 2313 added Section 15.2-4838.01 to the NVTA Act, under which was established the Northern Virginia Transportation Authority Fund (the "NVTA Fund"); and

WHEREAS, the NVTA Fund will receive the revenues dedicated to it under Sections 58.1-638, 58.1-802.2 and 58.1-1742 of the Virginia Code and any other funds that may be appropriated to the Fund by the General Assembly (the "HB 2313 Transportation Revenues"); and

WHEREAS, subsection B of Section 15.2-4838.1 of the NVTA Act provides that 30% of the revenues received by NVTA (the "NVTA Revenues"), including the HB 2313 Transportation Revenues, shall be distributed on a pro rata basis to the Member Localities to be applied as provided therein; and

WHEREAS, subsection C.1. of Section 15.2-4838.1 provides that in Fiscal Year 2014 NVTA shall use the remaining 70% of the NVTA Revenues plus the amount of any NVTA Revenues to be redistributed pursuant to subsection B (the "Regional NVTA Funds,") to fund (i) transportation projects selected by NVTA that are contained in TransAction 2040 or (ii) mass transit capital projects that increase capacity; and

WHEREAS, on April 25, 2013, NVTA directed the Project Implementation Working Group (the "PIWG") to recommend actions for NVTA to undertake transportation projects, including developing a list of projects to be funded in Fiscal Year 2014 through a process that, among other things, assures that each project will satisfy the statutory criteria for project selection set forth in the NVTA Act (the "Statutory Criteria"); and

WHEREAS, the PIWG developed a selection process (the "FY 2014 Project Selection Process") that on July 24, 2013, was approved by NVTA pursuant to a resolution entitled "**Resolution Approving the Process Used to Select Projects to be Financing with Fiscal Year 2014 NVTA Funds, the Projects to be Financed by such Funds and the Carryover of Certain Projects for Future Consideration**" (the "FY 2014 Project Selection Process Resolution"); and

WHEREAS, as described in the FY 2014 Project Selection Process Resolution, the PIWG (i) applied the FY 2014 Project Selection Process to a list of projects submitted by the Member Localities and transportation agencies and (ii) considered the public comments received regarding such projects as well as the results of the FY 2014 Project Selection Process in developing the projects ultimately approved for financing and attached as Attachment B.1. to the FY 2014 Project Selection Process Resolution (the "Recommended FY 2014 Program"); and

WHEREAS, pursuant to direction received at the June 20, 2013, NVTA meeting, the PIWG developed a selection process to evaluate projects for bond financing (the "Bond Selection Process"); and

WHEREAS, on July 24, 2013, NVTA approved the application of the FY 2014 Bond Selection Process to the projects included in the Recommended FY 2014 Program pursuant to a resolution entitled "**Resolution Authorizing the Issuance of Transportation Facility Revenue Bonds**" (the "Bond Authorization Resolution"); and

WHEREAS, as described in the Bond Authorization Resolution, NVTA selected projects from the Recommended FY 2014 Program to receive bond financing (the "FY 2014 Bond Projects"); and

WHEREAS, one of the FY 2014 Bond Projects is referenced as the Route 28 Hot Spot Improvements (the "Route 28 Hot Spot Project"), which has an estimated total project cost of \$12,400,000 and pursuant to the Bond Authorization Resolution has been designated to receive \$6,400,000 in Fiscal Year 2014 bond financing; and

WHEREAS, before the NVTA meeting of July 24, 2013, but outside of the PIWG decision process, Loudoun County staff requested that NVTA provide an additional \$6,000,000 in pay-as-you-go financing to the Route 28 Hot Spot Project; and

WHEREAS, NVTA expects to receive Regional NVTA Funds in Fiscal Year 2014 in amounts sufficient to fund the entire Recommended FY 2014 Program and the additional request for the Route 28 Hot Spot Project; and

WHEREAS, the PIWG has recommended that NVTA approve the additional \$6,000,000 in pay-as-you-go financing for the Route 28 Hot Spot Project from the Regional NVTA Funds to be received in Fiscal Year 2014 and add the Route 28 Hot Spot Project to the list of FY 2014

PAYGO Projects approved by NVTa on July 24, 2013, pursuant to a resolution entitled "**Resolution Approving the Projects to be Financed with Regional NVTa Funds Received in Fiscal Year 2014 on a Pay-As-You-Go Basis**" (the FY 2014 PAYGO Resolution"); and

WHEREAS, the PIWG has made such recommendation because it (i) has determined that the design for the Route 28 Hot Spot Project is complete and the additional funding will enable all of the construction for the project to be procured and awarded at one time, thereby expediting the commencement and completion of the project, (ii) made a similar adjustment to one of the FY 2014 Bond Projects (Route 28 from Linton Hall Road to Fitzwater Drive) at the request of Prince William County (although Prince William County's request was received in time for consideration in the PIWG decision process); and (iii) understands that Loudoun County's request is a special circumstance and the approval thereof will not be used as a precedent for future out-of-cycle funding allocation requests.

After careful consideration and to further the public purposes for which NVTa was created, NOW, THEREFORE, BE IT RESOLVED BY NVTa THAT:

1. Approval of Addition of Route 28 Hot Spot Project to FY 2014 PAYGO Projects. NVTa hereby approves Loudoun County's request to use an additional \$6,000,000 in Regional NVTa Funds received in Fiscal Year 2014 to pay the costs of the Route 28 Hot Spot Project on a pay-as-you-go and to add the Route 28 Hot Spot Project to the list FY 2014 PAYGO Projects. As such, the Route 28 Hot Spot Project is a FY 2014 Bond Project for up to \$6,400,000 of its estimated total project cost of \$12,400,000 and is a FY 2014 PAYGO Project for the remaining \$6,000,000. NVTa hereby (i) reaffirms the findings, determinations and approvals that are embodied in the FY 2014 Project Selection Process Resolution regarding the Route 28 Hot Spot Project and (ii) states its intention that the approval of Loudoun County's request will not be used as a precedent for future out-of-cycle funding allocation requests.


2. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of, or project approved by, this Resolution is for any reason held or decided to be unconstitutional or invalid, such decision of unconstitutionality or invalidity shall not affect the validity of the remaining portions. NVTa hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause and phrase thereof and project listed therein even though any one or more sections, subsections, sentences, clauses, phrases or projects might be declared unconstitutional or invalid.

3. Additional Actions. Each member, officer and authorized representative of NVTa is authorized to execute and deliver on NVTa's behalf such other instruments, documents or certificates, and to do and perform such things and acts as he or she shall deem necessary or appropriate to carry out the transactions authorized by this Resolution. Any of the foregoing previously done or performed by any member, officer, or authorized representative of NVTa is in all respects approved, ratified and confirmed. In the Chairman's absence, the Vice Chairman is authorized to take any action specifically assigned to the Chairman under this Resolution.

4. Effective Date. This Resolution shall take effect immediately.

Adopted by the Northern Virginia Transportation Authority on this 23rd day of January 2014.

BY: 
Chairman

ATTEST: 
Clerk