

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

- RESOLUTION 04-08 -

AUTHORIZING CERTAIN LEGAL PROCEEDINGS IN CONNECTION WITH THE ISSUANCE OF THE AUTHORITY'S TRANSPORTATION FACILITIES REVENUE BONDS

WHEREAS, the Northern Virginia Transportation Authority ("NVTA") is a political subdivision of the Commonwealth of Virginia (the "Commonwealth") 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, Section 15.2-4839 of the NVTA Act authorizes and empowers NVTA to issue bonds and other evidences of debt and provides that the provisions of Article 5 (Section 15.2-4519 et seq.) of Chapter 45 of Title 15.2 of the Virginia Code, shall apply, *mutatis mutandis*, to the issuance of such bonds or other debt; and

WHEREAS, Section 15.2-4519 of the Virginia Code provides that NVTA's bonds may be payable from and secured by a pledge of all or any part of the revenues, moneys or funds of NVTA as specified in a resolution adopted or indenture entered into by NVTA; and

WHEREAS, on April 4, 2007, the Virginia General Assembly adopted the Governor's substitute for House Bill 3202 ("HB 3202"), which provides for transportation funding and related reforms both on a statewide basis and on a regional basis for NVTA and the Member Localities and the Hampton Roads Transportation Authority and the localities embraced thereby; and

WHEREAS, under HB 3202 NVTA has been authorized and empowered to impose any one or more of seven regional taxes and fees, specifically, (i) the additional annual regional vehicle registration fee under Section 46.2-755.1 of the Virginia Code, (ii) the initial vehicle registration fee under Section 46.2-755.2, (iii) the additional safety inspection fee under Section 46.2-1167.1, (iv) the retail sales and use tax on auto repairs under Sections 58.1-605 and 58.1-606, (v) the regional congestion relief fee under Section 58.1-802.1, (vi) the local rental car transportation fee under Section 58.1-2402.1 and (vii) the additional transient occupancy tax under Section 58.1-3825.1 (collectively, the "Regional Taxes and Fees"), one or more of which have been imposed by NVTA; and

WHEREAS, the revenues derived from the Regional Taxes and Fees, net of the administrative costs which may be deducted therefrom under the Virginia Code and guidelines, policies and procedures described in enactment clause 13 of HB 3202, shall be referred to below as the "Regional Tax and Fee Revenues;" and

WHEREAS, Section 15.2-4838.1 of the NVTA Act provides that 40% of the revenues received by NVTA (the "NVTA Revenues"), including the Regional Tax and Fee Revenues, shall be distributed on a pro rata basis to the Member Localities to be applied as provided therein; and

WHEREAS, Section 15.2-4838.1 further provides that the first required use of the remaining 60% of the NVTA Revenues (the "Pledgeable NVTA Revenues") is to pay any debt service owing on any of the bonds of NVTA; and

WHEREAS, NVTA has determined to proceed with the issuance of its bonds in a principal amount not to exceed \$130,000,000 (as more particularly defined below, the "Bonds") under the terms and conditions set forth in that certain resolution adopted the date hereof entitled "Resolution 03-08 Authorizing the Issuance of Not to Exceed \$130,000,000 Transportation Facilities Revenue Bonds" (the "Bond Resolution"); and

WHEREAS, NVTA will apply the proceeds of the Bonds, along with other available funds, to pay the issuance and financing costs thereof, to fund any required reserves and to pay the costs of the construction and acquisition of the transportation facilities and projects described in the Bond Resolution; and

WHEREAS, debt service payments on the Bonds will be made from the portion of the Pledgeable NVTA Revenues pledged thereto as provided in the Bond Resolution and the Indenture (defined in the Bond Resolution) and the investment earnings on certain funds and accounts to be established under the Indenture; and

WHEREAS, the NVTA Act provides in Section 15.2-4520 that Article 6, Chapter 26, Title 15.2 of the Virginia Code pertaining to the judicial determination of validity of bonds (the "Validation Provisions") shall apply to all suits, actions and proceedings of whatever nature involving the validity of bonds issued by NVTA under the NVTA Act, and the Validation Provisions may, among other things, establish the validity of the bonds, the legality of all proceedings taken in connection with the authorization or issuance of the bonds, the validity of the tax or other means provided for the payment of the bonds, and the validity of all pledges of revenues and of all the covenants and provisions that constitute a part of the contract between the issuer and the owners of the bonds; and

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

1. Authorization of Validation. In consultation with and with the approval of the Council of Counsels, McGuireWoods LLP, as Bond Counsel, is authorized to initiate a validation proceeding in a court of competent jurisdiction with respect to the Bonds under the Validation Provisions to establish the validity of the Bonds and any or all of the other matters permitted under the Validation Provisions, including any appeals related thereto. Bond Counsel

is also authorized on NVTA's behalf and under the supervision and direction of the Council of Counsels to continue all proceedings and undertake all acts (including without limitation the preparation and filing of required documents and the giving of required notices) as it may deem necessary and proper in connection with the validation proceeding.

2. Authorization of Defense. Acting under the supervision and direction of the Council of Counsels, Bond Counsel is also authorized to undertake the defense of NVTA in any legal challenge of the validity of the Bonds, the imposition of any of the Regional Taxes and Fees or any related matters or proceedings, including any appeals related thereto

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

Adopted by the Northern Virginia Transportation Authority, on this 12th day of July, 2007.

BY

Chairman

Attest

Vice Chairman


