



## NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

### MEMORANDUM

**TO:** Chairman Martin E. Nohe and Members  
Northern Virginia Transportation Authority

**FROM:** Mayor Parrish, Chairman, Finance Committee

**DATE:** December 1, 2016

**SUBJECT:** Acceptance of Funds from the Commonwealth of Virginia to Incorporate the  
HB599 Evaluation Process into the update of TransAction

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**Purpose:** The Commonwealth of Virginia has agreed to fund the analysis for the integration of the HB 599 project evaluation process into the update of TransAction. The acceptance of this funding requires approval of the Northern Virginia Transportation Authority (NVTA). The acceptance of funds from the Commonwealth of Virginia and associated Action Item related to the contract change order were reviewed by the NVTA Finance Committee on November 17, 2016. The Finance Committee recommends approval of the funding agreement.

**1. Suggested Motion:** *I move Authority approval of the acceptance of up to \$600,000 from the Commonwealth of Virginia for the purpose of incorporating the HB 599 project evaluation process into the current TransAction Update.*

**2. Background:**

- a. After a competitive procurement process the Authority approved a contract for the update to the Northern Virginia regional transportation plan (TransAction) on July 23, 2015.
- b. TransAction is Northern Virginia's long range transportation plan that will guide the development of the Authority's first Six Year Program.
- c. In addition to being in TransAction, projects being considered for HB 2313 (2013) 70% regional revenue funds are also required to be evaluated under a methodology in compliance with HB 599 (2012).
- d. The current cost estimate for the contract amendment to incorporate the HB 599 analysis into the TransAction update is \$485,140.
- e. Through an agreement with the Commonwealth of Virginia, funding from the Commonwealth in an amount up to \$600,000, has been obtained to support the incorporation of HB 599 into the TransAction Update.
- f. Funds from the Commonwealth will be accessed on a reimbursement basis.

**Attachment:**

Virginia Department of Transportation – Standard Project Administration Agreement  
(State-aid Projects)

**STANDARD PROJECT ADMINISTRATION AGREEMENT  
State-aid Projects**

Project Number	UPC	Local Government
FY17OIPINVTAHB599STUDY	110234	Northern Virginia Transportation Authority

THIS AGREEMENT, made and executed in triplicate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Northern Virginia Transportation Authority, hereinafter referred to as the NVTA and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the NVTA has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance the Project(s) and the funding currently allocated or proposed for the project(s) does not include Federal-aid Highway funds; and

WHEREAS, both parties have concurred in the NVTA's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state and local laws and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The NVTA shall:
  - a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
  - b. Receive prior written authorization from the DEPARTMENT to proceed with the project.
  - c. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.
  - d. Provide certification by a NVTA official of compliance with applicable laws and regulations on the **State Certification Form for State Funded Projects** or in another manner as prescribed by the DEPARTMENT.
  - e. Maintain accurate and complete records of each Project's development of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for not less than three (3) years following acceptance of the final voucher on each Project.

- f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the NVTA and also include an up-to-date project summary and schedule tracking payment requests and adjustments.
  - g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if due to action or inaction solely by the NVTA the project becomes cancelled or ineligible for state reimbursement.
  - h. On Projects that the NVTA is providing the required match to state funds, pay the DEPARTMENT the NVTA's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
  - i. Administer the Project in accordance with all applicable federal, state, and local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of state-aid reimbursements
  - j. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the NVTA will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.
  - k. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.
2. The DEPARTMENT shall:
- a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
  - b. Upon receipt of the NVTA's invoices pursuant to paragraph 1.f, reimburse the NVTA the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the NVTA.
  - c. If appropriate, submit invoices to the NVTA for the NVTA's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
  - d. Audit the NVTA's Project records and documentation as may be required to verify NVTA compliance with applicable laws and regulations.

- e. Make available to the NVTA guidelines to assist the parties in carrying out responsibilities under this Agreement.
3. Appendix A identifies the funding sources for the project, phases of work to be administered by the NVTA, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
4. If designated by the DEPARTMENT, the NVTA is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.
5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its cost exceeds the allocated amount, however the DEPARTMENT and the NVTA shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.
6. Nothing in this agreement shall be construed as a waiver of the NVTA's or the Commonwealth of Virginia's sovereign immunity.
7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.
8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the NVTA or the DEPARTMENT shall not be bound by any agreements between the either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the NVTA or the DEPARTMENT has, in writing, receive a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

9. This agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.f, 1.g, and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination and unless otherwise agreed to, the DEPARTMENT shall retain ownership of plans, specifications, and right of way for which state funds have been provided, unless all state funds provided for the Project have been reimbursed to the DEPARTMENT by the NVTA, in which case the NVTA will have ownership of the plans, specifications, and right of way.

THE NVTA and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THE NVTA and the DEPARTMENT further agree that should Federal-aid Highway funds be added to the project, this agreement is no longer applicable and shall be terminated. The NVTA and the DEPARTMENT mutually agree that they shall then enter into a Standard Project Administration Agreement for Federal-aid Projects.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

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IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

**NORTHERN VIRGINIA TRANSPORTATION AUTHORITY:**

\_\_\_\_\_

\_\_\_\_\_  
Typed or printed name of signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

NOTE: The official signing for the NVTa must attach a certified copy of his or her authority to execute this agreement.

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:**

\_\_\_\_\_  
Chief of Policy

\_\_\_\_\_  
Date

Commonwealth of Virginia  
Department of Transportation

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**Attachment**  
Appendix A

Project Location ZIP+4:	Locality DUNS#	Locality Address (incl ZIP+4): NVTA 3040 Williams Drive Suite 200 Fairfax, VA 22031
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Project Narrative	
Scope:	NVTA/VDOT Evaluation of Northern Virginia Transportation Projects
From:	
To:	
Locality Project Manager Contact info:	
Department Project Coordinator Contact Info:	

Project Estimates		
	Preliminary Engineering	Total Estimated Cost
Estimated Locality Project Expenses	\$600,000	\$600,000
Estimated VDOT Project Expenses		\$0
Estimated Total Project Costs	\$600,000	\$600,000

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type <small>(Choose from drop down box)</small>	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement -
Preliminary Engineering	\$600,000	State Funds	0%	\$0	\$600,000	
				\$0	\$0	
<b>Total Estimated Cost</b>	\$600,000			\$0	\$600,000	\$600,000

<b>Total Maximum Reimbursement by VDOT to Locality (Less Local Share)</b>	\$600,000
<b>Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)</b>	\$600,000

Project Financing						
						<b>Aggregate Allocations</b>
State Funds (OIPI)						\$600,000

Program and Project Specific Funding Requirements		
<ul style="list-style-type: none"> <li>• This project shall be administered in accordance with VDOT's Locally Administered Projects Manual</li> <li>• This is a limited funds project. The NVTA shall be responsible for any additional funding in excess of \$600,000 (if applicable)</li> <li>• State funds provided through the Office of Intermodal Planning and Investment (OIPI)</li> <li>• UPC 110234 is an administrative UPC in the Cardinal system and is not included in VDOT's Six-Year Program.</li> <li>• Virginia Code Section 33.2-257 requires the Virginia Department of Transportation, in ongoing coordination with the Commonwealth Transportation Board, the Department of Rail and Public Transportation, and the Northern Virginia Transportation Authority to evaluate and rate significant transportation projects in and near the Northern Virginia Transportation District, providing an objective quantitative score for each project. The legislation also provides that VDOT may rely on modeling performed by the Northern Virginia Transportation Authority, providing that the modeling is in accordance with 33.2-257.</li> <li>• Under the terms of this Agreement, the Northern Virginia Transportation Authority (NVTA) will provide an evaluation of significant projects, meeting all applicable requirements of Virginia Code Section 33.2-257. VDOT will review the evaluation for compliance with the Virginia Code requirements and will publicize the ratings and report the results of the evaluation to the Commonwealth Transportation Board.</li> </ul>		

\_\_\_\_\_  
 Authorized Locality Official and Date

\_\_\_\_\_  
 Typed or printed name of person signing

\_\_\_\_\_  
 Authorized VDOT Official and Date

Maria J. Sinner  
 \_\_\_\_\_  
 Typed or printed name of person signing