

# VIII.

## Jurisdiction and Agency Coordinating Committee Northern Virginia Transportation Authority

### MEMORANDUM

**TO:** Christopher Zimmerman, Chairman  
Northern Virginia Transportation Authority

Members  
Northern Virginia Transportation Authority

**FROM:** Tom Biesiadny, Chairman  
Jurisdiction and Agency Coordinating Committee  
Northern Virginia Transportation Authority

**SUBJECT:** Ratification of Agreement between NVTA and Fairfax County (Item VIII.)

**DATE:** July 3, 2008

#### **Recommendation:**

The Jurisdiction and Agency Coordinating Committee recommends that the Northern Virginia Transportation Authority ratify the attached agreement between NVTA and Fairfax County for provision of funds to address NVTA's FY 2008 financial obligations.

#### **Background:**

On September 27, 2007, NVTA entered into an agreement with the Virginia Department of Transportation (VDOT) for short-term operating assistance prior to the collection of the taxes and fees approved by NVTA on July 12, 2007. As part of this agreement, VDOT indicated it would provide up to \$1.0 million in short-term assistance to NVTA. The term of the agreement required NVTA to repay any funds used by April 30, 2008.

Besides supporting the implementation of new transportation projects and services, these funds were originally expected to support the Northern Virginia Transportation Authority (NVTA)'s other activities, including support for long-range transportation planning; allocation of federal transportation funds available to Northern Virginia; coordination of regional comments on new transportation projects, such as the I-95/395 HOT Lanes project; and provision of a forum for public input and regional discussion of transportation projects and services.

Mr. Christopher Zimmerman, Chairman  
Members, Northern Virginia Transportation Authority  
July 3, 2008  
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On February 29, 2008, the Virginia Supreme Court ruled that the General Assembly did not have the ability to delegate its taxing power to NVTA. As a result, NVTA was forced to refund the taxes and fees collected, and insufficient funds remained to repay VDOT. On April 10, 2008, NVTA approved a two month extension to the agreement (to June 30, 2008) to give the General Assembly time to address NVTA's lost revenues. The General Assembly has not yet acted to replace these Northern Virginia regional transportation revenues.

In order to allow NVTA to fulfill its repayment obligation, on June 30, 2008, the Fairfax County Board of Supervisors agreed to provide \$220,000 to NVTA, and the funds were transferred to NVTA immediately. NVTA subsequently repaid VDOT.

This action ratifies the agreement between Fairfax County and NVTA in which Fairfax County provided \$220,000 to NVTA. There is no requirement that these funds be repaid to Fairfax County.

JACC Members and I will be available at the Authority meeting on July 10, 2008, to answer questions.

Cc: Members, NVTA Jurisdiction and Agency Coordinating Committee  
John Mason, Executive Director

MEMORANDUM OF UNDERSTANDING BETWEEN  
THE COUNTY OF FAIRFAX AND  
THE NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

This agreement is made and entered into as of \_\_\_\_\_2008, by and between the County of Fairfax, hereinafter referred to as the “County”, and the Northern Virginia Transportation Authority, hereinafter referred to as the “Authority”.

WHEREAS, the Virginia General Assembly has not yet replaced the seven Northern Virginia regional transportation taxes and fees previously approved in House Bill 3202 (2007), now codified at 2007 Va. Acts Ch. 896 (“Chapter 896”), but invalidated by the Virginia Supreme Court on February 29, 2008; and

WHEREAS, the Authority supports the planning for, administration of, and implementation of new transportation projects and services in Fairfax County and Northern Virginia; and

WHEREAS, §58.1 – 3221.3 of the Code of Virginia and Fairfax County Code 4-10-5 authorize the appropriations and expenditures by the County of certain revenues earmarked for transportation purposes that benefit the County of Fairfax; and

WHEREAS, §15.2 – 4840 (10) of the Code of Virginia allows the Authority to apply and negotiate with the Commonwealth of Virginia, or any agency, instrumentality, or political subdivision thereof, for grants and any other funds available to carry out the purposes defined by the General Assembly and receive, hold, accept, and administer from any source gifts, bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held, used and applied to carry out this purposes;

NOW THEREFORE, the parties do hereby agree that the County will provide the Authority \$220,000 to facilitate transportation related activities and purposes on behalf of Fairfax County and Northern Virginia.

Nothing in this agreement shall be construed as a waiver of Fairfax County’s sovereign immunity.

All requirements for funds to be borne by Fairfax County shall be subject to annual appropriations by the Fairfax County Board of Supervisors.

This agreement shall not be construed as creating any personal liability on the part of any officer, employee, agent of the parties, nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

IN WITNESS WHEREOF, all parties have executed this Agreement on the day and year set forth below.

COUNTY OF FAIRFAX

NORTHERN VIRGINIA  
TRANSPORTATION AUTHORITY

By: \_\_\_\_\_

By: \_\_\_\_\_

Date:

Date: