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JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

NORTHERN VIRGINIA TRANSPORTATION
AUTHORITY,

Plaintiff,

v.

STATUTORY DEFENDANTS PURSUANT TO
VIRGINIA CODE §§ 15.2-2650, ET SEQ., TO WIT,
TAXPAYERS, PROPERTY OWNERS AND
CITIZENS OF THE COUNTIES OF ARLINGTON,
FAIRFAX, LOUDOUN, AND PRINCE WILLIAM,
AND THE CITIES OF ALEXANDRIA, FAIRFAX,
FALLS CHURCH, MANASSAS, AND MANASSAS
PARK, VIRGINIA, INCLUDING NONRESIDENTS
OWNING PROPERTY OR SUBJECT TO
TAXATION THEREIN, AND ALL OTHER
PERSONS INTERESTED IN OR AFFECTED IN
ANY WAY BY THE PROPOSED ISSUANCE BY
THE NORTHERN VIRGINIA TRANSPORTATION
AUTHORITY OF ITS NORTHERN VIRGINIA
TRANSPORTATION AUTHORITY
TRANSPORTATION FACILITIES REVENUE
BONDS IN AN AMOUNT NOT TO EXCEED
\$105,000,000,

Defendants.

2013 11988

Case No. _____

MOTION FOR JUDGMENT

Plaintiff, the Northern Virginia Transportation Authority ("NVTA"), pursuant to the pertinent provisions of the Public Finance Act of 1991 (the "Public Finance Act"), §§ 15.2-2650 et seq. of the Code of Virginia (the "Virginia Code"), and the Northern Virginia Transportation Authority Act (the "NVTA Act"), Virginia Code §§ 15.2-4829 et seq., seeks this Court's judicial determination of the validity of the following:

- A. Northern Virginia Transportation Authority Transportation Facilities Revenue Bonds, in an amount not to exceed \$105,000,000 (the "Bonds"), to be issued by NVTA pursuant to the NVTA Act, a resolution entitled "Resolution Authorizing the Issuance of Transportation Facilities Revenue Bonds" and adopted by NVTA on July 24, 2013 (the "Bond Resolution"), and the Indenture (as defined in the Bond Resolution) (see Exhibits 1 and 2);
- B. All proceedings of NVTA heretofore taken in connection with or related to the authorization and issuance of the Bonds, including without limitation the proceedings by which NVTA selected projects the costs of which it will pay with the funds NVTA will receive in Fiscal Year 2014 within the meaning of Virginia Code § 15.2-4848.1.C.1. (including the proceeds of the Bonds), all as described in the Bond Resolution and the resolution entitled "Resolution Approving the Process Used to Select Projects to be Financed with Fiscal Year 2014 NVTA Fund, the Projects to be Financed with Such Funds and the Carryover of Certain Projects for Future Consideration" (the "FY 2014 Project Selection Process Resolution") (see Exhibit 3); and
- C. The taxes, fees and other revenues, including the revenues dedicated pursuant to Virginia Code §§ 58.1-638, 58.1-802.2 and 58.1-1742 to the Northern Virginia Transportation Authority Fund

established pursuant to Virginia Code § 15.2-4838.01 (the "NVTA Fund") and the taxes and fees from which such revenue will be derived, and the other means provided for the payment and security for the Bonds, all as specified in the NVTA Act, the Bond Resolution and the Indenture; and

- D. All pledges of revenues and all covenants and provisions that constitute a part of the contract between NVTA and the owners of the Bonds, including, without limitation, the provisions for the application of revenues to pay the administrative costs of NVTA, all as specified in the NVTA Act, the Bond Resolution and the Indenture; and
- E. The proposed application of the proceeds of the Bonds; including to finance the construction and acquisition of the projects specified in the Bond Resolution; and
- F. The provisions in the NVTA Act, the Bond Resolution and the Indenture to the effect that the Bonds, when issued, shall not be a debt, liability or general obligation of the Commonwealth of Virginia or any political subdivision thereof other than NVTA; and
- G. The enactment of Chapter 766, 2013 Va. Acts of Assembly ("Chapter 766") (originally introduced as HB 2313), as it relates to the powers of the NVTA and the provisions for the payment of the Bonds, was within the legislative power of the Virginia General Assembly set forth in Article IV of the Constitution of Virginia,

and was not violative of any Section of that Article or any other provisions of the Constitution of Virginia; and

- H. The NVTA Act, as amended by Chapter 766, and Virginia Code §§ 58.1-603.1, 58.1-604.01, 58.1-638, 58.1-802.2, and 58.1-1742 as enacted, were not violative of any provisions of the Constitution of Virginia.

In support of its Motion for Judgment, NVTA states as follows:

1. NVTA is a duly created and validly existing political subdivision of the Commonwealth of Virginia exercising public and essential government functions pursuant to the NVTA Act.
2. 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").
3. NVTA is authorized under the Public Finance Act and the NVTA Act to bring this action to establish the validity of the Bonds. Virginia Code §§ 15.2-2651, 15.2-4839 and 15.2-4520.
4. Defendants are statutory defendants as provided under the Public Finance Act. Virginia Code § 15.2-2651.
5. This Court has jurisdiction of the subject matter as provided under the Public Finance Act. Virginia Code § 15.2-2651.
6. NVTA is empowered under the NVTA Act, among other things, to (i) prepare a regional transportation plan for Planning District 8, to include, but not necessarily be limited to, transportation improvements of regional significance, and those improvements necessary or

incidental thereto, and will from time to time revise and amend the plan; and (ii) construct or acquire, by purchase, lease, contract, or otherwise, the transportation facilities specified in the regional transportation plan.

7. NVTA prepared and, on November 8, 2012, approved a regional transportation plan for Planning District 8 titled "TransAction 2040 Regional Transportation Plan" (the "Plan").

8. NVTA is authorized under the NVTA Act to issue bonds and other evidences of debt, and the NVTA Act further provides that the provisions of Article 5 (Virginia Code § 15.2-4519 *et seq.*) of Chapter 45 of Title 15.2 of the Virginia Code, as amended, shall apply, mutatis mutandis, to the issuance of such bonds or other debt.

9. Pursuant to Virginia Code § 15.2-4519, 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.

10. Pursuant to Chapter 766, the Virginia General Assembly has, as set forth in Virginia Code §§ 58.1-638, 58.1-802.2 and 58.1-1742, dedicated certain revenues to the NVTA Fund (the "HB 2313 Transportation Revenues"), specifically the revenues from (i) the additional state sales and use taxes imposed in Planning District 8 under Virginia Code §§ 58.1-603.1 and 58.1-604.01, (ii) the regional congestion relief fee imposed in Planning District 8 under Virginia Code § 58.1-802.2, and (iii) the additional transient occupancy tax imposed in Planning District 8 under Virginia Code § 58.1-1742.

11. Virginia Code § 15.2-4834 provides, inter alia, that (i) a majority of NVTA, which majority shall include at least a majority of the representatives of the Member Localities, shall constitute a quorum; (ii) decisions of NVTA shall require a quorum and shall be in accordance with voting procedures established by NVTA; and (iii) in all cases, decisions of

NVTA shall require the affirmative vote of two-thirds of the members of NVTA present and voting, and two-thirds of the representatives of the Member Localities who are present and voting and whose Member Localities include at least two-thirds of the population embraced by NVTA (collectively, the "Quorum/Supermajority Requirements").

12. At a meeting of NVTA held on July 24, 2013 (the "July 24 Meeting"), NVTA adopted the Bond Resolution, the FY 2014 Project Selection Process Resolution, and a resolution approving the initiation of this proceeding to validate the Bonds pursuant to the Public Finance Act (the "Validation Resolution"). (A copy of the Validation Resolution is attached hereto as Exhibit 4.) The Bond Resolution, the FY 2014 Projection Selection Process Resolution and Validation Resolution were adopted by NVTA in accordance with the Quorum/Supermajority Requirements.

13. In the Bond Resolution, NVTA required, among other things, that proceeds of the Bonds be applied, along with other available funds, to (i) pay the costs of the construction and acquisition of the transportation facilities and projects described in Attachment C to the Bond Resolution (the "FY 2014 Bond Projects"); and (ii) pay the issuance and financing costs of the Bonds, fund capitalized interest and any required reserves. See Exhibit 1.

14. Each of the FY 2014 Bond Projects is a project contained in the Plan. Certain projects may also be mass transit capital projects that increase capacity. See Virginia Code § 15.2-4838.1.C.1.

15. In the Bond Resolution, NVTA found and determined, among other things, that the issuance of the Bonds will (i) be in all respects for the benefit of the inhabitants of the Commonwealth and the Member Localities and promote their safety, health, welfare, convenience and prosperity; and (ii) further the purposes of NVTA and the NVTA Act by,

among other things, financing the construction and acquisition of the FY 2014 Bond Projects. NVTA also found that the proceeds of the Bonds will be used by NVTA solely for transportation purposes benefiting the Member Localities. See Exhibit 1.

16. In the FY 2014 Project Selection Process Resolution (i) NVTA approved the selection process for Fiscal Year 2014, which was used to determine whether all the projects approved therein, including the FY 2014 Bond Projects, satisfied the requirements of the NVTA Act regarding the use of NVTA funds (the "Statutory Criteria") and (ii) NVTA found that each such project, including the FY 2014 Bond Projects, satisfies the Statutory Criteria, including by being located (i) only in the Member Localities or (ii) in adjacent localities but only to the extent that such extension is an insubstantial part of the project and is essential to the viability of the project within the Member Localities.

17. The Indenture provides, inter alia, (i) the conditions to be satisfied for the issuance and delivery of the Bonds and any future series of NVTA bonds (the "Additional Bonds"); (ii) for the payment of and security for the debt service on the Bonds and any Additional Bonds, including a pledge of certain revenues of NVTA for such purposes; (iii) for the establishment and maintenance of a series of funds and accounts; and (iv) for the application of certain revenues of NVTA to pay NVTA's administrative costs, to make the pro rata distribution to the Member Localities under Virginia Code § 15.2-4838.1.B., to pay the debt service on the Bonds and any Additional Bonds and for other purposes required or contemplated under the NVTA Act.

18. The Bonds when issued will be valid and legal obligations of NVTA, and, as provided in the NVTA Act, the Bond Resolution, and the Indenture, the Bonds will be payable only from the revenues of NVTA pledged for such purpose under the Bond Resolution and the

Indenture and shall not be a debt, liability or general obligation of the Commonwealth of Virginia or any political subdivision thereof, other than NVTA.

WHEREFORE, in accordance with Virginia Code §§ 15.2-2650, et seq., NVTA requests that this Court:

I. Enter an Order in the form of the attachment, (a) requiring the publication of this Motion for Judgment, without Exhibits, once a week for two consecutive weeks in a newspaper (or newspapers which in aggregate are) published or having general circulation in the Member Localities and fixing a time and place for hearing the proceeding, which Order shall be published with this Motion for Judgment, without Exhibits; (b) scheduling a prompt hearing pursuant to Code § 15.2-2654, with the least possible delay; and (c) establishing a schedule for the statutory defendants and all other persons interested in or affected by the issuance of the Bonds to participate by filing responsive pleading(s) in the Clerk's Office.

II. Enter a Final Order determining and declaring that:

(a) Northern Virginia Transportation Authority Transportation Facilities Revenue Bonds, in an amount not to exceed \$105,000,000 (the "Bonds"), to be issued by NVTA pursuant to the NVTA Act, a resolution entitled "Resolution Authorizing the Issuance of Transportation Facilities Revenue Bonds" and adopted by NVTA on July 24, 2013 (the "Bond Resolution"), and the Indenture (as defined in the Bond Resolution) are valid and legal;

(b) All proceedings of NVTA heretofore taken in connection with or related to the authorization and issuance of the Bonds, including without limitation the proceedings by which NVTA selected projects the costs of which it will pay with its funds received in Fiscal Year 2014 (including the proceeds of the Bonds), all as described in the Bond Resolution and the FY 2014 Project Selection Process Resolution are valid and legal;

(c) the HB 2313 Transportation Revenues and all other means provided for payment of the Bonds are valid and legal;

(d) all pledges of revenues of NVTA and other security for the Bonds provided pursuant to the Bond Resolution and the Indenture, and the terms, covenants and provisions contained in the Bond Resolution and the Indenture, including, without limitation, the provisions for the application of such revenues to pay the administrative costs of NVTA, as provided in the Indenture, are valid and legal;

(e) the proposed application of the proceeds of the issuance of the Bonds is valid and legal;

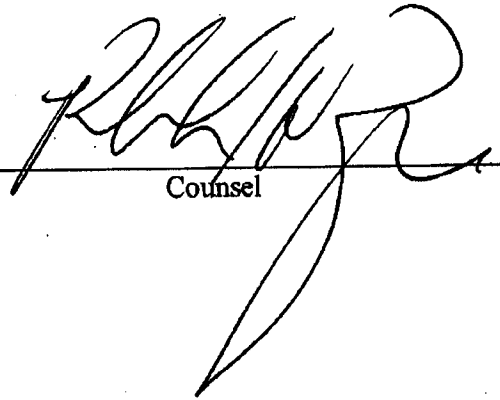
(f) the Bonds, when issued, shall be payable only from the revenues of NVTA pledged for such purpose and shall not be a debt, liability or general obligation of the Commonwealth of Virginia or any political subdivision thereof other than NVTA; and

(g) Chapter 766, as it relates to the powers of NVTA and the provisions for the payment of the Bonds, and the NVTA Act, as amended by Chapter 766, and Virginia Code §§ 58.1-603.1, 58.1-604.01, 58.1-802.2, and 58.1-1742, as enacted, do not violate any provision of the Constitution of Virginia.

III. Provide for such other and further relief as may be requested by the parties or as the Court may deem appropriate.

Dated: July 25, 2013

By:



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