

ADDENDUM

FAIRFAX COUNTY BOARD OF SUPERVISORS December 2, 2014

AGENDA ADDENDUM

ACTION ITEMS

- 6 Authorization for Fairfax County to Enter into Various Agreements Related to Funding for Phase 2 of the Dulles Corridor Metrorail Project (Phase 2), Including Agreements with the United States Department of Transportation (USDOT) Relating to a Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan

CONSIDERATION ITEMS

- 1 Appeal of Planning Commission Approval of FDP No. 2014-BR-007, Subject to Option A Only; NVR, Inc. (Braddock District)

INFORMATION ITEMS

- 3 Planning Commission Action on Application 2232-D13-9, CWS VII, LLC & The Trustees of Andrew Chapel United Methodist Church (Dranesville District)

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ACTION – 6

Authorization for Fairfax County to Enter into Various Agreements Related to Funding for Phase 2 of the Dulles Corridor Metrorail Project (Phase 2), Including Agreements with the United States Department of Transportation (USDOT) Relating to a Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan

ISSUE:

Board adoption of the attached resolutions authorizing Fairfax County (County) to enter into agreements resulting in a TIFIA loan to the Economic Development Authority (EDA) to finance approximately \$403.3 million of the County's share of the cost to construct Phase 2 of the Dulles Corridor Metrorail Project.

RECOMMENDATION:

The County Executive recommends adoption of the attached resolutions which collectively:

1. Authorize the execution and delivery of a TIFIA Loan Agreement by and among USDOT, the County, and the EDA in the approximate amount of \$403.3 million including a moral obligation of the County to provide credit enhancement to the loan; County staff recommends \$218.2 million of the loan to be repaid from the Dulles Rail Phase 2 Transportation Improvement District (Phase 2 District) and \$185.1 million of the loan to be repaid from the County and Regional Transportation Projects Fund (C & I Fund), plus interest;
2. Authorize the execution and delivery of a Letter Agreement between USDOT and the County whereby the County agrees to construct, operate, and maintain the parking garages at the future Herndon and Innovation Center Metrorail stations;
3. Approve a form of a Trust Agreement between the EDA and a trustee;
4. Authorize the execution and delivery of a Support Agreement between the EDA and the County;
5. Authorize the execution and delivery of a Project Agreement by and between the County, the Phase 2 District, and the EDA; and
6. Authorize the execution and delivery of such other documents and agreements relating to these transactions as may be necessary or required.

TIMING:

Board action is requested on December 2, 2014 to meet USDOT's requirements to close on the TIFIA loan. The County currently anticipates closing on the TIFIA loan on December 16 and 17, 2014.

BACKGROUND:

In July 2007, the County, Loudoun County (Loudoun), and the Metropolitan Washington Airports Authority (MWAA) (collectively, the Funding Partners) entered into an Agreement to fund the capital cost of construction of Metrorail in the Dulles Corridor (the Funding Agreement), which provides in general that the County, Loudoun, and MWAA (from funds other than Dulles Toll Road revenues) shall be responsible for 16.1%, 4.8%, and 4.1%, respectively, of the total capital cost of such construction, with the remaining 75% to be paid from tolls derived from the operation of the Dulles Toll Road, less contributions from other entities such as the Commonwealth of Virginia (Commonwealth) and the federal government.

In November 2011, in an effort to reduce the burden of the Phase 2 construction costs on Dulles Toll Road users, the Funding Partners, USDOT, the Commonwealth, and the Washington Metropolitan Area Transit Authority (WMATA) entered into a Memorandum of Agreement (MOA). Among other things, USDOT agreed to provide a credit subsidy for TIFIA loans to be made to the Funding Partners upon application and credit approval. TIFIA loans provide credit assistance to projects that are deemed of national and regional significance, and are highly competitive. The loans provide for a debt service repayment deferral option of up to five years after project completion, competitive interest rates, and flexible prepayment provisions of outstanding principal. The County and Loudoun in turn agreed to use their best efforts to seek additional funding sources (i.e., other than Funding Partner or Dulles Toll Road revenues) to pay the cost of certain features of Phase 2, like the parking garages to be located at certain Phase 2 Metrorail stations, including those within the County at the Herndon and Innovation Center stations.

In accordance with the invitation in the MOA for the Funding Partners to apply for TIFIA loans, the Funding Partners submitted a joint Letter of Interest (LOI) to USDOT requesting a \$2.9 billion TIFIA loan for the Dulles Corridor Metrorail Project in October 2012. The Funding Partners' request was based on USDOT's updated criteria for a maximum 49% loan as a percent of the total project estimate of \$5.9 billion for Phase 1 of the Dulles Corridor Metrorail Project (Phase 1) and Phase 2, and the respective Counties' agreement to use their best efforts to find other funding for the specified Phase 2 features. The TIFIA loan would allow MWAA to more effectively leverage Dulles Toll Road revenues and allow for a reduction in projected out-year toll rates while offering the counties a more flexible financing approach than the capital market.

In December 2012, USDOT notified the Funding Partners that a preliminary review of the LOI had been conducted on the request for \$2.9 billion TIFIA loan. USDOT noted that the project would remain eligible for project funding, but at a maximum potential TIFIA loan amount not to exceed 33% of the total project estimate (\$1.9 billion). This

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update led to a series of discussions among staff of the Funding Partners on how to best allocate the revised \$1.9 billion TIFIA loan amount. The goal was to achieve a balanced allocation of the TIFIA loan such that MWAA would be able to reduce forecasted tolls on the Dulles Toll Road, and also acknowledge the significant required contributions of the Counties.

The resulting staff consensus was that, of the total \$1.9 billion TIFIA loan amount, MWAA would receive \$1.3 billion (69%), Fairfax County would receive \$403 million (21%), and Loudoun would receive \$195 million (10%). This allocation was consistent with the objective of minimizing the impact on toll road users and fell within the \$1.2-\$1.4 billion range MWAA targeted in its financing plans. While the counties received smaller overall percentages of the \$1.9 billion allocation, their allocations translate to approximately 45% of their respective total project costs which was a guiding principle in the group discussions. The staffs of each of the Funding Partners concluded that the goals of all parties were met by the proposed allocation of the TIFIA loan amount.

On May 7, 2013, County staff delivered a presentation on the TIFIA loan to the Board's Transportation Committee. The presentation included summary recommendations that were subsequently included as part of an Action Item approved by the Board on May 14, 2013. Both the presentation and the Action item described the two County funding sources proposed to be used to repay the TIFIA loan: the C & I Fund and the Phase 2 District.

On June 21, 2013, each of the Funding Partners provided a formal credit presentation to USDOT on the respective credits and loan structures proposed for repayment of the TIFIA loan. Following the credit presentation meeting, the County responded to a series of due diligence questions from USDOT and its financial advisors to provide background and details on the C & I Fund and the Phase 2 District. A negotiation in the Fall of 2013 resulted in term sheets for both the C & I Fund and the Phase 2 District that were intended to provide the basis for the legal documents required to close on the loan. The term sheets included provisions regarding key structural features of the loan such as the legal limitations on debt under Virginia's Constitution and State Code, maximum debt limits, provisions governing the setting of future tax rates, additional bond tests, financial policies governing the C & I Fund, debt service repayment dates, and mandatory prepayment provisions (applying only to the Phase 2 District).

Term sheet negotiations between USDOT and each of the Funding Partners concluded in early February 2014, resulting in a formal invitation to each Funding Partner to apply for a TIFIA loan on February 24, 2014. The County submitted its TIFIA application to USDOT reflecting the term sheet negotiations and the associated attachments on March 27, 2014. USDOT acknowledged receipt of a complete application on April 9, 2014. On May 9, 2014, USDOT formally approved each partner's TIFIA loan application, which completed the financial review and approval process for the Project,

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and began the process of translating the negotiations into legal documents. The Funding Partners have since been coordinating with USDOT, their respective legal counsels, and financial advisors to work toward closing dates on their respective TIFIA loans.

The County's original proposal tied the repayment obligation of specific portions of the County's TIFIA Loan to either the C&I Fund or Phase 2 District revenues, subject to appropriation. However, in the course of the negotiations and legal discussions USDOT sought provisions which, in some cases, County staff believed would not be legal under applicable Virginia law or would be unduly burdensome and intrusive on the County.

Accordingly, County staff proposed a revised structure, which is reflected in the documents before the Board today. This structure reflects a single TIFIA loan of \$403.3 million, for which the repayment obligation would be on the entire resources of the County (i.e., moral obligation), subject to appropriation by the Board. This change resulted in the particular source of repayment funds no longer being a matter covered in the Loan Agreement with USDOT. However, the proposed plan of finance within the Project Agreement (Attachment 5) between the County, EDA, and Phase 2 District provides that Phase 2 District revenues will be responsible for repaying \$218.2 million of the total \$403.3 million TIFIA loan and C & I Fund revenues will be used to pay back the remaining \$185.1 million.

To close on the TIFIA loan, two credit rating agencies will need to assign public credit ratings on the loan. These ratings are anticipated during the week of December 8, 2014 and expected to be in the AA category.

Phase 2 District – \$218.2 million repayment of the TIFIA Loan

The Phase 2 District will provide \$330 million toward the County's contribution for construction of Phase 2 of the Silver Line project, per the terms of the landowners' petition. Of the total \$403.3 million in the TIFIA loan, \$185.1 million is allocated to the C & I Fund and the remaining balance of \$218.2 million will be repaid from revenues generated by the Phase 2 District. Of the \$330 million total available from the Phase 2 District, the balance of \$111.8 million not allocated to the TIFIA loan, will be provided through either a public revenue bond sale or a cash contribution from accrued tax district collections.

Item	Amount
Phase 2 District	\$330M
Less District Bond Sale / cash contribution (non-TIFIA)	\$111.8M
Less TIFIA Loan to Phase 2 District	\$218.2M
Net Balance	\$0

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The tax rate for the Phase 2 District, per the landowners' petition, was modeled on a ladder approach initially set at 5 cents per \$100 of assessed value in FY 2011. The rate then increased by 5 cents per \$100 of assessed value per fiscal year until reaching 20 cents per \$100 of assessed value, effective FY 2014. The tax rate for FY 2015 remains at 20 cents per \$100 of assessed value and will remain at that level until anticipated rail revenue service begins in 2018. TIFIA's debt service deferral payment option allows the Phase 2 District to accumulate growth in assessed value and tax collections for the duration of project construction and for five years after substantial completion. This approach mirrors the financing strategy used for the Phase 1 District, which contributed over \$100 million in cash contributions, minimizing the amount of debt incurred to build Phase 1.

The projected annual debt service costs on a \$218.2 million TIFIA loan allocation to the Phase 2 District is approximately \$17.7 million, assuming current TIFIA interest rates. Per the terms of the Loan Agreement, principal amortization commences with level debt service payments beginning in FY 2024 and ending in FY 2046. This debt service will be repaid from the Phase 2 District revenues which are currently budgeted at \$14.5 million in FY 2015, reflecting a tax rate of 20 cents per \$100 of assessed value. Conservative forecasting of assessed values projects out-year revenue beginning in 2024 for the Phase 2 District to be in excess of \$20 million, thereby adequately meeting the projected annual debt service costs.

As noted previously, USDOT is making a single loan of \$403.3 million to the County pursuant to a single loan agreement. Consistent with the C & I Fund portion of the TIFIA loan (referenced in the following section), the County's moral obligation will apply to the Phase 2 District. Provided all debt service payments on \$218.2 million of the TIFIA loan are paid out of the Phase 2 District, this will not affect the County's treatment of its 10% debt ratio limit as this limit is calculated from General Fund debt service obligations. A pro rata share of the debt service reserve fund for the TIFIA loan will be filled by existing Phase 2 District cash as draws occur on the TIFIA loan. When fully funded, the debt service reserve fund equates to the maximum annual debt service of \$17.7 million, assuming current TIFIA interest rates. The reserve requirements will be made from the \$43.4 million in existing cash accumulated via tax collections currently in the fund.

C & I Fund - \$185.1 million repayment of the TIFIA Loan

The County's estimated share of the total baseline cost to construct the Dulles Corridor Metrorail Project will be \$915.1 million. Per the terms of the respective petitions submitted to the Board of Supervisors by landowners to establish the Phase 2 District and the Phase 1 Dulles Rail Transportation Improvement District (Phase 1 District), tax revenues from those two districts together will cover \$730 million of that cost, resulting in an estimated additional \$185.1 million contribution needed from the County.

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County Silver Line Estimated Baseline Cost	\$915.1M
Less Phase 1 District – paid	(\$400M)
Less Phase 2 District	(\$330M)
Net to be paid from C & I Fund	\$185.1M

The C & I Fund generates approximately \$51 million annually based on the tax rate of 12.5 cents per \$100 of assessed value levied on commercial and industrial properties in the County. Staff recommends this fund to cover the County’s remaining \$185.1 million contribution to the project after the \$400 million from the Phase 1 District and after the \$330 million contribution from the Phase 2 District. This fund is also in receipt of the County’s annual Northern Virginia Transportation Authority (NVTA) 30% share of transportation funding, but none of the NVTA 30% funds will be used for repayment of the TIFIA loan. The use of the C & I Funds to support a portion of the Dulles Corridor Metrotrail Project was taken into account when the Board adopted its Six Year Transportation Priorities Plan on January 28, 2014. No projects in other areas of the County will be affected by this financing structure.

The projected annual debt service cost of \$185.1 million is approximately \$15 million, assuming current TIFIA interest rates. TIFIA’s loan repayment structure provides for a deferral option on debt service payments during construction up to five years after substantial project completion. The project is expected to be substantially complete in 2018, and debt service payments would begin in 2023 (FY 2024). Per the terms of the loan agreement, TIFIA loan principal is amortized on a level debt service basis, beginning in FY 2024 and ending in FY 2046. Debt service would likely be required as early as FY 2014 for project costs if TIFIA funding was not available. The deferral option makes approximately \$70 million in C & I funds available for other countywide projects, instead of debt service, over the FY 2014-2023 timeframe.

As part of initial loan agreement negotiations related to the C & I Fund, USDOT requested that all C & I tax collections be swept to a trustee twice annually as part of annual tax collections in July and December. The balance less the next debt service payment would then be returned to the County for ongoing transportation project requirements. This “flow of funds” provision was not acceptable to the County and presented legal challenges with the County’s annual receipt of NVTA funding. To avoid burdensome restrictions on the use of the C & I Fund the County agreed to provide a moral obligation to enhance the entire TIFIA loan that would be structured in similar fashion to the County’s moral obligation on the State Route 28 Highway Transportation Improvement District bonds. This moral obligation structure provides that shortfalls in a debt service reserve fund, if any, would be refilled by a General Fund appropriation. USDOT accepted the County’s moral obligation as a significant credit enhancement, and thereby eliminated the legal and other problems with the flow of funds. Provided all debt service payments are made from the C & I Fund, this will not impact the County’s treatment toward its 10% debt ratio limit as this limit is calculated from General Fund

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debt service obligations. A pro rata share of the debt service reserve fund for the TIFIA loan will be filled by existing revenues available in the C & I Fund as draws occur on the TIFIA loan. Further, this funding will not displace any Board approved transportation projects. When fully funded, the debt service reserve fund equates to a maximum annual debt service of \$15 million, assuming current TIFIA interest rates. Any unused portion of this debt service reserve will be returned to the C & I Fund when the TIFIA loan is repaid.

Phase 2 Fairfax County Parking Garages – Herndon and Innovation Center

The Letter Agreement between USDOT and the County (Attachment 4) sets forth the agreement between USDOT and the County regarding the County's construction of the parking garages at the Herndon and Innovation Center Metrorail Stations. Upon completion, the County would own, operate, and maintain the two parking garages. The County plan of finance for construction of the garages required coordination with WMATA to amend the existing surcharge agreement, which provides for surcharge revenues to be collected at Metrorail parking facilities in the County and then disbursed to the County.

The current parking fee at the existing Metrorail facilities in the County operated by WMATA is composed of two parts: (1) a base fee used to pay for operation and maintenance costs; (2) a surcharge that is used to pay the outstanding debt service on existing Metrorail parking facilities. Under the prior surcharge agreement, WMATA held the collected surcharge revenue and disbursed it upon the County's request. On October 23, 2014, the WMATA Board formally amended the surcharge agreement. On October 28, 2014, the Fairfax County Board then approved the amendments to the surcharge agreement which transferred custody of the surcharge revenues from WMATA to the County. In addition to the surcharge revenues, the County will receive all parking fees collected at the Herndon and Innovation Center Parking Garages.

The total current project estimate for the Herndon and Innovation Center Parking garages is \$58,700,000 and \$57,000,000, respectively. Design funding appropriated through the *FY 2014 Carryover Review* in the County and Regional Transportation Projects Fund (40010) for the Herndon Parking Garage (TF-000020) and Innovation Center Parking Garage (TF-000021) equates to \$7,800,000 and \$11,700,000, respectively. The balance of the total project estimate is recommended to be financed by EDA Parking System Revenue Bonds. Metrorail parking facility surcharge revenue and County parking fees will be used to pay debt service, operations, and maintenance on the two new parking garages. This credit structure is similar to a financing structure that was used to construct the County's Huntington, Vienna I, and Vienna II parking garages. Surcharge revenues were also used to partially fund Metrorail parking garages at the Franconia-Springfield and West Falls Church Metrorail Stations through cash payments. Under the current County timeline, the EDA Parking System Revenue

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Bonds are anticipated to be sold in winter 2016 and construction completed in spring 2018.

Per the terms of the Letter Agreement with USDOT, the County agrees to complete the parking garages by the WMATA-announced start date of revenue service for Phase 2. If the County does not meet this deadline, it is required to prepay any drawn portion of the TIFIA loan plus accrued interest. In the unlikely event the County does not complete construction of the parking garages by the agreed-upon date, staff would recommend a public sale of bonds backed by the County and Regional Transportation Projects Fund (40010) to repay the TIFIA loan. The County timeline provides for the construction of the garages well in advance of Phase 2 revenue service and does not anticipate any mandatory prepayment of the TIFIA loan.

The Letter Agreement also provides for an uncontrollable force provision (i.e., force majeure) clause, whereby the County would not be held liable for any construction delay to either parking garage that was the result of certain circumstances beyond the control of the County, such as a natural disaster. Lastly, USDOT provided language in the letter agreement confirming that no TIFIA loan proceeds have or will be used for the parking garages. Thus, the parking garages have neither been selected nor designated a federally funded project. This provision was requested by the County to ensure the parking garages would not be subject to federal regulation and oversight, which could cause a significant increase to the cost of constructing the garages and jeopardize the County's current plan of finance and project schedule.

Approvals by the Phase 2 District Commission and the EDA

County staff provided an overview of the TIFIA loan to the Phase 2 District Advisory Board on August 26, 2014, and to the Phase 2 District Commission on November 25, 2014. The Phase 2 District Commission approved the form of Project Agreement (Attachment 5) by resolution, which memorializes the \$330 million contribution as reflected in the landowners' petition to pay for Phase 2 costs of the Silver Line and the allocation of a share (\$218.2 million) of the TIFIA loan repayment obligation to the Phase 2 District. The EDA is scheduled to meet on December 11, 2014 and will be asked to approve all the attached documents in this Board Action Item. Provided the Board takes the actions recommended herein by the County Executive, and the EDA acts on the attached documents on December 11, 2014, County staff will have all authorizations necessary to close on the TIFIA loan currently scheduled to occur on December 16 and 17, 2014.

FISCAL IMPACT:

The County will receive a single TIFIA loan with USDOT totaling \$403.3 million. The Dulles Rail Phase II Transportation Improvement District Fund (40120) will provide

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repayment of \$218.2 million of the TIFIA loan with projected annual debt service payments of \$17.7 million beginning in FY 2024 through FY 2046. The County and Regional Transportation Projects Fund (40010) will provide repayment of \$185.1 million of the TIFIA loan with projected annual debt service payments of \$15 million beginning in FY 2024 through FY 2046. The County is also required to pay \$200,000 to USDOT for financial and legal review of its TIFIA loan to date. USDOT has noted that additional costs may be incurred up to the date of financial closing. These invoices will be paid out of the County's Consolidated Debt Service Fund (20000).

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Resolution to be adopted by the Board authorizing the County to enter into the Loan Agreement (Attachment 3), the Support Agreement (Attachment 7), and to approve the form of the Trust Agreement (Attachment 6)

Attachment 2: Timeline

Attachment 3: United States Department of Transportation TIFIA Loan Agreement

Attachment 4: United States Department of Transportation Letter Agreement

Attachment 5: Project Agreement

Attachment 6: Trust Agreement

Attachment 7: Support Agreement

Attachment 8: Proposed Resolution to be adopted by the Board authorizing the County to enter into the Letter Agreement (Attachment 4)

Attachment 9: Proposed Resolution to be adopted by the Board authorizing the County to enter into the Project Agreement (Attachment 5)

STAFF:

Edward L. Long, Jr., County Executive

Susan W. Datta, Chief Financial Officer

Robert Stalzer, Deputy County Executive

Tom Biesiadny, Director, Department of Transportation

Mark Canale, Dulles Rail Project Manager, Department of Transportation

James McGettrick, Office of the County Attorney

Patricia McCay, Office of the County Attorney

Joseph LaHait, Debt Coordinator, Department of Management and Budget

Todd Wigglesworth, Acting Chief, Coordination and Funding Division, Department of Transportation

RESOLUTION REQUESTING THAT THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY ISSUE ITS REVENUE BOND (SILVER LINE PHASE II PROJECT) SERIES 2014, APPROVING A FORM OF A TRUST AGREEMENT BETWEEN THE AUTHORITY AND A TRUSTEE; AUTHORIZING THE EXECUTION AND DELIVERY OF A FORM OF A SUPPORT AGREEMENT BETWEEN THE AUTHORITY AND THE COUNTY; AUTHORIZING THE EXECUTION AND DELIVERY OF A FORM OF A LOAN AGREEMENT BY AND AMONG THE AUTHORITY, THE COUNTY AND THE UNITED STATES DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH OTHER DOCUMENTS AND AGREEMENTS RELATING TO SUCH TRANSACTIONS AS MAY BE NECESSARY OR REQUIRED

WHEREAS, the County has made an approximately \$515,000,000 financial commitment (the "Commitment") for a portion of the cost of the extension of the existing Metrorail transportation system by approximately 11.6 miles, from the Metrorail station at Wiehle Avenue in Reston to the Fairfax-Loudoun County line near Route 28, including the three stations located within the boundaries of the District (the "Phase II Project") pursuant to the terms of the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor entered into as of July 19, 2007 (the "Funding Agreement"), by and among the County, Loudoun County, Virginia and the Metropolitan Washington Airports Authority; and

WHEREAS, the County intends to fulfill its Commitment under the Funding Agreement in part from amounts received by the Fairfax County Economic Development Authority ("EDA") from proceeds of a draw down loan (the "TIFIA Loan") provided by the United States Department of Transportation ("USDOT") to EDA pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 and all under the terms of a Loan Agreement by and among EDA, the County and USDOT (the "Loan Agreement"); and

WHEREAS, the Board has determined to approve the form of a trust agreement (the "Trust Agreement") between EDA and a trustee, that will provide for the issuance and security for a bond (the "Bond") to be designated "Fairfax County Economic Development Authority Revenue Bond (Silver Line Phase II Project), Series 2014", such bond to be executed and delivered to USDOT as evidence of EDA's obligation to repay the TIFIA Loan; and

WHEREAS, there has been presented to the Board a proposed Support Agreement (the "Support Agreement") between EDA and the County by the terms of which (i) EDA will advance the proceeds of the Bond in the form of TIFIA Loan advances and the County will agree to make County Payments (as defined in the Support Agreement) thereof, on the terms and condition therein set forth, sufficient to make (i) any principal and interest payments on the Bond, (ii) any payments required to replenish the debt service reserve fund established in the Trust Agreement and (iii) any related expense payments; and

WHEREAS, the Board has duly reviewed and considered the forms of the Loan Agreement, the Letter Agreement, the Trust Agreement and the Support Agreement and has determined that each is in acceptable form; and

WHEREAS, the Board has determined that it is necessary to delegate to the Chairman and Vice Chairman of the Board, the County Executive and the Chief Financial Officer of the

County (each, a “Delegate”) the power to approve the details of these transactions but subject to the guidelines and standards established hereby; now, therefore,

BE IT RESOLVED by the Board as follows:

SECTION 1. The TIFIA Loan is hereby approved, subject to the terms of the Loan Agreement and with an interest rate on its outstanding principal amount not to exceed 5.0%.

SECTION 2. EDA is hereby requested to authorize and issue the Bond in an aggregate principal amount up to \$403,274,894 (excluding capitalized interest incurred pursuant to the Loan Agreement) for the purpose of financing a portion of the Phase II Project, as provided in the Trust Agreement; such Bond is requested to be executed and delivered by EDA to USDOT pursuant to the terms of the Loan Agreement and the Trust Agreement.

SECTION 3. The forms of the Trust Agreement presented to this meeting, providing details for the custody, investment and disbursement of the proceeds of the Bond and for the receipt, custody, pledge and application of Pledged Revenues (as defined in the Trust Agreement), is hereby approved in such form and containing substantially the terms and provisions therein set forth.

SECTION 4. The form of the Support Agreement presented to this meeting, is hereby approved and a Delegate, as appropriate, and the Clerk or any Deputy Clerk of the County be, and they hereby are, authorized, directed and empowered to execute and deliver in the name and on behalf of the County, the Support Agreement in such form and containing substantially the terms and provisions therein contained, with such additions and modifications as shall be approved by those executing the Support Agreement, their execution thereof being conclusive evidence of such approval.

SECTION 5. The form of the Loan Agreement presented to this meeting, is hereby approved and a Delegate, as appropriate, and the Clerk or any Deputy Clerk of the County, if appropriate, be, and they hereby are, authorized, directed and empowered to execute and deliver in the name and on behalf of the County, the Loan Agreement in such form and containing substantially the terms and provisions therein contained, with such additions and modifications as shall be approved by those executing the Loan Agreement, their execution thereof being conclusive evidence of such approval.

SECTION 6. The execution and delivery by a Delegate of the Support Agreement and the Loan Agreement and any other agreements, documents, closing papers and certificates executed and delivered pursuant to this Resolution shall be conclusive evidence of their approval of the changes, if any, in the forms thereof and of their authority to execute and deliver such agreements, documents, certificates and closing papers on behalf of the Board.

SECTION 7. The members, officers, legal counsel, agents and employees of the Board and the County, and the officers and agents of EDA and the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the Bond, the Trust Agreement, the Support Agreement and the Loan Agreement for the full, punctual and complete performance of all the terms, covenants, provisions and agreements of the Bond, the Trust Agreement, the Support Agreement and the Loan Agreement, and, also, to do all acts and things required of them by the provisions of this Resolution.

Attachment 1

SECTION 8. Each Delegate is authorized to execute one or more certificates, evidencing the determinations made or other actions carried out pursuant to the authority granted in this Resolution, and any such certificates, documents or agreements shall be conclusive evidence of the actions or determinations as stated therein.

SECTION 9. All actions taken by the Board and the members, officers and employees of the Board in connection with this Resolution, and the authorization, execution and delivery of the agreements, certificates and other documents to be executed by the Board and delivered in connection with this Resolution are hereby ratified and confirmed.

SECTION 10. Any and all resolutions of the Board or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict. All capitalized terms not defined herein shall have the meanings as set forth in the Trust Agreement.

SECTION 11. This Resolution shall take effect immediately upon its adoption.

TIFIA Timeline – Attachment 2

Date	Item
July 26, 2014	Silver Line Phase 1 Passenger/Revenue Service
October 9, 2014	WMATA Finance and Administration Subcommittee amends Surcharge Agreement
October 23, 2014	WMATA Board amends Surcharge Agreement
October 28, 2014	Board of Supervisors authorizes advertisement of Public Hearing on parking garage plan of finance for 11/18/14 & Approves amendment to Surcharge Agreement with WMATA
November 18, 2014	Board of Supervisors holds public hearing to adopt parking garage plan of finance; Request for EDA adoption of bond resolution, approval of loan documents
November 25, 2014	Phase 2 Tax District Commission – approval of TIFIA Project Agreement
December 2, 2014	Board of Supervisors approval of TIFIA loan documents
December 3, 2014	Send TIFIA loan documents to EDA
December 10, 2014	Receive Bond Ratings on TIFIA loan
December 11, 2014	Special meeting of EDA to approval TIFIA loan documents
December 16 &17, 2014	Financial closing on TIFIA Loan

**UNITED STATES
DEPARTMENT OF TRANSPORTATION**

TIFIA LOAN AGREEMENT

For Up to \$403,274,894

With

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT
AUTHORITY**

And

**BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA**

For the

**DULLES CORRIDOR METRORAIL PROJECT
(TIFIA – 2014-1003A)**

Dated as of December [__], 2014

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TIFIA LOAN AGREEMENT

THIS TIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of December [___], 2014, is by and among **FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**, a political subdivision of the Commonwealth of Virginia (the “**State**”), with an address of 8300 Boone Boulevard, Vienna, Virginia 22182 (the “**Borrower**”), the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia with an address of 12000 Government Center Parkway, Fairfax, Virginia 22035 (“**Fairfax County**”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Federal Highway Administrator (the “**Administrator**”), with an address of 1200 New Jersey Avenue, S.E., Washington, DC 20590 (the “**TIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America has found that a well-developed system of transportation infrastructure is critical to the economic well-being, health and welfare of the people of the United States and, in furtherance thereof, has enacted the Transportation Infrastructure Finance and Innovation Act of 1998 (“**TIFIA**”), § 1501 *et seq.* of Public Law 105-178 (as amended by Public Law 105-206, Public Law 109-59 and Public Law 112-141) (the “**Act**”), as codified as 23 U.S.C. § 601 *et seq.*; and

WHEREAS, Section 603 of the Act authorizes the TIFIA Lender to enter into agreements with one or more obligors to make secured loans; and

WHEREAS, the Borrower, at the direction of Fairfax County, has requested that the TIFIA Lender make a secured loan to the Borrower, pursuant to the Act, in a principal amount not to exceed \$403,274,894 (excluding capitalized interest) (the “**TIFIA Loan**”) to be used to pay a portion of the Eligible Project Costs (as defined herein) related to Phase 2 (as defined herein) pursuant to the Borrower’s application for TIFIA credit assistance dated March 27, 2014 (the “**Application**”); and

WHEREAS, on April 30, 2014, the Secretary (as defined herein) approved TIFIA credit assistance to the Borrower for the Project (as defined herein) in the form of a direct loan in an aggregate principal amount not to exceed \$403,274,894; and

WHEREAS, the TIFIA Lender is prepared to extend credit upon the terms and conditions hereof;

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the TIFIA Bond (as defined herein) in accordance with the terms and provisions hereof and thereof; and

WHEREAS, the TIFIA Lender has entered into this Agreement in reliance upon, among other things, the Base Case Projections (as defined herein) delivered by Fairfax County; and

WHEREAS, on August 20, 2014, the TIFIA Lender extended credit to MWAA (as defined herein) to support contributions to be made by MWAA towards Total Project Costs (as defined herein) for Phase 2 (defined herein), subject entirely to the terms and conditions of the MWAA TIFIA Loan Agreement (as defined herein); and

WHEREAS, on December [___], 2014, the TIFIA Lender extended credit to the Economic Development Authority of Loudoun County (as defined herein) to support contributions to be made by Loudoun County (as defined herein) towards Eligible Project Costs incurred for Phase 2, subject entirely to the terms and conditions of the Loudoun TIFIA Loan Agreement (as defined herein); and

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and among the Borrower, Fairfax County and the TIFIA Lender as follows:

SECTION 1. Definitions. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement on the Effective Date, whether or not such agreement remains in effect.

“2007 Funding Agreement” means that certain Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor, dated as of July 19, 2007, among MWAA, Fairfax County and Loudoun County.

“2011 MOA” means that certain Memorandum of Agreement, executed in December 2011, among MWAA, the United States Department of Transportation, the State, Fairfax County, Loudoun County and WMATA.

“Act” means the Act as defined in the recitals hereto. In addition, the Act includes those sections of law which are codified in Title 23, United States Code.

“Administrator” has the meaning provided in the preamble hereto.

“Agreement” has the meaning provided in the preamble hereto.

“Anticipated TIFIA Loan Disbursement Schedule” means the schedule set forth as Exhibit B to this Agreement, reflecting the anticipated disbursement of proceeds of the TIFIA Loan, as such schedule may be amended from time to time pursuant to Section 4(d).

“Application” has the meaning provided in the recitals hereto.

“Appropriated Funds” means general revenues or other funds of Fairfax County, including amounts from the General Fund, that are budgeted, appropriated and made available by Fairfax County to the Borrower for the purpose of providing for the payment of amounts required to be paid by the Borrower under the Trust Agreement, the Support Agreement or this Agreement.

“**Bank Secrecy Act**” means the Bank Secrecy Act of 1970, as amended, and the regulations promulgated thereunder.

“**Bankruptcy Related Event**” means, with respect to any Borrower Related Party, (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of such Borrower Related Party or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for such Borrower Related Party or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; (b) such Person shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) solely with respect to the Borrower, fail to make two (2) consecutive payments of TIFIA Debt Service required to have been paid pursuant to the provisions of Section 9, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (vi), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing; (c) solely with respect to the Borrower, (i) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the TIFIA Bond, or (ii) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of pursuant to a sale or disposition of such Trust Estate in lieu of foreclosure; or (d) solely with respect to the Borrower, the Trustee shall transfer, pursuant to directions issued by the Bond Owners, funds on deposit in any of the Funds upon the occurrence and during the continuation of an Event of Default under the Trust Agreement for application to the prepayment or repayment of any principal amount of the TIFIA Bond, other than in accordance with the provisions of the Trust Agreement.

“**Base Case Financial Model**” means a financial model prepared by Fairfax County forecasting (a) Appropriated Funds and (b)(i) the Required Percentage of expenditures for Phase 2 and (ii) Fairfax County’s other funding obligations in respect of the Project pursuant to the Funding Agreements, in each case, for time periods through the final maturity of the TIFIA Loan and based upon assumptions and methodologies provided by Fairfax County and acceptable to the TIFIA Lender, and which shall be provided to the TIFIA Lender as a fully functional Microsoft Excel-based financial model.

“**Base Case Projections**” means the initial forecast, prepared as of the Effective Date using the Base Case Financial Model, for (a) Appropriated Funds and (b)(i) the Required Percentage of expenditures for Phase 2 and (ii) Fairfax County’s other funding obligations in

respect of the Project pursuant to the Funding Agreements, in each case, for time periods through the final maturity of the TIFIA Loan and based upon assumptions and methodologies provided by Fairfax County and acceptable to the TIFIA Lender.

“**Board of Supervisors**” means the Board of Supervisors of Fairfax County, the governing body of Fairfax County, and its successors and assigns.

“**Bond Owner**” has the meaning provided in the Trust Agreement.

“**Borrower**” has the meaning provided in the preamble hereto.

“**Borrower Related Party**” means, individually or collectively, the Borrower and Fairfax County.

“**Borrower’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 26.

“**Business Day**” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, Fairfax County, Baltimore, Maryland, or in the jurisdiction in which the corporate trust office of the Trustee is located.

“**Calculation Date**” means each April 1 and October 1 occurring after the Effective Date.

“**Calculation Period**” means a twelve (12) month period ending on a Calculation Date.

“**Capitalized Interest Period**” means the period from (and including) the Effective Date to (but excluding) the Debt Service Payment Commencement Date.

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time.

“**Construction Fund**” means the “Phase II Construction Fund” created and so designated by Section 401 of the Trust Agreement.

“**County Fiscal Year**” means (a) as of the Effective Date, a fiscal year of Fairfax County commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as Fairfax County may hereafter adopt with thirty (30) days’ prior written notice to the TIFIA Lender.

“**County’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 26.

“**CPI**” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics, with, unless otherwise specified herein, January 2014 as the base period.

“**Credit Facility**” means a letter of credit, a line of credit, a guaranty or another credit- or liquidity-enhancement facility.

“**Debt Service Requirements**” means, for any County Fiscal Year, the aggregate of the Principal and Interest Requirements on the TIFIA Bond for such County Fiscal Year.

“**Debt Service Payment Commencement Date**” means October 1, 2023.

“**Debt Service Payment Period**” the period commencing on the Debt Service Payment Commencement Date and ending on the Final Maturity Date (or on such earlier date as the TIFIA Loan shall be paid in full).

“**Debt Service Fund**” means the “Debt Service Fund” created and so designated by Section 502 of the Trust Agreement.

“**Dedicated Revenues**” means (a) all Appropriated Funds and (b) all income derived from Investment Obligations held in any Fund.

“**Default Rate**” means an interest rate of 200 basis points above the TIFIA Interest Rate.

“**EDA Act**” means Chapter 643 of the 1964 Acts of the General Assembly of the Commonwealth of Virginia, as amended, (and other applicable law), including the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 Code of Virginia of 1950, as amended.

“**Effective Date**” means the date of this Agreement.

“**Eligible Project Costs**” means amounts in the Project Budget (other than financing costs), substantially all of which are paid or incurred by or for the account of Fairfax County in connection with the Project, all of which shall arise from the following:

(a) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(b) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the Project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; or

(c) capitalized interest necessary to meet market requirements, reasonably required reserve funds and other carrying costs during construction, but excluding any and all financing costs;

provided, however, that Eligible Project Costs must be consistent with 23 U.S.C. § 601 *et seq.*, 49 U.S.C. § 5302(3), the Standard Cost Categories (SCC) described in **Schedule I**, and all other applicable federal law. Eligible Project Costs do not include costs related to the Parking Facilities, including land acquisition, design or construction.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“**ERISA Affiliate**” means, with respect to any Borrower Related Party, any trade or business (whether or not incorporated) that, together with such Borrower Related Party, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“**Event of Default**” has the meaning provided in Section 20(a).

“**Event of Non-Appropriation**” has the meaning set forth in Section 41.

“**Fairfax County**” has the meaning provided in the preamble hereto.

“**Fairfax County Executive**” means the County Executive of Fairfax County, or any person succeeding to the principal function thereof.

“**Fairfax County Letter Agreement**” means that certain Letter Agreement, dated as of the date hereof, between Fairfax County and the TIFIA Lender.

“**FFY**” has the meaning provided in Section 29(a).

“**FHWA**” means the Federal Highway Administration, an agency of USDOT.

“**Final Maturity Date**” means April 1, 2046.

“**Financial Plan**” means the financial plan to be delivered within sixty (60) days after the Effective Date in accordance with Section 22(a) and any updates thereto required pursuant to Section 22(a).

“**Financial Statements**” has the meaning provided in Section 14A(q).

“**Fixed Level Payment**” has the meaning provided in Section 9(c)(ii).

“**FTA**” means the Federal Transit Administration, a modal agency of USDOT.

“**FTA Regional Office**” means Regional Office III of the FTA, located at 1760 Market Street, Suite 500, Philadelphia, PA 19103-4124.

“**Funds**” means any of the Funds established in the Trust Agreement.

“**Funding Agreements**” means (a) the 2007 Funding Agreement, (b) the 2011 MOA and (e) the Phase 2 Funding Procedure.

“**GASB**” means generally accepted accounting principles for state and local governments, which are the uniform minimum standards of and guidelines for financial accounting and reporting prescribed by the Governmental Accounting Standards Board.

“**General Fund**” means the primary tax and operating fund for Fairfax County governmental activities used to account for all Fairfax County revenues and expenditures that are not accounted for in other funds and that are used for the general operating functions of Fairfax County agencies.

“**Government**” means the United States of America and its departments and agencies.

“**Governmental Authority**” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“**Hedging Transaction**” means any interest rate protection agreement, interest rate swap transaction, interest rate “cap”, “collar” or “floor” transaction, interest rate future, interest rate option or other hedging arrangement.

“**Insolvency Laws**” means the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership or similar law now or hereafter in effect.

“**Investment Grade Rating**” means a public rating no lower than ‘BBB-’, ‘Baa3’ or the equivalent public rating from a Nationally Recognized Rating Agency.

“**Investment Obligations**” has the meaning provided in the Trust Agreement.

“**Lien**” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under applicable law.

“**Loan Amortization Schedule**” means the Loan Amortization Schedule reflected in the applicable column of **Exhibit G**, delivered pursuant to Section 9(f), as amended from time to time in accordance with Section 7, Section 9(c), Section 9(f) and Section 10(c).

“**Loudoun County**” means the county of Loudoun, Virginia, a political subdivision of the State.

“**Loudoun TIFIA Loan Agreement**” means the TIFIA Loan Agreement for up to \$195,072,507, dated as of December [___], 2014, among the TIFIA Lender, the Economic Development Authority of Loudoun County and Loudoun County for the Dulles Corridor Metrorail Project (TIFIA - 2014-1006A).

“**MADS**” means, as of any date of calculation, the maximum amount of the Debt Service Requirements scheduled to become due in respect of the TIFIA Bond, in the aggregate, during the current or any future County Fiscal Year.

“**Material Adverse Effect**” means a material adverse change in (a) the Project (until care, custody and control for Phase 1 and Phase 2 have been irrevocably transferred to WMATA and neither Fairfax County nor the Borrower has any further material obligations in respect of the Project) or the Dedicated Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of any Borrower Related Party (other than any change that would not reasonably be expected to affect the ability of such Borrower Related Party to enter into or deliver, or perform or comply with its obligations under, any of the Related Document), (c) the legality, validity or enforceability of any material provision of any Related Document, (d) the ability of any Borrower Related Party to perform any of its material obligations under any Related Document to which it is a party, (e) the validity or priority of the Liens provided under the Trust Agreement Documents on the Trust Estate in favor of the Secured Parties or (f) the TIFIA Lender’s rights or remedies available under any TIFIA Loan Document.

“**MWAA**” means Metropolitan Washington Airports Authority.

“**MWAA Indenture**” means the Master Indenture of Trust, dated as of August 1, 2009, by and between MWAA and the MWAA Trustee, securing Dulles Toll Road Revenue Bonds, as may be amended or supplemented.

“**MWAA TIFIA Loan Agreement**” means the TIFIA Loan Agreement for up to \$1,278,000,000, dated as of August 20, 2014, between the TIFIA Lender and MWAA for the Dulles Corridor Metrorail Project (TIFIA – 2014-1002A).

“**MWAA Trustee**” means Manufacturers and Traders Trust Company, a New York banking corporation with trust powers, in its capacity as trustee for the MWAA bondholders under the MWAA Indenture, or any successor trustee appointed pursuant to the terms of the MWAA Indenture.

“**Nationally Recognized Rating Agency**” means Standard & Poor’s Rating Group, Moody’s Investors Service, Inc., Fitch Ratings or any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

“**OFAC**” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“**Organizational Documents**” means (a) the constitutional and statutory provisions that are the basis for the existence and authority of such Governmental Authority, including any statutes or ordinances establishing such Person, (b) the bylaws, code of regulations or other operating procedures or other constitutional documents that may have been adopted by such Person and (c) any other organic laws, statutes, public charters or constitutional documents by which such Person and its powers, securities, bonds, notes and other obligations, and its operations and procedures are governed or from which such powers are derived.

“Outstanding TIFIA Loan Balance” means the aggregate principal amount drawn by the Borrower and then outstanding (including capitalized interest) with respect to the TIFIA Loan, as determined in accordance with Section 7.

“Parking Facilities” means the two (2) parking structures to be constructed by Fairfax County, located at or adjacent to the new rail stations at Herndon and Innovation Center planned as part of Phase 2. The Parking Facilities, which are classified as “Concurrent Non-Project Activities” by the FTA, are not part of the Project and no proceeds from the TIFIA Loan or other federal sources will be used to fund the Parking Facilities.

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, and all regulations promulgated thereunder.

“Payment Default” has the meaning set forth in Section 20(a)(i).

“Payment Period” means any period of six (6) months that ends on a Semi-Annual Payment Date, commencing with the six (6) month period ending on the Debt Service Payment Commencement Date.

“Person” means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

“Phase 1” means the design and construction of the initial 11.7 miles of the Project, known as the Silver Line, from a new junction with the existing Metrorail Orange Line just east of the West Falls Church Station through Tysons Corner to just west of Wiehle Avenue in Reston, VA. Phase 1 includes five new stations (McLean, Tysons Corner, Greensboro, Spring Hill, and Wiehle-Reston East), improvements to the existing West Falls Church Service and Inspection Yard, tail tracks beyond the Wiehle-Reston East Station and the procurement of sixty-four new railcars. The project scope also includes traction power substations, tie-breaker stations, a communication system, crossovers, Kiss & Ride facilities, entrance pavilions, pedestrian bridges, real estate acquisition, utility relocation, environmental mitigation, financing, startup and testing for revenue service, and other elements necessary to achieve Project implementation.

“Phase 2” means the design and construction of another 11.4 miles of the Silver Line from the end of the Phase 1 tail tracks in Fairfax County through the Dulles International Airport to Route 772 in Loudoun County. Included in Phase 2 are six new stations (Reston Town Center, Herndon, Innovation Center, Washington Dulles International Airport, Route 606, and Route 772), a new Service and Inspection Yard at Dulles International Airport, and the procurement of sixty-four new railcars. The project scope also includes traction power substations, tie-breaker stations, a communication system, crossovers, Kiss & Ride facilities, entrance pavilions, pedestrian bridges, real estate acquisition, utility relocation, environmental mitigation, startup and testing for revenue service, and other elements necessary to achieve Project implementation. Phase 2 does not include the Parking Facilities or the “Parking

Facilities” (as defined in the Loudoun TIFIA Loan Agreement), which garages are classified as “Concurrent Non-Project Activities” by the FTA.

“**Phase 2 Funding Procedure**” means that certain Phase 2 Funding Procedure, among MWAA, Fairfax County and Loudoun County, a form of which is attached as **Exhibit F**.

“**Principal and Interest Requirements**” has the meaning provided in the Trust Agreement.

“**Project**” means a 23.1-mile double-track heavy rail project in the Dulles Corridor of Northern Virginia. The corridor follows the alignment of the Dulles Connector Road to Route 123, south to Route 7, west to the Dulles International Airport Access Highway within Fairfax County, through Dulles International Airport, north to the Dulles Greenway, and west to Route 772 in Loudoun County. The Project has two phases of design and construction, Phase 1 and Phase 2, as defined herein. The Project also includes roadway modifications to Route 7 to reduce congestion and improve safety for motorists, including elimination of the service roads and provision of an additional (fourth) lane to accommodate both through and right-turning traffic into adjacent properties. The Project does not include the Parking Facilities or the “Parking Facilities” (as defined in the Loudoun TIFIA Loan Agreement), which garages are classified as “Concurrent Non-Project Activities” by the FTA.

“**Project Budget**” means the budget for the Project, reflecting an aggregate amount of Eligible Project Costs for Phase 1 totaling \$2,905,695,293 and an aggregate amount of Eligible Project Costs for Phase 2 totaling \$2,778,235,564, which budget is attached to this Agreement as **Schedule I** and shows a summary of all such Eligible Project Costs and the estimated sources and uses of funds for Phase 1 and Phase 2, as amended from time to time with the approval of the TIFIA Lender.

“**Project Construction Period**” means the period from the Effective Date through the Substantial Completion Date.

“**Project Development Default**” means MWAA fails to (a) diligently prosecute the work related to Phase 2 or (b) achieve Substantial Completion in accordance with the financial plan delivered by MWAA under the MWAA TIFIA Loan Agreement, as the same may be amended from time to time with the consent of the TIFIA Lender, and after giving effect to any extension by MWAA of the date for Substantial Completion with the consent of the TIFIA Lender.

“**Reimbursement Claims Package**” or “**RCP**” has the meaning provided in the Phase 2 Funding Procedure.

“**Related Documents**” means the Trust Agreement Documents and the TIFIA Loan Documents.

“**Required Percentage**” means such percentage of the total costs of Phase 2 required for Fairfax County to fund sixteen and one-tenth percent (16.1%) of the total costs of the Project.

“**Requisition**” has the meaning provided in Section 4(a).

“**Reserve Fund**” means the “Reserve Fund” created and so designated by Section 501 of the Trust Agreement.

“**Reserve Fund Deficiency**” means, at any time, the positive difference (if any) of (a) the Reserve Fund Requirement less (b) the amount then on deposit and available in the Reserve Fund.

“**Reserve Fund Requirement**” means as of any date of calculation, an amount of cash, securities or a combination thereof (which shall be required to be on deposit in the Reserve Fund in the form of Investment Obligations), equal to MADS.

“**Revised Financial Model**” means the Base Case Financial Model, as it may be updated from time to time pursuant to Section 22(a)(ii) or Section 23(b).

“**Secretary**” means the United States Secretary of Transportation.

“**Secured Parties**” means the Trustee and the TIFIA Lender.

“**Semi-Annual Payment Date**” means each April 1 and October 1 to occur on or after the Effective Date, or, if such date is not a Business Day, the next Business Day following such April 1 or October 1.

“**Series**” has the meaning provided in the Trust Agreement.

“**Servicer**” means such entity or entities as the TIFIA Lender shall designate from time-to-time to perform, or assist the TIFIA Lender in performing, certain duties hereunder.

“**State**” has the meaning provided in the preamble hereto.

“**Substantial Completion**” means the opening of Phase 2 to passenger traffic for public transportation, as such term is defined in 49 U.S.C. §5302(14).

“**Substantial Completion Date**” means the later of (a) January 31, 2019 and (b) such other date (if any) reflected in the most recently agreed update to the Financial Plan pursuant to Section 22(a)(iii), which date shall be the same date as reflected in the most recently agreed update to MWAA’s Financial Plan.

“**Support Agreement**” means the Support Agreement, dated December [1], 2014, between Fairfax County and the Borrower, with respect to the Trust Agreement.

“**TIFIA**” has the meaning provided in the recitals hereto.

“**TIFIA Bond**” or “**Bond**” means the Bond delivered by the Borrower in accordance with the Trust Agreement in substantially the form attached hereto as **Exhibit A**.

“**TIFIA Debt Service**” means (a) with respect to any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the entire amount of each

Fixed Level Payment required to be paid pursuant to Section 9(c)(ii) and (b) any other payments of principal of and interest on the TIFIA Bond required to be paid under this Agreement.

“**TIFIA Interest Rate**” has the meaning provided in Section 6.

“**TIFIA Lender**” has the meaning provided in the preamble hereto.

“**TIFIA Lender’s Authorized Representative**” means the Administrator and any other Person who shall be designated as such pursuant to Section 27.

“**TIFIA Loan**” has the meaning provided in the recitals hereto.

“**TIFIA Loan Documents**” means this Agreement, the TIFIA Bond, the Fairfax County Letter Agreement and the Trust Agreement.

“**Total Project Costs**” means (a) the costs paid or incurred (to the extent paid, such costs shall be reimbursed to the Person who paid such costs) or to be paid or incurred by MWAA in connection with or incidental to the acquisition, design, construction and equipping, testing and start-up of the Project, including legal, administrative, engineering, planning, design, insurance and certain financing costs; (b) amounts, if any, required by the MWAA Indenture to be paid into any fund or account upon the incurrence of Senior Obligations (as defined in the MWAA Indenture); (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) on any indebtedness of MWAA (other than its TIFIA loan) incurred for the Project, including capitalized interest on such Senior Obligations; (d) costs of equipment and supplies and project management costs required by MWAA for the commencement of operation of the Project, including general administrative expenses and overhead of MWAA other than to the extent such amounts constitute direct or indirect costs unallowable to MWAA under 18 C.F.R. Part 18 and its contractors under 18 C.F.R. Part 31; and (e) the repayment of obligations incurred by MWAA, the proceeds of which obligations were used to pay items (a) through (d) of this definition.

“**Trust Agreement**” means that certain Trust Agreement, dated as of December 1, 2014, by and between the Borrower and the Trustee, Authorizing the Issuance of and Securing the Borrower’s Revenue Bonds (Silver Line Phase II Project), Series 2014.

“**Trust Agreement Documents**” means the Trust Agreement, the Support Agreement and each other agreement, instrument and document executed and delivered pursuant to or in connection therewith, but shall not include the Fairfax County Letter Agreement.

“**Trust Estate**” has the meaning provided in the Trust Agreement.

“**Trustee**” means U.S. Bank National Association, in its capacity as trustee under the Trust Agreement, or any successor trustee appointed pursuant to the terms of the Trust Agreement.

“**Turnover Date**” means the fifth Business Day prior to each Semi-Annual Payment Date.

“USDOT” means the United States Department of Transportation.

“VDOT” means the Virginia Department of Transportation.

“WMATA” means the Washington Metropolitan Area Transit Authority, an interstate compact agency and a common agency and instrumentality of the District of Columbia, the State and the State of Maryland.

SECTION 2. “Interpretation. Unless the context shall otherwise require, the words “hereto”, “herein”, “hereof” and other words of similar import refer to this Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Whenever Fairfax County’s knowledge is implicated in this Agreement or the phrase “to Fairfax County’s knowledge” or a similar phrase is used in this Agreement, Fairfax County’s knowledge or such phrase(s) shall be interpreted to mean to the best of Fairfax County’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns. Unless the context shall otherwise require, references to sections, subsections, schedules, exhibits, appendices and provisions are to the applicable sections, subsections, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time-to-time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 37 and signed by a duly authorized representative of such party.

SECTION 3. TIFIA Loan Amount. The principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof) shall not exceed \$403,274,894; provided, that in no event shall (a) the maximum principal amount of the TIFIA Loan disbursed by the TIFIA Lender, together with the amount (excluding any interest that is capitalized in accordance with the terms hereof) of any other credit assistance provided under the Act to (i) MWAA, under the MWAA TIFIA Loan Agreement, and (iii) Loudoun County and the Economic Development Authority of Loudoun County, under the Loudoun TIFIA Loan Agreement, exceed thirty-three percent (33%) of the total amount of the reasonably anticipated Eligible Project Costs set forth in the Financial Plan most recently approved by the TIFIA

Lender or (b) the total federal assistance provided to the Project exceed eighty percent (80%) of Eligible Project Costs. TIFIA Loan proceeds shall be disbursed from time-to-time in accordance with Section 4.

SECTION 4. Disbursement Conditions.

(a) TIFIA Loan proceeds shall be disbursed solely to enable the Borrower, on behalf of Fairfax County, to reimburse MWAA for MWAA's prior incurrence, for the account of Fairfax County, of Eligible Project Costs in connection with Phase 2. Each disbursement of the TIFIA Loan shall be made pursuant to a requisition and certification (a "**Requisition**") in the form set forth in **Appendix One** to **Exhibit D**, along with all documentation and other information required thereby, submitted by Fairfax County (acting on behalf of the Borrower) to the TIFIA Lender and the FTA Regional Office, reviewed by the FTA Regional Office, and approved by the TIFIA Lender, all in accordance with the procedures of **Exhibit D** and subject to the requirements of this Section 4 and (i) with respect to the initial disbursement, the conditions set forth in Section 13(a) and Section 13(b), and (ii) with respect to each subsequent disbursement, the conditions set forth in Section 13(b); provided, however, that no disbursements of TIFIA Loan proceeds shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) Fairfax County (acting on behalf of the Borrower) shall deliver copies of each Requisition signed by a County's Authorized Representative and a Borrower's Authorized Representative to the TIFIA Lender, the TIFIA Joint Program Office (HITJ), the Servicer (if any) and the FTA Regional Office on or before the first day of each month for which a disbursement is requested, or the next succeeding Business Day if such first day is not a Business Day. If the TIFIA Lender shall expressly approve a Requisition or shall not expressly deny a Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day. Express TIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Three** to **Exhibit D**. In no event shall disbursements be made more than once each month. At the time of any disbursement, the sum of all prior disbursements of TIFIA Loan proceeds and the disbursement then to be made shall not exceed the cumulative disbursements through the end of the then-current year set forth in the Anticipated TIFIA Loan Disbursement Schedule, as the same may be amended from time to time.

(c) All Eligible Project Costs requested to be reimbursed with TIFIA Loan proceeds pursuant to a Requisition shall be evidenced by invoices and records set forth in a Reimbursement Claims Package (i) compliant with the applicable requirements of the Phase 2 Funding Procedure, (ii) delivered by MWAA to the TIFIA Lender, the Servicer (if any) and the FTA Regional Office at least one (1) month prior to Fairfax County's submission of such Requisition, and (iii) subsequently expressly approved or not expressly denied by the TIFIA Lender pursuant to the MWAA TIFIA Loan Agreement.

(d) Fairfax County (acting on behalf of the Borrower) may amend the Anticipated TIFIA Loan Disbursement Schedule by submitting a revised version thereof to the Borrower, the TIFIA Lender and the FTA Regional Office no later than thirty (30) days prior to

the proposed effective date thereof, together with a detailed explanation of the reasons for such revisions. Such revised Anticipated TIFIA Loan Disbursement Schedule shall become effective upon the TIFIA Lender's approval thereof, which approval shall be granted in the TIFIA Lender's sole discretion.

(e) As a condition to each disbursement of the TIFIA Loan, Fairfax County or the Borrower, or MWAA (acting on behalf of Fairfax County or the Borrower), shall provide to the TIFIA Lender evidence satisfactory to the TIFIA Lender that, as of any such TIFIA Loan disbursement, (i) the cumulative amount of TIFIA Loan disbursements (including such disbursement), when combined with the cumulative amount of loan disbursements made to (A) MWAA, under the MWAA TIFIA Loan Agreement, and (B) Loudoun County and the Economic Development Authority of Loudoun County, under the Loudoun TIFIA Loan Agreement, shall not exceed thirty-three percent (33%) of the total amount of the reasonably anticipated Eligible Project Costs set forth in the Financial Plan most recently approved by the TIFIA Lender and (ii) the total federal assistance provided to the Project shall not exceed eighty percent (80%) of Eligible Project Costs.

SECTION 5. Term. The term of the TIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier or later date as all amounts due or to become due to the TIFIA Lender hereunder have been paid.

SECTION 6. Interest Rate. The interest rate with respect to the TIFIA Loan (the "**TIFIA Interest Rate**") shall be [] percent ([]%) per annum. Interest will be computed on the Outstanding TIFIA Loan Balance (as well as on any past due interest) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed and will be compounded semi-annually as set forth in Section 9(b); provided, however, that, in the event of a Payment Default, the Borrower shall pay interest on any overdue amount from its due date to the date of actual payment at the Default Rate.

SECTION 7. Outstanding TIFIA Loan Balance and Revisions to Exhibit G and the Loan Amortization Schedule. The Outstanding TIFIA Loan Balance will be (a) increased on each occasion on which the TIFIA Lender shall disburse loan proceeds hereunder, by the amount of such disbursement of loan proceeds; (b) increased prior to the Debt Service Payment Commencement Date on each occasion on which interest on the TIFIA Loan is capitalized pursuant to the provisions of Section 9(b) hereof, by the amount of interest so capitalized; and (c) decreased upon each payment or prepayment of the principal amount of the TIFIA Loan, by the amount of principal so paid. The TIFIA Lender may in its discretion at any time and from time-to-time, or when so requested by Fairfax County, advise Fairfax County and the Borrower by written notice of the amount of the Outstanding TIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error. Upon any determination of the Outstanding TIFIA Loan Balance, the TIFIA Lender may, but shall not be obligated to, make applicable revisions to **Exhibit G** pursuant to Section 9 and in such event shall provide Fairfax County and the Borrower with a copy of such **Exhibit G** as revised, but no failure to provide or delay in providing Fairfax County or the Borrower with such copy shall affect any of the obligations of Fairfax County or the Borrower under this Agreement or the other TIFIA Loan Documents. The Loan Amortization

Schedule reflected in **Exhibit G** as of the Effective Date has been determined based on the Anticipated TIFIA Loan Disbursement Schedule in effect on the Effective Date.

SECTION 8. Security and Priority; Flow of Funds.

(a) The TIFIA Loan is evidenced by the TIFIA Bond. As security for the TIFIA Loan, the Borrower shall pledge, assign and grant, or shall cause to be pledged, assigned and granted, to the Trustee, a Lien on the Trust Estate in accordance with the provisions of the Trust Agreement. The TIFIA Bond shall be a first priority Bond secured by the Lien on the Trust Estate. Other than the TIFIA Bond, neither the Borrower nor Fairfax County shall issue any indebtedness under the Trust Agreement or otherwise secured by the Trust Estate.

(b) Except for Liens (i) created by the Trust Agreement for the benefit of the TIFIA Lender or the Trustee or (ii) as may arise by operation of law, the Trust Estate will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto, prior to, or of equal rank with, the pledge of the Borrower created under the Trust Agreement, and all action on the part of the Borrower or Fairfax County to that end has been duly and validly taken.

(c) Neither the Borrower nor Fairfax County shall use Dedicated Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 and the Trust Agreement and shall not apply any portion of the Dedicated Revenues in contravention of this Agreement or the Trust Agreement Documents.

(d) The Trust Agreement provides that all Dedicated Revenues shall be deposited in the Debt Service Fund or the Reserve Fund and applied in the order of priority and in accordance with the requirements specified in Sections 502 and 503 of the Trust Agreement, a copy of which is set forth in **Exhibit I**.

(e) Notwithstanding anything to the contrary hereunder, but without limiting the obligations of the Borrower and Fairfax County to deposit Dedicated Revenues in the Debt Service Fund or the Reserve Fund, the payment obligations of the Borrower under this Agreement and the Trust Agreement are solely payable from amounts on deposit with the Trustee under the Trust Agreement.

SECTION 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the TIFIA Loan by making payments in accordance with the provisions of this Agreement and the Trust Agreement on each Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date and on each other date (including the Final Maturity Date) on which payment thereof is required to be made hereunder. Any payment of the TIFIA Bond shall be treated as a payment of the TIFIA Loan, and any prepayment of the TIFIA Loan shall be treated as a redemption of the TIFIA Bond.

(b) Capitalized Interest Period. Except for mandatory prepayments required by Section 10(a), no payment of the principal of or interest on the TIFIA Loan is required to be made during the Capitalized Interest Period. On each April 1 and October 1 occurring during the Capitalized Interest Period, interest accrued on the TIFIA Loan in the six (6) month period (or, in

the case of the initial Capitalized Interest Period, such shorter period commencing upon the Effective Date) ending immediately prior to such date, shall be capitalized and added to the Outstanding TIFIA Loan Balance. Within thirty (30) days after the end of the Capitalized Interest Period, the TIFIA Lender shall give written notice to the Trustee, the Borrower and Fairfax County stating the Outstanding TIFIA Loan Balance as of the close of business on the last day of the Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Trustee, the Borrower or Fairfax County hereunder or under any of the other TIFIA Loan Documents.

(c) Payment of TIFIA Debt Service.

(i) Except for mandatory prepayments required by Section 10(a), on each Semi-Annual Payment Date (if any) occurring prior to the Debt Service Payment Commencement Date, the Borrower shall have no obligation to pay TIFIA Debt Service.

(ii) On each Semi-Annual Payment Date occurring during the Debt Service Payment Period, the Borrower shall make level payments of principal and interest (each a “**Fixed Level Payment**”), each of which payments shall be approximately equal in amount. The amount of the Fixed Level Payment shall be calculated as of the Debt Service Payment Commencement Date in such manner that the Outstanding TIFIA Loan Balance as of such date shall be reduced to \$0 on the Final Maturity Date (assuming that interest accrues during such period on the principal balance of such TIFIA Loan at the rate per annum set forth in Section 6 in the absence of an Event of Default, that all Fixed Level Payments are made in a timely manner during such period, and that no additional payments of principal or interest on the TIFIA Loan are made during such period). Within thirty (30) days prior to the beginning of the Debt Service Payment Period, the TIFIA Lender shall provide the Trustee, the Borrower and Fairfax County with a revised copy of **Exhibit G**, which revision shall be deemed conclusive absent manifest error, but no failure to provide or delay in providing the Trustee, the Borrower or Fairfax County with such copy shall affect any of the obligations of the Borrower or Fairfax County under this Agreement or the other TIFIA Loan Documents.

(iii) To the extent that any prepayments of the TIFIA Loan shall be made after the Debt Service Payment Commencement Date in addition to TIFIA Debt Service payments, such prepayments shall be applied to the remaining Outstanding TIFIA Loan Balance and the resulting TIFIA Debt Service payments shall be recalculated as provided in Section 10(c) and reflected in a revised **Exhibit G**. On or before the second Business Day after the fifteenth (15th) day of the month before each Semi-Annual Payment Date until the Borrower has paid all principal of and interest on the TIFIA Loan in full, the TIFIA Lender shall use commercially reasonable efforts to provide the Trustee, the Borrower and Fairfax County with such revised copy of **Exhibit G**, which revision shall be deemed conclusive absent manifest error, but no failure to provide or delay in providing

the Trustee, the Borrower or Fairfax County with such copy shall affect any of the obligations of the Trustee, the Borrower or Fairfax County under this Agreement or the other TIFIA Loan Documents; provided that, if the TIFIA Lender fails to timely deliver such revised copy pursuant to this Section 9(ii)(c), the Borrower may deliver by written notice to the TIFIA Lender, no later than ten (10) Business Days prior to the next Semi-Annual Payment Date, the Borrower's good faith calculation of the amount of principal and interest on the TIFIA Loan payable on such Semi-Annual Payment Date, which calculation shall be deemed accepted by the TIFIA Lender unless it has delivered to the Borrower and Fairfax County a revised copy of **Exhibit G** no later than five (5) Business Days following such notice.

(d) Manner of Payment. Payments under this Agreement and the TIFIA Bond shall be made by wire transfer on or before each Semi-Annual Payment Date in immediately available funds in accordance with payment instructions provided by the TIFIA Lender's Authorized Representative pursuant to Section 37, as modified in writing from time-to-time by the TIFIA Lender's Authorized Representative. The Borrower, at the direction of Fairfax County, may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the Debt Service Fund.

(e) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding TIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date (or on any earlier date on which the maturity of the TIFIA Loan shall be accelerated, to the extent permitted pursuant to the Trust Agreement or otherwise, pursuant to the provisions of Section 20).

(f) TIFIA Bond; Adjustments to Loan Amortization Schedule. As evidence of the Borrower's obligation to repay the TIFIA Loan, the Borrower shall issue and deliver to the TIFIA Lender, on or prior to the Effective Date, the TIFIA Bond substantially in the form of **Exhibit A**, having a maximum principal amount (excluding capitalized interest) of \$403,274,894 (subject to increase or decrease as herein provided) and bearing interest at the rate set forth in Section 6. The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** from time to time accordance with Section 7 to reflect (i) the amount of each disbursement made under this Agreement, (ii) any capitalization of interest as provided in Section 7, (iii) the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, (iv) each repayment or prepayment in respect of the principal amount of the TIFIA Loan and (v) such other information as the TIFIA Lender may determine is necessary for administering the TIFIA Loan and this Agreement. Absent manifest error, the TIFIA Lender's determination of such matters as set forth in **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's or Fairfax County's obligations hereunder or under any other TIFIA Loan Document.

(g) No Defeasance. Anything to the contrary in any Trust Agreement Document notwithstanding, the TIFIA Loan (as represented by the TIFIA Bond) shall not be subject to defeasance and no amounts in respect of the TIFIA Loan shall be considered or deemed to have been paid until the TIFIA Lender shall have received irrevocable payment in

immediately available funds in accordance with the requirements for payment set forth in this Agreement.

SECTION 10. Prepayment.

(a) Mandatory. Fairfax County shall cause the Borrower to prepay the TIFIA Loan, without penalty or premium:

(i) no later than five (5) Business Days following the determination thereof by MWAA that the total amount of actual invoiced Eligible Project Costs were less than projected Eligible Project Costs included in the Base Case Projections, which determination shall be made no later than the first (1st) anniversary of the Substantial Completion Date, in an amount equal to the product of (A) 7.095% multiplied by (B) an amount equal to the positive difference, if any, between (1) projected Eligible Project Costs included in the Base Case Projections less (2) the total amount of actual invoiced Eligible Project Costs; and

(ii) as and when required pursuant to Section 2.1(b) of the Fairfax County Letter Agreement.

Each prepayment pursuant to this Section 10(a) shall be accompanied by a certificate signed by the Borrower's Authorized Representative identifying the provision of this Agreement pursuant to which such prepayment is being made and containing a calculation in reasonable detail of the amount of such prepayment, distinct from any other amounts paid on such date.

(b) Optional. At the direction of Fairfax County, the Borrower may prepay the TIFIA Loan by redeeming the TIFIA Bond in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by Fairfax County; provided, however, that such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1 in excess thereof), at any time or from time-to-time, without penalty or premium, by paying to the TIFIA Lender such principal amount of the TIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment of the TIFIA Loan shall be made on such date and in such principal amount as shall be specified by the Borrower (or by Fairfax County, acting on behalf of the Borrower) in a written notice delivered to the TIFIA Lender. In the case of any prepayment, such written notice shall be delivered to the TIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment. Such notice shall be irrevocable and shall bind the Borrower to make such prepayment in accordance with such notice; provided, however, that, in the event that Fairfax County certifies to the TIFIA Lender that the source of such prepayment is the proceeds of a borrowing by either the Borrower or Fairfax County, such optional notice of prepayment shall be deemed conditional in that it is subject to the timely closing of such borrowing and should the borrowing for any reason not close on or before the date fixed for such prepayment, such notice of optional prepayment shall be deemed withdrawn and of no effect.

(c) General. Notice having been given as provided in Section 10(b), the principal amount of the TIFIA Loan stated in such notice or the whole thereof, as the case may be, shall become due and payable on the prepayment date stated in such notice, together with

interest accrued and unpaid to the prepayment date on the principal amount then being prepaid. In case the entire unpaid balance of the principal of the TIFIA Bond is to be prepaid, the amount of principal and interest due and payable as a result of a mandatory or optional prepayment shall be paid upon presentation and surrender of such TIFIA Bond by the TIFIA Lender to the Trustee under the Trust Agreement. In case only part of the unpaid balance of principal of such TIFIA Bond is to be prepaid, the TIFIA Lender may make a notation on **Exhibit G** indicating the amount of principal of and interest on such TIFIA Bond then being prepaid. Upon a partial prepayment of the principal of the TIFIA Loan, the remaining debt service payments hereunder will be recalculated such that each such payment shall be approximately equal in amount and sufficient to amortize the remaining Outstanding TIFIA Loan Balance at the TIFIA Interest Rate over the period ending by no later than the Final Maturity Date and the resulting debt service payments will be reflected in a revised **Exhibit G**. For purposes of such recalculation, the amount of the prepayment shall be applied to each remaining principal payment in such manner that the Outstanding TIFIA Loan Balance as of the date of such prepayment (after giving effect to such prepayment) shall be reduced to \$0 on the Final Maturity Date (assuming that interest accrues during such period on the principal balance of such TIFIA Loan at the rate per annum set forth in Section 6 in the absence of an Event of Default, that all Fixed Level Payments are made in a timely manner during such period, and that no additional payments of principal of or interest on the TIFIA Loan are made during such period). If said monies shall not have been so paid on the prepayment date, such principal amount of such TIFIA Bond shall continue to bear interest until payment thereof at the rate provided for in Section 6. Upon a prepayment of the entire unpaid balance of the principal of the TIFIA Bond, if said monies have been paid by the Borrower, but the TIFIA Lender has not surrendered the TIFIA Bond to the Trustee, interest shall nonetheless cease to accrue on the outstanding principal amount of the TIFIA Bond as of the date of such prepayment.

SECTION 11. [Reserved].

SECTION 12. Compliance with Laws. The FTA Regional Office has oversight responsibility for ensuring compliance with all applicable provisions of federal law with respect to the Project and for Project oversight activities. Each of the Borrower and Fairfax County agrees to cooperate with the FTA Regional Office in connection with the performance of its activities related to such responsibility; provided, however, that this Section 12 shall not apply in any respect to the Parking Facilities.

SECTION 13. Conditions Precedent.

(a) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective, the TIFIA Lender shall have no obligations hereunder and the TIFIA Lender shall not make the initial disbursement of loan proceeds to the Borrower until each of the following conditions precedent shall have been satisfied or waived in writing by the TIFIA Lender:

(i) Each of the Borrower and Fairfax County shall have duly executed, and the Borrower shall have delivered to the TIFIA Lender, this Agreement and the TIFIA Bond (together with a certificate of authentication

executed by the Trustee), each in form and substance satisfactory to the TIFIA Lender and executed by any other parties thereto.

(ii) The TIFIA Lender and Fairfax County shall have executed and delivered the Fairfax County Letter Agreement.

(iii) The Borrower shall have delivered to the TIFIA Lender certified, complete and fully executed copies of each Trust Agreement Document, together with any amendments, waivers or modifications thereto executed on or prior to the Effective Date, and each such Trust Agreement Document shall be in full force and effect, and in form and substance satisfactory to the TIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided, that for purposes of this Section 13(a)(iii), any such waiver shall be subject to the TIFIA Lender's consent in its sole discretion).

(iv) Counsel to the Borrower, bond counsel to the Borrower and counsel to Fairfax County, in each case, shall have rendered to the TIFIA Lender an opinion letter, satisfactory to the TIFIA Lender in its sole discretion, that includes opinions substantially in the form of those opinions set forth on **Exhibit H-1, Exhibit H-2 and Exhibit H-3**, respectively.

(v) The Borrower or Fairfax County shall have delivered to the TIFIA Lender a duly executed certificate from the Trustee in the form attached hereto as **Exhibit J**.

(vi) (A) The Borrower shall have provided to the TIFIA Lender, in the form attached hereto as **Exhibit C**, a certificate executed by the Borrower's Authorized Representative as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995); and (B) Fairfax County shall have provided to the TIFIA Lender, in the form attached hereto as **Exhibit C**, a certificate executed by an authorized representative of Fairfax County as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters with respect to Fairfax County and its principals (as defined in 2 C.F.R. § 180.995).

(vii) The Borrower or Fairfax County shall have provided evidence to the TIFIA Lender's satisfaction, no more than thirty (30), but no less than fourteen (14), days prior to the Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of an Investment Grade Rating on the TIFIA Bond.

(viii) (A) The Borrower shall have delivered to the TIFIA Lender a certificate executed by an authorized representative of the Borrower (1) as to the satisfaction of the conditions precedent set forth in this Section 13(a), (2)

designating the Borrower's Authorized Representative and (3) confirming such person's position and incumbency and (B) Fairfax County shall have delivered to the TIFIA Lender a certificate executed by an authorized representative of Fairfax County (1) as to the satisfaction of certain conditions precedent set forth in this Section 13(a), (2) designating the County's Authorized Representative and (3) confirming such person's position and incumbency.

(ix) Fairfax County shall have demonstrated to the TIFIA Lender's satisfaction that the funds forecasted to be available to Fairfax County under the Base Case Financial Model will be sufficient to fund the Required Percentage of the total funds required to complete Phase 2.

(x) The Borrower shall have provided evidence to the TIFIA Lender's satisfaction that (A) Fairfax County has requested that the Borrower issue indebtedness for the purpose of funding up to \$403,274,894 in Project costs for Phase 2 and (B) the governing body of the Borrower has duly authorized the Borrower to issue bonds to finance up to \$403,274,894 in Project costs for Phase 2.

(xi) Fairfax County shall have delivered to the TIFIA Lender a certified Base Case Financial Model acceptable to the TIFIA Lender on or prior to the Effective Date demonstrating that the projected Dedicated Revenues shall be sufficient to meet the Loan Amortization Schedule.

(xii) Fairfax County shall have paid in full all invoices delivered by the TIFIA Lender to the Borrower prior to the Effective Date for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof.

(xiii) The TIFIA Lender shall have delivered its initial TIFIA Lender's Authorized Representative certificate.

(xiv) The Borrower and Fairfax County shall have delivered such other agreements, documents, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender, including evidence that all other funding requirements of the Borrower and Fairfax County for the Project have been met (including evidence of other funding sources or funding commitments).

(xv) Each of the Borrower and Fairfax County shall have obtained a Data Universal Number System number, a number from the Federal System for Award Management (formerly the federal Central Contractor Registry), and a Federal Employer Identification Number.

(xvi) The Borrower and Fairfax County shall have provided to the TIFIA Lender evidence that it is duly organized and validly existing under the

laws of the State, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including (A) a copy of the Organizational Documents of the Borrower, as in effect on the Effective Date and certified by the Borrower's Authorized Representative, which Organizational Documents shall have not been amended since the date of the last amendment thereto shown on the certificate and (B) a copy of all resolutions authorizing each of the Borrower and Fairfax County, respectively, to execute and deliver, and to perform its obligations under, the TIFIA Loan Documents to which it is a party, in each case certified by a Borrower's Authorized Representative or a County's Authorized Representative, as applicable.

(xvii) The representations and warranties of each of the Borrower and Fairfax County set forth in this Agreement (including Section 14 and Section 14A) and in each other Related Document shall be true and correct as of the Effective Date and as of the date of the initial disbursement of the TIFIA Loan, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xviii) The Borrower and Fairfax County shall have delivered written evidence, in form and substance satisfactory to the TIFIA Lender, verifying the Borrower's legal and organizational authority to utilize general revenues of Fairfax County in an amount sufficient to pay for the Required Percentage of the total costs of the Project reflected in the Project Budget and demonstrating that such funds (A) excluding any amounts available to the Borrower under this Agreement, equal or exceed an amount equal to \$111,837,974 (in the aggregate) and (B) will be available to Fairfax County as and when needed to pay for the total costs of the Project reflected in the Project Budget in accordance with the Financial Plan.

(b) Notwithstanding anything in this Agreement to the contrary, the TIFIA Lender shall have no obligation to make any disbursement of loan proceeds to the Borrower (including the initial disbursement hereunder) until each of the following conditions precedent has been satisfied or waived in writing by the TIFIA Lender:

(i) Each of the conditions precedent set forth in Section 13(a) shall have been satisfied or waived in writing by the TIFIA Lender, as of the Effective Date.

(ii) Fairfax County shall have provided to the TIFIA Lender evidence satisfactory to the TIFIA Lender (which may be based on information provided by MWAA) that, as of such TIFIA Loan disbursement, (A) the cumulative amount of TIFIA Loan disbursements (including such disbursement), when combined with the cumulative amount of TIFIA Loan disbursements made to (I) MWAA, under the MWAA TIFIA Loan Agreement, and (II) Loudoun County and the Economic Development Authority of Loudoun County, under the Loudoun TIFIA Loan Agreement, shall not exceed thirty-three percent (33%) of the total amount of the

reasonably anticipated Eligible Project Costs set forth in the Financial Plan most recently approved by the TIFIA Lender and (B) the total federal assistance provided to the Project shall not exceed eighty percent (80%) of Eligible Project Costs.

(iii) Fairfax County shall have provided the Financial Plan, or the most recent update thereto, in each case in accordance with Section 22(a).

(iv) To the extent not previously delivered to the TIFIA Lender, the Borrower or Fairfax County shall have delivered to the TIFIA Lender certified, complete and fully executed copies of any Related Documents entered into after the Effective Date.

(v) At the time of, and immediately after giving effect to, any disbursement of TIFIA Loan proceeds then currently requested, (A) no Event of Default or event of default under any other Related Document and (B) no event which with the giving of notice or the passage of time or both would constitute an Event of Default or event of default under any Related Document, in each case, shall have occurred and be continuing.

(vi) The representations and warranties of each of the Borrower and Fairfax County set forth in this Agreement (including Section 14 and Section 14A) and in each other Related Document shall be true and correct in all material respects (except to the extent any representation and warranty itself is qualified by “materiality,” “Material Adverse Effect” or a similar qualifier, in which case, it shall be true and correct in all respects) as of each date on which any disbursement of the TIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct in all material respects (except to the extent any such representation and warranty itself is qualified by “materiality,” “Material Adverse Effect” or a similar qualifier, in which case, it shall be true and correct in all respects) as of such earlier date).

(vii) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred since the date the Borrower submitted the Application to the TIFIA Lender.

(viii) Fairfax County shall have demonstrated to the TIFIA Lender’s satisfaction that the funds described in the Financial Plan most recently approved by the TIFIA Lender as being available to pay for Project costs will be sufficient for the Borrower to fund the Required Percentage of the total costs of the Project reflected in the Project Budget and no facts or circumstances have arisen that would reasonably be likely to cause such amounts reflected in such Financial Plan not to be available as and when needed to pay for such costs.

(ix) Fairfax County shall have delivered to the TIFIA Lender a Requisition that complies with the provisions of Section 4, and the TIFIA Lender

shall have approved (or deemed to have approved in accordance with Section 4(b)) such Requisition.

(x) The Borrower and Fairfax County shall have delivered such other agreements, documents, certificates, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender.

(xi) Fairfax County shall have demonstrated to the TIFIA Lender's satisfaction that, as of each date on which any disbursement of the TIFIA Loan is made, (A) there does not currently exist any event of default, or any event which with the giving of notice or the passage of time or both would constitute any such event of default, with respect to any indebtedness secured in whole or in part by or payable from amounts subject to appropriation by Fairfax County and (B) with respect to all payment obligations of Fairfax County, including lease obligations, secured in whole or in part by or payable from amounts subject to appropriation by Fairfax County, Fairfax County has appropriated funds as and when required and in amounts sufficient to satisfy Fairfax County's payment obligations with respect thereto.

(xii) MWAA shall not have abandoned Phase 2 during the Project Construction Period, and no other Project Development Default shall have occurred.

(xiii) A Reimbursement Claims Package, including invoices and records evidencing any Eligible Project Costs included in the applicable Requisition and otherwise in compliance with the applicable requirements of the Phase 2 Funding Procedure, shall have been (A) delivered by MWAA to the TIFIA Lender, the Servicer (if any) and the FTA Regional Office at least one (1) month prior to the Fairfax County's submission of such Requisition and (B) subsequently expressly approved or not expressly denied by the TIFIA Lender pursuant to the Phase 2 Funding Procedure.

(xiv) Fairfax County shall not have taken, or permitted any other Person to have taken, any action which has resulted or could reasonably be expected to result in all or any portion of the development, design, construction, operation or maintenance of the Parking Facilities to constitute part of the Project to be funded pursuant to the 2007 Funding Agreement, including in accordance with Section 3.2(d) of the 2011 MOA.

(xv) Fairfax County shall not have failed to timely appropriate and pay over to the Trustee (i) Dedicated Revenues, as of any Turnover Date, in amounts necessary to meet any Debt Service Requirements as of the next Semi-Annual Payment Date or (ii) Appropriated Funds in amounts sufficient to cover any Reserve Fund Deficiency within the time required by this Agreement.

(xvi) The Borrower shall have paid in full all invoices received from the TIFIA Lender as of the date of disbursement of the TIFIA Loan, for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof.

SECTION 14. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in clause (b) of this Section, as of each date on which any disbursement of the TIFIA Loan is requested or made:

(a) Organization; Power and Authority. The Borrower is a political subdivision of the State created pursuant to the EDA Act and duly activated by a resolution of the Board of Supervisors, validly existing and in good standing, has full legal right, power and authority to enter into the Related Documents to which the Borrower is a party then in existence, to execute and deliver the TIFIA Bond, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents to which the Borrower is a party.

(b) Officers' Authorization. As of the Effective Date, the officers of the Borrower executing the Related Documents to which the Borrower is a party are duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the TIFIA Loan Documents to which the Borrower is a party has been duly authorized, executed and delivered by the Borrower and, assuming the due authorization, execution and delivery thereof by the other parties thereto, constitutes the legal, valid and binding agreement of the Borrower enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of each of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated in such Related Documents and the fulfillment of or compliance with the terms and conditions of such Related Documents will not (i) conflict with the Borrower's Organizational Documents, or (ii) conflict in any material respect with, or constitute a violation, breach or default (with due notice or the passage of time or both) by the Borrower of or under, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, any other Related Document to which the Borrower is a party or any other indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which the Borrower or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower or on the Dedicated Revenues.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization,

order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents to which the Borrower is a party, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction on the part of the Borrower contemplated by the Related Documents or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of the Related Documents to which the Borrower is a party, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, except as set forth in Schedule 14(f), to the Borrower's knowledge, there is no action, suit, proceeding, inquiry or investigation before or by any court or other Governmental Authority, pending or threatened against or affecting the Project or the ability of the Borrower to enter into and deliver, or to perform its obligations under, any of the Related Documents. As of each other date on which the representations and warranties herein are made or confirmed, to the Borrower's knowledge, there is no action, suit, proceeding, inquiry or investigation before or by any court or other Governmental Authority pending or threatened against or affecting the Project, the Borrower or the ability of the Borrower to enter into and deliver, or to perform its obligations under, any of the Related Documents, which in any case (i) could reasonably be expected to result in a Material Adverse Effect or (ii) could reasonably be expected to adversely affect the Borrower's ability to receive Dedicated Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model with respect thereto.

(g) Security Interests. The Trust Agreement establishes, in favor of the Trustee for the benefit of all Bond Owners, including the TIFIA Lender, the valid Lien on the Trust Estate which it purports to create; such Lien is in full force and effect and is not subordinate to any other Liens in respect of the Trust Estate except to the extent such other Lien is entitled to priority as a matter of law and the Borrower is not in breach of any covenants set forth in Section 16(a) or in the Trust Agreement Documents with respect thereto. From and after the initial disbursement hereunder, (i) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish the Trustee's Lien in and to the Trust Estate (for the benefit of the Secured Parties) to the extent contemplated by the Trust Agreement and to grant the TIFIA Lender a first priority lien in the Trust Estate thereunder, (ii) the Borrower has complied with all requirements of the laws of the State to lawfully perfect the Trustee's Lien in and to the Trust Estate (except to the extent no actions are required to perfect such Lien pursuant to the laws of the State) and (iii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Trust Agreement Documents have been paid.

(h) No Debarment. Neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered in substantially the form of **Exhibit C**.

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related

Documents to which the Borrower is a party are true and accurate, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(j) No Defaults. The Borrower is not in default under the terms of any Related Document to which the Borrower is a party, and no event has occurred or condition exists which, with due notice or lapse of time or both, would constitute an Event of Default.

(k) Related Documents. Each Related Document to which the Borrower is a party is in full force and effect and all conditions precedent to the obligations of the respective parties under each Related Document have been satisfied. The Borrower has delivered to the TIFIA Lender a fully executed and complete copy of each such Related Document (including all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any other party to a Related Document, the right to terminate any such Related Document. The Borrower is not in breach of any material term in or in default under any of such agreements or contracts and, to the Borrower's knowledge, no party to any of such agreements or contracts is in breach of any material term therein or in default thereunder.

(l) Information. The information furnished by the Borrower to the TIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of Fairfax County (including the Base Case Financial Model, any Revised Financial Model and the assumptions therein).

(m) OFAC. The Borrower (i) is not in violation of: (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act of 1970, as amended, and the regulations promulgated thereunder; (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State; or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; and (ii) is not a Person (1) that is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws; (2) that has been convicted of any violation of, has been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws; (3) that is named on the list of "Special Designated Nationals or Blocked Persons" maintained by OFAC (or any successor United States government office or list), or any similar list maintained by the United States Department of State (or any successor United States government office or list); (4) with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law; (5) that is owned, controlled by, or affiliated with any Person identified in clause (1), (2), (3) or (4) of this clause (ii); or (6) that is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions,

laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled or has its principal place of business.

(n) Compliance with Law. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and governmental functions and operations in compliance, in all material respects, with, all applicable laws. No notices of violation of any applicable law have been issued, entered or received by the Borrower that could reasonably be expected to result in a Material Adverse Effect.

(o) Title. The Borrower has valid legal and beneficial title to the assets and revenues thereof on which it purports to grant a Lien pursuant to the Trust Agreement Documents, in each case free and clear of any Lien of any kind, except for the Liens created by the Trust Agreement for the benefit of the Trustee or the TIFIA Lender.

(p) No Liens. The Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien upon any of the Dedicated Revenues or upon the Project, except for the Liens created by the Trust Agreement for the benefit of the Trustee and the TIFIA Lender.

(q) Investment Company Act. The Borrower is not, and after applying the proceeds of the TIFIA Loan will not be, required to register as an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and is not “controlled” by a company required to register as an “investment company” under the Investment Company Act of 1940, as amended.

(r) Taxes. The Borrower is not required to file tax returns with any Governmental Authority.

(s) ERISA. Neither Borrower nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Code.

(t) Other Transactions. As of the Effective Date, the Borrower is not a party to any material contract, transaction or series of transactions relating to Phase 2 of the Project other than the Related Documents or as described in **Schedule 14(t)**.

(u) Patriot Act. To the extent the Patriot Act is applicable to the Borrower, the Borrower has established an anti-money laundering compliance program as required by the Patriot Act.

(v) Immunity from Jurisdiction. To its knowledge, the Borrower has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein that could be asserted in any action to enforce the contractual obligations of the Borrower under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Borrower hereunder and thereunder.

SECTION 14A. Representations and Warranties of Fairfax County. Fairfax County hereby represents and warrants that, as of the Effective Date and, as to each of the

representations and warranties below other than those contained in clauses (b) and (l) of this Section, as of each date on which any disbursement of the TIFIA Loan is requested or made:

(a) Organization; Power and Authority. Fairfax County is a political subdivision of the State, validly existing and in good standing, has full legal right, power and authority to enter into the Related Documents to which Fairfax County is a party, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents to which Fairfax County is a party.

(b) Officers' Authorization. As of the Effective Date, the officers of Fairfax County executing the Related Documents to which Fairfax County is a party are duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the TIFIA Loan Documents to which Fairfax County is a party has been duly authorized, executed and delivered by Fairfax County and, assuming the due authorization, execution and delivery thereof by the other parties thereto, constitutes the legal, valid and binding agreement of Fairfax County enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of each of the Related Documents to which Fairfax County is a party, the consummation of the transactions contemplated in such Related Documents and the fulfillment of or compliance with the terms and conditions of such Related Documents will not (i) conflict with the applicable laws that are the basis for the existence and authority of Fairfax County, or conflict in any material respect with, or constitute a violation, breach or default (with due notice or the passage of time or both) by Fairfax County of or under, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, any other Related Document to which Fairfax County is a party or any other indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which Fairfax County is a party or by which Fairfax County (or its properties) are otherwise subject or bound, or result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Fairfax County or on the Dedicated Revenues.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of Fairfax County or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by Fairfax County of the Related Documents to which it is a party, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction on the part of Fairfax County contemplated by the Related Documents or (B) the fulfillment of or compliance by Fairfax County with the terms and conditions of the Related Documents to which Fairfax County is a party, except as have been obtained or made and as are in full force and effect or as are

ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, except as set forth in **Schedule 14A(f)**, to Fairfax County's knowledge, there is no action, suit, proceeding, inquiry or investigation before or by any court or other Governmental Authority, pending or threatened against or affecting the Project or the ability of Fairfax County to enter into and deliver, or to perform its obligations under, any of the Related Documents. As of each other date on which the representations and warranties herein are made or confirmed, to Fairfax County's knowledge, there is no action, suit, proceeding, inquiry or investigation before or by any court or other Governmental Authority pending or threatened against or affecting the Project, Fairfax County or the ability of Fairfax County to enter into and deliver, or to perform its obligations under, any of the Related Documents, which in any case (i) could reasonably be expected to result in a Material Adverse Effect or (ii) could reasonably be expected to adversely affect (A) the Borrower's ability to receive Dedicated Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model with respect thereto or (B) Fairfax County's ability to appropriate and pay over Dedicated Revenues in such amounts to the Borrower (or on behalf of the Borrower) to enable the Borrower to satisfy its obligations under the Related Documents.

(g) No Debarment. Neither Fairfax County nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered in substantially the form of **Exhibit C**.

(h) Accuracy of Representations and Warranties. The representations, warranties and certifications of Fairfax County set forth in this Agreement and each other Related Document to which Fairfax County is a party are true and accurate, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(i) Credit Ratings. The TIFIA Loan has received an Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, and written evidence of each such rating has been provided to the TIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(j) No Defaults. Fairfax County is not in default under the terms of any Related Document to which Fairfax County is a party, and no event has occurred or condition exists which, with due notice or lapse of time or both, would constitute an Event of Default.

(k) Related Documents. Each Related Document to which Fairfax County is a party is in full force and effect and all conditions precedent to the obligations of the respective parties under each Related Document have been satisfied. Fairfax County has delivered to the TIFIA Lender a fully executed and complete copy of each such Related Document (including all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has

occurred that gives Fairfax County or, to Fairfax County's knowledge, any other party to a Related Document, the right to terminate any such Related Document. Fairfax County is not in breach of any material term in or in default under any of such agreements or contracts and, to Fairfax County's knowledge, no party to any of such agreements or contracts is in breach of any material term therein or in default thereunder.

(l) Information. The information furnished by Fairfax County to the TIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of Fairfax County (including the Base Case Financial Model, any Revised Financial Model and the assumptions therein) except that the assumptions in the Base Case Financial Model and any Revised Financial Model were reasonable in all material respects when made.

(m) OFAC. Fairfax County (i) is not in violation of: (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act of 1970, as amended, and the regulations promulgated thereunder; (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State; or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; and (ii) is not a Person (1) that is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws; (2) that has been convicted of any violation of, has been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws; (3) that is named on the list of "Special Designated Nationals or Blocked Persons" maintained by OFAC (or any successor United States government office or list), or any similar list maintained by the United States Department of State (or any successor United States government office or list); (4) with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law; (5) that is owned, controlled by, or affiliated with any Person identified in clause (1), (2), (3) or (4) of this clause (ii); or (6) that is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled or has its principal place of business.

(n) Compliance with Law. Fairfax County is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and governmental functions and operations in compliance in all material respects with, all applicable laws. No notices of violation of any applicable law have been issued, entered or received by Fairfax County that could reasonably be expected to result in a Material Adverse Effect.

(o) No Liens. Fairfax County has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien upon any of the Dedicated Revenues other than the Lien granted under the Trust Agreement to the Trustee and the owner of the TIFIA Bond.

(p) Investment Company Act. Fairfax County is not, and after applying the proceeds of the TIFIA Loan will not be, required to register as an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and is not “controlled” by a company required to register as an “investment company” under the Investment Company Act of 1940, as amended.

(q) Financial Statements. Each income statement, balance sheet and statements of operations and cash flow (collectively, “**Financial Statements**”) delivered to the TIFIA Lender pursuant to Section 22(c) has been prepared in accordance with GASB and presents fairly, in all material respects, the financial condition of such Person as of the respective dates of the balance sheets included therein and the results of operations of such Person for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of such Person of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GASB.

(r) Taxes. Fairfax County is not required to file tax returns with any Governmental Authority.

(s) ERISA. Neither Fairfax County nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Code.

(t) Other Transactions. As of the Effective Date, Fairfax County is not a party to any material contract, transaction or series of transactions relating to Phase 2 of the Project other than the Related Documents, the Funding Agreements or as described in **Schedule 14A(t)**.

(u) Sufficient Funds. The aggregate of all funds that are, without duplication, drawn or undrawn but committed, or reasonably expected to be available, under the Trust Agreement Documents and this Agreement, and as may otherwise be available to Fairfax County as shown in the most recent Financial Plan, will be sufficient to fund the Required Percentage of the sum of all Eligible Project Costs and other amounts necessary to achieve Substantial Completion.

(v) Patriot Act. To the extent the Patriot Act is applicable to Fairfax County, Fairfax County has established an anti-money laundering compliance program as required by the Patriot Act.

(w) Immunity from Jurisdiction. To its knowledge, Fairfax County has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein that could be asserted in any action to enforce the contractual obligations of Fairfax County under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of Fairfax County hereunder and thereunder.

SECTION 15. Representations and Warranties of TIFIA Lender. The TIFIA Lender represents and warrants that:

(a) Power and Authority. The TIFIA Lender has all requisite power and authority to make the TIFIA Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which it is a party have been duly authorized, executed and delivered by the TIFIA Lender, and are legally valid and binding agreements of the TIFIA Lender, enforceable in accordance with their terms.

(c) Officers' Authorization. The officers of the TIFIA Lender executing each of the Related Documents to which the TIFIA Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender.

SECTION 16. Affirmative Covenants of the Borrower. The Borrower covenants and agrees as follows until the date all obligations of the Borrower and Fairfax County under this Agreement are paid in full and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Securing Liens. The Borrower shall at any and all times, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning, securing and confirming the first priority Lien in and to the Trust Estate (whether now existing or hereafter arising) granted to the Trustee for the benefit of the owner of the TIFIA Bond pursuant to the Trust Agreement, or intended so to be granted pursuant to the Trust Agreement, or which the Borrower may become bound to grant, and the Trust Estate is and will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Trust Agreement, other than as permitted by this Agreement, and all corporate action on the part of the Borrower to that end shall be duly and validly taken at such times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Trust Estate granted pursuant to the Trust Agreement and all the rights of the Trustee for the benefit of the TIFIA Lender under the Trust Agreement against all claims and demands of all Persons whomsoever.

(b) Copies of Documents and Reports. The Borrower shall furnish to the TIFIA Lender a copy of each monthly statement of the Trustee with respect to the Funds established under the Trust Agreement

(c) Use of Proceeds. The Borrower shall use the proceeds of the TIFIA Loan solely, on behalf of Fairfax County, to reimburse MWAA in accordance with the Funding Agreements for MWAA's prior payment of Eligible Project Costs incurred in connection with Phase 2. No proceeds from the TIFIA Loan will be used to fund the Parking Facilities.

(d) Trust Agreement Funds.

(i) The Borrower shall maintain amounts in the Reserve Fund that are at least equal to the Reserve Fund Requirement. Amounts in the Reserve Fund shall be made available to ensure the timely payment of Debt Service Requirements in the event amounts on deposit in the Debt Service Fund are insufficient for such purpose.

(ii) The Borrower shall cause all Dedicated Revenues to be deposited into the Debt Service Fund or the Reserve Fund, as required under the Trust Agreement.

(iii) Amounts on deposit in any of the Funds shall be held uninvested or invested in Investment Obligations. Any such Investment Obligations must mature or be redeemable at the election of the holder not more than one (1) year from the date of the creation thereof or, if earlier, the earliest date by which the funds invested in such Investment Obligations may be required to be disbursed from the applicable Fund in accordance with the terms of any TIFIA Loan Document or Trust Agreement Document, which, for purposes of the Reserve Fund shall be the date of the next payment with respect to the TIFIA Loan.

(e) Use of Dedicated Revenues. The Borrower shall utilize Dedicated Revenues solely to pay principal of or interest on the TIFIA Bond, for deposit to the Reserve Fund, or for making Additional Payments (as defined in Section [3.01(e)] of the Support Agreement), in each case, in accordance with the Trust Agreement.

(f) OFAC Compliance. The Borrower shall not (i) violate (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act, (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State, or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or (ii) be a Person (A) that is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws, (B) that has been convicted of any violation of, has been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws, (C) that is named on the list of “Special Designated Nationals or Blocked Persons” maintained by OFAC (or any successor United States government office or list), or any similar list maintained by the United States Department of State (or any successor United States government office or list), (D) with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law, (E) that is owned, controlled by, or affiliated with any Person identified in clause (A), (B), (C) or (D) of this clause (ii), or (F) is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, anti-money laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled or has its principal place of business.

(g) Related Documents. The Borrower shall comply, in all material respects, with each Related Document.

SECTION 16A. Affirmative Covenants of Fairfax County. Fairfax County covenants and agrees as follows until the date all obligations of the Borrower and Fairfax County under this Agreement are paid in full and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Notice. Fairfax County shall, within five (5) Business Days after Fairfax County obtains actual knowledge of the occurrence thereof, give the TIFIA Lender notice of any of the following events, setting forth details of such event:

(i) Events of Default: any Event of Default or any event that, with the giving of notice or the passage of time or both, would constitute an Event of Default;

(ii) Litigation: (1) any material litigation, suit or action filed or threatened in writing, by or before any arbitrator or Governmental Authority, or the delivery to the Borrower or Fairfax County of any written claim that could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any material notices or filings in respect of any action, petition, suit or proceeding listed in **Schedule 14(f)** or **Schedule 14A(f)**;

(iii) Defaults: any material breach or default or event of default on the part of any Borrower Related Party or any other party under any Related Document;

(iv) Appropriation of Appropriated Funds: if the Fairfax County Executive (or such other relevant official or employee) seeks appropriation of, or if Fairfax County shall at any time budget, appropriate or pay over to the Trustee any Appropriated Funds, whether pursuant to Section 16A(d) or otherwise; provided any such notice may omit details to the extent such details are otherwise publicly-available (for example, on the website of Fairfax County);

(v) Contribution Failures: any failure by Fairfax County to make a contribution of funds towards Total Project Costs substantially in the amount and as and when indicated in (A) the Base Case Financial Model or (B) any Revised Financial Model that has been approved in writing by the TIFIA Lender;

(vi) Appropriation Failure: any failure by the Fairfax County Executive (or such other relevant official or employee) to seek appropriation of, or any failure by Fairfax County to appropriate, Dedicated Revenues at the times and in amounts sufficient to meet any Debt Service Requirements and to replenish the Reserve Fund to cover any Reserve Fund Deficiency as required pursuant to the terms of this Agreement;

(vii) Other Adverse Events: the occurrence of any other event or condition that could reasonably be expected to result in a Material Adverse Effect;

(viii) Material Transactions. any material contract, transaction or series of transactions relating to Phase 2 of the Project entered into by the Borrower or Fairfax County after the Effective Date.

(b) Remedied Action. Within thirty (30) calendar days after Fairfax County learns of the occurrence of an event specified in Section 16A(a), the County's Authorized Representative shall provide a statement to the TIFIA Lender, setting forth the actions, if any, Fairfax County proposes to take with respect thereto.

(c) Annual Rating. Fairfax County shall, commencing in 2016, no later than the last Business Day of January of each year during the term of the TIFIA Loan, at no cost to the TIFIA Lender, provide to the TIFIA Lender a public rating on the TIFIA Bond by a Nationally Recognized Rating Agency, together with the rating report or letter delivered by such Nationally Recognized Rating Agency in connection with such rating, in each case prepared no earlier than thirty (30) days prior.

(d) Reserve Fund Deficiency. In the event that, at any time, the Trustee or the TIFIA Lender shall notify Fairfax County in writing that the amount standing to the credit of the Reserve Fund under the Trust Agreement is less than the Reserve Fund Requirement, within thirty (30) days following receipt of such notice, the Fairfax County Executive (or such other relevant official or employee) shall seek appropriation of and, subject to Section 41, Fairfax County shall, within one hundred (120) days of the receipt of such notice, budget, appropriate and pay from its General Fund to the Trustee the amount of such Reserve Fund Deficiency.

(e) Use of Dedicated Revenues.

(i) Fairfax County and the Borrower shall utilize Dedicated Revenues solely for the payment of the principal of or interest on the TIFIA Bond or for deposit to the Reserve Fund, in each case, in accordance with the Trust Agreement.

(ii) If Fairfax County fails to contribute any material amount of funds as and when indicated in (A) the Base Case Financial Model or (B) any Revised Financial Model that has been approved in writing by the TIFIA Lender, then Fairfax County shall notify the TIFIA Lender in writing pursuant to Section 16A(a)(v), and shall promptly, and in any event within forty-five (45) days after such contribution failure, deliver to the TIFIA Lender a Revised Financial Model that reflects adequate funds are available to Fairfax County to pay for the Required Percentage of Total Project Costs for Phase 2, together with documentary evidence reasonably satisfactory to the TIFIA Lender with respect to the commitment, allocation or funding of such additional amounts as may be necessary to replace the funds that were not contributed by Fairfax County in accordance with the Base Case Financial Model.

(f) OFAC Compliance. Fairfax County shall not (i) violate (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act, (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State, or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or (ii) be a Person (A) that is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws, (B) that has been convicted of any violation of, has been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws, (C) that is named on the list of “Special Designated Nationals or Blocked Persons” maintained by OFAC (or any successor United States government office or list), or any similar list maintained by the United States Department of State (or any successor United States government office or list), (D) with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents to which it is a party under any other applicable law, (E) that is owned, controlled by, or affiliated with any Person identified in clause (A), (B), (C) or (D) of this clause (ii), or (F) is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, anti-money laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled or has its principal place of business.

(g) Related Documents. Fairfax County shall comply, in all material respects, with each Related Document to which Fairfax County is a party.

SECTION 17. Borrower’s and Fairfax County’s Negative Covenants. Each of the Borrower and Fairfax County, as applicable, covenants and agrees as follows until the date all obligations of the Borrower and Fairfax County under this Agreement are paid in full and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Indebtedness. Other than the TIFIA Bond, neither the Borrower nor Fairfax County shall issue any indebtedness under the Trust Agreement or otherwise secured by the Trust Estate.

(b) No Lien Extinguishment or Adverse Amendments. Fairfax County and the Borrower shall not, and shall not permit any Person to, without the prior written consent of the TIFIA Lender, either (i) extinguish or impair the Liens on the Trust Estate, (ii) amend, modify or supplement any Related Document in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender’s determination) in connection with the TIFIA Loan, or (iii) waive or permit a waiver of any provision of any Related Document in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender’s determination) in connection with the TIFIA Loan. Except as otherwise agreed by the TIFIA Lender in writing, each Borrower Related Party will provide to the TIFIA Lender (x) copies of any proposed amendments to any Related Document to which it is a party at least thirty (30) days prior to the effective date thereof and (y) copies of fully executed amendments made to any Related Document to which it is a party within ten (10) days following execution thereof.

(c) Restricted Transfers. Except as otherwise permitted pursuant to the Trust Agreement, the Borrower shall not permit any amount on deposit in the Reserve Fund to be used for any purpose other than payments of Debt Service Requirements.

(d) No Prohibited Sale or Assignment. The Borrower shall not sell or assign its rights in and to the Dedicated Revenues, or its rights and obligations under any Related Document.

(e) No Prohibited Liens. Except for Liens (i) created by the Trust Agreement for the benefit of the Trustee or the owner of the TIFIA Bond or (ii) as may arise by operation of law, the Borrower shall not create, incur, assume or permit to exist any Lien on the Dedicated Revenues or its rights in respect thereof.

(f) Hedging Transactions and Credit Facilities. Neither the Borrower nor Fairfax County shall enter into (A) any Hedging Transaction with respect to the TIFIA Bond or (B) any Credit Facility with respect to the TIFIA Bond.

(g) Parking Facilities Funding. Fairfax County shall not take, or permit any other Person to take, any action which results or could reasonably be expected to result in all or any portion of the development, design, construction, operation or maintenance of the Parking Facilities to constitute part of the Project to be funded pursuant to the 2007 Funding Agreement, including in accordance with Section 3.2(d) of the 2011 MOA.

SECTION 18. [Reserved].

SECTION 19. No Sale of TIFIA Loan. The TIFIA Lender shall not sell the TIFIA Loan at any time prior to the Substantial Completion Date. After such date, the TIFIA Lender may sell the TIFIA Loan to another entity or reoffer the TIFIA Loan into the capital markets only in accordance with the provisions of this Section. Such sale or reoffering shall be on such terms as the TIFIA Lender shall deem advisable. However, in making such sale or reoffering the TIFIA Lender shall not change the terms and conditions of the TIFIA Loan without the prior written consent of Fairfax County and the Borrower. The TIFIA Lender shall provide (a) at least sixty (60) days prior to any sale or reoffering of the TIFIA Loan, written notice to Fairfax County and the Borrower to the effect that the TIFIA Lender is considering the sale or reoffering of the TIFIA Loan and (b) at least thirty (30) days prior to any sale or reoffering of the TIFIA Loan, written notice to Fairfax County and the Borrower confirming TIFIA Lender's intention to consummate such a sale or reoffering; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section shall not (x) obligate the TIFIA Lender to sell nor (y) provide Fairfax County or the Borrower with any additional rights or remedies in the event the TIFIA Lender, for any reason, does not sell the TIFIA Loan.

SECTION 20. Events of Default and Remedies.

(a) An **"Event of Default"** shall exist under this Agreement if:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the TIFIA Loan (including TIFIA Debt Service

required to have been paid pursuant to Section 9, and any mandatory prepayment required pursuant to Section 10(a), when and as the payment thereof shall be required under this Agreement or the TIFIA Bond or on the Final Maturity Date (each such failure, a “**Payment Default**”);

(ii) Covenant Default. Any Borrower Related Party shall fail to observe or perform any covenant, agreement or obligation of such Borrower Related Party under this Agreement, the TIFIA Bond or any other TIFIA Loan Document (other than any Payment Default), and such failure shall not be cured within thirty (30) days after (A) receipt by the Borrower or Fairfax County (as applicable) from the TIFIA Lender of written notice thereof or (B) the TIFIA Lender is notified of such failure, or should have been notified of such failure by Fairfax County, pursuant to the terms of this Agreement; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day period, then no Event of Default shall be deemed to have occurred or be continuing under this clause (ii) if and so long as within such thirty (30) day period the Borrower or Fairfax County shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured; provided such failure is cured within one hundred eighty (180) days of the first occurrence of such failure;

(iii) Contribution Failure. Fairfax County fails to make a contribution of funds towards Total Project Costs substantially in the amount and as and when indicated in (A) the Base Case Financial Model or (B) any Revised Financial Model that has been approved in writing by the TIFIA Lender, in each case, other than a failure occasioned by an Event of Non-Appropriation;

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of any Borrower Related Party made in or delivered pursuant to the TIFIA Loan Documents (or in any certificates delivered by such Borrower Related Party in connection with the TIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made;

(v) Cross Default. Except in the case of Fairfax County, as occasioned by any Event of Non-Appropriation, any Borrower Related Party shall default in the timely performance of any covenant, agreement or obligation under any Related Document or any Related Document shall be terminated prior to its scheduled expiration (unless in any case such default or termination could not reasonably be expected to have a Material Adverse Effect), and such Borrower Related Party shall have failed to cure such default or to obtain an effective written waiver thereof, or to obtain an effective revocation of such termination (as the case may be) within the cure periods, if any, provided under any such Related Document;

(vi) Judgments. One or more judgments for the payment of money in an aggregate amount in excess of \$100,000,000, and not otherwise covered by insurance or self-insurance, shall be rendered against the Fairfax County and the

same shall remain undischarged for a period of thirty (30) consecutive days during which execution shall not be effectively stayed; or

(vii) Occurrence of a Bankruptcy Related Event. A Bankruptcy Related Event shall occur with respect to (A) the Borrower or (B) Fairfax County. Notwithstanding the foregoing, no Event of Default shall occur (I) under clause (A) of this Section 20(a)(vii) solely as a result of the nonpayment of any conduit debt issued by the Borrower on behalf of any Person other than Fairfax County unless such nonpayment would have an effect under applicable law analogous to any of the events referred to in the definition of Bankruptcy Related Event or would otherwise have a Material Adverse Effect or could otherwise reasonably be expected to result in a Material Adverse Effect, or (II) under clause (B) of this Section 20(a)(vii), as occasioned by any Event of Non-Appropriation.

(b) (i) Upon the occurrence of any Event of Default described in Section 20(a)(vii)(A), all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall automatically be deemed terminated.

(ii) Upon the occurrence of any other Event of Default or any other event or circumstance that would constitute an Event of Default but for the operation of Section 41, the TIFIA Lender, by written notice to the Borrower and Fairfax County, may suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan.

(c) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the TIFIA Bond or the other TIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower available under the Trust Agreement the moneys adjudged or decreed to be payable, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by the Borrower under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents.

(d) Whenever any Event of Default hereunder shall have occurred and be continuing, or if any other event or circumstance that would constitute an Event of Default would have occurred and be continuing hereunder but for the operation of Section 41, the TIFIA Lender may suspend or debar Fairfax County or the Borrower from further participation in any Government program administered by the TIFIA Lender and to notify other departments and agencies of such default.

(e) No action taken pursuant to this Section shall relieve any Borrower Related Party from its respective obligations pursuant to this Agreement, the TIFIA Bond or the other TIFIA Loan Documents, all of which shall survive any such action.

SECTION 21. Accounting and Audit Procedures; Inspections; Reports and Records.

(a) Fairfax County shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all Project-related transactions (including the transfer of Dedicated Revenues to the Trustee and TIFIA Loan requisitions received and disbursements made with regard to the Project), so that audits may be performed to ensure compliance with and enforcement of this Agreement. Fairfax County shall use accounting, audit and fiscal procedures conforming to GASB, including, with respect to the TIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts outstanding under the Trust Agreement and this Agreement.

(b) So long as the TIFIA Bond or any portion thereof shall remain outstanding and until five (5) years after the TIFIA Bond shall have been paid in full, the TIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of any Borrower Related Party that are relating to the Project and the TIFIA Loan, to examine their respective books of account and records relating to the Project and the TIFIA Loan, to make copies and extracts therefrom at the Borrower's expense, and to discuss the affairs, finances and accounts of any Borrower Related Party that are relating to the Project and the TIFIA Loan with, and to be advised as to the same by, their respective officers and employees and their respective independent public accountants (and by this provision each Borrower Related Party irrevocably authorizes its independent public accountants to discuss with the TIFIA Lender the affairs, finances and accounts of such Borrower Related Party that are relating to the Project and the TIFIA Loan, whether or not any representative of such Borrower Related Party is present, it being understood that nothing contained in this Section 21(b) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the TIFIA Lender may desire. The Borrower agrees to pay all out-of-pocket expenses incurred by the TIFIA Lender in connection with the TIFIA Lender's exercise of its rights under this Section 21(b) at any time when an Event of Default shall have occurred and be continuing.

(c) Fairfax County and the Borrower shall maintain and retain their files relating to the Project and the TIFIA Loan until five (5) years after the later of the date on which (i) all rights and duties hereunder and under the TIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (ii) any litigation relating to the Project, the TIFIA Loan or this Agreement is finally resolved or, if the TIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the TIFIA Lender, the Borrower and Fairfax County. Fairfax County and the Borrower shall each provide to the TIFIA Lender in a timely manner all records and documentation relating to the Project that the TIFIA Lender may reasonably request from time to time (other than materials which, if provided to the TIFIA Lender, would constitute (A) a violation by Fairfax County or the Borrower of applicable law or (B) a waiver by Fairfax County or the Borrower of the attorney-client privilege in respect of such information, and only for so long as such privilege shall apply).

(d) Fairfax County shall provide to the TIFIA Lender, promptly after the sending or receipt thereof, copies of (i) all final reports, other final written materials and material correspondence, other than those that are non-substantial or ministerial in nature, sent to, or received from, any Nationally Recognized Rating Agency that has provided, or is being

requested to provide, a rating on any indebtedness of the Borrower issued or incurred under the Trust Agreement, (ii) all notices and other written communications, other than those that are non-substantive or ministerial in nature, received by it from the Trustee, and (iii) all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Trustee under the Trust Agreement; unless, in each case, the TIFIA Lender notifies the Borrower that any such reports, notices and/or other written materials no longer need to be provided.

(e) The TIFIA Lender shall have the right to conduct from time to time independent financial and compliance audits of the Borrower or Fairfax County in accordance with the Single Audit Act of 1984, as amended, and Office of Management and Budget Circular A 133, "Audits of State and Local Governments" (as applicable), or as otherwise requested by the TIFIA Lender. Upon reasonable notice, the Borrower and Fairfax County shall cooperate fully in conducting audits and shall provide full access to any books, documents, papers or other records which are pertinent to the Project or the TIFIA Loan, to the Secretary, or the designee thereof, for necessary project or programmatic audits pursuant to 23 U.S.C. § 603, 49 C.F.R. § 80.19, 31 U.S.C. § 6503(h) and 31 U.S.C. § 7503(b).

SECTION 22. Financial Plan, Statements, and Reports.

(a) Fairfax County shall provide to the TIFIA Lender, within sixty (60) days after the Effective Date and annually thereafter not later September 30th of each County Fiscal Year (or if Fairfax County adopts a County Fiscal Year that does not begin on July 1, ninety (90) after the beginning of each such County Fiscal Year), a Financial Plan. The Financial Plan submitted within sixty (60) days after the Effective Date should be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model, including as to the contribution of funds towards Total Project Costs. The initial and each subsequent Financial Plan delivered hereunder shall be subject to approval by the TIFIA Lender and, for the period through the Substantial Completion Date, the FTA Regional Office and FHWA's Office of Innovative Program Delivery.

(i) The Financial Plan shall be prepared in accordance with recognized financial reporting standards.

(ii) The Financial Plan shall include: (A) a certificate signed by the County's Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, is accurate and reasonable to the best of Fairfax County's knowledge and belief; (B) a certificate signed by the County's Authorized Representative demonstrating that annual projected Dedicated Revenues shall be sufficient to meet the Loan Amortization Schedule; and (C) an electronic copy of a Revised Financial Model for the period from inception thereof through the Final Maturity Date, in substantially the form heretofore provided to the TIFIA Lender, and based upon assumptions and projections with respect to the Dedicated Revenues and the Required Percentage of expenses of the Project, as of the most recent practicable date prior to the delivery of such Revised Financial Model.

(iii) For the period through Substantial Completion, the Financial Plan shall: (A) provide the current estimate of the Required Percentage of the total cost of the Project and of the remaining cost to complete the Project (each of which may be based on information provided by MWAA); (B) provide current estimates of sources and uses of the Required Percentage of funds for the Project, identify any significant funding changes since the preceding Financial Plan, discuss reasons for and implications of the funding changes, and include a summary table showing the history of Fairfax County's Project funding since the Base Case Financial Model as of the Effective Date and since the preceding Financial Plan; and (C) provide an updated cash flow schedule showing annual cash needs to be funded by the Borrower or Fairfax County versus available revenue and funding to meet those needs and identify any potential revenue and funding shortfalls, and addressing contingency measures that will or may be taken to address any shortfalls, as provided by MWAA.

(iv) For the period following Substantial Completion of the Project until repayment of the TIFIA Loan in full, the Financial Plan shall: (A) provide an updated cash flow schedule showing annual Dedicated Revenues and outflows (Debt Service Requirements (including TIFIA Debt Service (whether or not required to be paid pursuant to the provisions of Section 9)); (B) provide current and estimated amounts of Dedicated Revenues received and the amounts deposited into each of the accounts and subaccounts established under the Trust Agreement and the amount disbursed from such funds and accounts and the balance in each of the funds and accounts; (C) provide an updated schedule of actual and projected Dedicated Revenues; and (D) include a written narrative report explaining any variances in costs (which may be based on information provided by MWAA) or revenues since the Base Case Financial Model and the preceding Financial Plan and describing in reasonable detail any material matters that may affect the future performance of the Borrower's obligations under this Agreement and the causes thereof.

(b) Not later than one hundred twenty (120) days following Substantial Completion, Fairfax County shall deliver to the TIFIA Lender a report that includes an updated cash flow schedule for all County Fiscal Years during the term of the TIFIA Loan.

(c) Fairfax County shall furnish to the TIFIA Lender, as soon as available, but no later than one hundred eighty (180) days after the end of each County Fiscal Year, a copy of Fairfax County's Comprehensive Annual Financial Report, containing the audited balance sheet of Fairfax County as of the end of such County Fiscal Year and the related audited statements of income and operations, and changes in cash flow of Fairfax County for such County Fiscal Year, setting forth in each case in comparative form the figures for the previous County Fiscal Year, certified without a "going concern" or like qualification or exception, or qualification as to the scope of the audit, by KPMG, LLP or another an independent public accounting firm selected by Fairfax County and which is not objected to by the TIFIA Lender within ten (10) Business Days after receiving notice from the Borrower of the name of the proposed auditor, together with supporting information regarding the qualifications of the proposed auditor.

(d) All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GASB applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(e) Fairfax County shall furnish to the TIFIA Lender, together with each delivery of annual audited financial statements of Fairfax County pursuant to Section 22(c), a certificate signed by the Fairfax County Executive or chief financial officer of Fairfax County or any County's Authorized Representative, stating whether or not, to Fairfax County's knowledge, during the annual period covered by such financial statements, there occurred any Event of Default or event which, with notice or lapse of time or both, would become an Event of Default, and, if any such Event of Default or other event shall have occurred during such period, the nature of such Event of Default or other event and the actions, if any, that the Borrower or Fairfax County has taken or intends to take in respect thereof.

(f) Fairfax County shall obtain financial and compliance audits performed as required by the Single Audit Act Amendments of 1996, 31 U.S.C. §§ 7501 *et seq.*

SECTION 23. Oversight and Monitoring. Fairfax County shall furnish to the TIFIA Lender:

(a) Incurrence of Indebtedness. On or before the third (3rd) Business Day following the end of any calendar month during which the Borrower or Fairfax County incurs any indebtedness for borrowed money in connection with the Project, Fairfax County shall provide a report executed by a County's Authorized Representative setting forth (i) the amount of each such issuance or borrowing and (ii) a detailed breakdown, in form and substance satisfactory to the TIFIA Lender, of the uses of proceeds from such issuances or borrowings.

(b) Contributions from Fairfax County. On or before the third (3rd) Business Day following the end of any calendar month during which Fairfax County receives a request for or makes any contributions of funds or property in connection with the Project, Fairfax County shall provide a report executed by a County's Authorized Representative setting forth (i) the amount of each such request or contribution and (ii) a detailed breakdown, in form and substance satisfactory to the TIFIA Lender, of the uses of proceeds from such requested contributions or actual contributions. In the event of any failure by Fairfax County to make a contribution within sixty (60) days after the date by which such contribution is due pursuant to the Phase 2 Funding Procedures, Fairfax County shall prepare and submit to the TIFIA Lender a Revised Financial Model demonstrating what funds are available to Fairfax County to pay for the Required Percentage of total Project costs reflected in the Project Budget, and describing the availability of such funds to Fairfax County as of the date of such Revised Financial Model.

SECTION 24. No Personal Recourse. No official, employee or agent of the TIFIA Lender, Fairfax County or the Borrower or any Person executing this Agreement or any of the other TIFIA Loan Documents shall be personally liable on this Agreement or such other TIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

SECTION 25. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, Fairfax County, the United States or the TIFIA Lender, solely by virtue of the TIFIA Loan, and that no third party creditor or creditors of the Borrower or Fairfax County shall have any right against the TIFIA Lender with respect to the TIFIA Loan made pursuant to this Agreement.

SECTION 26. Authorized Representatives.

(a) The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

(b) Fairfax County shall at all times have appointed a County's Authorized Representative by designating such employee or employees of Fairfax County from time to time to act on Fairfax County's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by Fairfax County.

SECTION 27. TIFIA Lender's Authorized Representative.

(a) The TIFIA Lender shall at all times have appointed the TIFIA Lender's Authorized Representative by designating such Person or Persons from time to time to act on the TIFIA Lender's behalf pursuant to a written certificate furnished to the Borrower, Fairfax County and the Servicer (if any) containing the specimen signature or signatures of such Person or Persons and signed by the TIFIA Lender.

(b) Pursuant to a Delegation of Authority dated July 24, 2003, the Administrator delegated the authority to enter into contracts and sign all contractual and funding documents (with the exception of the term sheets and credit agreements) necessary to implement the Act, including entering into technical amendments to, and restatements of, term sheets and credit agreements that do not materially impair the credit quality of the revenues pledged to repay the TIFIA Lender. This authority was delegated to the Associate Administrator for Administration who in turn delegated such authority to the Director of the Office of Innovative Program Delivery on June 15, 2009. Pursuant to these delegations the above named officers, any of whom alone may act, serve as the TIFIA Lender's Authorized Representative under this Agreement, in addition to the Administrator for the purposes set forth herein.

SECTION 28. Servicer. The TIFIA Lender may from time to time designate an entity or entities to perform, or assist the TIFIA Lender in performing, the duties of the Servicer or specified duties of the TIFIA Lender under this Agreement and the TIFIA Bond. The TIFIA Lender shall give the Borrower, Fairfax County and the Trustee written notice of the appointment of any initial, successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the TIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which

the TIFIA Lender shall have delegated to such Servicer. The TIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the TIFIA Bond.

SECTION 29. Fees and Expenses.

(a) Commencing in Federal Fiscal Year (“FFY”) 2015 and continuing thereafter each year throughout the term of this Agreement, the Borrower shall pay, or cause Fairfax County to pay, to the TIFIA Lender a loan servicing fee on or before the fifteenth (15th) of November. The TIFIA Lender shall establish the amount of this annual fee, and the TIFIA Lender shall notify the Borrower and Fairfax County of the amount, at least thirty (30) days before payment is due.

(b) In establishing the amount of the fee, the TIFIA Lender will adjust the previous year’s base amount in proportion to the percentage change in CPI. For the FFY 2015 calculation, the TIFIA Lender will use the FFY 2014 base amount of \$12,483 which applies to other TIFIA borrowers, as the previous year’s base amount. The TIFIA Lender will calculate the percentage change in the CPI, before seasonal adjustment, from August of the previous year to August of the current year and will then adjust the previous year’s base amount in proportion to the CPI percentage change. To calculate the amount of the fee, the TIFIA Lender shall round the current year’s base amount using increments of \$500. Results with the ending integers between 250-499 or between 750-999 shall be rounded upward, and results with the ending integers between 001-249 or between 501-749 shall be rounded downward. The CPI adjustments in the following years shall begin with the base amount, not the rounded fee.

(c) The Borrower and Fairfax County shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

(d) The Borrower and Fairfax County agree, whether or not the transactions hereby contemplated shall be consummated, to reimburse the TIFIA Lender on demand from time-to-time, within thirty (30) days after receipt of any invoice from the TIFIA Lender, for any and all fees, costs, charges and expenses incurred by it (including the reasonable fees, costs and expenses of legal counsel, financial advisors, auditors and other consultants and advisors) in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the other TIFIA Loan Documents and the transactions hereby and thereby contemplated, including reasonable attorneys’, engineers’, and planning fees and professional costs, including all such fees, costs and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other TIFIA Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under, this Agreement, any other Related Document or the Trust Estate, or advice in connection with the administration, preservation in full force and effect and

enforcement of this Agreement or any other Related Document or the rights of the TIFIA Lender thereunder; and

(iii) any work-out, restructuring or similar arrangement of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents during the pendency of one or more Events of Default.

The obligations of the Borrower and Fairfax County under this Section 29 shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other TIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring or similar arrangement.

SECTION 30. Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Agreement or the TIFIA Bond shall in any event be effective without the prior written consent of each of the parties hereto.

SECTION 31. Governing Law. This Agreement shall be governed by the federal laws of the United States if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable. Notwithstanding the foregoing, the Borrower's and Fairfax County's obligations under this Agreement shall be subject to any applicable limitation on the scope and/or extent of the Borrower's and Fairfax County's authority under State law.

SECTION 32. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

SECTION 33. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's nor Fairfax County's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Borrower or Fairfax County without the prior written consent of the TIFIA Lender.

SECTION 34. Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

SECTION 35. Delay or Omission Not Waiver. No delay or omission of the TIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower or Fairfax County (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

SECTION 36. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

SECTION 37. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective upon receipt (except as otherwise provided herein) and (c) given by (i) nationally recognized courier service, (ii) hand delivery or (iii) solely with respect to ministerial or non-substantive notices, email, in each case to: **[NOTE TO DRAFT: Fairfax County to update notice address to complete blanks and brackets]**

If to TIFIA Lender

TIFIA Joint Program Office (HITJ)
Federal Highway Administration
Room E64-301
1200 New Jersey Avenue, SE
Washington, DC 20590
Attention: Director
Email: TIFIAcredit@dot.gov

with copies to:

Federal Transit Administration
Office of Budget and Policy -TIFIA
Room E52-328
1200 New Jersey, Avenue, SE
Washington, DC 20590

Federal Transit Administration
Region III Office
1760 Market Street, Suite 500
Philadelphia, PA 19103-4124

Office of the Chief Counsel - TIFIA
Federal Transit Administration
Room E56-314
1200 New Jersey Avenue, SE
Washington, DC 20590
Attention: Paula L. Schwach, Esq., FTA
Counsel for TIFIA

If to Borrower:

Fairfax County Economic Development
Authority, Virginia
8300 Boone Boulevard
Suite 450
Vienna, VA 22180

Attention: Executive Director
Email: [_____]

with copies to: [Insert relevant parties]

If to Fairfax County: County of Fairfax
12000 Government Center Parkway
Suite 549
Fairfax, VA 22035
Attention: County Executive

with copies to: Office of the County Attorney
12000 Government Center Parkway
Fairfax, VA 22035
Attention: [County Attorney]

Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative with respect to notices to the Borrower, by a County's Authorized Representative with respect to notices to Fairfax County, or by the TIFIA Lender's Authorized Representative with respect to notices to the TIFIA Lender or the Servicer. The Borrower shall make any payments hereunder or under the TIFIA Bond in accordance with the payment instructions hereafter provided by the TIFIA Lender's Authorized Representative, as modified from time-to-time by the TIFIA Lender's Authorized Representative. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party) and all necessary confirmations have been received in accordance herewith; provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

SECTION 38. Effectiveness. This Agreement shall be effective on the Effective Date.

SECTION 39. Termination. This Agreement shall terminate upon payment in full by the Borrower of the TIFIA Loan; provided, however, that the reporting and record keeping requirements of Section 21(b) and (c) and the payment requirements of Section 29 shall survive the termination of this Agreement as provided in such sections.

SECTION 40. Integration. This Agreement constitutes the entire contract among the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

SECTION 41. Non-Appropriations. **ANYTHING TO THE CONTRARY NOTWITHSTANDING ELSEWHERE IN THIS AGREEMENT OR IN ANY OTHER**

RELATED DOCUMENT, THE FAILURE OF FAIRFAX COUNTY TO PAY ALL OR ANY PORTION OF ANY AMOUNT OTHERWISE DUE AND PAYABLE UNDER THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT, TO OR FOR THE ACCOUNT OF THE BORROWER, THE TRUSTEE, THE TIFIA LENDER OR ANY OTHER PERSON ON ACCOUNT OF THE FAILURE OF THE BOARD OF SUPERVISORS OF THE COUNTY TO APPROPRIATE SUCH SUM (AN “EVENT OF NON-APPROPRIATION”) SHALL NOT, TO THE EXTENT OF SUCH FAILURE, CONSTITUTE A DEFAULT OR AN EVENT OF DEFAULT UNDER THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT.

SECTION 42. Federal Funding. NO FEDERAL GRANTS, LOANS, OR OTHER FUNDS ADMINISTERED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION, INCLUDING THE PROCEEDS OF THE TIFIA LOAN, HAVE BEEN OR WILL BE PROVIDED FOR THE DESIGN, DEVELOPMENT, AND/OR CONSTRUCTION OF THE PARKING FACILITIES. FOR AVOIDANCE OF DOUBT, FAIRFAX COUNTY AND THE TIFIA LENDER ACKNOWLEDGE THAT THE PARKING FACILITIES HAVE NEITHER BEEN SELECTED NOR DESIGNATED A FEDERALLY FUNDED PROJECT UNDER 23 U.S.C. OR 49 U.S.C. AND REMAIN CLASSIFIED AS “CONCURRENT NON-PROJECT ACTIVITIES” BY FTA.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

**FAIRFAX COUNTY ECONOMIC
DEVELOPMENT AUTHORITY**

By: _____
Name: _____
Title: _____

**BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA**

By: _____
Name: _____
Title: _____

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and through the
Federal Highway Administrator

By: _____
Name: Gregory G. Nadeau
Title: Acting Administrator

[SCHEDULES TO TIFIA LOAN AGREEMENT TO BE INSERTED HERE]

EXHIBIT A

FORM OF TIFIA BOND

[Form of Face of the Bond]

United States of America

Commonwealth of Virginia

Fairfax County Economic Development Authority
Revenue Bond
(Silver Line Phase II Project)
Series 2014
(TIFIA – 2014-1003A)

No. _____		\$403,274,894 ¹
Interest Rate: _____ %	Maturity Date: April 1, 2046	Original Issue Date: [_____] , 2014
_____	_____	_____

Holder/Registered Owner: UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator, or its assigns

Maximum Principal Amount: \$403,274,894 (FOUR HUNDRED THREE MILLION TWO HUNDRED SEVENTY FOUR THOUSAND EIGHT HUNDRED NINETY FOUR AND 00/100 Dollars)¹

Fairfax County Economic Development Authority (the “**Borrower**”), a political subdivision of the Commonwealth of Virginia, for value received, promises to pay, but solely from the sources and in the manner hereinafter provided, to the Holder/Registered Owner named above, or its assigns (the “**TIFIA Lender**”), on the Maturity Date set forth above (or earlier as hereinafter referred to), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “**Disbursements**”) made by the TIFIA Lender (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the TIFIA Loan Agreement referred to below, being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding Principal Sum all as more fully described in the TIFIA Loan Agreement. The proceeds derived from the issuance of this Bond will be used for the purposes described in the TIFIA Loan Agreement. The registered owner of this Bond is hereby

¹Such amount shall increase by the amount of interest capitalized pursuant to the terms of the TIFIA Loan Agreement.

authorized to make revisions to the Loan Amortization reflected in Exhibit G to the to the TIFIA Loan Agreement, which is hereby made a part hereof, at any time and from time-to-time pursuant to the TIFIA Loan Agreement to reflect to (i) the amount of each disbursement made thereunder, (ii) any capitalization of interest as provided therein, (iii) the date and amount of any principal or interest due and payable or to become due and payable by the Borrower thereunder, (iv) each repayment or prepayment in respect of the principal amount of this Bond. Such revisions shall be deemed conclusive absent manifest error, but no failure to make any such revisions and no error in such revisions shall affect any of the obligations of the Borrower under this Bond or the other TIFIA Loan Documents (as defined in the TIFIA Loan Agreement). The principal hereof shall be payable in the manner and at the place provided in the TIFIA Loan Agreement in accordance with Exhibit G to the TIFIA Loan Agreement, as revised from time to time in accordance with the TIFIA Loan Agreement, until paid in full. Payments hereon are to be made in accordance with Section 9(e) of the TIFIA Loan Agreement as the same become due. Principal of and interest on this bond (the “**Bond**”) shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America which at the date of payment is legal tender for the payment of public and private debts. If the Final Maturity Date (as defined in the TIFIA Loan Agreement) is amended pursuant to an amendment of the TIFIA Loan Agreement, the due date of this Bond shall be deemed to be amended to change the due date to such revised Final Maturity Date without any further action required on the part of the Borrower or the TIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this Bond without the prior written agreement of the TIFIA Lender.

This Bond is a revenue bond of the Borrower, designated “Revenue Bond (Silver Line Phase II Project), Series 2014”, issued under a Trust Agreement, dated as of December 1, 2014 (as amended and supplemented as permitted thereby, being hereinafter referred to as the “Trust Agreement”), by and between the Borrower and the Trustee (hereinafter mentioned). This Bond is being issued to provide financing for a portion of the amount required by the Metropolitan Washington Airports Authority to undertake the Phase II Project (as defined in the Trust Agreement).

U.S. Bank National Association, a national banking association having trust powers, duly organized and doing business under the laws of the United States of America, with a corporate trust office in Richmond, Virginia, has been appointed Trustee, Bond Registrar and Paying Agent for the Bond under the Trust Agreement.

This Bond is issuable as fully registered. At the corporate trust office of the Bond Registrar in Richmond, Virginia, in the manner and subject to the limitations and conditions provided in the Trust Agreement, this Bond may be exchanged for a Bond in the same principal amount of the Series and maturity and bearing interest at the same rate.

The transfer of this Bond is registrable by the Holder hereof by its legal representative at the principal corporate trust office of the Bond Registrar, but only in the manner and subject to the limitations and conditions provided in the Trust Agreement and the TIFIA Loan Agreement, and upon surrender and cancellation of this Bond.

In particular, no transfer of this Bond shall take place except pursuant to the terms of the TIFIA Loan Agreement. In addition, no transfer shall take place unless the Trustee shall have

received from the Borrower an updated schedule showing the Debt Service Requirements of the Bond, a certificate from the Holder requesting and approving such transfer and a certificate from an EDA Representative directing the trustee to transfer the Bond.

Upon the Borrower's receipt of all Advances under the TIFIA Loan Agreement and upon the Trustee's receipt from the Borrower of an updated schedule showing the Debt Service Requirements of the Bond such Bond may be transferred as generally set forth in the Trust Agreement.

Upon any such registration of transfer, the Borrower shall execute and the Bond Registrar shall authenticate and deliver in exchange for this Bond a new Bond, registered in the name of the transferee in a principal amount equal to the principal amount of this Bond, of the same Series and maturity and bearing interest at the same rate. Neither the Borrower nor the Bond Registrar shall be required to make any exchange or registration of transfer of this Bond after such Bond has been selected for redemption.

This Bond is a limited obligation of the Borrower payable solely from amounts constituting part of the Trust Estate (as defined in the Trust Agreement) and from other money pledged under the Trust Agreement. Neither the faith and credit of the Commonwealth of Virginia nor the faith and credit of any political subdivision thereof (including the Borrower and Fairfax County, Virginia (the "County")) are pledged to the payment of the principal of or the interest on this Bond. The issuance of this Bond shall not directly or indirectly or contingently obligate the Commonwealth of Virginia or any political subdivision thereof (including the Borrower and the County) to levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged therefor. The Borrower has no taxing power.

Reference is made to the TIFIA Loan Agreement, dated as of December [___], 2014 (the as amended and supplemented from time to time, the "TIFIA Loan Agreement"), by and between the Borrower and the United States Department of Transportation, an agency of the United States of America, acting by and through the Federal Highway Administrator, for other covenants and declarations of the Borrower and other terms and conditions upon which this Bond has been issued, which terms and conditions shall for all purposes have the same effect as if fully set forth herein. The Borrower unconditionally covenants that it will keep and perform all of the covenants of this Bond and of the TIFIA Loan Documents (as defined in the TIFIA Loan Agreement) to which the Borrower is a party.

ADDITIONAL PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF AND SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH SET FORTH HERE.

[18] **IN WITNESS WHEREOF**, Fairfax County Economic Development Authority, Virginia has caused this Bond to be executed with the facsimile signatures of its [Vice] Chairman and its [Assistant] Secretary and a facsimile of its official seal to be imprinted hereon and this Bond to be dated the __ day of _____, 20__.

**FAIRFAX COUNTY ECONOMIC
DEVELOPMENT AUTHORITY**

VIRGINIA

By [FACSIMILE SIGNATURE]
[Vice] Chairman of the Fairfax County
Economic Development Authority
Virginia

By [FACSIMILE SIGNATURE]
[Assistant] Secretary of the Fairfax County
Economic Development Authority
Virginia

[FACSIMILE OF OFFICIAL SEAL]

CERTIFICATE OF AUTHENTICATION

This Bond is a bond issued under the provisions of the within-mentioned Trust Agreement.

Bond Registrar

By _____
Authorized Signatory

Date of authentication:

[Form of Reverse of the Bond]

The Borrower has entered into a Support Agreement, dated as of December __, 2014 (the "Support Agreement"), with the County pursuant to which the County, subject to the terms and conditions of the Support Agreement, has agreed to pay Basic Payments (as defined in the Support Agreement) for the Project in amounts sufficient to pay the principal of and interest on this Bond and to pay to the Trustee, for the account of the Authority, County Reserve Payments (as defined in the Support Agreement) in an amount equal to any deficiency in the Reserve Fund held by the Trustee under the Trust Agreement and pledged to the payment of this Bond. Under the Trust Agreement and Support Agreement, all such payments by the County are to be deposited to the credit of the Reserve Fund. The obligation of the County under the Support Agreement to make such Basic Payments and County Reserve Payments and make other payments required thereby in any fiscal year of the County is contingent upon the annual appropriation by the Board of Supervisors of the County of funds from which such payments can be made. Under the Trust Agreement, the Borrower has assigned to the Trustee as security for this Bond its rights to receive the payments of such Basic Payments, County Reserve Payments and other payments required by the Support Agreement (other than Additional Payments (as defined in the Support Agreement) and such payments constitute a portion of the "Trust Estate" that is pledged under the Trust Agreement to the payment of this Bond.

Reference is made to the Trust Agreement for a more complete statement of the provisions thereof and of the rights and duties of the Borrower, the Trustee, the Paying Agent for this Bond, the Bond Registrar and the registered owner. A copy of the Trust Agreement is on file and may be inspected at the corporate trust office of the Trustee in Richmond, Virginia. By the purchase and acceptance of this Bond, the Holder hereof signifies assent to all of the provisions of the aforementioned documents.

This Bond is issued and the Trust Agreement was entered into under and pursuant to the Constitution and laws of the Commonwealth of Virginia, particularly in conformity with the

provisions, restrictions and limitations of Chapter 643 of the 1964 Acts of the General Assembly of the Commonwealth of Virginia, as amended, and other applicable law.

This Bond is issuable as a fully registered Bond in equal to the entire principal amount. At the principal corporate trust office of the Bond Registrar, in the manner and subject to the limitations and conditions provided in the Trust Agreement, Bond(s) may be exchanged for one Bond in the same principal amount, bearing interest at the same rate.

The transfer of this Bond is registrable by the Holder hereof in person or by his attorney or legal representative at the principal corporate trust office of the Bond Registrar, but only in the manner and subject to the limitations and conditions provided in the Trust Agreement and upon surrender and cancellation of this Bond. Upon any such registration of transfer, the Borrower shall execute and the Bond Registrar shall authenticate and deliver in exchange for this Bond a new Bond, registered in the name of the transferee, in the same principal amount of this Bond, bearing interest at the same rate. Neither the Borrower nor the Bond Registrar shall be required to make any exchange or registration of transfer of this Bond after it has been selected for redemption.

The principal of and interest on this Bond (and the interest payable on any redemption of this Bond other than on an interest payment date) are payable in the manner and at the place provided in the TIFIA Loan Agreement.

This Bond shall be subject to mandatory prepayment and redemption in accordance with the TIFIA Loan Agreement and the TIFIA Letter Agreement.

This Bond shall be subject to redemption at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be redeemed are to be determined in accordance with the TIFIA Loan Agreement); provided, however, such redemption shall be in such amounts as provided in the TIFIA Loan Agreement.

The owner of this Bond shall have no right to enforce the provisions of the Trust Agreement or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Trust Agreement, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Agreement or the TIFIA Loan Agreement. Any delay on the part of the owner of this Bond in exercising any right in respect of this Bond shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

Modifications or alterations of the Support Agreement and the Trust Agreement may be made only to the extent and in the circumstances permitted by the Trust Agreement and the TIFIA Loan Agreement.

This Bond is issued with the intent that the laws of the Commonwealth of Virginia shall govern its construction.

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond have happened, exist and have been performed as so required.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Trust Agreement until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

[Form of Assignment]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner hereby certifies that the transfer of the Bond complies with all of the requirements set forth in Section 19 of the TIFIA Loan Agreement (as defined in the Bond), sells, assigns and transfers unto

Please insert social security or
other identifying number of assignee

(Please Print or Typewrite Name and Address of Transferee)

the within bond, and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to register the transfer of the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed* by: _____

*Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Trustee which requirements will include membership or participation in STAMP or such other “signature guarantee program” as may be determined by the Trustee in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

EXHIBIT B

ANTICIPATED TIFIA LOAN DISBURSEMENT SCHEDULE

<u>County Fiscal Year</u>	<u>Amount</u>
	\$

EXHIBIT C

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS—
PRIMARY COVERED TRANSACTIONS**

The undersigned on behalf of [INSERT NAME OF PARTY], hereby certifies that [INSERT NAME OF PARTY] and, to the best of the undersigned’s knowledge and belief, its principals (as defined in 2 C.F.R. § 180.995):

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three (3) year period preceding the Effective Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement, dated as of [Dated Date], among the TIFIA Lender, Fairfax County and the Borrower, as the same may be amended from time to time.

Dated: _____

[BORROWER / FAIRFAX COUNTY]

By: _____

**[Borrower’s Authorized
Representative][County’s Authorized
Representative]**

Name:

Title:

EXHIBIT D

REQUISITION PROCEDURES

This Exhibit D sets out the procedures which the Borrower and Fairfax County agree to follow in submitting Requisitions for the disbursement of TIFIA Loan proceeds to enable the Borrower, on behalf of Fairfax County, to reimburse MWAA for MWAA's prior payment of Eligible Project Costs incurred in connection with Phase 2. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Sections 2 through 4 set out the circumstances in which the TIFIA Lender may reject or correct Requisitions submitted by the Borrower (or Fairfax County, acting on behalf of the Borrower) or withhold a disbursement. The Borrower and Fairfax County expressly agree to the terms hereof, and further agree that (i) the rights of the TIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the TIFIA Lender under the TIFIA Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the TIFIA Lender to take actions, subject to any limitations thereon as set forth in the TIFIA Loan Agreement, including administrative enforcement action and actions for breach of contract against the Borrower or Fairfax County if it fails to carry out its obligations under the TIFIA Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower (or Fairfax County, acting on behalf of the Borrower) for the disbursement of TIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the TIFIA Lender, in accordance with Section 37 of the Agreement, of a Requisition, in form and substance satisfactory to the TIFIA Lender and completed and executed by a Borrower's Authorized Representative and a County's Authorized Representative. The form of Requisition is attached as Appendix One to this Exhibit D. Supporting documentation should be submitted with the Requisition.

The TIFIA Lender agrees to promptly send to the Borrower in accordance with Section 37 of the Agreement, an acknowledgement of receipt of each Requisition in the form attached as Appendix Two to this Exhibit D setting forth the date of receipt by the TIFIA Lender of such Requisition and setting forth the Business Day on which disbursement will be made absent denial by the TIFIA Lender. All disbursement requests must be received by the TIFIA Lender at or before 5:00 P.M. (Eastern Time) on the first Business Day of a calendar month in order to obtain disbursement by the fifteenth (15th) day of such calendar month or, if either such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the TIFIA Lender, the TIFIA Lender will notify the Borrower and Fairfax County of such approval and of the amount so approved.

Section 2. Rejection. A Requisition may be rejected by the TIFIA Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative or a County's Authorized Representative;

(c) submitted following the disbursement of all proceeds of the TIFIA Loan;
or

(d) submitted less than one (1) month after MWAA has submitted a Reimbursement Claims Package which (i) includes invoices and records which evidence all of the Eligible Project Costs requested to be reimbursed with TIFIA Loan proceeds pursuant to such Requisition, (ii) complies with the applicable requirements of the Phase 2 Funding Procedure, and (ii) was expressly approved or not expressly denied by the TIFIA Lender pursuant to the Phase 2 Funding Procedure.

The TIFIA Lender will notify the Borrower and Fairfax County of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified in (a) or (b) above must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the TIFIA Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the TIFIA Lender will so notify the Borrower and Fairfax County.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the TIFIA Lender, after telephonic notification to the Borrower or Fairfax County, and will thereafter be treated as if submitted in the corrected amount. The TIFIA Lender will confirm correction of the error, to the Borrower and Fairfax County, in writing.

Section 4. Withholding. The TIFIA Lender shall be entitled to withhold approval of any pending or subsequent requests for the disbursement of TIFIA Loan proceeds if:

(a) an Event of Default under the TIFIA Loan Agreement shall have occurred and be continuing;

(b) the Borrower:

(i) fails to pay any principal or interest on the TIFIA Loan when the same is due and payable; or

(ii) applies TIFIA Loan proceeds for purposes other than payment of, or reimbursement for, Eligible Project Costs which have been the subject of an approved disbursement request hereunder;

(b) the Borrower or Fairfax County:

(i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated hereby; or

(ii) materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the TIFIA Lender to monitor compliance by the Borrower with applicable federal or local law pertaining to the Project, or with the terms and conditions of the TIFIA Loan Agreement; or

(iii) fails to observe or comply with any applicable federal or local law, or any term or condition of the TIFIA Loan Agreement; or

(iv) fails to deliver documentation evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by the TIFIA Loan Agreement; and such failure continues for a period of more than thirty (30) days following written notice from the TIFIA Lender to the Borrower or Fairfax County, the TIFIA Lender shall be entitled to withhold, from any Requisition received after such thirty (30) day period has expired, and until such failure is cured or corrected, an amount determined by the TIFIA Lender (in its sole discretion) to be adequate for the cure or correction of such failure, which amount shall be stated in such notice; provided, that if the nature of the failure is such that it cannot reasonably be cured or corrected within such thirty (30) day period, the TIFIA Lender shall not withhold any disbursement by reason of such failure if the Borrower or Fairfax County commences such cure or correction within such thirty (30) day period and thereafter diligently completes such cure or correction within a further reasonable time period.

The foregoing notwithstanding, if, as of the date of such notice from the TIFIA Lender, the balance of the TIFIA Loan proceeds remaining to be disbursed is less than the amount determined by the TIFIA Lender to be adequate for the cure or correction of such failure, the TIFIA Lender may immediately withhold all further disbursement of TIFIA Loan proceeds until such failure is cured or corrected within the time period specified by the preceding paragraph.

APPENDIX ONE TO EXHIBIT D

FORM OF REQUISITION

United States Department of Transportation
c/o Director, TIFIA Joint Program Office (HITJ)
Federal Highway Administration
Room E64-301
1200 New Jersey Avenue, SE,
Washington, DC 20590

United States Department of Transportation
Federal Transit Administration
Region III Office
1760 Market Street, Suite 500
Philadelphia, PA 19103-4124

[Loan Servicer]
[Address]
[Attention]

Re: DULLES CORRIDOR METRORAIL PROJECT (TIFIA – 2014-1003A)

Ladies and Gentlemen:

Pursuant to Section 4 of the TIFIA Loan Agreement, dated as of December [___], 2014 (the “TIFIA Loan Agreement”), by and between FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY (the “Borrower”) and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator (the “TIFIA Lender”), we hereby request disbursement in the amount of \$_____ for Eligible Project Costs. Capitalized terms used but not defined herein have the meaning set forth in the TIFIA Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

- 1. This Requisition is Requisition number _____.
2. The requested date of disbursement is [_____ [15], ____] (the “Disbursement Date”), which is the first Business Day following [_____ 15, ____].
3. The amounts previously disbursed under the TIFIA Loan Agreement aggregate \$_____. The amounts previously disbursed under the Trust Agreement and used to pay costs for Phase 2 aggregate \$_____. The amounts previously contributed by the Borrower from Dedicated Revenues to pay costs for Phase 2 aggregate \$_____. The amounts previously contributed by Fairfax County to pay costs for Phase 2 aggregate \$_____. The amounts previously contributed by the Borrower from all other sources to pay costs for Phase 2 aggregate \$_____. Based solely on information from MWAA, the amounts previously contributed by MWAA to

pay costs for Phase 2 aggregate \$_____.] Based solely on information from MWAA, the amounts previously contributed by Loudoun County to pay costs for Phase 2 aggregate \$_____.

4. Based solely on information from MWAA, the amounts hereby requisitioned have been incurred by or for the account of Fairfax County for Eligible Project Costs, and such amounts, together with the amounts set forth in paragraph 3 above, will not exceed as of the requested disbursement date thirty-three percent (33%) of the total amount of the reasonably anticipated Eligible Project Costs set forth in the Financial Plan most recently approved by the TIFIA Lender. Total federal assistance provided to the Project as of the requested disbursement, together with the amounts set forth in paragraph 3 above, does not exceed eighty percent (80%) of Eligible Project Costs.
5. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the TIFIA Loan, and the amount of this Requisition together with the sum of all disbursements of TIFIA Loan proceeds made and to be made for the current year will not exceed the cumulative disbursements through the end of the current year as set forth in the Anticipated TIFIA Loan Disbursement Schedule.
6. Based on solely information from MWAA, all amounts requisitioned hereunder are for Eligible Project Costs which have not been paid for or reimbursed by any previous disbursement from TIFIA Loan proceeds.
7. All documentation received from MWAA evidencing the Eligible Project Costs to be paid for or reimbursed by the disbursement has been delivered by Fairfax County at the times and in the manner specified by the TIFIA Loan Agreement.
8. The Borrower is in compliance with all of the terms and conditions of the TIFIA Loan Agreement and the Trust Agreement and there does not currently exist an Event of Default under the TIFIA Loan Agreement or an event of default under the Trust Agreement or any event which with the giving of notice or the passage of time or both would constitute such an Event of Default or event of default.
9. The representations and warranties of each of the Borrower and Fairfax County set forth in the TIFIA Loan Agreement (including Section 14 and Section 14A thereof) and in each other Related Document to which the Borrower or Fairfax County is a party are true and correct in all material respects (except to the extent any representation and warranty itself is qualified by “materiality,” “Material Adverse Effect” or a similar qualifier, in which case, it shall be true and correct in all respects) as of the date hereof and each date on which a disbursement is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct in all material respects (except to the extent any such representation and warranty itself is qualified by “materiality,” “Material Adverse Effect” or a similar qualifier, in which case, it shall be true and correct in all respects) as of such earlier date). [The representations and warranties of each of the Borrower and Fairfax County set forth in the TIFIA Loan Agreement (including Section 14 and Section 14A thereof) and in each other Related Document are true and correct as of the Effective Date

and as of the date of the initial disbursement of the TIFIA Loan, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).]¹

10. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), (i) no Event of Default or event of default under any other Related Document and (ii) no event which with the giving of notice or the passage of time or both would constitute an Event of Default or event of default under any Related Document, in each case, has occurred and is continuing.
11. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), (i) there does not currently exist any event of default, or any event which with the giving of notice or the passage of time or both would constitute any such event of default, with respect to any indebtedness secured in whole or in part by or payable from amounts subject to appropriation by Fairfax County and (ii) with respect to all payment obligations of Fairfax County, including lease obligations, secured in whole or in part by or payable from amounts subject to appropriation by Fairfax County, Fairfax County has appropriated funds as and when required and in amounts sufficient to satisfy Fairfax County's payment obligations with respect thereto heretofore due and payable.
12. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred since March 27, 2014.
13. The undersigned acknowledges that if the Borrower or Fairfax County makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower or Fairfax County the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Government deems appropriate; provided, however, that neither the Borrower nor Fairfax County shall be responsible for the truth, accuracy or completeness of any information provided to the Borrower or Fairfax County by a third party which the Borrower or Fairfax County passes on in any claim, statement, submission, certification or representation to the Government. Notwithstanding anything herein to the contrary, neither the Borrower nor Fairfax County makes any claim, statement, submission, certification or representation herein to the Government with respect to any information supplied to the Borrower or Fairfax County by any third party, including MWAA, WMATA or the TIFIA Lender.
14. A copy of this requisition has been delivered to each of the above named addressees.
15. The undersigned is duly authorized to execute and deliver this requisition on behalf of Fairfax County or the Borrower (as applicable).

¹ Insert only in the Requisition delivered in respect of the initial disbursement of the TIFIA Loan.

16. [Add wire instructions for U.S. Bank National Association.]

Date: _____

County's Authorized Representative

Name: _____

Title: _____

In connection with this Requisition, the undersigned does hereby represent and certify solely as to the matters set forth in paragraphs 8, 9, 10, 12, 13 and 15, in each case, as it relates to the Borrower.

Borrower's Authorized Representative

Name: _____

Title: _____

APPENDIX TWO TO EXHIBIT D
FORM OF ACKNOWLEDGMENT OF RECEIPT OF
REQUISITION FOR DISBURSEMENT OF TIFIA LOAN PROCEEDS

Fairfax County Economic Development Authority
8300 Boone Boulevard
Suite 450
Vienna, VA 22180

Re: Receipt of Requisition for Disbursement of TIFIA Loan Proceeds

Ladies and Gentlemen:

Pursuant to Section 4 of the TIFIA Loan Agreement, dated as of December [___], 2014 by and among FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY (the "Borrower"), the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator (the "TIFIA Lender"), the undersigned authorized representative of the TIFIA Lender hereby acknowledges receipt of the attached Requisition for Disbursement of TIFIA Loan proceeds (the "Requisition") from Fairfax County and the Borrower. In connection therewith, we hereby represent and certify the following:

1. The date of receipt of the Requisition is _____.
2. Unless this Requisition is denied, disbursement shall be made on or before _____.

Date:

TIFIA Lender's Authorized Representative

Name: _____
Title: _____

APPENDIX THREE TO EXHIBIT D

[APPROVAL/DISAPPROVAL] OF THE TIFIA LENDER

(To be delivered to the Borrower)

Requisition Number _____ is [approved] [approved in part]² [not approved]³ by the TIFIA Lender (as defined herein) pursuant to Section 4 of the TIFIA Loan Agreement, dated as of December [___], 2014 by and among Fairfax County Economic Development Authority (the “Borrower”), the Board of Supervisors of Fairfax County, Virginia, and the United States Department of Transportation, acting by and through the Federal Highway Administrator (the “TIFIA Lender”).

Any determination, action or failure to act by the TIFIA Lender with respect to the Requisition set forth above, including the withholding of a disbursement, shall be at the TIFIA Lender’s sole discretion, and in no event shall the TIFIA Lender be responsible for or liable to the Borrower for any and all consequence(s) which are the result thereof.

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and through the
Federal Highway Administrator

By: _____
TIFIA Lender’s Authorized Representative

Name: _____

Title: _____

Dated: _____

² Those portions of the requisitions that are approved and those portions that are not approved are described in Schedule A attached hereto, with explanations for items not approved.

³ Attached hereto as Exhibit A are reasons for denial of approval.

[NOT USED]

PHASE 2 FUNDING PROCEDURE

TIFIA DEBT SERVICE

FORM OF OPINION OF COUNSEL TO BORROWER

The following is an indicative list of matters to be covered in the opinion of counsel to the Borrower.

An opinion of the counsel of the Borrower, dated the Effective Date, to the effect that: (a) the Borrower is duly formed, validly existing and in good standing under the laws of the Commonwealth of Virginia; (b) the Borrower has all requisite corporate power and authority to conduct its business and governmental functions and to execute and deliver, and to perform its obligations under, the Related Documents to which it is a party; (c) the execution and delivery by the Borrower of, and the performance of its obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary corporate action; (d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of the Borrower under the laws of the Commonwealth of Virginia, enforceable against the Borrower in accordance with their respective terms; (e) no authorization, consent or other approval of, or registration, declaration or other filing with any governmental authority of the Commonwealth of Virginia is required on the part of the Borrower for the execution and delivery by the Borrower of, and the performance of its obligations under, the Related Documents; (f) the execution and delivery by the Borrower of, and its compliance with the provisions of the Related Documents do not (i) violate the applicable laws or other constitutional documents (as applicable) that are the basis for the existence and authority of the Borrower, (ii) violate the law of the Commonwealth of Virginia or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower presently is subject; and (g) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other governmental authority in connection with the Related Documents that are pending.

FORM OF OPINION OF BOND COUNSEL

The following is an indicative list of matters to be covered in the opinion of bond counsel to the Borrower.

An opinion of the counsel of the Borrower, dated the Effective Date, to the effect that: (a) [customary opinions regarding the creation and perfection of security interests under all federal and state laws applicable to the Trust Estate]; and (b) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended.

EXHIBIT H-3

FORM OF OPINION OF COUNSEL TO FAIRFAX COUNTY

The following is an indicative list of matters to be covered in the opinion of counsel to Fairfax County.

An opinion of the counsel of Fairfax County, dated the Effective Date, to the effect that: (a) Fairfax County is duly formed, validly existing and in good standing under the laws of the Commonwealth of Virginia; (b) Fairfax County has all requisite corporate power and authority to conduct its business and governmental functions and to execute and deliver, and to perform its obligations under, the Related Documents to which it is a party; (c) the execution and delivery by Fairfax County of, and the performance of its obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary corporate action; (d) Fairfax County has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of Fairfax County under the laws of the Commonwealth of Virginia, enforceable against Fairfax County in accordance with their respective terms; (e) no authorization, consent or other approval of, or registration, declaration or other filing with any governmental authority of the Commonwealth of Virginia is required on the part of Fairfax County for the execution and delivery by Fairfax County of, and the performance of its obligations under, the Related Documents; (f) the execution and delivery by Fairfax County of, and its compliance with the provisions of the Related Documents do not (i) violate the applicable laws or other constitutional documents (as applicable) that are the basis for the existence and authority of Fairfax County, (ii) violate the law of the Commonwealth of Virginia or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which Fairfax County is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which Fairfax County presently is subject; (g) Fairfax County is not an investment company required to register under the Investment Company Act of 1940, as amended; and (h) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against Fairfax County by or before any court, arbitrator or any other governmental authority in connection with the Related Documents that are pending.

H-3

Attachment 3

EXHIBIT I

SECTIONS 502 AND 503 OF THE TRUST AGREEMENT

I-1

EXHIBIT J

FORM OF CERTIFICATE OF TRUSTEE
FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY
TIFIA Bond,
Dulles Corridor Metrorail Project
(TIFIA-2014-1003A)

The undersigned, U.S. Bank National Association (the “*Trustee*”), by its duly appointed, qualified and acting [_____], certifies with respect to the above referenced bond (the “*TIFIA Bond*”) dated as of December [___], 2014, as follows (capitalized terms used in this certificate which are not otherwise defined shall have the meanings given to such terms in the Trust Agreement (as defined below)):

1. That the Trustee is a national association duly organized and validly existing under the laws of the United States of America and is duly licensed and in good standing under the laws of the Commonwealth of Virginia.

2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the TIFIA Bond have been obtained and are in full force and effect.

3. That the documents pertaining to the issuance of the TIFIA Bond to which the Trustee is a party were executed and the TIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Exhibit A attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the TIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the TIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.

4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Trust Agreement (“*Trusts*”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.

5. That attached to this Certificate as Exhibit B is a full, true and correct copy of excerpts from resolutions of the board of directors of the Trustee and other applicable documents which evidence the Trustee’s trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to Section 208 of that certain Trust Agreement (the “*Trust Agreement*”), dated as of December [1], 2014, between the Fairfax County Economic Development Authority (the “*Authority*”) and the Trustee.

7. That receipt is also acknowledged of that certain TIFIA Loan Agreement, dated as of December [__], 2014 (the “*TIFIA Loan Agreement*”), among the Authority, the Board of Supervisors of Fairfax County, Virginia, and the United States Department of Transportation (the “*TIFIA Bondholder*”).

8. That U.S. Bank National Association also accepts its appointment and agrees to perform the duties and responsibilities of Trustee and of Bond Registrar and Paying Agent for and in respect of the TIFIA Bond as set forth in the Trust Agreement and the TIFIA Loan Agreement, including from time to time redeeming all or a portion of the TIFIA Bond as provided in the Trust Agreement. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections for the benefit of the Trustee set forth in Article IX of the Trust Agreement, and, in any event, shall not be liable in connection with such performance except to the extent of its negligence or willful misconduct.

9. That all Funds for the payment of the TIFIA Bond pursuant to the Trust Agreement (including, but not limited to, the Construction Fund) have been established as provided in the Trust Agreement.

[SIGNATURE PAGE FOLLOWS]

Dated: [_____], 2014

U.S. BANK NATIONAL ASSOCIATION

By: _____
Its:

**EXHIBIT A TO EXHIBIT J
OFFICERS OF TRUSTEE**

EXHIBIT B TO EXHIBIT J
[RESOLUTIONS OF BOARD OF DIRECTORS OF TRUSTEE]

LETTER AGREEMENT

THIS LETTER AGREEMENT (this “**Agreement**”), dated as of December [___], 2014, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “**State**”) with an address of 12000 Government Center Parkway, Fairfax, Virginia 22035 (“**Fairfax County**”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Federal Highway Administrator, with an address of 1200 New Jersey Avenue, S.E., Washington, DC 20590 (the “**TIFIA Lender**”).

RECITALS:

WHEREAS, Fairfax County Economic Development Authority, a political subdivision of the Commonwealth (the “**Borrower**”), Fairfax County and the TIFIA Lender have entered into that certain TIFIA Loan Agreement, dated as of the date hereof (as may be amended, supplemented or otherwise modified in writing from time to time, the “**Loan Agreement**”), pursuant to which, among other things, the TIFIA Lender has extended certain commitments to make loans and other credit accommodations to, and for the benefit of, the Borrower, to be used to pay a portion of the Eligible Project Costs related to Phase 2.

WHEREAS, pursuant to the 2011 MOA, Fairfax County agreed to use its best efforts to secure Additional Funding Sources (as defined in the 2011 MOA) to fund the cost of the design and construction of the Parking Facilities, thereby tentatively separating the Parking Facilities from the scope of the Project to be financed in accordance with the 2007 Funding Agreement;

WHEREAS, Fairfax County has committed to fund, design and construct the Parking Facilities, which are classified as “Concurrent Non-Project Activities” by the FTA, separately from the funding arrangements established for Phase 2 with funds from sources other than the TIFIA Loan, contingent upon Fairfax County, the Borrower, and the TIFIA Lender entering into the Loan Agreement as described above;

WHEREAS, the TIFIA Lender is prepared to extend credit upon the terms and conditions of the Loan Agreement and this Agreement, including, among other things, Fairfax County’s commitment to develop, design, construct, operate and maintain the Parking Facilities separate from the Project with funds from sources other than the TIFIA Loan; and

WHEREAS, the TIFIA Lender has requested Fairfax County, and Fairfax County has agreed, to enter into this Agreement to memorialize certain understandings in respect of the Parking Facilities.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. **DEFINED TERMS.** Capitalized terms used in this Agreement shall have the meanings (a) set forth below in this Section 1 or (b) to the extent not otherwise defined herein, given to such terms in the Loan Agreement.

“Parking Facilities Substantial Completion Date” means the date as of which the Parking Facilities have been built and opened to vehicular traffic and parking by the general public.

“Parking Facilities Substantial Completion Deadline” means the one hundred eightieth (180th) day after the Substantial Completion Date.

“Recovery Plan” means a recovery plan with respect to the construction and development of the Parking Facilities that has been prepared by Fairfax County and delivered to the TIFIA Lender, which plan includes a certificate from Fairfax County concluding that the Parking Facilities Substantial Completion Date is likely to occur by the date specified in such recovery plan.

“Uncontrollable Force” means any cause beyond the control of Fairfax County, including: (a) a tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God (provided that Fairfax County shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) an order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of Fairfax County and Fairfax County does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of Fairfax County.

2. **AGREEMENTS.**

2.1 Parking Facilities.

(a) Fairfax County hereby covenants to build the Parking Facilities and open the Parking Facilities to vehicular traffic and parking by the general public on or before the Parking Facilities Substantial Completion Deadline. Fairfax County may comply with this requirement by causing a third party to build and open the Parking Facilities by such date.

(b) If for any reason the Parking Facilities Substantial Completion Date does not occur on or before the Substantial Completion Date, Fairfax County shall have until the Parking Facilities Substantial Completion Deadline to cure such failure to complete the Parking Facilities. If for any reason the Parking Facilities Substantial Completion Date does not occur on or before the Parking Facilities Substantial Completion Deadline, then the TIFIA Lender may:

(i) require Fairfax County, no later than five (5) Business Days following delivery of written notice from the TIFIA Lender to Fairfax County (but in no event prior to the next Business Day after the Parking Facilities Substantial Completion Deadline), to (A) pay over to the Borrower an amount equal to one hundred percent (100%) of the Outstanding TIFIA Loan Balance and any accrued interest thereon as of the Parking Facilities Substantial Completion Deadline (the “**Parking Facilities Prepayment Amount**”) and (B) cause the Borrower to prepay the TIFIA Loan, without penalty or premium, in an amount equal to the Parking Facilities Prepayment Amount; and

(ii) to the extent any portion of the TIFIA Loan remains undisbursed, in the TIFIA Lender’s sole discretion, cease or suspend making further disbursements under the Loan Agreement;

provided, however, if and to the extent any failure of the Parking Facilities Substantial Completion Date to occur on or before the Parking Facilities Substantial Completion Deadline is the result of an Uncontrollable Force, then Fairfax County shall be excused from the performance of its obligations under clauses (i) and (ii) of this Section 2.1(b) so long as, within ninety (90) days of the occurrence of such Uncontrollable Force, Fairfax County shall have provided the TIFIA Lender with a Recovery Plan, which Recovery Plan shall be subject to the TIFIA Lender’s approval (which approval shall not be unreasonably withheld). In the event the Borrower shall have prepaid the TIFIA Loan as contemplated by clause (i)(B) this Section 2.1(b), Fairfax County shall be deemed to have cured its failure to build the Parking Facilities and open the Parking Facilities to vehicular traffic and parking by the general public on or before the Parking Facilities Substantial Completion Deadline and no Covenant Default shall be permitted to be declared or continue to exist as a result of such failure.

(c) The Project does not include the Parking Facilities. Fairfax County shall not use proceeds from the TIFIA Loan or any other federal source of funds to pay any costs associated with the Parking Facilities. Fairfax County shall not take, or permit any other Person to take, any action which results or could reasonably be expected to result in all or any portion of the development, design, construction, operation or maintenance of the Parking Facilities to constitute part of the Project to be funded pursuant to the 2007 Funding Agreement, including in accordance with Section 3.2(d) of the 2011 MOA.

2.2 Notices; Accounting and Audit Procedures; Reports and Records; Oversight and Monitoring.

(a) Fairfax County shall, within five (5) Business Days after Fairfax County learns of the occurrence thereof, give the TIFIA Lender written notice of any of the following events, setting forth details of such event:

(i) any event or circumstances that is reasonably likely to cause the Parking Facilities Substantial Completion Date to be delayed beyond the Substantial Completion Date;

(ii) the occurrence of any Uncontrollable Force affecting the Parking Facilities; and

(iii) the occurrence of the Parking Facilities Substantial Completion Date.

(b) Until the Parking Facilities Substantial Completion Date, Fairfax County shall provide to the TIFIA Lender copies of any publicly-available interim progress reports regarding the Parking Facilities that Fairfax County provides to its Board of Supervisors, as and when delivered to the Board of Supervisors. In the event that any such report indicates a failure to achieve the Parking Facilities Substantial Completion Date by the Substantial Completion Date, Fairfax County shall provide to the TIFIA Lender such reports, documentation or other information as shall be reasonably requested by the TIFIA Lender.

(c) In the event that the estimated Parking Facilities Substantial Completion Date is delayed beyond the Substantial Completion Date, Fairfax County shall provide to the TIFIA Lender and the FTA such reports, documentation or other information as requested by the TIFIA Lender or the FTA.

2.3 No Liability. Fairfax County acknowledges and agrees that neither the TIFIA Lender nor any of its designees shall have any liability or obligation in respect of the Parking Facilities as a result of this Agreement, the Loan Agreement or otherwise.

2.4 False Statements. Fairfax County acknowledges that if Fairfax County makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Parking Facilities, the Government reserves the right to impose on the Fairfax County the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate; provided, however, that neither the Borrower nor Fairfax County shall be responsible for the truth, accuracy or completeness of any information provided to the Borrower or Fairfax County by a third party which the Borrower or Fairfax County passes on in any claim, statement, submission, certification or representation to the Government.

3. REPRESENTATIONS AND WARRANTIES.

Fairfax County hereby represents and warrants that, as of the Effective Date:

3.1 Organization. Fairfax County is a political subdivision of the State, validly existing and in good standing, has full legal right, power and authority to enter into this Agreement, and to carry out and consummate all transactions contemplated hereby and has duly authorized the execution, delivery and performance of this Agreement.

3.2 Officer's Authorization. As of the Effective Date, the person executing this Agreement on behalf of Fairfax County is fully authorized to execute the same.

3.3 Due Execution; Enforceability. This Agreement has been duly authorized, executed and delivered by Fairfax County and constitutes the legal, valid and binding agreement

of Fairfax County enforceable in accordance with its terms, except as such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (b) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

3.4 Non-Contravention. The execution and delivery of this Agreement, the consummation of the transactions contemplated in this Agreement and the fulfillment of or compliance with the terms and conditions of this Agreement will not conflict in any material respect with, or constitute a violation, breach or default (with due notice or the passage of time or both) by Fairfax County of or under, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, any other Related Document or any other indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which Fairfax County is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Fairfax County or the Dedicated Revenues.

3.5 Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of Fairfax County or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (a) the execution and delivery by Fairfax County of this Agreement, except as have been obtained or made and as are in full force and effect, or (b)(i) the consummation of any transaction contemplated by this Agreement or (ii) the fulfillment of or compliance by Fairfax County with the terms and conditions of this Agreement, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

3.6 Litigation. As of the Effective Date, to the knowledge of Fairfax County, there is no action, suit, proceeding, inquiry or investigation before or by any court or other Governmental Authority pending, threatened against or affecting the Parking Facilities, which could reasonably be expected to result in a material adverse change in Fairfax County's ability to cause the Parking Facilities to be completed and opened to the public for vehicular parking prior to the then projected Substantial Completion Date. Notwithstanding the foregoing, the parties acknowledge that one or more proceedings [are pending][may be brought] in Fairfax County Circuit Court relating to the validation of certain bonds proposed to be issued to finance all or a portion of the Parking Facilities.

3.7 NEPA. As of the Effective Date, to the knowledge of Fairfax County, the Parking Facilities are in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.).

3.8 Sufficient Funds. No "Funding Shortfall" (as such term is used in the 2011 MOA) shall have occurred with respect to Fairfax County pursuant to Section 3.2(d) of the 2011 MOA.

4. MISCELLANEOUS.

4.1 Interpretation. The principles of construction and interpretation set forth in Section 2 of the Loan Agreement shall apply to, and are hereby incorporated by reference in, this Agreement.

4.2 Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Agreement shall in any event be effective without the prior written consent of each of the parties hereto.

4.3 Governing Law. This Agreement shall be governed by the federal laws of the United States if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable. Notwithstanding the foregoing, Fairfax County's obligations under this Agreement shall be subject to any applicable limitation on the scope and/or extent of Fairfax County's authority under State law.

4.4 Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

4.5 Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither Fairfax County's rights or obligations hereunder nor any interest therein may be assigned or delegated by Fairfax County without the prior written consent of the TIFIA Lender.

4.6 Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

4.7 Notices. Notices hereunder shall be (a) in writing, (b) effective upon receipt (except as otherwise provided herein) and (c) given by (i) nationally recognized courier service, (ii) hand delivery or (iii) solely with respect to ministerial or non-substantive notices, email, in each case to:

If to TIFIA Lender

TIFIA Joint Program Office (HITJ)
Federal Highway Administration
Room E64-301
1200 New Jersey Avenue, SE
Washington, DC 20590
Attention: Director

Email: TIFIACredit@dot.gov

with copies to:

Federal Transit Administration
Office of Budget and Policy -TIFIA
Room E52-328
1200 New Jersey, Avenue, SE
Washington, DC 20590

Federal Transit Administration
Region III Office
1760 Market Street, Suite 500
Philadelphia, PA 19103-4124

Office of the Chief Counsel - TIFIA
Federal Transit Administration
Room E56-314
1200 New Jersey Avenue, SE
Washington, DC 20590
Attention: Paula L. Schwach, Esq.,
FTA Counsel for TIFIA

If to Fairfax County:

County of Fairfax
12000 Government Center Parkway
Suite 552
Fairfax, VA 22035
Attention: County Executive

with copies to:

Office of the County Attorney
12000 Government Center Parkway
Fairfax, VA 22035
Attention: County Attorney

Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a County's Authorized Representative, with respect to notices to Fairfax County, or by the TIFIA Lender's Authorized Representative, with respect to notices to the TIFIA Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this [Section 4.7](#) (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this [Section 4.7](#) (or in accordance with the latest unrevoked written direction from the receiving party) and all necessary confirmations have been received in accordance herewith; provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

4.8 Termination. This Agreement shall terminate upon the payment in full by the Borrower of the TIFIA Loan or, if earlier and if occurring prior to the Parking Facilities Substantial Completion Deadline, the Parking Facilities Substantial Completion Date.

4.9 Integration. This Agreement and the 2011 MOA, constitutes the entire contract among the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

4.10 Non-appropriation. **ANYTHING TO THE CONTRARY NOTWITHSTANDING ELSEWHERE IN THIS AGREEMENT OR IN ANY OTHER RELATED DOCUMENT, THE FAILURE OF FAIRFAX COUNTY TO PAY ALL OR ANY PORTION OF ANY AMOUNT OTHERWISE DUE AND PAYABLE UNDER THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT, TO OR FOR THE ACCOUNT OF THE BORROWER, THE TRUSTEE, THE TIFIA LENDER OR ANY OTHER PERSON ON ACCOUNT OF AN EVENT OF NON-APPROPRIATION SHALL NOT, TO THE EXTENT OF SUCH FAILURE, CONSTITUTE A DEFAULT OR AN EVENT OF DEFAULT UNDER THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT.**

4.11 Federal Funding. **NO FEDERAL GRANTS, LOANS, OR OTHER FUNDS ADMINISTERED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION, INCLUDING THE PROCEEDS OF THE TIFIA LOAN, HAVE BEEN OR WILL BE PROVIDED FOR THE DESIGN, DEVELOPMENT, AND/OR CONSTRUCTION OF THE PARKING FACILITIES. FOR AVOIDANCE OF DOUBT, FAIRFAX COUNTY AND THE TIFIA LENDER ACKNOWLEDGE THAT THE PARKING FACILITIES HAVE NEITHER BEEN SELECTED NOR DESIGNATED A FEDERALLY FUNDED PROJECT UNDER 23 U.S.C. OR 49 U.S.C. AND REMAIN CLASSIFIED AS “CONCURRENT NON-PROJECT ACTIVITIES” BY FTA.**

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA**

By: _____
Name: _____
Title: _____

**UNITED STATES DEPARTMENT OF
TRANSPORTATION, acting by and
through the Federal Highway Administrator**

By: _____
Name: Gregory G. Nadeau
Title: Acting Administrator

PROJECT AGREEMENT -- PHASE II DULLES RAIL

by and among

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY,

and

PHASE II DULLES RAIL TRANSPORTATION IMPROVEMENT DISTRICT

Dated as of
_____, 2014

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PROJECT AGREEMENT -- PHASE II DULLES RAIL

THIS PROJECT AGREEMENT is made as of ____, 2014 (“Project Agreement”), by and among the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the “County”), the **FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY (“EDA”)**, and the **PHASE II DULLES RAIL TRANSPORTATION IMPROVEMENT DISTRICT** (the “District”) (the County, EDA, and the District sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”).

WITNESSETH:

R. 1. Washington Metropolitan Transit Authority (“WMATA”), the Metropolitan Washington Airports Authority (“MWAA”), the County and Loudoun County, Virginia (“Loudoun County”) have undertaken a project consisting of an extension of the Metrorail transportation system by approximately 23 miles, from the existing Metrorail Orange Line near East Falls Church Station, through Tyson’s Corner, along the Dulles Corridor from Tyson’s Corner to the border of Fairfax County, into Dulles International Airport, and terminating at Route 772 in Loudoun County, Virginia (the “Project”).

R. 2. To assist the County in meeting its agreed financial commitments for Phase II of the Project, which include a portion of the costs of the extension of the existing Metrorail transportation system by approximately 11.6 miles, from the Metrorail station at Wiehle Avenue in Reston to the Fairfax-Loudoun County line near Route 28, including the three stations located within the boundaries of the District (defined hereinafter) and described more completely in Exhibit A to this Project Agreement (the “Phase II Project” or the “Silver Line Phase II”), there was created pursuant to Virginia Code §33.1-430 - §33.1-446 (the “District Act”) the Phase II Dulles Rail Transportation Improvement District (the “District”), the governing body of which is the Phase II Dulles Rail Transportation Improvement District Commission (the “Commission”).

R. 3. Pursuant to the District Act, the District has requested that the County levy a Special Improvements Tax and collect Special Tax Revenues (each as defined herein) to pay for a portion of the cost of the Phase II Project.

R. 4. The Parties now desire to enter into this Project Agreement to (1) set forth the agreement of the County to maintain and enforce existing contractual arrangements with MWAA relating to the construction of the Phase II Project; (2) set forth the agreement and respective responsibilities of the Parties regarding the method of payment of a portion of the debt service on the EDA’s Revenue Bond (Silver Line Phase II Project), Series 2014 (the “Series 2014 Bond”) issued as evidence of EDA’s obligation to repay a draw down loan provided by the United States Department of Transportation (“USDOT”) to EDA pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 (the “TIFIA Loan”) for purposes of financing a portion of the County’s financial commitment for the Phase II Project and (3) request the Board of Supervisors of

the County (the “Board of Supervisors”) to continue to levy a Special Improvements Tax and collect and provide Special Tax Revenues for use in accordance with the District Act to support such method of financing.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties and agreements contained in this Project Agreement, the Parties agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 101. Definitions. The following words as used in this Project Agreement shall have the following meanings unless a different meaning clearly appears from the context:

“Board of Supervisors” means the governing body of the County.

“Bonds” means the bonds, other parity indebtedness or subordinate indebtedness that may be issued by EDA secured by Special Tax Revenues to provide, with other District funds (including the Phase II Tax District Allocable Portion of the TIFIA Bond), up to \$330,000,000 for capital costs of the Phase II Project in accordance with this Project Agreement plus the amount of any debt service reserves. “Bonds” also includes any bonds issued by EDA to refund all or any of the Bonds or bonds that shall have refunded bonds that have refunded Bonds, provided that either (i) the annual debt service on such refunding bonds shall be equal to or less than the annual debt service on the bonds refunded or (ii) the District and the County shall have given their prior written consent to the issuance of such refunding bonds.

“Commission” means the Phase II Dulles Rail Transportation Improvement District Commission, the governing body of the District created pursuant to the District Act.

“County” means Fairfax County, Virginia.

“Debt Service” means the aggregate debt service obligation on the TIFIA Bond scheduled to become due in any particular Fiscal Year.

“District” means the Phase II Dulles Rail Transportation Improvement District created by the County pursuant to the District Act.

“District Act” means the Chapter 611 of the 2001 Virginia Acts of Assembly, codified as Title 33.1, Chapter 15, “Transportation Districts within Certain Counties,” Virginia Code § 33.1-430 through §33.1-446, as amended.

“District Revenue Fund” shall mean the fund held by the County containing the Special Tax Revenues collected and any interest earnings thereon.

Attachment 5

“District Obligation” means that portion of the cost of the Phase II Project for which the County is responsible under the Funding Agreement, for which, as between the County and the District, the District has assumed financial responsibility and for which EDA agrees to issue Bonds.

“EDA” means the Fairfax County Economic Development Authority, created pursuant to the EDA Act, and its successors.

“EDA Act” means Chapter 643 of the 1964 Virginia Acts of Assembly, as amended.

“Effective Date” means the date of this Project Agreement.

“Fiscal Year” means the twelve-month period beginning on July 1 of one calendar year and ending on June 30 of the following calendar year or such other fiscal year of twelve months as may be determined by the Parties.

“Funding Agreement” means the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor entered into July 19, 2007, among the County, Loudoun County and MWAA.

“MWAA” means the Metropolitan Washington Airports Authority, a body corporate and politic created by the Commonwealth of Virginia and the District of Columbia with the consent of the Congress of the United States.

“Phase II Project” or “Silver Line Project Phase II” means the acquisition, construction and placement into operation of transit facilities capable of providing rail service for the Metrorail transportation system from a point of connection starting from the Metrorail station at Wiehle Avenue in Reston to the Fairfax-Loudoun County line near Route 28, [including the three Metrorail stations located within the boundaries of the District, as more particularly described in Exhibit A.]

“Phase II Tax District Allocable Portion of the TIFIA Bond” means \$219,000,000 of the outstanding principal amount of the TIFIA Bond, plus any capitalized interest accruing on such principal amount or such lesser amount as may be drawn to meet the District Obligation,

“Reserve Fund” means the fund established in the Trust Agreement to serve as a debt service reserve for the TIFIA Bond.

“Special Improvements Tax” means a special improvements tax levied and payable not less frequently than annually on taxable real estate zoned for commercial or industrial use or used for such purposes and taxable leasehold interests zoned for commercial or industrial use or used for such purposes and located within the District.

“Special Tax Revenues” means the revenues collected from the levy of the Special Improvements Tax.

“Term” means the period specified in Section 501 of this Project Agreement.

“TIFIA Bond” means the bond issued by EDA to the United States Department of Transportation in a principal amount of up to \$403,274,894 plus unpaid accrued interest on such amount to finance a portion of the County’s obligation to finance costs of the Phase II Project.

“TIFIA Loan” means the draw down loan provided by the United States Department of Transportation (“USDOT”) to EDA pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 payment thereof which is evidenced by the TIFIA Bond.

“Trust Agreement” means the trust agreement, to be entered into between EDA and the bank or trust company relating to the TIFIA Bond.

“Virginia Code” means the Code of Virginia of 1950, as amended.

Section 102. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Project Agreement:

(a) Words importing the singular number shall include the plural number and vice versa.

(b) Unless otherwise indicated, all references herein to particular Articles or Sections are references to Articles or Sections of this Project Agreement.

(c) The headings and Table of Contents herein are solely for convenience and shall not constitute a part of this Project Agreement.

(d) [Computations of the Phase II Tax District Allocable Portion of the TIFIA Bond Debt Service payable in any Fiscal Year shall exclude any debt service payment payable on the first day of such Fiscal Year and shall include any debt service payable payment on the first day of the next succeeding Fiscal Year.]

ARTICLE II

REPRESENTATIONS

Section 201. Representations of the County. The County makes the following representations as of the Effective Date in connection with its undertakings under this Project Agreement:

(a) The County (i) has the power to enter into and to carry out its obligations under this Project Agreement and (ii) by proper action has duly authorized the execution and delivery of and the performance of its obligations under this Project Agreement.

(b) The County is not in default in the payment of the principal of or interest on any indebtedness for borrowed money and is not in default under any instrument under or subject to which any indebtedness for borrowed money has been incurred, and no event has occurred and is continuing under the provisions of any such agreement that with the lapse of time or the giving of notice, or both, would constitute or result in such an event of default.

(c) The execution and delivery of and compliance by the County with the terms and conditions of this Project Agreement will not conflict with or constitute or result in a default under, or violation of, (i) any existing law, rule or regulation applicable to the County or (ii) any indenture, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the County or any of its assets is subject, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation that would materially and adversely affect the County's performance of its material obligations under this Project Agreement.

(d) No further approval, consent or withholding of objection on the part of any regulatory body or any federal, state, or local official is required as a condition precedent to the execution or delivery of or performance by the County of its obligations under this Project Agreement.

(e) Except as identified in Exhibit B, no litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to the County's knowledge, threatened against it with respect to (i) its authority to execute and deliver this Project Agreement; (iii) the validity or enforceability of this Project Agreement; (iv) the title of any officer of the County who executed this Project Agreement; or (v) any authority or proceedings related to the execution and delivery of this Project Agreement on behalf of the County, and no such authority or proceedings have been repealed, revoked, rescinded or amended, but each is in full force and effect.

Section 202. Representations of EDA. EDA makes the following representations as of the Effective Date in connection with its undertakings under this Project Agreement:

(a) EDA is duly organized under the EDA Act.

(b) EDA (i) has the power to enter into this Project Agreement and the transactions contemplated hereby; (ii) has the power to carry out its obligations under this Project Agreement; and (iii) by proper action has duly authorized the execution and delivery of and the performance of its obligations under this Project Agreement.

(c) EDA is not in default in the payment of the principal of or interest on any indebtedness for borrowed money and is not in default under any instrument under or subject to which any indebtedness for borrowed money has been incurred, and no event has occurred and is continuing under the provisions of any such agreement that with the lapse of time or the giving of notice, or both, would constitute or result in such

an event of default; provided, however, that this representation shall be limited to bonds and other obligations of EDA for which the County or the District, or either of them, is directly or indirectly liable for the debt service thereon or for deficiencies in reserves that secure such bonds.

(d) The execution and delivery of and compliance by EDA with the terms and conditions of this Project Agreement will not conflict with or constitute or result in a default under or violation of (i) the EDA Act or any other existing law, rule or regulation applicable to EDA, or (ii) any indenture, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which EDA or any of its assets is subject where the default or violation does or could materially adversely affect the ability of EDA to discharge its obligations under this Project Agreement, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

(e) No further approval, consent or withholding of objection on the part of any regulatory body or any federal, state, or local official is required as a condition precedent to the execution or delivery of or performance by EDA of its obligations under this Project Agreement.

(f) Except as identified in Exhibit B, no litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to EDA's knowledge, threatened against it with respect to (i) the creation and existence of EDA, (ii) its authority to execute and deliver this Project Agreement, (iii) the validity or enforceability of this Project Agreement, (iv) the title of any officer of EDA who executed this Project Agreement, or (v) any authority or proceedings related to the execution and delivery of this Project Agreement on behalf of EDA, and no such authority or proceedings have been repealed, revoked, rescinded or amended, but each is in full force and effect.

Section 203. Representations of the District. The District makes the following representations as of the Effective Date in connection with its undertakings under this Project Agreement:

(a) The District has been duly created and is duly organized under the District Act.

(b) The District (i) has the power to enter into this Project Agreement and the transactions contemplated hereby, (ii) has the power to carry out its obligations under this Project Agreement and (iii) by proper action has duly authorized the execution and delivery of and the performance of its obligations under this Project Agreement.

(c) The District has no outstanding indebtedness of any kind whatsoever other than its obligations under this Project Agreement if and to the extent any such obligations may constitute outstanding indebtedness.

(d) The execution, delivery and compliance by the District with the terms and conditions of this Project Agreement will not conflict with, or constitute or result in a default under or violation of (i) the District Act or any other existing law, rule or regulation applicable to the District or (ii) any lien, lease, contract, order, judgment, decree or other agreement, instrument or restriction of any kind to which the District or any of its assets is subject, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in such default or violation.

(e) No further approval, consent or withholding of objection on the part of any regulatory body or any federal, state, or local official is required as a condition precedent to the execution or delivery of, or performance by the District in accordance with the terms and conditions of this Project Agreement.

(f) Except as identified in Exhibit B, no litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or to the District's knowledge threatened against it with respect to: (i) the creation and existence of the District; (ii) its authority to execute and deliver this Project Agreement; (iii) the validity or enforceability of this Project Agreement; (iv) the title of any officer of the District who executed this Project Agreement; or (v) any authority or proceedings related to the execution and delivery of this Project Agreement on behalf of the District, and no such authority or proceedings have been repealed, revoked, rescinded or amended, but each is in full force and effect.

ARTICLE III

FINANCING THE PHASE II PROJECT

Section 301. Construction, Completion and Operation of the Phase II Project. To ensure the appropriate use of the funds (i) provided by the District to the County in the District's discharge of its financial responsibility relating to the District Obligation set forth in Section 302 hereof and (ii) in turn provided by the County to MWAA as construction manager for the Phase II Project in partial discharge of the County's obligation to MWAA under the Funding Agreement, the County, on behalf of itself, EDA and the District, agrees to enforce all its rights through contractual arrangements with MWAA under the Funding Agreement and otherwise as they relate to the Phase II Project. A listing of existing arrangements between the County and MWAA relating to the Phase II Project is attached hereto as Exhibit C.

Section 302. Financing the District Obligation. The Parties wish to implement a plan of financing for the District Obligation (the "Plan"), as set forth herein, subject to such qualifications as also are set forth herein.

(a) The Plan calls for the District to provide funds to the County to ensure full and timely payment by the County to MWAA of its financial obligations. As part of the Plan the District hereby agrees to obligate itself to request the County to levy and collect the Special Improvements Tax at a rate, not in excess of the rate permitted by

the District Act, sufficient for District or the County as agent of the District to make timely and sufficient transfers of Special Tax Revenues to or for the account of EDA to meet the Debt Service requirements of the Phase II Tax District Allocable Portion of the TIFIA Bond and the debt service requirements of any Bonds issued by EDA.

(b) The District and the County will request EDA, when and as funds are requested by the County for costs of the Phase II Project in excess of those funds previously provided from Special Tax Revenues by the District to the County and from the Phase II Tax District Allocable Portion of the TIFIA Bond, for such purpose, to issue Bonds in a total principal amount sufficient to provide up to a total of \$330,000,000 for such costs. EDA agrees use its best efforts to issue Bonds, in one or more series in accordance with a trust agreement to be entered into for purposes of issuing such Bonds, when and as requested by the District and the County based on the progress of the Phase II Project. Issuances of Bonds will be sized and structured to use available capacity of the Special Tax Revenues including Bonds issued as fixed rate bonds or variable rate bonds. Bonds may also be issued on a senior or subordinated basis. Proceeds of the Bonds will be loaned by EDA to the District which will make available such proceeds to the County in discharge of the District Obligation and for disbursement by the County to MWAA for construction and related costs of the Phase II Project. Prior to the issue of any Bonds, the District, EDA and the County will enter into a supplement to this Agreement or separate agreement setting forth details and agreements relating to the Bonds including the payment thereof.

(c) The Parties agree that the District will request the County to assign and transfer, subject to appropriation by the County, Special Tax Revenues first, to pay Debt Service on Phase II Tax District Allocable Portion of the TIFIA Bond and on any Bonds; second, to the funding of the Reserve Fund established in the Trust Agreement in an amount based upon the Phase II Tax District Allocable Portion of the TIFIA Bond, other than on account of a withdrawal therefrom, until the amount deposited thereto shall equal the amount required by Section 401(c); third to the Reserve Fund for the TIFIA Bond to the extent of any deficiency required therein is to be payable from Special Tax Revenues based upon the Phase II Tax District Allocable Portion of the TIFIA Bond; fourth to reimburse the County to the extent that any debt service on the Phase II Tax District Allocable Portion of the TIFIA Bond or obligation of the District with respect to the Reserve Fund securing the TIFIA Bond has been paid from funds other than Special Tax Revenues appropriated by the County and; fifth to pay the District's allocable share of TIFIA Bond servicing fees, trustee fees and other TIFIA Bond related costs.

(d) The Parties recognize the possibility that funds from sources other than Special Tax Revenues may be made available to provide funds to meet the District Obligation.

(e) The Bonds will be repaid from Special Tax Revenues and other amounts available for such purposes as set forth in Article IV below.

ARTICLE IV

PAYMENT OF SPECIAL TAX REVENUES

Section 401. District Payments.

(a) In each Fiscal Year the District shall cause to be paid to the trustee of the TIFIA Bond from Special Tax Revenues Debt Service on the Phase II Tax District Allocable Portion of the TIFIA Bond. The District shall make payments as described below through the County. Within 30 days after any draw on the TIFIA Loan, EDA shall provide to the District a schedule of payments necessary to pay the scheduled Debt Service on the Phase II Tax District Allocable Portion of the TIFIA Bond. The County shall provide the District a schedule of the Phase II Tax District Allocable Portion of the TIFIA Bond Debt Service not less than 30 days before a debt service payment date on the TIFIA Bond.

(b) As of the Effective Date, the District shall request that the County set the Special Improvements Tax rate at a rate that shall ensure the minimum of any Debt Service due on the Phase II Tax District Allocable Portion of the TIFIA Bond in each Fiscal Year.

(c) The District agrees to provide or request the County to provide to the trustee for the TIFIA Bond any available Special Tax Revenues on hand in any Fiscal Year for the funding of the Reserve Fund in an amount based upon the Phase II Tax District Allocable Portion of the TIFIA Bond until it contains the maximum annual Debt Service on the Phase II Tax District Allocable Portion of the TIFIA Bond.

(d) The Reserve Fund, if any, together with actual interest earnings thereon, shall be held by the trustee for the TIFIA Bond and applied to pay any portion of the Debt Service on the TIFIA Bond in the event that the payments received from the District or the County on behalf of the District from Special Tax Revenues are insufficient to pay Debt Service on the Phase II Tax District Allocable Portion of the TIFIA Bond in that Fiscal Year. When the TIFIA Bond has been fully defeased, any amount remaining in the Reserve Fund paid from Special Tax Revenues shall be transferred to the District Revenue Fund or to the County to the extent has not been reimbursed pursuant to Section 301(c) hereof.

(e) The County recognizes that the Phase II Project is important to the growth and development of its County. The Board of Supervisors further recognizes that the levy of the Special Improvements Tax and the payment of Special Tax Revenues to the trustee for the TIFIA Bond is in furtherance of the Phase II Project. Therefore, the County, while recognizing that it is not empowered to make any binding commitment to levy the Special Improvements Tax and to collect and pay over Special Tax Revenues in Fiscal Years subsequent to the Effective Date, hereby, (i) states its intent as of the date hereof to make such levy and collect such Special Tax Revenues in future Fiscal Years at the same time, in the same manner and with equal priority as County real estate taxes are

levied and collected and (ii) recommends that future Boards of Supervisors assess and levy the requested Special Improvements Tax at the rate requested by the District and collect and disburse all Special Tax Revenues to the District Revenue Fund for the Term of this Project Agreement in accordance with the terms herein.

(f) Notwithstanding anything herein to the contrary, any financial obligation of the County to any entity arising under or related to this Project Agreement is limited to the annual payment to the Trustee for the account of the District of all assessed Special Tax Revenues actually collected by the County after reasonable efforts consistent with those undertaken by the County to assess, levy and collect real estate tax levies generally.

Section 402. Special Improvements Tax. In order to pay the Debt Service on Phase II Tax District Allocable Portion of the TIFIA Bond, and any other portion of the District Obligation, the District shall request the Board of Supervisors by April 1 of each year to levy the Special Improvements Tax and collect Special Tax Revenues for the next Fiscal Year at a rate sufficient to generate Special Tax Revenues to meet the requirements of Section 401, subject to the limitations herein. The District shall request the County to pay over to the trustee for the TIFIA Bond the Special Tax Revenues on the dates required by the Trust Agreement for such TIFIA Bond. The County Executive or such other officer charged with responsibility for preparing the County's annual budget shall include in the budget presented to the Board of Supervisors for each Fiscal Year, Special Tax Revenues, collected by the County on behalf of the District in such Fiscal Year in the District Revenue Fund, in an amount equal to the Debt Service due on the Phase II Tax District Allocable Portion of the TIFIA Bond. The County shall deposit or cause to be deposited in the District Revenue Fund all Special Tax Revenues received until payments of such Special Tax Revenues are required to be made under the Trust Agreement for the TIFIA Bond, and any interest earnings thereon shall be credited towards the payment of the District Obligation.

Section 403. Records and Reports. The Trust Agreement shall provide that the trustee thereunder shall maintain adequate records of the Debt Service requirements on the TIFIA Bond and shall forward to the District, EDA and the County a financial report and statement setting forth such information by January 1 and July 1 of each year in a form that is acceptable to the Parties. The statement shall indicate the amount of the Debt Service requirements for the current Fiscal Year.

Section 404. Prepayment of Phase II Allocable Portion of the TIFIA Bond. The District may, at its option, prepay the Phase II Tax District Allocable Portion of the TIFIA Bond, in whole or in part, on any date on not less than forty-five (45) days' written notice to EDA, accompanied by a specific direction to EDA to apply such prepayment to the purchase and cancellation, redemption or defeasance of the Phase II Tax District Allocable Portion of the TIFIA Bond in accordance with its terms. EDA shall comply with such directions.

Section 405. Transfer or Assignment of Rights to Receive Payments. The Parties expressly agree that EDA shall have the right, in its sole discretion, to transfer or

assign its rights to receive payments from the District or the County on behalf of the District or otherwise hereunder in connection with fulfilling its obligations under this Project Agreement; provided however, that no such transferee or assignee, shall have any right to enforce any rights of EDA by means of any judicial or administrative proceeding against the District, the Commission, the County, or any officer, employee or agent thereof, and EDA shall be responsible for informing any such transferees or assignees of this limitation on their rights prior to any such transfer or assignment by EDA.

ARTICLE V

MISCELLANEOUS

Section 501. Term of Contract. [The Term of this Project Agreement shall commence on the Effective Date and terminate upon payment in full of the District Obligation including the TIFIA Bond and any Bonds issued as described in Section 302(b).]

Section 502. Priority and Amendments. As of the Effective Date, this Project Agreement constitutes the entire agreement between the Parties with respect to the subject matter herein. This Project Agreement may be amended in writing by the Parties.

Section 503. Other Contracts. The Parties hereto may enter into other contracts concerning the request and levy of an additional Special Improvements Tax and the collection of additional Special Tax Revenues so long as: (i) the provisions of such contracts do not conflict with or affect the request and levy of the Special Improvements Tax and the collection of Special Tax Revenues under the terms of this Project Agreement; and (ii) the aggregate amount of all Special Improvements Tax levied by the County on behalf of the District does not exceed the limit set forth in the District Act.

Section 504. Successors. This Project Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors.

Section 505. Severability. If any provision of this Project Agreement shall be held to be illegal or invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof, and this Project Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained in it, provided, however, that in no circumstance shall the financial obligation of the Commission, the District or the County be any greater than as expressly set forth in this Project Agreement.

Section 506. Parties Alone Have Rights under Agreement; Exceptions. Except as herein otherwise expressly provided, nothing in this Project Agreement, express or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the Parties, any right, remedy or claim, legal or equitable, under or by reason of this Project Agreement or any provision hereof, this Project Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the Parties.

Attachment 5

Section 507. Counterparts. This Project Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 508. Notices. Unless otherwise provided in this Project Agreement, all notices, approvals, consents, requests and other communications under this Project Agreement shall be in writing and shall be deemed to have been given when delivered in person, or when sent by Federal Express or a comparable express courier service, or when mailed by registered or certified mail, postage prepaid, addressed (a) if to the County, at 12000 Government Center Parkway Fairfax, Virginia 22035-0064 (Attention: Chief Financial Officer), (b) if to EDA, at 8300 Boone Boulevard, Suite 450 Vienna, Virginia 22182 (Attention: Executive Director), or (c) if to the District, at 1200 Government Center Parkway Fairfax, Virginia 22035-0064 (Attention: Chief Financial Officer). The Parties may, by notice given under this Project Agreement, designate any additional or different addresses or persons to which subsequent demands, notices, approvals, consents, requests and other communications shall be sent.

IN WITNESS WHEREOF, the Parties have caused this Project Agreement to be executed on their behalf by their duly authorized officers.

**BOARD OF SUPERVISORS FAIRFAX COUNTY,
VIRGINIA**

By: _____
Title: County Executive

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT
AUTHORITY**

By: _____
Title: Chairman

**PHASE II DULLES RAIL TRANSPORTATION
IMPROVEMENT DISTRICT**

By: _____
Title: Chairman

Description of the Phase II Project

Litigation

None

Existing Arrangements with MWA

See attached Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor entered into as of July 19, 2007 by and between Fairfax County, Virginia (“Fairfax”), Loudoun County, Virginia, and the Metropolitan Washington Airports Authority.

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

Virginia

to

U.S. Bank National Association, as Trustee

TRUST AGREEMENT

Dated as of December 1, 2014

**Authorizing the Issuance of and Securing
Revenue Bond
(Silver Line Phase II Project), Series 2014**

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THIS TRUST AGREEMENT, dated for convenience of reference as of the 1st day of _____, 2014, by and between

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY,

a political subdivision of the Commonwealth of Virginia (“EDA”) created by the Enabling Act (defined herein); and

U.S. BANK NATIONAL ASSOCIATION

a national banking association duly organized and existing under the laws of the United States of America having a corporate trust office in Richmond, Virginia, which is authorized under such laws to exercise corporate trust powers and is subject to examination by federal authority, as trustee,

WITNESSETH:

WHEREAS, EDA, under Enabling Act, is authorized to borrow money for any of its purposes and make loans to any governmental entity for the purposes of the Enabling Act, including economic development, and to issue its bonds, payable solely from the revenues and receipts derived from payments received by EDA in connection with such loans; and

WHEREAS, the Board of Supervisors of Fairfax County, Virginia, a political subdivision of the Commonwealth of Virginia, has requested EDA to exercise its powers under the Enabling Act and authorize the issuance of a revenue Bond (defined herein) of EDA, designated “Fairfax County Economic Development Authority Revenue Bond (Silver Line Phase II Project) Series 2014” in a principal amount that will not exceed the sum of \$403,274,894 plus any capitalized interest thereon pursuant to the TIFIA Loan Agreement (defined herein) to the United States Department of Transportation for purposes of providing a portion of the amount required by the Metropolitan Washington Airports Authority to undertake the funding of the Phase II Project (as defined herein); and

WHEREAS, in making any request to EDA that EDA authorize EDA indebtedness pursuant to this Trust Agreement, the Fairfax County, Virginia will enter into a Support Agreement (defined herein) with EDA to support such EDA indebtedness and pledge or otherwise commit, subject to annual appropriation, available County revenues to the payment of such EDA indebtedness; and

WHEREAS, under the Support Agreement, the County (defined herein) has also agreed that in the event that the amount credited to the Reserve Fund created under this Trust Agreement is less than required under this Trust Agreement, the County will, on the terms and conditions set forth in the Support Agreement and subject to the appropriation by its Board of Supervisors of the County of money for such purpose, pay to the Trustee (defined herein) for the account of EDA an amount equal to the deficiency in the amount required to be on deposit to the credit of the Reserve Fund; and

WHEREAS, EDA has determined the Bond, the certificate of authentication to be endorsed by the Bond Registrar (defined herein) thereon as provided herein, and the form of

Attachment 9

assignment shall be, respectively, substantially in the following forms, with such variations, omissions and insertions as are required or permitted by this Trust Agreement, including any resolution supplementing or amending this Trust Agreement; and

[Form of Face of the Bond]

United States of America

Commonwealth of Virginia

**Fairfax County Economic Development Authority
Revenue Bond
(Silver Line Phase II Project)
Series 2014
(TIFIA – 2014-1003A)**

No. _____		\$403,274,894 ¹
Interest Rate: _____ %	Maturity Date: April 1, 2046	Original Issue Date: [_____] , 2014

Holder/Registered Owner: UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator, or its assigns

Maximum Principal Amount: \$403,274,894 (FOUR HUNDRED THREE MILLION TWO HUNDRED SEVENTY FOUR THOUSAND EIGHT HUNDRED NINETY FOUR AND 00/100 Dollars)¹

[1] Fairfax County Economic Development Authority (the “**Borrower**”), a political subdivision of the Commonwealth of Virginia, for value received, promises to pay, but solely from the sources and in the manner hereinafter provided, to the Holder/Registered Owner named above, or its assigns (the “**TIFIA Lender**”), on the Maturity Date set forth above (or earlier as hereinafter referred to), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “**Disbursements**”) made by the TIFIA Lender (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the TIFIA Loan Agreement referred to below, being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding Principal Sum all as more fully described in the TIFIA Loan Agreement. The proceeds derived from the issuance of this Bond will be used for the purposes described in the TIFIA Loan Agreement. The registered owner of this Bond is hereby authorized to make revisions to the Loan Amortization reflected in Exhibit G to the to the TIFIA Loan Agreement, which is hereby made a part hereof, at any time and from time-to-time pursuant to the TIFIA Loan Agreement to reflect to (i) the amount of each disbursement made

¹Such amount shall increase by the amount of interest capitalized pursuant to the terms of the TIFIA Loan Agreement.

thereunder, (ii) any capitalization of interest as provided therein, (iii) the date and amount of any principal or interest due and payable or to become due and payable by the Borrower thereunder, (iv) each repayment or prepayment in respect of the principal amount of this Bond. Such revisions shall be deemed conclusive absent manifest error, but no failure to make any such revisions and no error in such revisions shall affect any of the obligations of the Borrower under this Bond or the other TIFIA Loan Documents (as defined in the TIFIA Loan Agreement). The principal hereof shall be payable in the manner and at the place provided in the TIFIA Loan Agreement in accordance with Exhibit G to the TIFIA Loan Agreement, as revised from time to time in accordance with the TIFIA Loan Agreement, until paid in full. Payments hereon are to be made in accordance with Section 9(e) of the TIFIA Loan Agreement as the same become due. Principal of and interest on this bond (the “**Bond**”) shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America which at the date of payment is legal tender for the payment of public and private debts. If the Final Maturity Date (as defined in the TIFIA Loan Agreement) is amended pursuant to an amendment of the TIFIA Loan Agreement, the due date of this Bond shall be deemed to be amended to change the due date to such revised Final Maturity Date without any further action required on the part of the Borrower or the TIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this Bond without the prior written agreement of the TIFIA Lender.

[2] This Bond is a revenue bond of the Borrower, designated “Revenue Bond (Silver Line Phase II Project), Series 2014”, issued under a Trust Agreement, dated as of December 1, 2014 (as amended and supplemented as permitted thereby, being hereinafter referred to as the “Trust Agreement”), by and between the Borrower and the Trustee (hereinafter mentioned). This Bond is being issued to provide financing for a portion of the amount required by the Metropolitan Washington Airports Authority to undertake the Phase II Project (as defined in the Trust Agreement).

U.S. Bank National Association, a national banking association having trust powers, duly organized and doing business under the laws of the United States of America, with a corporate trust office in Richmond, Virginia, has been appointed Trustee, Bond Registrar and Paying Agent for the Bond under the Trust Agreement.

This Bond is issuable as fully registered. At the corporate trust office of the Bond Registrar in Richmond, Virginia, in the manner and subject to the limitations and conditions provided in the Trust Agreement, this Bond may be exchanged for a Bond in the same principal amount of the Series and maturity and bearing interest at the same rate.

The transfer of this Bond is registrable by the Holder hereof by its legal representative at the principal corporate trust office of the Bond Registrar, but only in the manner and subject to the limitations and conditions provided in the Trust Agreement and the TIFIA Loan Agreement, and upon surrender and cancellation of this Bond.

In particular, no transfer of this Bond shall take place except pursuant to the terms of the TIFIA Loan Agreement. In addition, no transfer shall take place unless the Trustee shall have received from the Borrower an updated schedule showing the Debt Service Requirements of the Bond, a certificate from the Holder requesting and approving such

transfer and a certificate from an EDA Representative directing the trustee to transfer the Bond.

Upon the Borrower's receipt of all Advances under the TIFIA Loan Agreement and upon the Trustee's receipt from the Borrower of an updated schedule showing the Debt Service Requirements of the Bond such Bond may be transferred as generally set forth in the Trust Agreement.

Upon any such registration of transfer, the Borrower shall execute and the Bond Registrar shall authenticate and deliver in exchange for this Bond a new Bond, registered in the name of the transferee in a principal amount equal to the principal amount of this Bond, of the same Series and maturity and bearing interest at the same rate. Neither the Borrower nor the Bond Registrar shall be required to make any exchange or registration of transfer of this Bond after such Bond has been selected for redemption.

[3] This Bond is a limited obligation of the Borrower payable solely from amounts constituting part of the Trust Estate (as defined in the Trust Agreement) and from other money pledged under the Trust Agreement. Neither the faith and credit of the Commonwealth of Virginia nor the faith and credit of any political subdivision thereof (including the Borrower and Fairfax County, Virginia (the "County")) are pledged to the payment of the principal of or the interest on this Bond. The issuance of this Bond shall not directly or indirectly or contingently obligate the Commonwealth of Virginia or any political subdivision thereof (including the Borrower and the County) to levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged therefor. The Borrower has no taxing power.

[4] Reference is made to the TIFIA Loan Agreement, dated as of December [___], 2014 (as amended and supplemented from time to time, the "TIFIA Loan Agreement"), by and between the Borrower and the United States Department of Transportation, an agency of the United States of America, acting by and through the Federal Highway Administrator, for other covenants and declarations of the Borrower and other terms and conditions upon which this Bond has been issued, which terms and conditions shall for all purposes have the same effect as if fully set forth herein. The Borrower unconditionally covenants that it will keep and perform all of the covenants of this Bond and of the TIFIA Loan Documents (as defined in the TIFIA Loan Agreement) to which the Borrower is a party.

ADDITIONAL PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF AND SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH SET FORTH HERE.

[18] **IN WITNESS WHEREOF**, Fairfax County Economic Development Authority, Virginia has caused this Bond to be executed with the facsimile signatures of its [Vice] Chairman and its [Assistant] Secretary and a facsimile of its official seal to be imprinted hereon and this Bond to be dated the __ day of _____, 20__.

**FAIRFAX COUNTY ECONOMIC
DEVELOPMENT AUTHORITY
VIRGINIA**

Attachment 9

By [FACSIMILE SIGNATURE]
[Vice] Chairman of the Fairfax County
Economic Development Authority
Virginia

By [FACSIMILE SIGNATURE]
[Assistant] Secretary of the Fairfax County
Economic Development Authority
Virginia

[FACSIMILE OF OFFICIAL SEAL]

CERTIFICATE OF AUTHENTICATION

This Bond is a bond issued under the provisions of the within-mentioned Trust Agreement.

Bond Registrar

By _____
Authorized Signatory

Date of authentication:

[Form of Reverse of the Bond]

[5] The Borrower has entered into a Support Agreement, dated as of December __, 2014 (the "Support Agreement"), with the County pursuant to which the County, subject to the terms and conditions of the Support Agreement, has agreed to pay Basic Payments (as defined in the Support Agreement) for the Project in amounts sufficient to pay the principal of and interest on this Bond and to pay to the Trustee, for the account of the Authority, County Reserve Payments (as defined in the Support Agreement) in an amount equal to any deficiency in the Reserve Fund held by the Trustee under the Trust Agreement and pledged to the payment of this Bond. Under the Trust Agreement and Support Agreement, all such payments by the County are to be deposited to the credit of the Reserve Fund. The obligation of the County under the Support Agreement to make such Basic Payments and County Reserve Payments and make other payments required thereby in any fiscal year of the County is contingent upon the annual appropriation by the Board of Supervisors of the County of funds from which such payments can be made. Under the Trust Agreement, the Borrower has assigned to the Trustee as security for this Bond its rights to receive the payments of such Basic Payments, County Reserve Payments and other payments required by the Support Agreement (other than Additional Payments (as defined in the Support Agreement) and such payments constitute a portion of the "Trust Estate" that is pledged under the Trust Agreement to the payment of this Bond.

[6] Reference is made to the Trust Agreement for a more complete statement of the provisions thereof and of the rights and duties of the Borrower, the Trustee, the Paying Agent for this Bond, the Bond Registrar and the registered owner. A copy of the Trust Agreement is on file and may be inspected at the corporate trust office of the Trustee in Richmond, Virginia. By the purchase and acceptance of this Bond, the Holder hereof signifies assent to all of the provisions of the aforementioned documents.

[7] This Bond is issued and the Trust Agreement was entered into under and pursuant to the Constitution and laws of the Commonwealth of Virginia, particularly in conformity with the

provisions, restrictions and limitations of Chapter 643 of the 1964 Acts of the General Assembly of the Commonwealth of Virginia, as amended, and other applicable law.

[8] This Bond is issuable as a fully registered Bond equal to the entire principal amount. At the principal corporate trust office of the Bond Registrar, in the manner and subject to the limitations and conditions provided in the Trust Agreement, Bond(s) may be exchanged for an equal aggregate principal amount of the Bond of the same series and maturity, of any authorized denomination or denominations and bearing interest at the same rate.

[9] The transfer of this Bond is registrable by the Holder hereof in person or by his attorney or legal representative at the principal corporate trust office of the Bond Registrar, but only in the manner and subject to the limitations and conditions provided in the Trust Agreement and upon surrender and cancellation of this Bond. Upon any such registration of transfer, the Borrower shall execute and the Bond Registrar shall authenticate and deliver in exchange for this Bond a new Bond, registered in the name of the transferee, in the same principal amount of this Bond, bearing interest at the same rate. Neither the Borrower nor the Bond Registrar shall be required to make any exchange or registration of transfer of this Bond after it has been selected for redemption.

[10] The principal of and interest on this Bond (and the interest payable on any redemption of this Bond other than on an interest payment date) are payable in the manner and at the place provided in the TIFIA Loan Agreement.

[11] This Bond shall be subject to mandatory prepayment and redemption in accordance with the TIFIA Loan Agreement and the TIFIA Letter Agreement.

[12] This Bond shall be subject to redemption at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be redeemed are to be determined in accordance with the TIFIA Loan Agreement); provided, however, such redemption shall be in such amounts as provided in the TIFIA Loan Agreement.

[13] The owner of this Bond shall have no right to enforce the provisions of the Trust Agreement or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Trust Agreement, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Agreement or the TIFIA Loan Agreement. Any delay on the part of the owner of this Bond in exercising any right in respect of this Bond shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

[14] Modifications or alterations of the Support Agreement and the Trust Agreement may be made only to the extent and in the circumstances permitted by the Trust Agreement and the TIFIA Loan Agreement.

[15] This Bond is issued with the intent that the laws of the Commonwealth of Virginia shall govern its construction.

[16] All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond have happened, exist and have been performed as so required.

[17] This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Trust Agreement until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

[Form of Assignment]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner hereby certifies that the transfer of the Bond complies with all of the requirements set forth in Section 19 of the TIFIA Loan Agreement (as defined in the Bond), sells, assigns and transfers unto

Please insert social security or
other identifying number of assignee

(Please Print or Typewrite Name and Address of Transferee)

the within bond, and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to register the transfer of the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed* by: _____

*Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Trustee which requirements will include membership or participation in STAMP or such other "signature guarantee program" as may be determined by the Trustee in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

* * * * *

and

WHEREAS, under the Constitution and laws of the Commonwealth of Virginia, including the Enabling Act, EDA is authorized to enter into this Trust Agreement and to issue its bond as hereinafter provided, to apply the proceeds of such bond for the purposes herein

authorized, and to do or cause to be done all the acts and things herein provided or required to be done as hereinafter covenanted; and

WHEREAS, the execution and delivery of this Trust Agreement have been duly authorized by resolution of EDA; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia to happen, exist and be performed precedent to and in the execution and delivery of this Trust Agreement have happened, exist and have been performed as so required, in order to make this Trust Agreement a legal, valid and binding trust agreement for the security of the bond in accordance with its terms; and

WHEREAS, the Trustee has accepted the trusts created by this Trust Agreement and in evidence thereof has joined in the execution hereof;

GRANTING CLAUSE

NOW, THEREFORE, this Trust Agreement witnesseth, that in consideration of the premises, of the acceptance by the Trustee of the trust hereby created, and of the purchase and acceptance of the Bond by the Holder (as hereafter defined) thereof and also for and in consideration of the sum of Ten Dollars to EDA in hand paid by the Trustee at or before the execution and delivery of this Trust Agreement, the receipt and sufficiency of which are hereby acknowledged, and for the purpose of fixing and declaring the terms and conditions upon which the Bond is to be issued, authenticated, delivered, and accepted by all persons who shall from time to time be or become the Holder thereof, and in order to secure the payment of the Bond at any time issued and outstanding hereunder and the interest thereon according to its tenor, purport and effect, and covenants, agreements and conditions therein and herein contained, EDA does hereby

(a) assign all rights, title and interest of EDA in and to the Support Agreement, including, without limitation, its rights to receive Basic Payments, County Reserve Payments and, to the extent required to, Additional Payments, reserving, its rights, however, to receive or to have paid on its behalf for its account Additional Payments constituting reasonable fees and expenses of the EDA relating to the financing of the Phase II Project and in connection with the Support Agreement, TIFIA Loan Agreement and this Trust Agreement as set forth in the Support Agreement (the "EDA Additional Payments") and reserving the rights of EDA to receive notices, reports and other statements to be given to EDA thereunder; and

(b) pledge the payments of Basic Payments, County Reserve Payments and Additional Payments (other than the EDA Additional Payments) received pursuant to the Support Agreement, all money and securities in the Debt Service Fund (as hereinafter defined), the Reserve Fund (as hereinafter defined), and, until applied in payment of any Cost of Construction of the Project in accordance with Section 402 hereof or otherwise applied as permitted under this Trust Agreement, all money and securities in the Construction Fund (as hereinafter defined);

to the Trustee, and unto its successors and assigns, in trust, forever;

HABENDUM CLAUSE

TO HAVE AND TO HOLD the same forever, subject, however, to the reserved rights of EDA under the Support Agreement and to the exceptions, reservations and matters therein and herein recited but **IN TRUST, NEVERTHELESS**, for the equal and proportionate benefit and security of the Holder from time to time of the Bond authenticated and delivered hereunder and issued by EDA and outstanding;

DEFEASANCE CLAUSE

PROVIDED, HOWEVER, that if, after the right, title and interest of the Trustee in and to the trust estate pledged and assigned to it under this Trust Agreement shall have ceased, terminated and become void in accordance with Article XIII hereof, the principal of and the interest on the Bond shall have been paid to the Holder of the Bond and all EDA liabilities shall have been paid, then this Trust Agreement and all covenants, agreements and other obligations of EDA hereunder shall cease, terminate and become void, and thereupon the Trustee shall cancel and discharge this Trust Agreement and execute and deliver to EDA such instruments and writings as shall be required to evidence the discharge hereof; otherwise, this Trust Agreement shall be and remain in full force and effect.

This Trust Agreement further **WITNESSETH**, and it is expressly declared, that the Bond issued and secured hereunder is to be issued, authenticated and delivered and the Trust Estate and funds herein pledged and assigned are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as are hereinafter expressed, and EDA has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the Holder of the Bond, as follows:

ARTICLE I

DEFINITIONS

SECTION 101. Meaning of Words and Terms. In addition to words and terms defined in the Preamble or elsewhere defined in this Trust Agreement, the following words and terms as used in this Trust Agreement shall have the following meanings, unless some other meaning is plainly intended:

“Additional Payments” shall mean the “Additional Payments” payable by the County to or for the account of EDA under the terms of the Support Agreement.

["Advance[s]” shall mean an advance of funds by USDOT to EDA based on the request from the County (acting on behalf of EDA) pursuant to the terms of the TIFIA Loan Agreement.]

“Basic Payments” shall mean the “Basic Payments” payable by the County to or for the account of EDA under the terms of the Support Agreement.

“Board of Supervisors” means the Board of Supervisors of the County, the governing body of the County, and its successors and assigns.

“Bond Registrar” shall mean the bond registrar at the time serving as such under this Trust Agreement and performing the duties set forth herein whether the original or a successor bond registrar.

“Bond Year” shall mean the period commencing on the second day of April of any calendar year and ending on the first day of April of the following calendar year.

“Bond” shall mean the bond issued under this Trust Agreement.

“Business Day” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, Fairfax County, Baltimore, Maryland, or in the jurisdiction in which the corporate trust office of the Trustee is located.

“Chairman” shall mean the Chairman or Vice Chairman of the Commission or any person succeeding to the principal functions thereof or temporarily designated by the Board to serve pro tempore as the Chairman.

“Closing” shall mean the date on which the Bond is delivered to the Initial Purchaser.

“Commission” shall mean the governing body of EDA or any successor entity assuming the functions thereof.

“Commonwealth” shall mean the Commonwealth of Virginia.

“**Construction Fund**” shall mean the “Phase II Construction Fund” created and so designated by Section 401 of this Trust Agreement.

“**Cost**” as applied to the Phase II Project shall mean “Eligible Project Costs” under the TIFIA Loan Agreement.

“**County**” shall mean Fairfax County, Virginia, and any successor thereto.

“**County Executive**” shall mean the County Executive of the County, or any person succeeding to the principal function thereof.

“**County Representative**” shall mean each of the persons at the time designated to act on behalf of the County in a written certificate furnished to the Trustee, any Paying Agent and the Bond Registrar, which certificate shall contain the specimen signature(s) of such person(s) and shall be signed on behalf of the County by the County Executive.

“**County Reserve Payments**” means the “County Reserve Payments” payable by the County to or for the account of EDA under the terms of the Support Agreement.

“**Debt Service Fund**” shall mean the Debt Service Fund created and so designated by Section 501 of this Trust Agreement.

“**Debt Service Requirements**” means, for any Bond Year, the aggregate of the Principal and Interest Requirements on the Bond for such Bond Year.

“**Deposit Day**” shall mean each February 1 and August 1, beginning August 1, 2023, prior to any Interest Payment Date or Principal Payment Date.

“**EDA**” means the Fairfax County Economic Development Authority, created pursuant to the Enabling Act, and its successors.

“**EDA Representative**” shall mean each of the persons at the time designated to act on behalf of EDA in a written certificate furnished to the Trustee, any Paying Agent and the Bond Registrar, which certificate shall contain the specimen of notice(s) of such person and shall be executed on behalf of EDA by the Chairman.

[“**Enabling Act**” means Chapter 643 of the 1964 Acts of the General Assembly of the Commonwealth of Virginia, as amended, and other applicable law including the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 Code of Virginia of 1950, as amended.]

“**Event of Default**” shall mean, with respect to this Trust Agreement, any of those events set forth in clause (a) of Section 801 of this Trust Agreement.

“**Fiscal Year**” means a fiscal year of the County commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year, or such other fiscal year of twelve months as may be determined by [the Commission,] the County [and EDA].

“**Fitch**” means Fitch, Inc., its successors and assigns, and if Fitch, Inc., shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized statistical rating organization (other than Moody’s or S&P) identified as such by the Securities and Exchange Commission designated by EDA.

“**Fund(s)**” means any of the Funds established in this Trust Agreement.

“**Government Obligations**” shall mean direct obligations of, or obligations the timely payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America, or evidences of indirect ownership of such obligations.

“**Holder**” shall mean the person in whose name this Bond is registered on the registration books provided for in Section 206 of this Trust Agreement.

“**Initial Purchaser**” shall mean USDOT.

“**Interest Payment Date**” shall mean an April 1 or October 1, as the case may be, beginning October 1, 2023.

“**Interest Period**” shall mean each period from and including an Interest Payment Date through and including the day immediately preceding the next Interest Payment Date.

“**Interest Requirement**” for any [Bond] Year, means the total of the sums that would be deemed to accrue on the Bond during such [Bond] Year if the interest on Bond were deemed to accrue daily during such year in equal amounts.

“**Investment Obligations**” means Government Obligations and, to the extent from time to time permitted by the laws of the Commonwealth,

(A) the obligations of (i) Export-Import Bank, (ii) Government National Mortgage Association, (iii) Federal Housing Administration, (iv) Farmers Home Administration, (v) United States Postal Service and (vi) any other agency or instrumentality of the United States of America now or hereafter created, which obligations are backed by the full faith and credit of the United States of America;

(B) the obligations of (i) Federal National Mortgage Association, (ii) Federal Intermediate Credit Banks, (iii) Federal Banks for Cooperatives, (iv) Federal Land Banks, (v) Federal Home Loan Banks; (vi) Federal Financing Bank, (vii) Federal Farm Credit System and (viii) Federal Home Loan Mortgage Corporation;

(C) obligations of state or local government bond issuers, provision for the payment of the principal of and interest on which shall have been made by deposit with an escrow agent or trustee of Government Obligations the principal of and interest on which when due will be sufficient to pay the principal of and interest on such state or local government obligations when due, which obligations have been rated by Moody’s, S&P and Fitch (or any two of the three if the third such rating agency does not provide a rating) in one of two highest rating categories (without regard to gradations such as “plus” or “minus” or numerical modifiers of such categories);

(D) investments pursuant to the Government Non-Arbitrage Act, Chapter 47, Title 2.2, Code of Virginia, 1950, as amended;

(E) certificates of deposit or time deposits of (i) any bank, any branch of any bank, trust company or national banking association (including any Trustee, Bond Registrar, Paying Agent and their affiliates) that has a combined capital, surplus and undivided profits not less than \$50,000,000; provided, however, that such certificates of deposit or time deposits shall be fully secured to the extent not secured by the Federal Deposit Insurance Corporation, by Government Obligations or by obligations described in (A) or (C) above; or (ii) a subsidiary trust company under the Trust Subsidiary Act, Title 6.1, Article 3.1, Code of Virginia, 1950, as amended, whose parent state bank or bank holding company has undertaken to be responsible for the acts of such subsidiary trust company pursuant to the provisions of Section 6.1-32.7(a) of the Trust Subsidiary Act, or any successor provision of law, and whose combined capital, surplus and undivided profits, together with that of its parent state bank or bank holding company, as the case may be, is not less than \$50,000,000 (“a subsidiary trust company”); provided, however, that such certificates of deposit or time deposits shall be fully secured, to the extent not secured by the Federal Deposit Insurance Corporation, by Government Obligations or by obligations described in (A) or (C) above;

(F) any repurchase agreement that is with (i) a bank or trust company (including any Trustee, Bond Registrar, Paying Agent and their affiliates) that has a combined capital, surplus and undivided profits not less than \$50,000,000, or (ii) a subsidiary trust company described in item (E)(ii) above, or (iii) a government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York for Government Obligations or obligations described in (A) and (B) above and having on the date of the repurchase agreement a fair market value equal to at least 102% of the amount of the repurchase obligation of the bank or trust company; provided, however, that such obligations purchased must be transferred to the Trustee or a third party agent by physical delivery or by an entry made on the records of the issuer of such obligations;

(G) subject to the ratings requirements set forth below, shares in any money market mutual fund (including those of the Trustee or any of its affiliates) registered under the Investment Company Act of 1940, as amended, that have been rated “AAAm-G” or “AAAm” by S & P or “Aaa” by Moody’s so long as the portfolio of such money market mutual fund is limited to Government Obligations and agreements to repurchase Government Obligations, obligations in (A) and (B) above, and agreements to repurchase obligations in (A) or (B) above; and

(H) any and all investments authorized by the Investment of Public Funds Act (Chapter 45, Title 2.2, Code of Virginia, 1950, as amended).

Any investment in a repurchase agreement shall be considered to mature on the date the bank or trust company providing the repurchase agreement is obligated to repurchase the Investment Obligations. Any investment in obligations described in (A), (B) and (C) above may be made in the form of an entry made on the records of the issuer of the particular obligation.

“**MADS**” means, as of any date of calculation, the maximum amount of the Debt Service Requirements scheduled to become due in respect of the Bond, in the aggregate, during the current or any future [Bond] Year.

“**Moody’s**” means Moody’s Investors Service, Inc., its successors and assigns, and, if Moody’s Investors Service, Inc., shall for any reason no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized statistical rating organization (other than Fitch or S&P) identified as such by the Securities and Exchange Commission designated by EDA.

“**MWAA**” shall mean Metropolitan Washington Airports Authority, and its successors and assigns.

“**[O]utstanding**” shall mean the outstanding principal amount of the Bond, except:

- (i) [the principal amount of the Bond paid or redeemed;
- (ii) [reserved]; and
- (iii) a Bond in exchange for or in lieu of which another Bond has been authenticated and delivered under this Trust Agreement;

provided, however, that in determining whether the Holder of the requisite outstanding principal amount of the Bond has given any request, demand, authorization, direction, notice, consent or waiver hereunder, if the Bond is owned by EDA or any other obligor upon the Bond shall be disregarded and deemed not to be outstanding.]

“**Paying Agent**” shall mean U.S. Bank National Association the paying agent designated as such and performing the duties set forth in this Trust Agreement.

“**[P]erson**” shall mean and includes an association, unincorporated organization, a corporation, a partnership, a joint venture, a business trust, or a government or an agency or a political subdivision thereof, or any other public or private entity, or a natural person.

“**Phase II Project**” means [to be given the same meaning as “Phase 2” under the TIFIA Loan Agreement].

“**Pledged Revenues**” shall mean (a) all payments of Basic Payments, (b) all payments of County Reserve Payments, (c) all payments of Additional Payments and (d) the income from the investment under the provisions of this Trust Agreement of the money held for the credit of the various funds created under this Trust Agreement.

“**[P]rincipal**” shall mean the Outstanding principal amount of the Bond, the principal amount of such Bond payable at maturity.]

“**Principal Installment[s]**” shall mean the principal installments of the Bond set forth in Section 208 hereof, subject to revision as set forth herein.

“Principal and Interest Requirements” for any Bond Year shall mean the sum of the Principal Requirement and the Interest Requirement for such Bond Year.

“Principal Payment Date” shall mean each April 1 and October 1 upon which a Principal Installment of the Bond is stated to be due, beginning October 1, 2023.

“Principal Requirement” means, for any Bond Year, as applied to the Bond, the total of the sums that would be deemed to accrue on the Bond during such Bond Year if the Principal Installment of the Bond due on a particular Principal Payment Date were deemed to accrue daily, beginning on a date exactly 6 months previous, during such period in equal amounts.

“Record Date” means each March 15 and September 15.

“Redemption Date” means the date upon which the Bond is to be redeemed, in whole or in part, prior to its stated maturity pursuant to the redemption provisions of this Trust Agreement.

“Redemption Price” shall mean, with respect to Bond or a portion, thereof, the principal amount of such Bond or portions thereof payable upon redemption thereof in the manner contemplated in accordance with their terms and this Trust Agreement.

“Reserve Fund” means the Reserve Fund created and so designated by Section 501 of this Trust Agreement.

“Reserve Fund Requirement” means as of any date of calculation, an amount of cash, securities or a combination thereof (which shall be required to be on deposit in the Reserve Fund in the form of Investment Obligations), equal to MADS.

“S&P” means Standard & Poor’s Ratings Group, a Division of The McGraw-Hill Companies, its successors and assigns, and, if Standard & Poor’s Ratings Group, a Division of The McGraw-Hill Companies, shall for any reason no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized statistical rating organization (other than Fitch or Moody’s) identified as such by the Securities and Exchange Commission designated by EDA.

“Secretary” shall mean the Secretary or any Assistant Secretary of EDA or any person succeeding to the principal functions thereof.

“Support Agreement” means the Support Agreement, dated as of December 1, 2014, between EDA and the County, by the express terms of which the County agrees to support the Bond and pledge or otherwise commit, subject to annual appropriation, Pledged Revenues to the payment of the Bond.

“TIFIA Letter Agreement” means the TIFIA Letter Agreement, dated as of December __, 2014, by and between the County and USDOT.

“TIFIA Loan Agreement” means the TIFIA Loan Agreement, dated as of December __, 2014, by and among USDOT, the County and EDA, as amended from time to time.

“Trust Agreement” shall mean this Trust Agreement, authorizing the Bond, as supplemented and amended as permitted hereby.

“Trust Agreement Expenses” shall mean those reasonable fees and expenses of the Trustee contemplated by Section 903 of this Trust Agreement and the reasonable fees and expenses of any Paying Agent and the Bond Registrar that shall be approved in writing by an EDA Representative.

“Trust Estate” means,

- (a) the items enumerated in clauses (a) and (b) of the Granting Clause of this Trust Agreement; and
- (b) proceeds of the foregoing.

“Trustee” shall mean the trustee at the time acting as such under this Trust Agreement whether the original or a successor trustee.

“USDOT” means the United States Department of Transportation, an agency of the United States of America, acting by and through the Federal Highway Administrator.

SECTION 102. Rules of Construction. (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words “Bond,” “owner,” “Holder,” and “person” shall include the plural as well as the singular number.

(b) Where the character or amount of any asset, liability or term of income or expense is required to be determined or any consolidation, combination or other accounting computation is required to be made for the purpose hereof or for the purpose of any document, affidavit or certificate to be executed and delivered in accordance with or pursuant to this Trust Agreement, the same shall be done in accordance with generally accepting accounting principles; provided, however, that whenever the context makes clear that the requirement is that cash, or its equivalent, be available to pay debt service on the Bond, computations regarding such requirement shall be computed on a cash, and not on a generally accepted accounting basis. Computations of debt service payable in any [Bond] Year shall be made in accordance with the agreement that evidences or otherwise provides for the issuance or incurrence of the underlying indebtedness.

(c) The terms “hereby,” “hereof,” “herein,” “hereunder” and any similar terms, refer to this Trust Agreement.

(d) Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(e) The use of the term “including” or “include” or of examples generally, shall mean without limitation to the specific examples provided.

(f) Unless the context shall otherwise indicate, “person” shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof, and “owner” when used herein with respect to the Bond shall mean the registered owner of the Bond at the time issued and outstanding under the Trust Agreement.

(g) Words importing the redemption or calling for redemption of the Bond do not mean or refer to the payment of the Bond at maturity or the purchase of the Bond for remarketing or cancellation.

(h) The captions or headings in this Trust Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Trust Agreement.

(i) All references herein to particular articles or sections are references to articles or sections of this Trust Agreement unless some other reference is established.

(j) The Table of Contents is for the purpose of convenience of reference only and is not to be deemed or construed in any way as part of this Trust Agreement or as supplemental thereto or amendatory thereof.

ARTICLE II

DETAILS OF THE BOND; ISSUANCE OF THE BOND

SECTION 201. Limitation on Issuance of the Bond. No Bond may be issued under the provisions of this Trust Agreement except in accordance with the provisions of this Article.

SECTION 202. Form and Numbering of the Bond. The Bond is issuable in fully registered form in a stated aggregate principal amount not to exceed \$403,274,894, plus the amount of interest capitalized pursuant to the TIFIA Loan Agreement, in a denomination equal to the entire principal amount thereof. Only one Bond may be Outstanding hereunder at any time. The definitive Bond issued under the provisions of this Article shall be substantially in the form hereinabove set forth, with such appropriate variations, omissions and insertions as may be necessary or appropriate to conform to the provisions of this Trust Agreement. The Bond may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or of any securities exchange on which the Bond may be listed or any usage or requirement of law with respect thereto.

SECTION 203. Details and Execution of the Bond. The Bond shall be dated, shall bear interest until its payment, such interest to the maturity thereof being payable on each Interest Payment Date in each year, and shall be stated to mature (subject to the right of prior redemption), all as hereinafter provided.

The Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated unless it is (a) authenticated on an Interest Payment Date, in which event it shall bear interest from such Interest Payment Date or (b) authenticated prior to the first

Interest Payment Date in which event it shall bear interest from its date; provided, however, that if at the time of authentication of the Bond interest thereon is in default, such Bond shall bear interest from the date to which interest has been paid.

The Bond shall be executed with the signatures or facsimile signatures of the Chairman and of the Secretary and a facsimile of the official seal of EDA shall be impressed or imprinted thereon.

In case any officer whose signature or a facsimile of whose signature shall appear on the Bond shall cease to be such officer before the delivery of the Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and also the Bond may bear the facsimile signatures of, or may be signed by, such persons as at the actual time of the execution of the Bond shall be the proper officers to sign the Bond although at the date of such Bond such persons may not have been such officers.

Both the principal of and the interest on the Bond shall be payable in any coin or currency of the United States of America which is legal tender on the respective dates of payment thereof for the payment of public and private debts. The Principal Installments on the Bond shall be payable by wire transfer on each Principal Payment Date solely from immediately available funds deposited in the Debt Service Fund from amounts received as Basic Payments under the Support Agreement.

Principal and interest payments will be made in the amounts set forth in the schedule of Debt Service Requirements provided by EDA to the Trustee prior to the initial Interest Payment Date and Principal Payment Date.

Interest on the Bond that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid by the Trustee by wire transfer on each Interest Payment Date solely from immediately available funds. Interest shall be paid by the Trustee to the person in whose name that the Bond is registered at the close of business on the Record Date (whether or not such date is a Business day) occurring before such Interest Payment Date.

In the event of a Payment Default (as defined in the TIFIA Loan Agreement), the EDA shall pay interest on any overdue amount from its due date to the date of actual payment at the Default Rate (as defined in the TIFIA Loan Agreement).

Subject to the foregoing provisions of this Section, the Bond delivered under this Trust Agreement upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, that were carried by such other Bond, and each such Bond shall bear interest from a date such that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

SECTION 204. Authentication of the Bond. Only if the Bond shall have endorsed thereon a certificate of authentication substantially in the form hereinabove set forth, duly executed by the Bond Registrar, shall such Bond be entitled to any benefit or security under this Trust Agreement. The Bond shall not be valid or obligatory for any purpose unless and until such certificate of authentication on the Bond shall have been duly executed by the Bond

Registrar, and such certificate of the Bond Registrar upon the Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Trust Agreement. The Bond Registrar's certificate of authentication on the Bond shall be deemed to have been duly executed if signed by an authorized signatory of the Bond Registrar.

SECTION 205. Exchange of the Bond. The Bond, upon surrender thereof at the designated corporate trust office of the Bond Registrar in Richmond, Virginia, together with an assignment duly executed by the Holder or its attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the Holder thereof, be exchanged for one Bond in the same principal amount, bearing interest at the same rate as the registered Bond surrendered for exchange.

EDA shall make provision for the exchange of the Bond at the designated corporate trust office of the Bond Registrar.

SECTION 206. Registration of Transfer of the Bond. The Bond Registrar shall keep books for the registration, exchange and registration of transfer of the Bond as provided in this Trust Agreement. The Bond Registrar shall evidence acceptance of the duties, obligations and responsibilities of Bond Registrar by execution of the certificate of authentication on the Bond.

The transfer of the Bond may be registered only upon the books kept for the registration of transfer of the Bond upon surrender of such Bond to the Bond Registrar, together with an assignment duly executed by the Holder or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar.

No transfer of this Bond shall take place accept pursuant to the terms of the TIFIA Loan Agreement. In addition, no transfer shall take place unless the Trustee shall have received from EDA an updated schedule showing the Debt Service Requirements of the Bond, a certificate from the Holder requesting and approving such transfer and a certificate from an EDA Representative directing the trustee to transfer the Bond.

Upon EDA's receipt of all Advances under the TIFIA Loan Agreement and upon the Trustee's receipt from EDA of an updated schedule showing the Debt Service Requirements of the Bond such Bond may be transferred as set forth herein.

Upon any such exchange or registration of transfer, EDA shall execute and the Bond Registrar shall authenticate and deliver in exchange for such Bond a new registered Bond, registered in the name of the transferee, in a principal amount equal to the principal amount of such Bond surrendered, of the same series and maturity and bearing interest at the same rate.

In all cases in which the Bond shall be exchanged or the transfer of the Bond shall be registered hereunder, EDA shall execute and the Bond Registrar shall authenticate and deliver the Bond within a commercially reasonable time, according to then prevailing industry standards, in accordance with the provisions of this Trust Agreement. The Bond surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. No service charge shall be made for any registration of transfer or exchange of the Bond, but EDA and the Bond Registrar may require payment of a sum sufficient to cover any tax or other

governmental charge that may be imposed in connection with any registration of transfer or exchange of the Bond.

SECTION 207. Ownership of the Bond. EDA, the Trustee, any Paying Agent or the Bond Registrar and any agent of EDA, the Trustee, any Paying Agent or the Bond Registrar, may treat the person in whose name any Bond is registered on the books of EDA kept by the Bond Registrar pursuant to Section 206 hereof as the Holder of such Bond for the purpose of receiving payment of principal of and interest on, such Bond, and for all other purposes whatsoever, whether such Bond be overdue, and, to the extent permitted by law, neither EDA, the Trustee, any Paying Agent or the Bond Registrar nor any such agent shall be affected by any notice to the contrary.

SECTION 208. Authorization and Issuance of the Bond. There shall be initially issued at one time secured by this Trust Agreement the Bond for the purposes of providing funds, together with any other available funds, for paying a portion of the amount required by MWAA to undertake the funding of the Phase II Project.

The Bond shall be issued in an aggregate principal amount not to exceed \$403,274,894 plus amounts of interest capitalized pursuant to the TIFIA Loan Agreement and shall be dated the date of its delivery. The outstanding principal amount of the Series 2014 Bond shall equal the Advances outstanding under the TIFIA Loan Agreement, plus the amount of capitalized interest calculated pursuant to the terms of the TIFIA Loan Agreement, less the aggregate amount of principal paid on the Bond. In addition to any mandatory prepayments required by the TIFIA Loan Agreement, the Bond shall have Principal Installments due each April 1 and October 1 beginning October 1, 2023, with a final maturity date of April 1, 2046, bearing interest at ___% per annum (based upon a 365 or 366 day year, as appropriate, compounded semiannually) with Payment Dates beginning October 1, 2023, and each April 1 and October 1, thereafter.

Promptly following any mandatory prepayments, optional prepayments and upon EDA's receipt of the final Advance, EDA will provide the Trustee with a schedule of the Debt Service Requirements on the Bond received from the Holder.

The Bond shall be executed substantially in the form and in the manner hereinabove set forth or as provided herein and shall be deposited with the Bond Registrar for authentication, but before the Bond shall be delivered by the Bond Registrar, there shall be filed or deposited with the Bond Registrar, as appropriate, the following:

- (a) an executed counterpart, or a copy, certified by the Secretary, of this Trust Agreement;
- (b) an executed counterpart, or a copy, certified by the Clerk of the Board of Supervisors of the County and by the Secretary, of the Support Agreement;
- (c) an executed counterpart, or a copy, certified by the Clerk of the Board of Supervisors of the County and by the Secretary, of the TIFIA Loan Agreement;

(d) an opinion or opinions of counsel for EDA to the effect that (1) this Trust Agreement has been duly authorized, executed and delivered by EDA, is in full force and effect and is valid and binding on EDA in accordance with its terms; (2) EDA has all necessary power and authority to apply the proceeds of the Bond for the purposes described in this Trust Agreement; (3) the Support Agreement and the TIFIA Loan Agreement have been duly authorized, executed and delivered by EDA, are in full force and effect, and are valid and binding on EDA in accordance with their respective terms, (4) the issuance of the Bond has been duly and validly authorized and all conditions precedent to the delivery of such Bond have been fulfilled and (5) no provision of the Bond or of the Trust Agreement, results in or constitutes a default under any material agreement, indenture or other instrument to which EDA is a party or by which EDA is or may be bound;

(e) an opinion or opinions of counsel for the County to the effect that the Support Agreement and the TIFIA Loan Agreement have been duly authorized, executed and delivered by the County, are in full force and effect and are valid and binding on the County in accordance with their respective terms.

When the documents mentioned in paragraphs (a) to (e), inclusive, of this Section shall have been filed with the Bond Registrar and when the Bond shall have been executed and authenticated by the Bond Registrar upon the request of EDA, as required by this Trust Agreement, the Bond Registrar shall deliver the Bond to or upon the order of USDOT, but only upon confirmation of the sale of the Bond to USDOT pursuant to the terms set forth in the TIFIA Loan Agreement.

Delivery of an executed TIFIA Loan Agreement shall confirm the sale of the Bond to USDOT.

The proceeds of the Series 2014 Bond shall equal the aggregate amount Advances received. Such amounts shall be drawn periodically pursuant to the terms of the TIFIA Loan Agreement and deposited by EDA in the Construction Fund.

SECTION 209. Temporary Bond. Until the definitive Bond is ready for delivery, there may be executed, and upon request of EDA, the Bond Registrar shall authenticate and deliver, in lieu of a definitive Bond and subject to the same limitations and conditions, typewritten, printed, engraved or lithographed temporary Bond, in the form of a fully registered Bond, substantially of the tenor of the Bond set forth in this Trust Agreement and with such appropriate omissions, insertions and variations as may be required.

Until definitive the Bond is ready for delivery, any temporary Bond may, if so provided by EDA by resolution, be exchanged at the designated corporate trust office of the Bond Registrar, without charge to the Holder thereof, for a temporary fully registered Bond in the same principal amount, of like tenor, of the same maturity and bearing interest at the same rate.

If the temporary Bond shall be issued, EDA shall cause the definitive Bond to be prepared and to be executed and delivered to the Bond Registrar, and the Bond Registrar, upon presentation to it at its principal office of any temporary Bond, shall cancel the same and authenticate and deliver in exchange therefor at the place designated by the Holder, without

charge to the Holder thereof, a definitive Bond or Bond of an equal aggregate principal amount, of the same maturity and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged, the temporary Bond shall in all respects be entitled to the same benefit and security of this Trust Agreement as the definitive Bond to be issued and authenticated hereunder.

SECTION 210. Mutilated, Destroyed, Stolen or Lost Bond. In case any Bond secured hereby shall become mutilated or be destroyed, stolen or lost, EDA shall cause to be executed, and the Bond Registrar shall authenticate and deliver, a new Bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond or in lieu of and in substitution for such Bond destroyed, stolen or lost, and the Holder shall pay the reasonable expenses and charges (including reasonable attorney fees, costs and expenses) of EDA and the Bond Registrar in connection therewith and, in case of a Bond destroyed, stolen or lost, the Holder shall file with the Bond Registrar evidence satisfactory to it and to EDA that such Bond was destroyed, stolen or lost, and of his ownership thereof, and shall furnish EDA and the Bond Registrar indemnity satisfactory to them. If any such Bond has matured or has been called for redemption, instead of issuing a new Bond the Trustee may pay the same without surrender thereof upon receipt of the aforesaid evidence and indemnity.

Every Bond issued pursuant to the provisions of this Section in exchange or substitution for any Bond that is mutilated, destroyed, stolen or lost shall constitute an additional contractual obligation of EDA, whether the destroyed, stolen or lost Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with any and all other Bond duly issued under this Trust Agreement. The Bond shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, stolen or lost Bond, and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

ARTICLE III

REDEMPTION OF THE BOND

SECTION 301. Redemption Dates and Prices. (a) The Bond issued under the provisions of this Trust Agreement shall be subject to mandatory redemption by EDA, either in whole or in part, and at such times and prices and on such terms and conditions as may be provided in the TIFIA Loan Agreement and TIFIA Letter Agreement.

Optional Redemption. The Bond, is subject to redemption at the option of EDA, as directed by the County, in whole or in part, on any date, at a Redemption Price equal to 100% of the principal amount of the Bond to be redeemed plus interest accrued thereon to the Redemption Date. The amount of any partial optional redemption shall be applied ratably to each remaining Principal Installments in accordance with the TIFIA Loan Agreement. Upon a partial optional redemption of the principal of the Principal Installments, the remaining debt service payments hereunder shall be recalculated in accordance with the TIFIA Loan Agreement.

SECTION 302. Redemption Notice. At least 10 but not more than 30 days before the optional Redemption Date of the Bond, whether in whole or in part, the Trustee upon the written request of EDA will cause notice of any such redemption to be mailed by certified mail, return receipt requested, to the Holder.

If the source of redemption is the proceeds of a borrowing by either EDA or the County, any notice of such optional redemption of the Bond may state that it is conditioned upon the timely closing of such borrowing, and, should the borrowing for any reason not close on or before the optional Redemption Date of the Bond, any conditional notice so given may be rescinded at any time before the payment of the Redemption Price if any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit by EDA, the corresponding notice of redemption shall be deemed to be revoked.

SECTION 303. Effect of Calling for Redemption. On the date fixed for redemption, notice having been mailed in the manner and under the conditions hereinabove provided, the Bond or portions thereof called for redemption shall be due and payable at the Redemption Price provided therefor, plus accrued interest to such date; provided, however, that if the notice of an optional redemption states that the call for redemption is expressly conditioned on the timely closing of a borrowing the proceeds of which is the source of redemption, and if such borrowing shall for any reason not close on or before the optional Redemption Date of the Bond, the call for redemption shall be deemed cancelled, void and of no effect and the Bond called for such redemption shall remain outstanding and if presented for payment, such Bond shall be returned forthwith to their registered owners.

SECTION 304. Redemption of a Portion of the Bond. If a portion of the outstanding principal amount of the Bond shall be selected for redemption, the Holder thereof or its attorney or legal representative shall present and surrender such Bond to the Bond Registrar for payment of the principal amount thereof so called for redemption on such principal amount, and EDA shall execute and the Bond Registrar shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond of the same series and maturity and bearing interest at the same rate.

SECTION 305. Cancellation. The Bond so redeemed, presented and surrendered shall be cancelled upon the surrender thereof.

SECTION 306. Payment of the Bond. Anything to the contrary in this Trust Agreement notwithstanding, no amounts in respect of the Bond shall be considered or deemed to have been paid until the Holder shall have received irrevocable payment in immediately available funds in accordance with the requirements for payment set forth in this Trust Agreement and the TIFIA Loan Agreement.

ARTICLE IV

CONSTRUCTION FUND

SECTION 401. Construction Fund. (a) A special fund is hereby established and designated "Phase II Construction Fund," to the credit of which deposits of any Advances shall be made as required by the provisions of Section 208 of this Trust Agreement. Money to the credit of the Construction Fund shall be subject to a lien and charge in favor of the Holder.

(b) The money in the Construction Fund shall be held by the Trustee in trust and, subject to the provisions of Section 404 of this Trust Agreement, shall be applied solely pay or reimburse the County for the prior or simultaneous payment of Costs of the Phase II Project and, pending such application, shall be subject to a lien and charge in favor of the Holder and for the further security of such Holder until paid out or transferred as herein provided.

SECTION 402. Payments from Construction Fund.

(a) Amounts in the Construction Fund shall be used solely to pay or reimburse the County for the prior or simultaneous payment of Costs of the Phase II Project. All payments from the Construction Fund shall be subject to the provisions and restrictions set forth in this Article and the TIFIA Loan Agreement, and EDA covenants that it will not cause or agree to permit to be paid from the Construction Fund any sums except in accordance with such provisions and restrictions.

(b) Upon receipt of a requisition in the form attached hereto as Exhibit A, the Trustee is authorized and directed to apply the money in the Construction Fund in accordance with such requisition. The Trustee may conclusively rely upon and shall be fully protected in acting or proceeding upon such requisition including the disbursing of the amounts set forth therein and shall have no duty or obligation to confirm that such amounts qualify as Costs of the Phase II Project.

(c) All requisitions and all other statements, orders, certifications and approvals required by this Article as conditions of payment from the Construction Fund, may be conclusively relied upon by the Trustee making such payment, and shall be retained by such officer, subject at all reasonable times to examination by the Holder.

SECTION 403. [Reserved].

SECTION 404. Disposition of Construction Fund Balance. When requisitions have been made for the payment of all obligations that are payable from the Construction Fund, any balance in such account not reserved by the County for the payment of any remaining part of the Cost of the Phase II Project payable from such account shall be used for the mandatory redemption of the Bond, or portion thereof pursuant to the terms of the TIFIA Loan Agreement.

ARTICLE V

REVENUES AND FUNDS

SECTION 501. Establishment of Funds. In addition to the Construction Fund and any funds that may be created hereby or other resolution not inconsistent herewith, the following funds are hereby created, each of which is to be held by the Trustee:

- (i) the Debt Service Fund (the “Debt Service Fund”); and
- (ii) the Reserve Fund (the “Reserve Fund”).

The money in each of said Funds shall be held in trust and applied as herein provided.

SECTION 502. Funds Received. (a) Except as otherwise specifically provided by this Trust Agreement, all Trust Estate money received by the Trustee shall be applied as follows:

- (i) first, deposit into the Debt Service Fund, after first taking into account any amounts received pursuant to Section 504:
 - (1) an amount equal to the interest due on the Bond on the next Interest Payment Date,
 - (2) an amount equal to the principal due on the Bond on the next Principal Payment Date; and
 - (3) an amount equal to any Trust Agreement Expenses outstanding;
- (ii) second, deposit to the Reserve Fund, an amount that, together with the amount credited to such Fund on such date, is equal to the current Reserve Fund Requirement; and
- (iii) any excess funds after the foregoing deposits shall have been made shall be transferred to the County.

The payments and deposits required pursuant to this Section shall be cumulative, and the amount of any deficiency in any semi-annual period shall be added to the amount otherwise required to be paid or deposited thereafter until such time as such deficiency shall have been made up.

Five (5) days prior to each Deposit Day, the Trustee shall notify the County and EDA of the amount of investment income or other money available in the form of cash in the Debt Service Fund on the Deposit Day or that will be available, without any reinvestment, on the next Interest Payment Date to pay principal or interest on the Bond and the Basic Payments otherwise payable on such Deposit Day shall be correspondingly reduced.

Fourteen (14) days after each Deposit Date, the Trustee shall notify the County and EDA if the balance in the Debt Service Fund is insufficient to pay the Principal Installment and interest due and payable on the Bond on the next Interest Payment Date or Principal Payment Date.

If on the fifth (5) day preceding an Interest Payment Date or a Principal Payment Date moneys to the credit of the Debt Service Fund, or any special account created therein, are not sufficient to pay the Principal Installment and interest due and payable on the Bond on such Interest Payment Date or Principal Payment Date, the Trustee shall transfer from the Reserve Fund, if and to the extent money in the Reserve Fund is available for such purpose, an amount equal to the deficiency in the Debt Service Fund or special account therein.

(b) All payments of Basic Payments or Additional Payments received by Trustee from the County pursuant to the Support Agreement shall be deposited in the Debt Service Fund. All payments of County Reserve Payments received by Trustee from the County pursuant to the Support Agreement shall be deposited in the Reserve Fund. EDA shall cause the County to provide the Trustee with sufficient information to identify the nature of the payments sent by the County to the Trustee.

SECTION 503. Application of Money in Debt Service Fund. Money to the credit of the Debt Service Fund shall be subject to a lien and charge in favor of the Holder. Except as otherwise provided in this Trust Agreement, money in the Debt Service Fund shall be used solely for the payment of the principal of and the interest on the Bond. The Trustee shall on each Interest Payment Date withdraw from such money and transfer to the Bond Registrar or Paying Agent who shall transfer to the Holder the amount required to pay the interest on such Bond on such date, and on each Principal Payment Date the Trustee shall withdraw from such money and transfer to the Bond Registrar or Paying Agent which shall set aside in trust, the amounts required for paying the principal of the Bond due on such date, as provided in this Trust Agreement.

SECTION 504. [Application of Money in Reserve Fund. Money to the credit of the Reserve Fund shall be subject to a lien and charge in favor of the Holder.

(a) Not later than five (5) days prior to each Interest Payment Date for the Bond the Trustee shall transfer from the Reserve Fund to the Debt Service Fund

[1] if such Interest Payment Date is not a Principal Payment Date, the amount, if any, required to increase the amount then held to the credit of the Debt Service Fund to an amount equal to the amount of interest scheduled to become due on such date; or

[2] if such Interest Payment Date is also a Principal Payment Date, the amount, if any, required to increase the amount then held for the credit of the Debt Service Fund to an amount equal to the sum of (i) the amount of interest scheduled to become due on such date and (ii) the aggregate amount of the Principal Installment that will become due and payable on such date.

The Trustee shall immediately notify EDA and the County of any such withdrawal from the Reserve Fund.

If the amount transferred from the Reserve Fund to the Debt Service Fund pursuant to the foregoing provisions of this Section shall be less than the amount required to be transferred under such provisions, any amount thereafter deposited to the credit of the Reserve Fund shall be immediately transferred to the Debt Service Fund as, and to the extent, required to make up any such deficiency.

(b) If on the last Business Day prior to any Deposit Date or any other dates directed by an EDA Representative, the amount of money held for the credit of the Reserve Fund shall exceed the Reserve Fund Requirement as then calculated, the Trustee shall transfer from the Reserve Fund the amount of such excess to the Debt Service Fund.

(c) [Subject to Section 603 hereof, [if on each October 31 or April 30] the amount on deposit in the Reserve Fund is less than the Reserve Fund Requirement, the Trustee shall notify EDA and the County of the amount of the deficiency. Upon notification, EDA shall as soon as possible but in no event later than the next Interest Payment Date or Principal Payment Date deliver to the Trustee the amount of such deficiency.]

SECTION 505. Money Held in Trust. All money that the Trustee shall have withdrawn from the Debt Service Fund or shall have received from any other source and set aside or transferred to the Bond Registrar or any Paying Agent for the purpose of paying the Bond hereby secured, either at the maturity thereof or by purchase or call for redemption, or for the purpose of paying interest on the Bond, shall be held in trust for the Holder. Any money that is so set aside or transferred and that remains unclaimed by the Holder for a period of three (3) years after the date on which the Bond has become payable shall be paid to the County, or to such successor as may then be entitled by law to receive the same, and thereafter the Holder shall look only to the County, or to such successor, as the case may be, for payment and then only to the extent of the amounts so received, without any interest thereon, and the Trustee, the Bond Registrar and any Paying Agent shall have no responsibility with respect to such money.

SECTION 506. Cancellation of the Bond. If the Bond is paid, redeemed or purchased, either at or before maturity, it shall be delivered to the Bond Registrar when such payment, redemption or purchase is made, and such Bond shall be cancelled. The Bond cancelled under any of the provisions of this Trust Agreement shall be destroyed by the Bond Registrar, which shall execute a certificate in triplicate, describing the details of the Bond so cancelled and destroyed, and one executed certificate shall be filed with EDA, one with the County and one executed certificate shall be retained by the Bond Registrar.

SECTION 507. Disposition of Fund Balances. After provision shall be made for the payment of the Bond issued under this Trust Agreement, including the interest thereon, and for the payment of all other obligations, expenses and charges required to be paid under or in connection with this Trust Agreement, the Trustee shall pay all amounts in any Fund then held by it under this Trust Agreement to the County.

ARTICLE VI

**DEPOSITARIES OF MONEY, SECURITY FOR
DEPOSITS AND INVESTMENT OF FUNDS**

SECTION 601. Security for Deposits. Any and all money deposited under the provisions of this Trust Agreement shall, to the extent provided herein, be trust funds under the terms hereof and shall not be subject to any lien or attachment by any creditor of EDA other than the lien created by this Trust Agreement. Such money shall be held in trust and applied in accordance with the provisions of this Trust Agreement.

All money deposited with the Trustee hereunder in excess of the amount guaranteed by the Federal Deposit Insurance Corporation or other federal agency or held by EDA shall be continuously secured, for the benefit of EDA and the Holder, in the manner provided by Commonwealth law for the security for public funds; provided, however, that it shall not be necessary for the Bond Registrar or any Paying Agent to give security for the deposit of any money with it for the payment of the principal of or the interest on the Bond, or, except as specifically required by this Trust Agreement, for EDA or any Trustee to give security for any money that shall be represented by obligations purchased under the provisions of this Article as an investment of such money.

All money shall be credited to the particular fund or account to which such money belongs.

SECTION 602. Investment of Money. Money held for the credit of all funds shall be continuously invested and reinvested by or at the written direction of a County Representative.

Money held for the credit of the Construction Fund shall, as nearly as may be practicable, be invested and reinvested in Investment Obligations that shall mature, or that shall be subject to redemption at the option of the holder thereof, at the times required by this Trust Agreement.

Money held for the credit of the Debt Service Fund shall, as nearly as may be practicable, be invested and reinvested in Investment Obligations that shall mature, or that shall be subject to redemption at the option of the holder thereof, not later than the respective dates when the money held for the credit of such Fund will be required for the purposes intended.

Amounts on deposit in any of the Funds shall be held uninvested or invested in Investment Obligations. Any such Investment Obligations must mature or be redeemable at the election of the holder not more than one (1) year from the date of the creation thereof or, if earlier, the earliest date by which the funds invested in such Investment Obligations may be required to be disbursed from the applicable Fund in accordance with the terms of the TIFIA Loan Agreement or this Trust Agreement, which, for purposes of the Reserve Fund shall be the date of the next Interest Payment Date or Principal Payment Date with respect to the Bond.

If a County Representative fails to provide the Trustee with written investment directions the Trustee shall hold such amounts uninvested. The Trustee may conclusively rely upon and

shall be fully protected in acting or proceeding upon any written investment direction of the County Representative as to the suitability and the legality of such directed investments.

[Moneys held for the credit of the Reserve Fund shall, as nearly as may be practicable, be invested and reinvested to the extent permitted by law in Government Obligations or Investment Obligations described in clauses (A), (B) and (G) of the definition of Investment Obligations in Section 101 of this Trust Agreement, which obligations shall mature, or shall be subject to redemption at the option of the holder thereof, not later than the final maturity of the Bond; provided, however, that in the event of a withdrawal of and transfer by the Trustee of moneys from the Reserve Fund to the Debt Service Fund with the result that the balance in the Reserve Fund shall for any period be less than the Reserve Fund Requirement, all such cash deposited or resulting from investments to the credit of the Reserve Fund shall be invested in Investment Obligations that shall mature, or be subject to redemption at the option of the holder thereof, not later than the next Interest Payment Date after the date of such investment or reinvestment until there shall again be to the credit of the Reserve Fund an amount equal to the Reserve Fund Requirement. Provided, further, that notwithstanding the first sentence of this paragraph, moneys for the credit of the Reserve Fund may be invested in repurchase obligations meeting the requirements described in clause (F) of the definition of Investment Obligations, and subject to the following requirements that (1) such obligations are flexible repurchase agreements with a term not greater than the final maturity of the Bond, (2) the counterparty to the agreement or its guarantor, has ratings on its senior debt or claims paying ability of not less than "AA" from S&P, "Aa2" from Moody's and "AA" from Fitch, except that such ratings from any two of these three Rating Agencies shall suffice if the third rating agency provides no rating, (3) collateral is provided in the form of Government Obligations or obligations of federal agencies described in (A) of the definition of Investment Obligations, (4) such collateral is held in the amount of 102% of the amount of the repurchase amount, (5) such collateral is held by an independent third party agent and (6) such collateral is marked to market at least weekly. Provided, however, that if the ratings referenced in (2) above, from all three Rating Agencies are the highest given by such Rating Agencies, then the requirements described in (4) and (6) above are modified so that collateral may be held in the amount of 102% of the amount of the repurchase amount and marked to market at any interval which is not less often than monthly.]

Investment Obligations acquired with money and credited to any Fund or account held by or under the control of the Trustee shall, while so held, be deemed at all times to be part of such Fund or account in which such money was originally held, and the interest accruing thereon and any profit or loss realized upon the disposition or maturity of such investment shall be credited to or charged against such Fund or account. EDA shall direct the Trustee to sell or cause to be sold at the best price obtainable or reduce to cash a sufficient amount of such Investment Obligations whenever it shall be necessary so to do in order to provide money to make any payment or transfer of money from any such Fund or account. The Trustee shall not be liable or responsible for any loss resulting from any such investment under this Trust Agreement.

Whenever a payment or transfer of money between two or more of the Funds established pursuant to Article IV or V of this Trust Agreement is permitted or required, such payment or transfer may be made in whole or in part by transfer of one or more Investment Obligations at a value determined in accordance with this Article, provided that the Investment Obligations

transferred are those in which money of the receiving Fund could be invested at the date of such transfer.

The Trustee may conclusively rely upon a County Representative's written instructions as to both the suitability and legality of the directed investments. Ratings of investments shall be determined at the time of purchase of such investments and without regard to ratings subcategories. The Trustee shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades. In the absence of written investment instructions from EDA, the Trustee shall not be responsible or liable for keeping the money held by it hereunder fully invested. Confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered.

SECTION 603. Valuation. For the purpose of determining the amount on deposit to the credit of any such Fund, obligations in which money in such Fund or account shall have been invested shall be valued at amortized cost if the average weighted life of the investments to the credit of such Fund or account is five years or less or if more than five years at the market value or the amortized cost thereof, whichever is lower.

The Trustee shall value the Investment Obligations in the Funds held by it at least once in every Bond Year and report such balances to EDA and the County. In addition, the Investment Obligations shall be valued by the Trustee at any time requested by an EDA Representative on reasonable notice (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Investment Obligations more than once in any calendar month.

ARTICLE VII

GENERAL COVENANTS AND REPRESENTATIONS

SECTION 701. Payment of Principal, Interest and Premium. EDA shall cause to be paid, when due, the principal of (whether at maturity, by call for redemption or otherwise) and the interest on the Bond at the places, on the dates and in the manner provided herein and in said Bond according to the true intent and meaning thereof.

The Bond is payable solely from the Trust Estate derived by EDA from the Support Agreement and other money pledged under this Trust Agreement. The Bond issued under this Trust Agreement shall not be deemed to constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof, including EDA and the County. Neither the faith and credit of the Commonwealth nor the faith and credit of EDA or the County are pledged to the payment of the principal of or interest on the Bond, and the issuance of the Bond shall not directly or indirectly or contingently obligate the Commonwealth or the County to levy any taxes whatever therefor or to make any appropriation for their payment except from the revenues and receipts provided for their payment under this Trust Agreement. EDA has no taxing power.

SECTION 702. EDA's Covenant to Perform. EDA shall faithfully perform at all times all of its covenants, undertakings and agreements contained in this Trust Agreement and in any Bond executed, authenticated and delivered hereunder. EDA represents that it is duly authorized under the Constitution and laws of the Commonwealth, particularly the Enabling Act, to issue the Bond authorized hereby and to execute and deliver this Trust Agreement and pledge the Trust Estate, in the manner and to the extent herein set forth as security for the Bond; that all action on its part for the issuance of the Bond initially issued hereunder and that this Trust Agreement has been duly authorized, executed and delivered by EDA and effectively taken; and that such Bond in the hands of the Holder thereof are and will be valid and binding limited obligations of EDA according to their terms.

SECTION 703. Further Instruments and Actions. At the request of the Trustee, the Bond Registrar or any other Trustee, EDA shall execute and deliver such further instruments or take such further actions as may be required to carry out the purposes of this Trust Agreement.

SECTION 704. Request of County to Appropriate. EDA hereby covenants that it shall, through its EDA Representative, request the County annually for each Fiscal Year following the issuance of the Bond to budget, appropriate and pay to the Trustee an amount equal to the Basic Payments payable by the County under the Support Agreement in such Fiscal Year. EDA also hereby covenants that it shall, through its EDA Representative, request the County annually for each Fiscal Year following the issuance of the Bond to budget, appropriate and pay over to the Trustee an amount equal to the estimated Additional Payments payable by the County under a Support Agreement in such Fiscal Year. EDA also hereby covenants that it shall, through its EDA Representative, request the County annually for each Fiscal Year following the issuance of the Bond to budget, appropriate and pay over to the Trustee an amount equal to the estimated County Reserve Payments payable by the County under a Support Agreement in such Fiscal Year.

SECTION 705. Enforcement of Support Agreement. EDA covenants and agrees to enforce its rights and remedies under the Support Agreement to ensure its ability to comply with its covenants and agreements hereunder, including its agreements to satisfy its obligations under this Trust Agreement and the TIFIA Loan Agreement.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 801. Events of Default. (a) Each of the following events is hereby declared an Event of Default:

- (1) payment of any installment of interest on the Bond shall not be made when the same shall become due and payable; or
- (2) payment of any Principal Installment, of any Bond shall not be made when the same shall become due and payable, whether at maturity or by proceedings for redemption or otherwise; or

(3) default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in this Trust Agreement and such default shall not be cured within thirty (30) days after receipt by EDA of a written notice from the Trustee or the Holder of a majority in aggregate principal amount of the Bond then outstanding specifying such default and requiring the same to be remedied; provided, however, that if such default is capable of cure but cannot reasonably be cured within such thirty (30) day period, then no Event of Default shall be deemed to have occurred or be continuing under this clause (3) so long as within such thirty (30) day period EDA shall commence actions reasonably designed to cure such default and shall diligently pursue such actions until such default is cured; provided such default is cured within one hundred eighty (180) days of the first occurrence of such failure; or

(4) the occurrence of a Bankruptcy Related Event or an event of default under the TIFIA Loan Agreement.

(b) Upon the occurrence of an Event of Default actually known to the Trustee, the Trustee shall give prompt written notice to EDA specifying the nature of the Event of Default. EDA shall give the Trustee notice of all events of which it is aware that either constitute Events of Default under this Trust Agreement or, upon notice by or to EDA or the passage of time, would constitute Events of Default hereunder.

SECTION 802. Acceleration of Maturities. Upon the happening and continuance of any Event of Default specified in clause (a) of Section 801, then and in every such case the Trustee may, and upon the written request of the Holder shall, declare the principal of all of the Bond then outstanding (if not then due and payable) to be due and payable immediately, and upon such declaration the same shall become and be immediately due and payable, anything contained in the Bond or this Trust Agreement to the contrary notwithstanding; provided, however, that if at any time after the principal of the Bond shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Trust Agreement, money shall have accumulated in the Debt Service Fund sufficient to pay the principal of all matured Principal Installments of the Bond and all arrears of interest, if any, upon all the Bond then outstanding (except the Principal Installments of the Bond not then due and payable by their terms and the interest accrued on the Bond since the last Interest Payment Date) and the charges, compensation, expenses, disbursements, advances and liabilities of the Bond Registrar and the Trustee and all other amounts then payable by EDA hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and any default in the observance or performance of any covenant, condition, agreement or provision contained in the Bond or this Trust Agreement (other than a default in the payment of the principal of such Bond then due and payable only because of a declaration under this Section) shall have been remedied to the satisfaction of the Trustee, then, in every case, this Trustee shall, by written notice to EDA, rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

SECTION 803. Enforcement of Remedies. Upon the happening and continuance of any Event of Default specified in clause (a) of Section 801 of this Article, then and in every

such case the Trustee shall, in the case of clause (a)(1) or (a)(2) and may, in the case of clause (a)(3) or (a)(4), and shall proceed and upon the written request of the Holder shall proceed to protect and enforce its rights and the rights of the Holder under the laws of the Commonwealth or under this Trust Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid of execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel chosen by the Trustee or by such Holder, shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy under this Trust Agreement, the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any Event of Default becoming and remaining due from EDA for principal, interest or otherwise under any of the provisions of this Trust Agreement or of the Bond, together with interest on overdue payments of principal at the rate or rates of interest payable on any Bond outstanding and all costs and expenses of collection and of all proceedings hereunder, without prejudice to any other right or remedy of the Trustee or of the Holder and to recover and enforce any judgment or decree against EDA, but solely as provided herein, for any portion of such amounts remaining unpaid and interest, costs and expenses as above provided, and to collect (but solely from money available for such purposes), in any manner provided by law, the money adjudged or decreed to be payable.

When the Trustee incurs costs or expenses (including legal fees, costs and expenses) or renders services after the occurrence of an Event of Default, such costs and expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

SECTION 804. Effect of Discontinuance of Proceedings. If any proceeding taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, then thereafter and in every such case, EDA, the Trustee and the Holder shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no proceeding had been taken.

SECTION 805. Control of Proceedings by Holder. Anything in this Trust Agreement to the contrary notwithstanding, the Holder shall have the right, subject to the provisions of Section 903 of this Trust Agreement, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder, provided that such direction shall be in accordance with law and the provisions of this Trust Agreement.

SECTION 806. Restrictions Upon Actions by Holder. [to be revised] Except as provided in Section 811 of this Article, the Holder shall not have any right to institute any suit, action or proceeding in equity or at law on the Bond or for the execution of any trust hereunder or for any other remedy hereunder unless the Holder previously shall have given to the Trustee, EDA and the Bond Registrar written notice of the Event of Default on account of which such

suit, action or proceeding is to be instituted, and unless also the Holder shall have made a written request of the Trustee after the right to exercise such powers or right of action as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceedings in its or their name, and unless, also, there shall have been offered to the Trustee, reasonable security and indemnity against the costs, expenses and liabilities (including attorney's fees, costs and expenses) to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Trust Agreement or to any other remedy hereunder. Notwithstanding the foregoing provisions of this Section and without complying therewith, the Holder may institute any such suit action or proceeding in its name for the benefit of the Holder. It is understood and intended that, except as otherwise above provided, the Holder shall not have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security of this Trust Agreement, or to enforce any right hereunder except in the manner provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of the Holder and that any individual rights of action or other right given to one or more of such Holder by law are restricted by this Trust Agreement to the rights and remedies herein provided.

SECTION 807. Enforcement of Rights of Action. All rights of action (including the right to file proof of claim) under this Trust Agreement or under the Bond may be enforced by the Trustee without the possession of the Bond or the production thereof in any proceedings relating thereto, and any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants the Holder hereby secured, and any recovery of judgment shall be for the benefit of the Holder.

SECTION 808. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Holder is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

SECTION 809. Delay Not a Waiver. No delay or omission by the Trustee or of any Holder in the exercise of any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein; and every power or remedy given by this Trust Agreement to the Trustee and to the Holder may be exercised from time to time and as often as may be deemed expedient.

The Trustee may, and upon written request of the Holder shall, waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Trust Agreement or before the completion of the enforcement of any subsequent default or defaults or impair any rights or remedies consequent thereon.

SECTION 810. Notice of Default. The Trustee shall provide to the Bond Registrar to mail, by certified mail, return receipt requested, to the Holder at its address as it appears on the registration books written notice of the occurrence of any Event of Default

specified in clause (a) of Section 801 of this Article, within thirty (30) days after the Trustee shall have actual notice of the same, that any such Event of Default shall have occurred.

SECTION 811. Right to Enforce Payment of the Bond Unimpaired. Nothing in this Article shall affect or impair the right of the Holder to enforce the payment of the principal of and the interest on his Bond or the obligation of EDA to pay the principal of and the interest on each Bond to the Holder thereof at the time and place in said Bond expressed.

ARTICLE IX

CONCERNING THE TRUSTEE, BOND REGISTRAR, DEPOSITARY AND PAYING AGENT

SECTION 901. Acceptance of Duties. U.S. Bank National Association, with a designated corporate trust office in Richmond, Virginia, is hereby appointed as Trustee under this Trust Agreement and accepts the duties, obligations and trusts imposed upon said bank by this Trust Agreement. The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee.

None of the provisions contained in this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers. The Trustee, before the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

SECTION 902. Trustee Not Liable for Failure of EDA to Act. The Trustee shall not be liable or responsible because of the failure of EDA or of any of its employees or agents to make any collections or deposits or to perform any act herein required of EDA or because of the loss of any money arising through the insolvency or the act or default or omission of any other Trustee in which such money shall have been deposited under the provisions of this Trust Agreement. The Trustee shall not be responsible for the application or investment of any of the proceeds of the Bond or any other money deposited with it and paid out, withdrawn or transferred hereunder if such application, investment, payment, withdrawal or transfer shall be made in accordance with the provisions of this Trust Agreement. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

SECTION 903. Compensation and Indemnification of Trustee. Subject to the provisions of any contract with EDA or the County relating to compensation, EDA shall pay the Trustee reasonable compensation for all services performed by it hereunder and also all its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees incurred in and about the administration and the performance of its powers and duties

hereunder and shall indemnify and save the Trustee harmless against any liabilities that it may incur in the proper exercise and performance of its powers and duties hereunder, but solely from money available for such purpose under the terms of this Trust Agreement. Such indemnification shall survive the termination of this Trust Agreement or the sooner resignation or removal of the Trustee.

SECTION 904. Trustee May Rely on Certificates; Additional Trustee Provisions. If at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action or doing or not doing anything as such Trustee and in any case in which this Trust Agreement provides for permitting or taking any action, the Trustee, may conclusively rely upon any certificate required or permitted to be filed with it under the provisions of this Trust Agreement, and any such certificate shall be evidence of such fact or protect the Trustee in any action that it may or may not take or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact. Except as otherwise provided in this Trust Agreement, any request, notice, certificate or other instrument from EDA or the County to the Trustee shall be deemed to have been signed by the proper party or parties if signed by any EDA Representative or any County Representative, respectively, and the Trustee may accept and conclusively rely upon a certificate signed by any EDA Representative and County Representative as to any action taken by EDA and the County, respectively.

The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers appointed with due care, but shall be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed.

The Trustee may consult with counsel, and the advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon.

The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default.

Before taking any action under this Trust Agreement relating to an event of default or in connection with its duties under this Trust Agreement other than making payments of principal and interest on the Bond as it becomes due or causing an acceleration of the Bond whenever required by the Trust Agreement, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability resulting from its negligence or willful misconduct in connection with any action so taken.

The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bond.

The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligation under this Trust Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Trust Agreement sent by EDA or the County, as the case may be, by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that EDA and the County, respectively, shall provide to the Trustee an incumbency certificate listing designated persons with the authority to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If EDA or the County, as applicable, elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. EDA agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 905. Notice of Default. Except upon the happening of any Event of Default specified in clause (a)(1) or (a)(2) of Section 801 of this Trust Agreement, the Trustee shall not be deemed to have notice of any Event of Default hereunder, unless specifically notified in writing of such event of default by EDA, the County or the Holder.

SECTION 906. Trustee May Do Business with EDA and the County. The bank or trust company acting as Trustee under this Trust Agreement, and its directors, officers, employees or agents, may engage or be interested in any financial or other transaction with EDA and the County, and may maintain any and all other general banking and business relations with EDA and the County with like effect and in the same manner as if the Trustee were not a party to this Trust Agreement; and no implied covenant shall be read into this Trust Agreement against the Trustee in respect of such matters.

SECTION 907. Trustee Not Responsible for Recitals. The recitals, statements and representations contained herein (excluding the last such recital) and in the Bond (excluding the Bond Registrar's certificate of authentication on the Bond) shall be taken and construed as made by and on the part of EDA and not by the Trustee, and the Trustee assumes and shall be under no responsibility for the correctness of the same.

SECTION 908. Reliance on Certain Documents. The Trustee may conclusively rely upon and shall be fully protected and shall incur no liability in acting or proceeding, or in

not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Trust Agreement, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, or upon the written opinion of any attorney, engineer or accountant believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. The Trustee shall not be under any obligation to see to the recording or filing of this Trust Agreement or otherwise to the giving to any person of notice of the provisions hereof. The Trustee shall not be responsible for insuring the Phase II Project or collecting any insurance money, or for the validity of the execution by EDA of this Trust Agreement or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bond.

SECTION 909. Resignation and Removal of Trustee Subject to Appointment of Successor. No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 913.

SECTION 910. Resignation of Trustee. The Trustee may resign and thereby become discharged from the trusts hereby created, by notice in writing to be given to EDA and to be mailed to all owners of the Bond, not less than sixty (60) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment of a new Trustee hereunder, if such new Trustee shall be appointed before the time limited by such notice and shall then accept the trusts hereof.

SECTION 911. Removal of Trustee. The Trustee may be removed by EDA [or the Holder] at any time so long as no Event of Default shall have occurred and be continuing. A facsimile copy of each such instrument shall be delivered promptly by EDA to the Trustee. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Trust Agreement with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of EDA pursuant to resolution of the owners of not less than a majority in aggregate principal amount of the Bond then outstanding under this Trust Agreement.

SECTION 912. Appointment of Successor Trustee. If at any time hereafter the Trustee shall resign, be removed, be dissolved or otherwise become incapable of acting, or the bank or trust company acting as Trustee shall be taken over by any governmental official, agency, department or board, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, EDA shall appoint a Trustee to fill such vacancy. EDA shall cause notice of any such appointment to be mailed to all owners of the Bond.

At any time within one year after any such vacancy shall have occurred, the owners of a majority in principal amount of the Bond hereby secured and then outstanding, by an instrument or concurrent instruments in writing, executed by such owners and filed with EDA, may appoint

a successor Trustee, that shall supersede any Trustee theretofore appointed by EDA. Facsimile copies of each such instrument shall be delivered promptly by EDA to the predecessor Trustee and to the Trustee so appointed.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within ten (10) days after the vacancy shall have occurred, the Holder of any Bond outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction within the Commonwealth to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Any Trustee appointed shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having a combined capital, surplus and undivided profits aggregating not less than Fifty Million Dollars (\$50,000,000).

SECTION 913. Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to EDA, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts and subject to all the duties and obligations, of its predecessor; but such predecessor shall, nevertheless, on the reasonable written request of its successor or of EDA, and upon payment of the expenses, charges and other disbursements of such predecessor that are payable pursuant to the provisions of Section 903, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and money held by it hereunder to its successor. Should any instrument in writing from EDA be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request be executed, acknowledged and delivered by EDA.

Notwithstanding any of the foregoing provisions of this Article, any bank or trust company having power to perform the duties and execute the trusts of this Trust Agreement and otherwise qualified to act as Trustee hereunder with or into which the bank or trust company acting as Trustee may be merged or consolidated, or to which the assets and business of such bank or trust company may be sold, shall be deemed the successor of the Trustee.

Section 914. Provision of Indemnification to Trustee. Where, in this Trust Agreement, including, without limitation, Sections 210, [803,] 806 and 904 hereof, the Holder may be required to provide to the Trustee indemnification satisfactory to the Trustee prior to the Trustee's taking certain actions hereunder, in any case where the Holder would be required to provide indemnification in favor of the Trustee, such indemnification shall, to the extent permitted by law, be provided by the EDA, but only from any Trust Estate money received by the Trustee applied in payment of such amounts as Trust Expenses. Nothing herein shall limit the Trustee's right to reimburse itself from any surplus moneys on hand in any Fund, other than any amounts in the Debt Service Fund deposited in respect of principal or interest due on the

Bond on the next Payment Date or any amounts in the Reserve Fund, held by it as provided in this Trust Agreement.

ARTICLE X

EXECUTION OF INSTRUMENTS BY HOLDER, PROOF OF OWNERSHIP OF THE BOND, AND DETERMINATION OF CONCURRENCE OF HOLDER

SECTION 1001. Execution of Instruments by Holder. Any request, direction, consent or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by the Holder may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Holder or its attorney or legal representatives. Proof of the execution of any such instrument and of the ownership of the Bond shall be sufficient for any purpose of this Trust Agreement and shall be conclusive in favor of EDA with regard to any action taken by either under such instrument if made in the following manner:

- (1) The fact and date of the execution by any person of any such instrument may be proved by the verification of any officer in any jurisdiction who, by the laws thereof, has power to take affidavits within such jurisdiction, to the effect that such instrument was subscribed and sworn to before him, or by an affidavit of a witness to such execution. Where such execution is on behalf of a person other than an individual, such verification or affidavit shall also constitute sufficient proof of the authority of the signer thereof.
- (2) The ownership of the Bond shall be proved by the registration books kept under the provisions of Section 206 of this Trust Agreement.

Nothing contained in this Article shall be construed as limiting EDA to such proof, it being intended that EDA may accept any other evidence of the matters herein stated which it may deem sufficient. Any request or consent of any Holder shall bind every future Holder of the same Bond in respect of anything done by such Holder or a Trustee in pursuance of such request or consent.

Notwithstanding any of the foregoing provisions of this Section, EDA shall not be required to recognize any person as a Holder or to take any action at his request unless such Bond shall be deposited with it.

ARTICLE XI

SUPPLEMENTAL TRUST AGREEMENTS

SECTION 1101. Supplemental Agreements Without Consent of Holder. EDA from time to time and at any time, may enter into such supplements and amendments to this Trust Agreement as shall be consistent with the terms and provisions of this Trust Agreement (which Trust Agreement shall thereafter form a part hereof) and the TIFIA Loan Agreement:

- (a) to cure any ambiguity or formal defect or omission, or to correct or supplement any provision herein that may be inconsistent with any other provision herein, or

(b) to grant to or confer upon the Holder any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holder, or

(c) to add to the conditions, limitations and restrictions thereafter to be observed by EDA under the provisions of this Trust Agreement, or

(d) to add to the covenants and agreements of EDA in this Trust Agreement other covenants and agreements thereafter to be observed by EDA or to surrender any right or power herein reserved to or conferred upon EDA, or

(e) to make change necessary to comply with the requirements of Fitch, Moody's or S&P, or

(f) to make any other change that would not materially and adversely affect the interests of the Holder and, if such other change will affect the Holder, EDA delivers to the Trustee an opinion of counsel, to the reasonable satisfaction of the Holder, which confirms or demonstrates that such change would not reasonably be likely to materially and adversely affect the interests of the Holder.

SECTION 1102. Modification of Agreements with Consent of Holder. Subject to the terms and provisions contained in this Section, and not otherwise, the Holder shall have the right, from time to time, anything contained in this Trust Agreement to the contrary notwithstanding, to consent to and approve the entry by EDA into such supplement or amendment as shall be deemed necessary or desirable by EDA for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Trust Agreement; provided, however, that nothing herein contained shall permit, or be construed as permitting (a) an extension of the maturity of the principal of or the interest on the Bond issued hereunder, or (b) a reduction in the principal amount of any Bond or the rate of interest thereon, or (c) the creation of a pledge or lien on the money credited to the Debt Service Fund, or the Construction Fund other than the pledge and lien created by this Trust Agreement, or (e) a reduction in the aggregate principal amount of Bond required for consent to such supplemental agreement or (f) the issuance of additional bonds. Nothing herein contained, however, shall be construed as making necessary the approval by the Holder of the adoption and acceptance of any supplement or amendment to this Trust Agreement as authorized in Section 1101 of this Article.

If at any time EDA shall determine that it is desirable to enter any supplement or amendment to this Trust Agreement for any of the purposes of this Section, EDA shall cause notice of the proposed execution of such supplement or amendment to be mailed, first class, postage prepaid, to the Holder. Such notice shall briefly set forth the nature of the proposed supplement or amendment to this Trust Agreement and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by the Holder. EDA shall not, however, be subject to any liability to any Holder by reason of its failure to mail the notice required by this Section, and any such failure shall not affect the validity of such supplement or amendment to this Trust Agreement when approved and consented to as provided in this Section.

Upon the execution of any supplement or amendment to this Trust Agreement pursuant to the provisions of this Section, this Trust Agreement shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Trust Agreement of EDA, the Trustee, the Bond Registrar and the Holder shall thereafter be determined, exercised and enforced in all respects pursuant to the provisions of this Trust Agreement as so modified and amended.

Notwithstanding anything herein to the contrary, no supplement or amendment to this Trust Agreement that would reasonably be likely to have a material adverse effect on the Holder, if any, shall take effect without the consent of the Holder. Notwithstanding any of the provisions of Section 1101 or any other provisions herein, any supplement or amendment to this Trust Agreement that modifies the terms of the Bond may be delivered by the Trustee with the consent of the Holder and shall not be delivered without the consent of the Holder.

ARTICLE XII

SUPPLEMENTS AND AMENDMENTS TO OTHER AGREEMENTS

SECTION 1201. Supplements and Amendments Not Requiring Holder Consent. EDA may enter into supplements and amendments to the Support Agreement only in accordance with the provisions of this Article. From time to time and at any time, EDA may enter into such supplements and amendments that do not adversely affect the Holder after thirty (30) days' prior notice to, but without the consent of, the Trustee. From time to time and at any time, EDA may enter into other supplements and amendments to such agreements, and the Trustee may consent to such amendments and supplements to such that do not adversely affect the Holder (which supplements and amendments shall thereafter form a part thereof),

(a) to cure any ambiguity or formal defect or omission in of such agreements or in any supplement or amendment thereto, or

(b) to grant to or confer upon EDA or the Trustee, for the benefit of the Holder, any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holder or EDA or the Trustee, or

(c) to make any other change in either of such agreements, provided only that no such change shall be made to the Support Agreement that would be materially adverse to the interests of the Holder.

Amendments or supplements to the Support Agreement pursuant to this Section 1201 may be made without the consent of the Holder.

SECTION 1202. Supplements and Amendments Requiring Holder's Consent. Except for supplements or amendments provided for in Section 1201, EDA shall not enter into and the Trustee shall not consent to any supplement or amendment to the Support Agreement unless notice of the proposed execution of such supplement or amendment shall have been given and the Holder shall have consented to and approved the execution thereof, in the same manner

as provided for in Section 1102 hereof in the case of supplements and amendments to this Trust Agreement; provided that the Trustee shall be entitled to exercise its discretion in consenting or not consenting to any such supplement or amendment in the same manner as provided for in Section 1104 hereof in the case of supplements and amendments to this Trust Agreement.

SECTION 1203. Opinion. The Trustee shall be entitled to receive, and shall be fully protected in conclusively relying upon, the opinion of any counsel approved by it, who may be counsel for EDA, as evidence that any such proposed supplement or amendment does or does not comply with the provisions of this Trust Agreement, and that it is or is not proper for it, under the provisions of this Article, to join the execution of such supplement or amendment to the Support Agreement.

ARTICLE XIII

DEFEASANCE

SECTION 1301. Defeasance. When (a) the Bond secured hereby shall have become due and payable in accordance with its terms or otherwise as provided in this Trust Agreement, and (b) the whole amount of the principal and the interest so due and payable upon the Bond shall be paid to the Holder, and (c) sufficient funds shall also have been provided or provision made for paying all other obligations payable hereunder by EDA, then and in that case the right, title and interest of the Holder in the Funds mentioned in this Trust Agreement shall thereupon cease, determine and become void and, on demand of EDA and upon being furnished with an opinion, in form and substance satisfactory to the Trustee, of counsel nationally recognized as expert in legal matters relating to states and their political subdivisions, to the effect that all conditions precedent to the release of this Trust Agreement have been satisfied, the Trustee shall release this Trust Agreement and shall execute such documents to evidence such release as may be reasonably required by EDA and shall turn over to the County, any surplus in any and all balances remaining in the Funds. Otherwise, this Trust Agreement shall be, continue and remain in full force and effect

ARTICLE XIV

MISCELLANEOUS PROVISIONS

SECTION 1401. Effect of Dissolution of EDA. In the event EDA for any reason shall be merged or annexed or its legal existence shall otherwise be terminated, all of the covenants, stipulations, obligations and agreements contained in this Trust Agreement by or on behalf of or for the benefit of EDA shall bind or inure to the benefit of the successor or successors of EDA from time to time and any officer, board, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law, and the term "EDA" as used in this Trust Agreement shall include such successor or successors.

SECTION 1402. Effect of Covenants. All covenants, stipulations, obligations and agreements of EDA contained in this Trust Agreement shall be deemed to be covenants, stipulations, obligations and agreements of EDA to the full extent authorized or permitted by

law, and all such covenants, stipulations, obligations and agreements shall bind or inure to the benefit of the successor or successors thereof from time to time and any officer, board, body or commission to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

Except as otherwise provided in this Trust Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon EDA by the provisions of this Trust Agreement shall be exercised or performed by EDA, or by such other officers, board, body or commission as may be required by law to exercise such powers or to perform such duties.

No covenant, stipulation, obligation or agreement herein contained shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the Commission or of any agent, officer or employee of EDA in his individual capacity.

SECTION 1403. Successorship of Paying Agent and Bond Registrar. (a) Any bank or trust company with or into which any Paying Agent or the Bond Registrar may be merged or consolidated, or to which the assets and business of such Paying Agent or the Bond Registrar may be sold, shall be deemed the successor of such Paying Agent and Bond Registrar for the purposes of this Trust Agreement. If the position of any Paying Agent or the Bond Registrar shall become vacant for any reason, EDA, provided sufficient funds are available to pay all costs and expenses, if any, reasonably incurred by EDA in connection therewith, shall appoint a bank or trust company having a combined capital surplus and undivided profits of not less than \$50,000,000 to fill such vacancy within thirty (30) days after EDA receives notice of such vacancy.

(a) The Bond Registrar shall give notice of each appointment of such successor by mailing written notice of such event by first class mail, postage prepaid, to all registered owners of the Bond at their addresses as they appear on the registration books. Neither EDA nor the Bond Registrar, however, shall be subject to any liability to any Holder by reason of its failure to mail any such notice.

SECTION 1404. Manner of Giving Notice. All notices, demands and requests to be given to or made hereunder by EDA or the Trustee or the Bond Registrar shall be given or made in writing and shall be deemed to be properly given or made if sent by United States registered mail, return receipt requested postage prepaid, addressed as follows:

(a) As to EDA --

Fairfax Economic Developmental Authority
8300 Boone Boulevard, Suite 450
Vienna, Virginia 22180
Attention: Executive Director

With a copy thereof sent to:

Thomas O. Lawson, Esq.
10810 Main Street, Suite 200
Fairfax, Virginia 22030

With a second copy sent to:

Fairfax County
12000 Government Center Parkway
Fairfax, Virginia 22035
Attention: County Executive

(b) As to the Trustee –

U.S. Bank National Association
Stephanie E. Haysley, Vice President
U.S. Bank Global Corporate Trust Services
1021 East Cary Street, Suite 1850, Richmond, VA 23219

Any such notice, demand or request may also be transmitted to the appropriate above-mentioned party by facsimile transmission (including by PDF) or telephone (other than investment directions) and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing and sent as specified above.

Any of such addresses may be changed at any time upon written notice of such change sent by United States registered mail, postage prepaid, to the other parties by the party effecting the change.

All documents received by the Trustee or EDA under the provisions of this Trust Agreement, or photographic copies thereof, shall be retained in its possession until this Trust Agreement shall be released under the provisions of Section 1301 of this Trust Agreement, subject at all reasonable times to the inspection of EDA and the Holder and the agents and representatives thereof.

SECTION 1405. Substitute Mailing. If, because of the temporary or permanent suspension of postal service, EDA or the Bond Registrar shall be unable to mail any notice required to be given by the provisions of this Trust Agreement, EDA or the Bond Registrar shall give notice in such other manner as in the judgment of EDA or the Trustee or the Bond Registrar shall most effectively approximate mailing, and the giving of notice in such manner shall for all purposes of this Trust Agreement be deemed to be in compliance with the requirement for the mailing thereof.

SECTION 1406. Parties, Bond Registrar and Holder Alone Have Rights under Agreement. Except as herein otherwise expressly provided, nothing in this Trust Agreement, express or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the Trustee, the Bond Registrar, and EDA and the Holder, any right, remedy or claim, legal or equitable, under or by reason of this Trust Agreement or any provision hereof, this Trust Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the Bond Registrar, EDA and the Holder.

SECTION 1407. Effect of Partial Invalidity. In case any one or more of the provisions of this Trust Agreement or of the Bond shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Trust Agreement or the Bond, but this Trust Agreement and the Bond shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bond or this Trust Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or Agreement shall be deemed to be the covenant, stipulation, obligation or agreement of EDA to the full extent permitted by law.

SECTION 1408. Governing Law. This Trust Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to the conflict of law principles thereof.

SECTION 1409. No Recourse Against Members, Officers or Employees of EDA. No recourse under, or upon, any statement, obligation, covenant, or agreement contained in this Trust Agreement; or in the Bond hereby secured; or in any document or certification whatsoever; or under any judgment obtained against EDA or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any member, officer or employee or agent of EDA, as such, for the payment for or to, EDA or any receiver of either of them, or for, or to, the Holder or otherwise, of any sum that may be due and unpaid upon any such Bond. Any and all personal liability of every nature, whether at common law or in equity or by statute or by constitution or otherwise, of any such member, officer or employee, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for, or to, EDA or any receiver of either of them, or for, or to, any Holder or otherwise, of any sum that may remain due and unpaid upon the Bond hereby secured or any of them, is hereby expressly waived and released as an express condition of, and in consideration for, the execution of this Trust Agreement and the issuance of the Bond.

SECTION 1410. Expenses Payable under Trust Agreement. All expenses incurred in carrying out this Trust Agreement shall be payable solely from funds derived by EDA from the Support Agreement in accordance with the provisions of this Trust Agreement. Anything in this Trust Agreement to the contrary notwithstanding, the performance by EDA of all duties and obligations imposed upon it hereby, the exercise by it of all powers granted to it hereunder, the carrying out of all covenants, agreements and promises made by it hereunder, and the liability of EDA for all warranties and other covenants herein shall be limited solely to the money and revenues received from the payments from the Support Agreement(s), and from money attributable to the proceeds of the Bond, or the income from the temporary investment thereof, and, to the extent herein, the proceeds of insurance, sale and condemnation awards; and EDA shall not be required to effectuate any of its duties, obligations, powers or covenants except from, and to the extent of, such money, revenues, proceeds, and payments.

SECTION 1411. Dealing in the Bond. The Trustee, the Bond Registrar and any bank or trust company acting as Paying Agent under this Trust Agreement and its directors, officers, employees or agents, and any officer, employee or agent of EDA, may in good faith, buy, sell, own, hold and deal in the Bond issued under the provisions of this Trust Agreement and may join in any action which any Holder may be entitled to take with like effect as if such

bank or trust company were not the Trustee, the Bond Registrar or a Paying Agent under this Trust Agreement or as if such officer, employee or agent of EDA did not serve in such capacity.

SECTION 1412. Payments Due on Saturday, Sundays and Holidays. In any case where the date of maturity of interest on or principal of the Bond or the date fixed for redemption of the Bond shall be a Saturday, Sunday or a legal holiday or not a Business Day, then payment of interest or principal need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption or the interest payment date and no interest on such payment shall accrue for the period after such date.

SECTION 1413. Headings. Any heading preceding the text of the several articles hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Trust Agreement, nor shall they affect its meaning, construction or effect.

SECTION 1414. Further Authority. The officers of EDA and other agents or employees of EDA are hereby authorized to do all acts and things required of them by this Trust Agreement for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Bond and this Trust Agreement.

SECTION 1415. Agreement Effective. This Trust Agreement shall take effect immediately upon its execution and delivery.

**FAIRFAX ECONOMIC
DEVELOPMENT AUTHORITY**

**Chairman of the Fairfax County
Economic Development Authority,
Virginia**

Attest:

**Secretary of the Fairfax
County Economic Development
Authority, Virginia**

(SEAL)

[TRUSTEE]

[FORM OF REQUISITION

Construction Fund]

FAIRFAX ECONOMIC DEVELOPMENT AUTHORITY – Trust Agreement, dated as of _____, 2014 Securing Revenue Bond (Silver Line Phase II Project)
Requisition from the Construction Fund

Requisition No. _____ (“item number”)

This requisition for payment from the Project Construction Cost Account in the Construction Fund is submitted in accordance with the provisions of the Trust Agreement, dated as ____ 1, 20__, between the Fairfax Economic Development Authority and you as Trustee. Please see the attached requisition submitted to USDOT pursuant to the TIFIA Loan Agreement (the “TIFIA Requisition”) which you may rely on exclusively as evidence that such costs described therein are Costs of the Phase II Project.

You are hereby notified that you are authorized and directed by the undersigned County Representative to reimburse the County or to pay the obligation set forth in the attached TIFIA Requisition.

Dated _____

[Name]

By:

County Representative

County & Authority

SUPPORT AGREEMENT

This Support Agreement (this “Agreement”), dated as of _____, 20__, is by and between the Fairfax County Economic Development Authority (the “Authority”) and the Board of Supervisors of Fairfax County, Virginia (the “County”).

SECTION I. DEFINITIONS

For purposes of this Agreement, unless the context clearly indicates otherwise, the words and terms defined in this Section I have the respective meanings given to them herein:

“Additional Payments” shall have the meaning set forth in Section 3.01(e).

“Basic Payments” means the payments made or to be made by the County, to or for the account of the Authority to the Trustee, in respect of scheduled interest and principal payments on the Bond. [Basic Payments do not include payment of the principal amount of the Bond occasioned by the acceleration of the maturity thereof following an Event of Default under the Trust Agreement or the TIFIA Loan Agreement.]

“Bond” means the \$403,274,894 Fairfax County Economic Development Authority Revenue Bond (Silver Line Phase II Project) Series 2014, dated December [___], 2014.

“Bond Payment Date” means each Interest Payment Date and Principal Payment Date on the Bond.

“County Payments” means the Additional Payments, Basic Payments and County Reserve Payments.

“County Reserve Payments” means the payments made as set forth in Section 3.01(d) to replenish or add to the Reserve Fund established for the Bond in the Trust Agreement.

“Fiscal Year” shall have the meaning set forth in the Trust Agreement.

“Holder” shall have the meaning set forth in the Trust Agreement.

“Interest Payment Date” means each February 1 and August 1 each such date being a date two months prior to the date when interest is scheduled to be due and payable on the Bond.

“Phase 2” shall have the meaning set forth in the TIFIA Loan Agreement.

“Principal Payment Date means each February 1 and August 1 being a date two months prior to the date upon which a principal installment of the Bond is due and payable.

“Purchaser” means the TIFIA Lender, which shall purchase the Bond from the EDA on the date hereof.

“Related Document” shall have the meaning set forth in the TIFIA Loan Agreement.

“Reserve Fund” means the reserve fund for the Bond established in the Trust Agreement.

“Support Agreement” means this Support Agreement, as the same may be amended by written agreement of the parties with the consent of the Holder of the Bond as provided in Section 4.03 hereof.

“TIFIA Letter Agreement” means the TIFIA Letter Agreement, dated as of December [__], 2014 by and between the County and USDOT.

“TIFIA Loan Agreement” means that TIFIA Loan Agreement, dated as of December [__], 2014 by and among USDOT, the County and EDA, including any supplements or amendments thereto with respect to the Bond issued under this Trust Agreement evidenced by the Bond.]

“Trust Agreement” means the Trust Agreement, dated as of [December 1], 2014 between the EDA and U.S. Bank National Association, as Trustee, pursuant to which the EDA assigns to the Trustee all of the EDA’s rights under the Support Agreement, including the EDA’s rights to receive County Payments under and to enforce the terms and provisions of this Support Agreement.

“Trustee” means U.S. Bank National Association with a principal corporate office in Richmond, Virginia.

“USDOT” mean the United States Department of Transportation, acting by and through the Federal Highway Administrator, and its successors and assigns.

SECTION II. ISSUANCE OF THE BOND BY THE AUTHORITY

Section 2.01. Issuance of the Bond. The EDA agrees to issue the Bond on or before December [__], 2014. The Purchaser has agreed to buy the Bond from the EDA on December [__], 2014.

Section 2.02. Purpose for the Issuance of the Bond. The EDA agrees to apply the proceeds of the Bond, together with other funds, to finance construction of Phase 2 pursuant to the terms of the Trust Agreement and the TIFIA Loan Agreement.

SECTION III. PAYMENT UNDERTAKING BY THE COUNTY

Section 3.01. Basic Payments, Bond Debt Service Payments, Reserve Fund Payments and Additional Payments. (a) The County hereby agrees to make Basic Payments on each Bond

Payment Date in the amounts set forth on **Exhibit G** to the TIFIA Loan Agreement, as may amended from time to time, subject to the provisions of Sections 3.02 and 3.03 below.

(b) the County may, at its option, prepay the Basic Payments in accordance with the terms of the Bond and the terms of the TIFIA Loan Agreement in whole or in part on not less than [thirty (30) days'] written notice to the EDA accompanied by a specific direction to the EDA to apply such prepayment to the redemption of the Bond in accordance with its terms and the terms of the TIFIA Loan Agreement. Upon such redemption, the EDA shall credit the principal amount of the Bond so redeemed against the Basic Payments and reduce the remaining Basic Payments otherwise payable in an amount equal to the sum of (x) the principal amount of the Bond so redeemed, (y) the interest on the Bond so redeemed and (z) the interest that would have accrued on such Bond so redeemed but for such prepayment redemption.

(c) the County will prepay the County Payments in whole or in part at any time on not less than [five (5) days'] written notice to the EDA upon the mandatory redemption of Bonds in whole or in part pursuant to the terms of the TIFIA Loan Agreement and the TIFIA Letter Agreement. Upon such mandatory redemption, the EDA shall credit the principal amount of the Bond so redeemed against the County Payments and reduce the remaining County Payments otherwise payable in an amount equal to the sum of (x) the principal amount of the Bond so redeemed, (y) the interest on the portion of the Bond so redeemed and (z) the interest that would have accrued on the portion of such Bond so redeemed but for such prepayment redemption. The remaining County Payments shall be recalculated as provided in the TIFIA Loan Agreement.

(d) In the event that, at any time during any Fiscal Year while the Bond remains outstanding under the Trust Agreement, whether due to additional disbursements made under the TIFIA Loan Agreement or from previous payments of debt service on the Bond, the amount to the credit of the Reserve Fund is less than the requirement therefor established by the Trust Agreement, the County shall forthwith budget, appropriate and pay over from its General Fund to the Trustee the amount of such deficiency in the form of County Reserve Payments. The obligation of the County under this subsection (d) of this Section 3.01 to make any such payment is in all respects subject to the provisions of Section 3.02.

(e) The County agrees to make as Additional Payments for Phase 2 all other amounts (other than Basic Payments) payable by the County to the EDA under this Support Agreement as set forth below in Section 3.01(f).

(f) The County will pay as Additional Payments the following:

(1) all reasonable fees and expenses (including reasonable attorney's fees, costs and expenses) of the Trustee and, to the extent permitted by law, the costs and expenses of holding the Trustee harmless against any loss, liability or expense (including the costs and expenses of defending against any claim of liability) incurred without negligence or willful misconduct by the Trustee and arising out of or in connection with its acting as Trustee under the Trust Agreement;

(2) all reasonable fees and expenses of the bond registrar, any depository and any paying agent appointed under the Trust Agreement; and

(3) all loan servicing fees payable to USDOT and any fees, costs, charges and expenses incurred by USDOT (including the reasonable fees, costs and expenses of counsel and other advisors) in connection with the negotiation, preparation, execution, delivery and performance of the TIFIA Loan Agreement; and

(4) all reasonable fees and expenses of the EDA including, without limitation, the reasonable fees and expenses of its counsel in connection with the financing Phase 2, the preparation of this Support Agreement, the TIFIA Loan Agreement and the Trust Agreement, any expenses payable by the EDA under the Trust Agreement or the TIFIA Loan Agreement and not otherwise payable by the County under this Support Agreement, and, to the extent permitted by law, the costs and expenses of holding the EDA harmless against any loss, liability or expense (including the costs and expenses of defending against any claim of liability) incurred without negligence or willful misconduct by the EDA and arising out of or in connection with this Support Agreement, the TIFIA Loan Agreement, the Bond or the Trust Agreement.

Section 3.02. Payments Subject to Appropriation. The obligation of the County to make the County Payments under this Support Agreement is contingent upon the appropriation for the applicable Fiscal Year by the Fairfax County Board of Supervisors of funds from which such County Payments can be made. The County shall not be liable for any County Payments that may be payable pursuant to this Support Agreement unless and until such funds have been appropriated for payment for such purpose and then only to the extent thereof. This Support Agreement shall not constitute a pledge of the full faith and credit of the County or a bond or debt of the County in violation of Section 10 of Article VII of the Constitution of the Commonwealth of Virginia.

Section 3.03. County Executive to Request Appropriations. The Board of Supervisors of the County covenants that it will cause the County Executive of Fairfax County (or any person succeeding to the principal function thereof or such other relevant official or employee) in preparing the County's operating budget for each Fiscal Year so long as the Bond remains outstanding under the Trust Agreement to include therein the debt service on the Bond that is scheduled to become due and payable and estimated increases in the Reserve Fund requirement, whether due to additional disbursements made under the TIFIA Loan Agreement or from previous payments of debt service on the Bond, during such Fiscal Year for which the budget is proposed.

Section 3.04. Consent to Assignment. The County hereby agrees that the EDA shall assign to the Trustee the EDA's rights under this Support Agreement, including the EDA's rights to receive County Payments under and to enforce the terms and provisions of this Support Agreement.

SECTION IV. MISCELLANEOUS

Section 4.01. Third Party Beneficiaries. This Payment Agreement shall inure to the benefit of the EDA, the County and the Holder of the Bond, and no other persons shall be deemed third party beneficiaries of this Support Agreement.

Section 4.02. Net Contract. The County shall pay to the EDA all County Payments payable to the EDA free of any abatement, charges, counterclaims, assessments, set-offs, offsets, impositions or deductions of any kind whatsoever, and under no circumstances or conditions shall the EDA be expected or required to make any payment of any kind with respect to Phase 2 or be under any obligation or liability hereunder, except as provided in this Support Agreement, the Trust Agreement, the TIFIA Loan Agreement, the TIFIA Letter Agreement or any other Related Document to which the EDA is a party.

Section 4.03. Amendments. This Agreement may be amended or any of its terms modified only by a written document authorized, executed and delivered by the Authority and the County with the prior written consent of the Holder of the Bond.

Section 4.04. Effective Date. This Agreement shall take effect immediately upon its execution and delivery.

Section 4.05. Termination. This Agreement shall terminate upon the redemption of the Bond.

Section 4.06. Counterparts. This Agreement may be executed in one or more counterparts and when each party hereto has executed at least one counterpart, this Agreement shall become binding on both parties and such counterparts shall be deemed to be one and the same document.

Section 4.07. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

[The rest of this page is left blank intentionally]

IN WITNESS WHEREOF, the EDA and the County have caused this Agreement to be executed by their respective duly authorized officers, all as of the date and year first written above.

**FAIRFAX COUNTY ECONOMIC
DEVELOPMENT AUTHORITY**

By: _____
Chairman

[SEAL]

ATTEST:

By: _____
Secretary

**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA**

By: _____
County Executive

[SEAL]

ATTEST:

By: _____
Clerk to the Board of Supervisors

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF THE FORM OF A LETTER AGREEMENT BETWEEN THE COUNTY AND THE UNITED STATES DEPARTMENT OF TRANSPORTATION RELATING TO THE PARKING FACILITIES TO BE CONSTRUCTED AT THE HERNDON AND INNOVATION CENTER METRO STATIONS

WHEREAS, the County has made an approximately \$515,000,000 financial commitment (the "Commitment") for a portion of the cost of the extension of the existing Metrorail transportation system by approximately 11.6 miles, from the Metrorail station at Wiehle Avenue in Reston to the Fairfax-Loudoun County line near Route 28, including the three stations located within the boundaries of the District (the "Phase II Project") pursuant to the terms of the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor entered into as of July 19, 2007 (the "Funding Agreement"), by and among the County, Loudoun County, Virginia and the Metropolitan Washington Airports Authority ("MWAA"); and

WHEREAS, the County intends to fulfill its Commitment under the Funding Agreement in part from amounts received by the Fairfax County Economic Development Authority ("EDA") from proceeds of a draw down loan (the "TIFIA Loan") provided by the United States Department of Transportation ("USDOT") to EDA pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 and all under the terms of a Loan Agreement by and among EDA, the County and USDOT; and

WHEREAS, the County has agreed pursuant to the terms of a Memorandum of Agreement, executed in December 2011, among MWAA, USDOT, the Commonwealth of Virginia, the County, Loudoun County and Washington Metropolitan Area Transit Authority to, use its best efforts to finance, from financing sources other than from proceeds of the TIFIA Loan, the costs of parking facilities (the "Parking Facilities") located at or adjacent to the new rail stations at Herndon and Innovation Center constructed as part of the Phase II Project; and

WHEREAS, there has been presented to the Board a proposed Letter Agreement (the "Letter Agreement"), between the County and USDOT the terms of which relate to the financing, construction, other details of the Parking Facilities; and

WHEREAS, the Board has duly reviewed and considered the form of the Letter Agreement and has determined that it is in acceptable form; and

WHEREAS, the Board has determined that it is necessary to delegate to the Chairman and Vice Chairman of the Board, the County Executive and the Chief Financial Officer of the County (each, a "Delegate") the power to approve the details of these transactions but subject to the guidelines and standards established hereby; now, therefore,

BE IT RESOLVED by the Board as follows:

SECTION 1. The form of the Letter Agreement presented to this meeting, is hereby approved and a Delegate, as appropriate, and the Clerk or any Deputy Clerk of the County, if appropriate, be, and they hereby are, authorized, directed and empowered to execute and deliver in the name and on behalf of the County, the Letter Agreement in such form and containing substantially the terms and provisions therein contained, with such additions and modifications as shall be approved by those executing the Letter Agreement, their execution thereof being conclusive evidence of such approval.

SECTION 2. The execution and delivery by a Delegate of the Letter Agreement and any other agreements, documents, closing papers and certificates executed and delivered pursuant to this Resolution shall be conclusive evidence of their approval of the changes, if any, in the form thereof and of their authority to execute and deliver such agreements, documents, certificates and closing papers on behalf of the Board.

SECTION 3. The members, officers, legal counsel, agents and employees of the Board and the County, and the officers and agents of EDA and the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the Letter Agreement for the full, punctual and complete performance of all the terms, covenants, provisions and agreements of the Letter Agreement, and, also, to do all acts and things required of them by the provisions of this Resolution.

SECTION 4. Each Delegate is authorized to execute one or more certificates, evidencing the determinations made or other actions carried out pursuant to the authority granted in this Resolution, and any such certificates, documents or agreements shall be conclusive evidence of the actions or determinations as stated therein.

SECTION 5. All actions taken by the Board and the members, officers and employees of the Board in connection with this Resolution, and the authorization, execution and delivery of the agreements, certificates and other documents to be executed by the Board and delivered in connection with this Resolution are hereby ratified and confirmed.

SECTION 6. Any and all resolutions of the Board or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict. All capitalized terms not defined herein shall have the meanings as set forth in the Trust Agreement.

SECTION 7. This Resolution shall take effect immediately upon its adoption.

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A FORM OF A PROJECT AGREEMENT RELATING TO THE PAYMENT OF THE TIFIA LOAN WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH OTHER DOCUMENTS AND AGREEMENTS RELATING TO SUCH TRANSACTIONS AS MAY BE NECESSARY OR REQUIRED

WHEREAS, the Board of Supervisors (the “Board”) of Fairfax County, Virginia (the “County”) following a public hearing and petition filed with the Board (the “Petition”), approved and established on December 21, 2009, the Phase II Dulles Rail Transportation Improvement District (the “District”) for the purpose of providing transportation improvements to the Washington Metropolitan Area Transit Authority’s (“WMATA”) transportation system, known as Metrorail, in the District; and

WHEREAS, the County has made an approximately \$515,000,000 financial commitment (the “Commitment”) for a portion of the cost of the extension of the existing Metrorail transportation system by approximately 11.6 miles, from the Metrorail station at Wiehle Avenue in Reston to the Fairfax-Loudoun County line near Route 28, including the three stations located within the boundaries of the District (the “Phase II Project”) pursuant to the terms of the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor entered into as of July 19, 2007 (the “Funding Agreement”), by and among the County, Loudoun County, Virginia (“Loudoun County”) and the Metropolitan Washington Airports Authority (“MWAA”); and

WHEREAS, the County intends to fulfill its Commitment under the Funding Agreement in part from amounts received by the Fairfax County Economic Development Authority (“EDA”) from proceeds of a draw down loan (the “TIFIA Loan”) provided by the United States Department of Transportation (“USDOT”) to EDA pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 and all under the terms of a Loan Agreement by and among EDA, the County and USDOT (the “Loan Agreement”); and

WHEREAS, the County has requested EDA to issue a bond (the “Bond”) to be designated “Fairfax County Economic Development Authority Revenue Bond (Silver Line Phase II Project), Series 2014”, such bond to be executed and delivered to USDOT as evidence of EDA’s obligation to repay the TIFIA Loan; and

WHEREAS, pursuant to the Petition the District has agreed to provide financing up to \$330,000,000 towards the cost of the Phase II Project from special tax revenues (the “Special Tax Revenues”) that result from the levy of a special improvement tax in the District (the “Special Improvements Tax”) and proceeds of additional EDA bonds, if any, to finance a portion of the Phase II Project secured by the Special Tax Revenues; and

WHEREAS, there has been presented to the Board a proposed Project Agreement -- Phase II Dulles Rail by and among the Board, the District and EDA (the “Project Agreement”), which sets forth, among other things, the agreement and respective responsibilities of the County, EDA and the District regarding the method of financing the payment of a portion of the debt service of the Bond from Special Tax Revenues (the “District’s Allocable Portion of the Bond”), including (a) the request by the District to the County to levy the Special Improvements Tax and collect the Special Tax Revenues in an amount sufficient for the District or the County,

as the agent of the District, to make debt service payments on the District's Allocable Portion of the Bond and (b) the District's undertaking to request the Board to make payments from the Special Tax Revenues collected, in an amount sufficient to pay District's Allocable Portion of the Bond; and

WHEREAS, the Board has duly reviewed and considered the form of the Project Agreement and has determined that it is in acceptable form; and

WHEREAS, the Board has determined that it is necessary to delegate to the Chairman and Vice Chairman of the Board, the County Executive and the Chief Financial Officer of the County (each, a "Delegate") the power to approve the details of these transactions but subject to the guidelines and standards established hereby; now, therefore,

BE IT RESOLVED by the Board as follows:

SECTION 1. The form of the Project Agreement presented to this meeting, is hereby approved and a Delegate, as appropriate, and the Clerk or any Deputy Clerk of the County be, and they hereby are, authorized, directed and empowered to execute and deliver in the name and on behalf of the County, the Project Agreement in such form and containing substantially the terms and provisions therein contained, with such additions and modifications as shall be approved by those executing the Project Agreement, their execution thereof being conclusive evidence of such approval.

SECTION 2. The members, officers, legal counsel, agents and employees of the Board and the County, and the officers and agents of EDA and the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the Project Agreement for the full, punctual and complete performance of all the terms, covenants, provisions and agreements of the Project Agreement, and, also, to do all acts and things required of them by the provisions of this Resolution.

SECTION 3. Each Delegate is authorized to execute one or more certificates, evidencing the determinations made or other actions carried out pursuant to the authority granted in this Resolution, and any such certificates, documents or agreements shall be conclusive evidence of the actions or determinations as stated therein.

SECTION 4. All actions taken by the Board and the members, officers and employees of the Board in connection with this Resolution, and the authorization, execution and delivery of the agreements, certificates and other documents to be executed by the Board and delivered in connection with this Resolution are hereby ratified and confirmed.

SECTION 5. Any and all resolutions of the Board or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict.

SECTION 6. This Resolution shall take effect immediately upon its adoption.

CONSIDERATION – 1

Appeal of Planning Commission Approval of FDP No. 2014-BR-007, Subject to Option A Only; NVR, Inc. (Braddock District)

ISSUE:

Consideration of an appeal filed by NVR, Inc., pursuant to Zoning Ordinance § 16-402(9), challenging the Planning Commission's decision to conditionally approve Final Development Plan (FDP) No. 2014-BR-007, subject to Option A only and approval of the concurrent rezoning application.

TIMING:

Board of Supervisors' action is required on December 2, 2014, so that this appeal may be decided along with the concurrent rezoning application.

BACKGROUND:

NVR, Inc., is the applicant for a rezoning, RZ 2014-BR-007 (the Rezoning), which seeks to rezone approximately 13.88 acres of real property located at Tax Map Nos. 56-2((1)) parcels 54, 55, 57, 58, and 59 and 56-2((4)) parcel 1 (application property) from the R-1 District to the PDH-3 District to permit the construction of 40 single-family detached dwelling units. Concurrent with the Rezoning, the applicant filed CDP/FDP No. 2014-BR-007 (the CDP/FDP). The CDP/FDP contains three alternative layouts, identified as Options A, B, and C, which reflect different options for a street connection between the application property and an adjacent subdivision. Option A includes a full public street connection from the Forest Hill Drive entrance to the proposed development and extends through to the existing Delsignore Drive, which in turn feeds into Nancyann Way and ultimately Shirley Gate Road. Option B includes no vehicular connection to the existing Delsignore Drive, and utilizes an entirely private street network. Option C preserves a possible future public street connection from the proposed development to Delsignore Drive.

On November 13, 2014, the Planning Commission held a decision only hearing on the Rezoning and CDP/FDP, following a public hearing on the application one week earlier. The Planning Commission recommended approval of the Rezoning, subject only to Option A. In addition, the Planning Commission approved the FDP, subject only to Option A and the Board's approval of the Rezoning, only insofar as it included a full public street connection through the proposed development.

Board Agenda Item
December 2, 2014

On November 21, 2014, the applicant timely filed an appeal of the Planning Commission's decision to conditionally approve the FDP, subject to Option A and the full public street connection. Zoning Ordinance § 16-402(9) permits an aggrieved party, by "written petition to the Board" filed within 10 days of the Planning Commission's decision, to "appeal a Planning Commission decision for approval or approval with modifications of a final development plan." Section 16-402(9) further states that "the basis for the appeal shall be that the final development plan is or is not in substantial conformity with the approved conceptual development plan." As the grounds for its appeal, the applicant states that the FDP that was conditionally approved by the Planning Commission, but only insofar as it depicted a full public street connection, is not in substantial conformance with the CDP because it precludes the Board from considering the three alternatives presented by the applicant in the CDP as outlined above. Based on this inconsistency, the applicant requests that the Board reverse the decision of the Planning Commission regarding FDP 2014-BR-007 and approve the FDP consistent with the Board's approved option for the street connection.

FISCAL IMPACT:
None

ENCLOSED DOCUMENT:
Attachment 1 - Appeal Letter dated November 21, 2014

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
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November 21, 2014

VIA HAND DELIVERY

Catherine A. Chianese
Office to the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, VA 22035-0072

Appeal of FDP 2014-BR-007

Dear Ms. Chianese:

On behalf of our client, NVR, Inc., we are submitting this written petition to appeal the Fairfax County Planning Commission's decision to approve FDP 2014-BR-007. This appeal is brought under authority of Fairfax County Zoning Ordinance (the "Zoning Ordinance") Section 16-402(9).

NVR, Inc. is the applicant for a concurrent rezoning (the "Rezoning"), RZ 2014-BR-007, and final development plan (the "FDP"), FDP 2014-BR-007, on property with Fairfax County tax map numbers 56-2-((01))-54,55,57,58, & 59 and 56-2-((04))-1 (collectively the "Property"). Pursuant to the Zoning Ordinance, NVR, Inc. submitted the Rezoning, which includes a conceptual development plan (the "CDP"), and the FDP for review and approval by Fairfax County. The CDP and FDP contain three alternative layouts, listed in the CDP/FDP as Options A, B, and C, that include different options for a street connection from this project to an adjacent subdivision. Option A shows a connection between a proposed street and the existing Delsignore Drive. Option B shows no such street connection and instead provides a cul-de-sac at Delsignore Drive. Option C shows a possible future street connection.

On November 13, 2014, the Planning Commission held a public hearing on the Rezoning and FDP. At the conclusion of the public hearing, the Planning Commission made several motions regarding the project that are the subject of this appeal. The Planning Commission recommended approval of the Rezoning, subject only to Option A, and including full public road connections. Additionally, the Planning Commission approved the FDP, subject to Option A, and including a full public road connection. The FDP approval was conditioned upon Board of Supervisors approval of the Rezoning.

November 21, 2014

Page 2

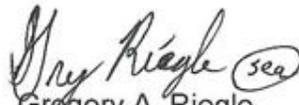
NVR, Inc. is appealing the Planning Commission's approval of the FDP subject only to Option A. Zoning Ordinance Section 16-402(9) permits "an aggrieved party" to "appeal a Planning Commission decision for approval or approval with modifications of a final development plan". Such an appeal must be filed with the Board of Supervisors within ten (10) days after the decision of the Planning Commission. Appeals are perfected through written petition of the Board setting for the reasons for the appeal. As provided in Section 16-402(9), "The basis for an appeal shall be that the final development plan is or is not in substantial conformity with the approved conceptual development plan."

NVR, Inc. is an aggrieved party as that term is defined in Virginia law. As such, it has standing to appeal the Planning Commission's decision to approve the FDP. Additionally, the Planning Commission's decision occurred on November 13, 2014. This written petition is being filed on November 21, 2014, which is within the ten (10) day appeal period.

The basis for this appeal is that the FDP approved by the Planning Commission will not be in substantial conformity with the CDP because it precludes consideration of all three alternatives by the Board of Supervisors in connection with their approval of the Rezoning. The Rezoning, including the CDP, and the FDP were specifically designed to permit a full consideration of all three alternatives by the Board of Supervisors. The options were created after painstaking discussions with all stakeholders. The Planning Commission, through its approval of the FDP only with Option A, has unreasonably limited the Board of Supervisor's authority under the Zoning Ordinance to make the final decision on whether Option A, B, or C best serves the needs of the County and the broader community. Determining the most appropriate solution should rest with the Board of Supervisors.

For the above reasons, we respectfully request that the Board of Supervisors reverse the decision of the Planning Commission regarding FDP 2014-BR-007 and approve the FDP consistent with its preferred option within the framework of the Rezoning, should the Board of Supervisors elect to approve the same.

Sincerely,


Gregory A. Riegle,
Attorney for NVR, Inc.

Cc: Kiel Stone, Chief of Staff to Supervisor John Cook
Rosemary Ryan, Aide to Supervisor John Cook
Elizabeth Teare, Fairfax County Attorney's Office

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Board Agenda Item
December 2, 2014

INFORMATION – 3

Planning Commission Action on Application 2232-D13-9, CWS VII, LLC & The Trustees of Andrew Chapel United Methodist Church (Dranesville District)

On Wednesday, November 12, 2014, the Planning Commission voted 12-0 to approve 2232-D13-9.

The Commission noted that the application met the criteria of character, location, and extent, and was in conformance with Section 15.2-2232 of the Code of Virginia.

Application 2232-D13-9 sought approval for a 120-foot telecommunication facility and related ground structure on the subject property. The property is located at 1301 Trap Road, Vienna. Tax Map 19-4 ((1)) 47.

ENCLOSED DOCUMENTS:

Attachment 1: Verbatim excerpt

Attachment 2: Vicinity map

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Chris Caperton, Public Facilities Branch Chief, Planning Division, DPZ

Jill Cooper, Executive Director, Planning Commission Office

SE 2013-DR-019/2232-D13-9 – CWS VII, LLC & THE TRUSTEES OF ANDREW CHAPEL
UNITED METHODIST CHURCH

Decision Only During Commission Matters
(Public Hearing held on October 30, 2014)

Commissioner Ulfelder: Thank you, Mr. Chairman. This evening we have a decision only for a concurrent 2232 and Special Exception application for a telecommunications tower disguised as a 120-foot tall bell tower and approval to permit an existing church with a nursery school as a Special Exception use, whereas it is now approved as a Special Permit use. The telecommunications facility is on property owned by the Andrew Chapel United Methodist Church on Route 7 at the intersection with Trap Road. This application has been in the works since mid-2013 before I joined the Commission and has gone through a number of changes and revisions on route to the Planning Commission and to the Board of Supervisors. During this time, it also has been the focus of various open meetings with members of the church and residents of the surrounding neighborhoods, as well as several balloon flies to demonstrate the proposed height of the telecommunication facility. Many questions were asked and various concerns were voiced. As the application moved through the County review process with a few fits and starts, some members of the adjacent Shouse Village Neighborhood formed a group, Stop Andrew Chapel Cell Tower (SACCT), to express their opposition to the proposed tower. I have attended meetings to understand the support and opposition to this application. We have also received voluminous amounts of correspondence and other material in connection with this application. The SACCT group in particular has raised a wide range of issues and arguments – and has submitted detailed materials in support of their position. They have argued strenuously that as proposed – as proposed, the bell tower telecommunications facility is massive, ugly, offensive, and would be a visual blight on their community and the surrounding area that will lower their property values. For the reasons that follow, I am not persuaded by these arguments. Our decision on the 2232 application is guided by the Comprehensive Plan and, in particular, Objectives 42 and 43 of the Policy Plan Element of the Comprehensive Plan under Mobile and Land-Based Telecommunications Services. Under *Virginia Code 15.2-2232*, we must determine whether the location, character, and extent of the proposed bell tower at its proposed location is substantially in accord with the Plan. After carefully reviewing the application, staff report, and the other materials and arguments submitted for the record, I have concluded that this application substantially conforms to the Comprehensive Plan. Staff has thoroughly articulated the grounds for approval in the staff report so I will refrain from reiterating all of those points here. I will, however, briefly highlight some of the factors leading to this decision. First, the application does propose construction of a new tower while Objective 42, Policy A, encourages avoiding construction of new structures. I am familiar with the area and am satisfied with the applicant's conclusion that there are no existing tall structures available to address coverage and capacity needs in the target area. There is one existing facility at the Providence Baptist Church, which is approximately a half mile to the east of the proposed bell tower. Verizon Wireless' engineer makes it clear that the steeple facility, with antenna space at approximately 55 feet, is too low to provide the same coverage to the target area. I think it is important to note that, in any event,

there is only one slot available at the Providence Baptist Church and no room to co-locate as many as three additional carriers, which could be accommodated at the proposed Andrew Chapel bell tower. When existing structures are not available or co-location is not appropriate because of service needs, Objective 42, Policy B, recommends locating new structures on properties that provide the greatest opportunity to conceal the facilities and minimize visual impact. The applicants have proposed to locate the bell tower on a 7-acre parcel of property in a location that maximizes the distance between the facility and residential properties. Other than the Covance property across the street that was not interested in hosting a telecommunications facility, the subject property is one of the larger parcels of property in this vicinity. The size of the parcel allows for substantial setbacks of the tower that would be impossible on a smaller lot. Further, the proposed tower and supporting equipment structures have been relocated on the property, relative to prior applications, in order to reduce visibility from certain locations. The facility's proposed siting near Leesburg Pike also allows this major arterial to provide additional buffering to properties across and in the vicinity of Leesburg Pike. In fact, disguised as a bell tower, it will not be readily apparent to anyone driving past on Route 7 or in the area that it is, in fact, a telecommunications facility bristling with antennas. Thus, in many respects, it is visually similar to the bell tower communications facility located at the Dranesville United Methodist Church approximately three miles to the west of this proposed site and also visible from Route 7. Objective 42, Policy D, provides that when multiple sites provide similar or equal opportunity to minimize impacts, public lands should be the preferred location. This policy recommendation has touched off a controversy over whether the Fairfax County Fire and Rescue Station – Station 42 – located at the corner of Beulah Road and Route 7 approximately one mile west of the Andrew Chapel site should be the preferred location. Originally, it was thought that Station 42 could not be considered as a possible location for a telecommunications facility based on communication with the Facilities Management Division and the applicant. During the review of this application, it became apparent that it could possibly be considered for a telecommunications facility, but that it would need the approval of a concurrent 2232, Special Exception, and a Proffer Condition Amendment to site such a facility on the Station 42 property. The application does not propose a location for its facility on the Fire Station property that would allow for a comparison of impacts because the Fire Station is outside of the coverage area it is targeting with this application. While the propagation maps indicate that a similar telecommunications facility at the Station 42 site could cover a portion of the target area, it is still only 50 to 60 percent overlap, which still leaves a coverage need for the area west of Tysons and east of Station 42. The applicant in this case has indicated a possible future interest in the Station 42 site in order to continue to fill the carriers' coverage and capacity gap between Tysons and the Difficult Run Stream Valley to the west. The record indicates that there are no other viable sites between the church site and the Station 42 site that can meet the carriers' needs. Thus, I believe it is clear that the proposed Andrew Chapel bell tower facility is the site that can best meet the needs of the carriers' target area. I also find that the application substantially conforms to the Comprehensive Plan in terms of the character and extent of the proposed facility. The applicants have minimized visual impacts on the surrounding area, in accordance with Objective 42, Policy C, by camouflaging the facility as a bell tower, lowering the height of the tower from 140 to 120 feet, narrowing the width of the three sides, spacing the concealment panels farther apart vertically to reduce their visual mass, and replacing the proposed flame on the site with a simple cross. This stealth design is conceptually compatible with the church use and all antennas will be hidden from view by concealment panels. The applicants have also demonstrated conformance to Policy K through a balloon fly and photographic simulations showing that views of the facility are

mitigated by the structure's design, existing and proposed vegetation, the overall surrounding area, and distance from residential properties. Even with all of these changes and landscaping, the bell tower will be visible from certain points and the existing vegetation, as well as the additional trees, will never be tall enough to completely hide the bell tower. Nevertheless, I agree with Staff's assessment that the Plan does not require telecommunications facilities to be invisible. They should, instead, be designed and located to provide the greatest opportunity to conceal the facilities and mitigate their visual impact. In this case, I believe that the revised bell tower design is appropriate on the Andrew Chapel Church property and significantly reduces the visual impact of the structure. In addition, the issue of visibility from vehicles on Route 7 and some of the surrounding properties that will have a view of a portion of the bell tower has been analyzed well in the Staff Report and the proposed conditions, including the additional landscaping, will help further reduce the visual impact of the proposed bell tower. In concluding that the proposed facility is substantially in accordance with the Comprehensive Plan, I have not ignored the opposition's contention that the applicants have failed to demonstrate any need for this facility and the application should therefore be denied under Objective 42, Policy C. I disagree. I think it is important to note that the applicant in this case, Community Wireless Structures – or CWS – is not a wireless communications carrier. It sites, permits, builds, and then leases space to the carriers, such as Verizon Wireless, Sprint, T-Mobile, and AT&T, on what are essentially privately owned telecommunications towers. In turn, CWS pays rent for its towers to the land owner, in this case Andrew Chapel United Methodist Church. Thus, CWS is dependent on pursuing sites that the carriers, its potential lessees, deem are necessary for them to provide adequate wireless coverage in a target area, as well as to meet their current and projected need for additional capacity and usage in the same area. In this case, if the application is approved and the tower built, Verizon Wireless has provided CWS with a letter of intent to install its antennas at a height of 115 feet. T-Mobile has provided CWS with a letter of interest to install its antennas at a height of 105 feet. And Sprint has provided CWS with a letter of interest to install its antennas at a height of 95 feet. Therefore, I believe it is fair to conclude that three of the major wireless service carriers see a need to provide better coverage and increase the capacity in the area that would be served by this proposed telecommunications facility. The applicant has submitted coverage maps based on propagation models regularly developed and used by the carriers to determine where additional or improved service is needed that indicate that the proposed tower will help meet that need. In this – in his October 7, 2014 letter and discussion at the October 30th public hearing, Verizon Wireless' independent engineer explained the basis for the approach used by the carriers for determining need, as well as why the industry approach is appropriate for such a determination, particularly as compared with other data submitted for the record. In addition, the Planning Commission has received a number of communications from other residents of the area and church members indicating that at times and in certain areas around the church and Shouse Village, the current wireless service is inadequate. Based on this data and information, I think it is reasonable to assume there is a need for additional and improved service in the target area and that the proposed church bell tower would help meet that need. Finally, the application is required to, and does satisfy, the 17 applicable Special Exception standards. These include being in harmony with the Comprehensive Plan and purpose and intent of the zoning district – and not adversely affecting the use or development of adjacent properties, in accordance with the zoning district and Comprehensive Plan. With the design of the bell tower, the location near Route 7 – which maximizes the distance from surrounding properties – and the existing and proposed landscaping, and as fully outlined in the staff report, I believe the standards are met. Therefore, Mr. Chairman, my first motion – I MOVE THAT THE

PLANNING COMMISSION FIND THAT THE FACILITY PROPOSED UNDER 2232-D13-9 SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT, AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA*, AND THEREFORE IS SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE COMPREHENSIVE PLAN.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of the motion? All those in favor of the motion to approve 2232-D13-9, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Ulfelder.

Commissioner Ulfelder: Do we need to ask the representative of the applicant to-

Chairman Murphy: On the Special Exception, yes.

Commissioner Ulfelder: -on the – we'll do that after we move on the motion?

Chairman Murphy: I would do it now before we make the motion.

Commissioner Ulfelder: Yes. Is there the-

Chairman Murphy: Mr. Donohue.

Commissioner Ulfelder: Mr. Donohue, yes.

Ed Donohue, Applicants Agent, Donohue & Stearns, PLC: Mr. Chairman – Ed Donohue, on behalf of the applicant – yes sir.

Commissioner Ulfelder: Does the applicant fully accept the proposed development conditions to the Special Exception that are dated, I believe, October 14th?

Mr. Donohue: Yes sir, we do.

Commissioner Ulfelder: Okay, thank you.

Mr. Donohue: Thank you.

Commissioner Ulfelder: Therefore, Mr. Chairman I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SE 2013-DR-019, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED OCTOBER 14, 2014, CONTAINED IN APPENDIX 1 TO THE STAFF REPORT AND THE MODIFICATION OF SECTION 13-303 AND 13-304 OF THE ZONING ORDINANCE FOR

TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS TO PERMIT THE
LANDSCAPING AND BARRIERS, AS SHOWN ON THE SPECIAL EXCEPTION PLAT.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2013-DR-019, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: Point of clarification. I do support the motion. I did not – I was not present that night – the night of the public hearing. But I did look at the TV.

Chairman Murphy: Okay, thank you very much.

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(Each motion carried by a vote of 12-0.)

JLC

Special Exception

SE 2013-DR-019



Applicant: CWS VII, LLC & THE TRUSTEES OF ANDREW CHAPEL UNITED METHODIST CHURCH
 Accepted: 02/27/2014- AMENDED 11/26/2013
 Proposed: CHURCH WITH NURSERY SCHOOL AND TELECOMMUNICATIONS FACILITY
 Area: 7.0127 AC OF LAND; DISTRICT - DRANESVILLE

Zoning Dist Sect: 03-010403-0104
 Art 9 Group and Use: 1-08 3-15
 Located: 1301 TRAP ROAD, VIENNA, VA 22182
 Zoning: R- 1
 Plan Area: 2,
 Overlay Dist:
 Map Ref Num: 019-4- /01/ /0047

