

RESOLUTION CONFIRMING THE DELEGATION OF AUTHORITY TO DETERMINE TRANSFER OF CERTAIN FUNDS HELD IN THE REVENUE STABILIZATION SUBFUND AND THE RESIDUAL FUND ESTABLISHED IN ACCORDANCE WITH THE TRUST AGREEMENT RELATING TO AND SECURING THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY TRANSPORTATION IMPROVEMENT DISTRICT REVENUE BONDS (SILVER LINE PHASE I PROJECT)

WHEREAS, the Board of Supervisors (the “Board”) of Fairfax County (the “County”) approved and established on February 23, 2004, following a public hearing and petition filed with the Board (the “Petition”), the Phase I 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 Phase I Dulles Rail Transportation Improvement District Commission (the “Commission”) is the governing body of the District; and

WHEREAS, the County made a \$400,000,000 financial commitment (the “Commitment”) for a portion of the cost of an extension of WMATA’s Metrorail of approximately 11 miles, from the Orange Line between East and West Falls Church stations to Wiehle-Reston East Avenue in Reston, including four stations in Tysons (the “Phase I 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 fulfilled its Commitment under the Funding Agreement from special tax revenues (the “Special Tax Revenues”) that result from a levy of a special improvement tax in the District (the “Special Improvements Tax”) and from proceeds of the \$205,705,000 Fairfax County Economic Development Authority (the “EDA”) Transportation Improvement District Revenue Bonds (Silver Line Phase I Project) Series 2011 (the “Series 2011 Bonds”) and the \$42,390,000 Transportation District Improvement Revenue Bonds (Silver Line Phase I Project) Series 2012 (the “Series 2012 Bonds”) secured by the Special Tax Revenues; and

WHEREAS, the EDA issued the Series 2011 Bonds and Series 2012 Bonds under a Trust Agreement, dated as of May 1, 2011, between the EDA and The Bank of New York Mellon Trust Company, N.A., as trustee (in such capacity, the “Trustee”), as supplemented (the “Trust Agreement”); and

WHEREAS, the EDA issued the \$173,960,000 Transportation District Improvement Revenue Refunding Bonds (Silver Line Phase I Project) Series 2016 (the “Series 2016 Bonds”) and, collectively with the Series 2011 Bonds and the Series 2012 Bonds, the “Bonds”) to refund a portion of the then outstanding Series 2011 Bonds and Series 2012 Bonds; and

WHEREAS, the District and the EDA are parties to a Project Agreement (the “Project Agreement”), which sets forth, among other things, the agreement and respective responsibilities of the County, the EDA, and the District regarding the method of financing a portion of the cost of the Phase I Project, 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 Bonds, (b) the request by the District and the County to the EDA to issue the Bonds for the purpose of providing financing for a portion of the cost of the Phase I Project, (c) the EDA's agreement to make available the proceeds of the Bonds for financing a portion of the cost of the Phase I Project and (d) the District's undertaking to request the Board to make payments from the Special Tax Revenues collected, in an amount sufficient to pay debt service on the Bonds, directly to the Trustee; and

WHEREAS, the Trust Agreement establishes a Revenue Stabilization Subfund (the "Revenue Stabilization Subfund") and a Residual Fund (the "Residual Fund"), each to be funded from time to time with certain amounts of excess Special Tax Revenues in accordance with the Trust Agreement and the Project Agreement; and

WHEREAS, in accordance with the Trust Agreement, the Chairman of the Commission has heretofore appointed each of the County's Director of Finance, the Chief Financial Officer and the County Debt Coordinator to be Commission Representatives (each, a "Commission Representative"); and

WHEREAS, in accordance with Section 401(c) of the Project Agreement and Section 509 of the Trust Agreement, a Commission Representative may direct the Trustee to transfer to the Debt Service Subfund or the Residual Fund (established in accordance with the Trust Agreement) amounts in the Revenue Stabilization Subfund in excess of the maximum annual Debt Service Requirements (as defined in the Trust Agreement) that do not constitute Excess Earnings, as defined in the Trust Agreement; and

WHEREAS, in accordance with Section 302(c) of the Project Agreement and Section 509 of the Trust Agreement, a Commission Representative may direct that some or all of the amounts credited to the Residual Fund be applied for various purposes, including, but not limited to, the payment of debt service on the Bonds, the payment of costs of the Phase I Project, funding of the Revenue Stabilization Subfund, the purchase, redemption or defeasance of outstanding Bonds or the release of amounts to the District under applicable law; and

WHEREAS, the Board has determined that it is necessary to confirm the delegation to the Commission Representatives, acting alone or together, of the power and authority to direct from time to time the transfer or application of all or any portion of the amounts credited to the Revenue Stabilization Subfund or the Residual Fund, subject to the limitations and provisions set forth in this Resolution and in the Project Agreement and the Trust Agreement; now, therefore,

BE IT RESOLVED by the Commission as follows:

SECTION 1. The Commission confirms the delegation to each Commission Representative, acting alone or together with other Commission Representatives, of the power and authority to direct from time to time the transfer or application of all or any portion of the amounts credited to the Revenue Stabilization Subfund or the Residual Fund, subject to the limitations and provisions set forth in the Project Agreement and the Trust Agreement; provided, however, that this Resolution does not authorize any Commission Representative to direct a transfer from the Revenue Stabilization Subfund to the Residual Fund that would cause the balance in the Revenue Stabilization Subfund to be less than the maximum annual Debt Service Requirements, plus any Excess Earnings.

SECTION 2. The Commission Representatives, members, officers, legal counsel, agents, and employees of the Commission are hereby authorized and directed to do all acts and things required of them by the provisions of the Project Agreement and the Trust Agreement for the full, punctual and complete performance of all the terms, covenants, provisions and agreements of the Project Agreement and the Trust Agreement, and, also, to do all acts and things required of them by the provisions of this Resolution.

SECTION 3. Each Commission Representative 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 Commission, any Commission Representative, or the members, officers and employees of the District in connection with this Resolution, and the authorization, execution and delivery of the agreements, certificates, instruments, and other documents to be executed by the Commission and delivered in connection with this Resolution are hereby ratified and confirmed.

SECTION 5. Any and all resolutions of the Commission 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.

A Copy Teste:

By: _____
Chairman, Phase I Dulles Rail Transportation Improvement District Commission

Date: April __, 2021