Fund 70000: Route 28 Tax District

Focus

Fairfax County, in partnership with Loudoun County, formed the Route 28 Highway Transportation Improvement District (District) on December 21, 1987. Under Virginia law, such a district may be formed only upon the joint petition of owners of at least 51 percent of the land area in each county, which is within the boundaries of the proposed district and which has been zoned or is used for commercial or industrial purposes. Fund 70000, Route 28 Tax District, was formed to provide improvements to State Route 28 (Route 28), which connects State Route 7 in eastern Loudoun County to U.S. Route 50 and Interstate 66 in western Fairfax County, running approximately parallel to the County's western border. Route 28 provides access to Dulles International Airport, along with the Dulles Access Road, which connects the Capital Beltway to Dulles International Airport. This District was formed upon landowner petition to accelerate planned highway improvements proposed by the state, which relied primarily on slower pay-as-you-go financing from the Northern Virginia region's share of the State Primary Road Fund allocation. Under the terms of the agreement with the state, the District will fund 75 percent of defined Phase I and Phase II improvements and the state will fund 25 percent.

The District, administered by a Commission appointed by the Board of Supervisors of both counties, may subject the owners of industrial and commercial property within the District to a maximum additional tax assessment of $0.20 per $100 of assessed value. The FY 2023 tax rate for this district is $0.17 per $100 of assessed value. These funds, in addition to funds received through the State Primary Road Fund allocation formula, are to be used for the road improvements and debt service on bonds issued by the state. Improvements completed for Phase I of the Route 28 project included widening the existing road from two to six lanes and upgrading three major intersections. Legislation authorizing the issuance of Commonwealth Transportation Board (CTB) revenue bonds up to $160.7 million plus issuance expenses to finance the Phase I improvements to Route 28 was enacted during the 1988 Virginia General Assembly and became effective July 1, 1988. This legislation stipulated that the additional tax assessment in the District and funds allocated to the highway construction district, in which Route 28 lies, would reimburse the state for its debt service payments on the bonds. The Commonwealth issued $138.5 million in revenue bonds for the District in September 1988.

Fairfax County and Loudoun County entered into a contract with the District and agreed to levy the additional tax assessment, as requested by the District, collect the tax, and pay all tax revenues to a fiscal agent for distribution. The contract specifies that the counties shall pay all revenues collected on behalf of the District to a trustee jointly designated by the CTB and the counties, and the District in turn shall notify the counties of the required payment and request a rate sufficient to collect that amount, up to a maximum of $0.20 per $100 of assessed value. The tax rate is currently set at $0.17 per $100 of assessed value. In FY 2023, an amount of $12.2 million has been included for Fairfax County collections based on estimated tax collections and an allowance for potential property buy outs, late payments, and penalties.

In August 2002, Fairfax County, Loudoun County, the CTB and the Fairfax County Economic Development Authority (EDA) entered into contractual agreements to provide for construction of a portion of additional improvements on Route 28 (Phase II improvements). Specifically, six separated grade interchanges would be constructed to ease traffic congestion. Funding totaling $204.7 million was made available from a joint financing plan providing $75.4 million from CTB funds allocated from the state six-year primary and secondary road plan, approximately $36.3 million of remaining CTB Route 28 bond authorization, and approximately $93.0 million of bond funds issued by the EDA in 2003 and 2004 and supported by the two counties. Construction of the first six interchanges was completed in FY 2008.

In October 2006, the CTB, the counties and EDA approved the financing plan for the construction of the final four interchanges at Willard Road, Frying Pan Park Road, CIT/Innovation Drive, and Nokes Boulevard. The plan included acceptance of a $5.0 million grant and a $20.0 million loan from the State Transportation Partnership Opportunity Fund (TPOF); issuance of Route 28 District revenue bonds; and use of surplus District tax revenues to fund the $119.2 million project estimate. EDA Revenue bonds were planned to be issued in two series. A total of $41.505 million was issued on February 27, 2007 and $51.505 million was issued on July 9, 2008. On July 24, 2007, the CTB notified the District Commission that an additional $23.9 million was approved in the CTB's FY 2008-2013 Six-Year Improvement Plan as payment toward the state obligation under the District contract. This additional funding fully replaced the $20.0 million originally planned for the TPOF loan.

All bond issues are fully supported by District tax revenue. In order to maximize revenues available for new debt service, the CTB refunded its outstanding 1992 bonds in October 2002. At the same time, the CTB issued $36.3 million of new bonds for construction, representing the balance of bond authorization remaining from the 1988 acts of the General Assembly. The EDA issued Transportation Contract Revenue bonds in the amount of $33.375 million in October 2003, $57.4 million in August 2004, $41.505 million in February 2007 and $51.505 million in July 2008. In the event that District revenues are not sufficient to make debt service payments, the state bonds are backed by the appropriated state allocations to the Northern Virginia Transportation District. The EDA bonds are supported by a Revenue Stabilization Fund (RSF) that is equal to the maximum annual EDA debt service and is created from surplus revenue collections. As a further credit enhancement for the proposed EDA bonds, both Fairfax and Loudoun Counties pledged a joint moral obligation in the event that tax revenues and the RSF are not sufficient to support EDA debt service. On March 18, 2009, the Route 28 District Advisory Board recommended a two-cent decrease in the tax rate from $0.20 to $0.18 per $100 of assessed value, due to the strong financial status of the fund. This decrease was subsequently adopted by the Board of Supervisors on April 27, 2009.

In March 2011, the Route 28 District Advisory Board recommended to approve $6.0 million in Project Completion Funds for final design plans for four priority sections of Route 28 widening from six to eight lanes (Hot Spot Improvements). These design areas included the following: Priority 1 – Route 28 southbound between Sterling Boulevard and the Dulles Toll Road; Priority 2 – the Route 28 southbound bridge over the Dulles Toll Road; Priority 3 – Route 28 northbound between McLearen Road and the Dulles Toll Road; and Priority 4 – Route 28 southbound between the Dulles Toll Road and Route 50.

Favorable market conditions in the spring of 2012 allowed for a refunding opportunity of outstanding District debt obligations. The District Commission approved a resolution to proceed with refunding the Series 2003 and Series 2004 EDA revenue bonds at their March 2012 annual meeting. Concurrent with the EDA refunding, the CTB agreed to a refunding of the Transportation Contract Revenue Refunding Bonds Series 2002 from its original Capital Appreciation Bonds (CABs) to Current Interest Bonds (CIBs). On May 9, 2012, two separate competitive bond sales occurred that resulted in combined savings of $22.48 million.

In October 2012, the Commission considered the next steps for completion of Hot Spot Improvements. Staff recommended the Commission delay additional debt until the District's debt service coverage was stronger, and to apply for a series of TPOF grants or loans to construct the improvements. County staff recommended the use of a portion of the Route 28 District Project Completion Fund (PCF) to construct the Route 28 southbound bridge over the Dulles Toll Road, as has been designed. The cost of this project was $4.34 million.

Additionally, the Commission discussed the importance of constructing the northbound bridge over the Dulles Toll Road. This project was not originally included in the four spot widening projects that had recently been designed. However, discussions between the Route 28 Corridor Improvements contractor and the Metropolitan Washington Airports Authority (MWAA) highlighted the importance of construction of the bridges over the Dulles Toll Road in a timely manner. MWAA would begin construction of Phase II of the Dulles Corridor Metrorail Project in late 2014, which involved construction of facilities in the vicinity of the Route 28/Dulles Toll Road Intersection. MWAA noted that completion of any construction activities in this location was recommended prior to the mobilization of its contractor, to avoid any conflicts between the two contractors and allow their respective activities to be properly scheduled and coordinated. MWAA cautioned that construction of these bridge projects would be severely restricted during the Silver Line construction and its completion. Route 28 contractors estimated that substantial additional costs to the District would be incurred as a result of the delay and the restrictions.

Due to the timing of both projects, the Commission considered the need to move forward with the design for the northbound bridge. The Commission members then voted to recommend approval to fund the construction of the southbound bridge and design of the northbound bridge from the Route 28 PCF, in an amount not to exceed $5.0 million. The Commission also voted to authorize Fairfax and Loudoun County staff to apply immediately for TPOF grant funding in the amount of $5.0 million (the maximum allowed under TPOF guidelines) for the northbound bridge in FY 2013 and to apply for further funding in FY 2014 to continue the remaining Hot Spot Improvements. The TPOF application was submitted in November 2012 and was awarded in February 2013.

As a result of the state transportation funding plan approved during the 2013 Session by the General Assembly (HB 2313), additional revenues became available to Northern Virginia jurisdictions pending annual review and approval from the Northern Virginia Transportation Authority (NVTA) for regional transportation projects and transit needs. In July 2013, NVTA approved the FY 2014 total project list of $209.793 million that consisted of funding via Pay-As-You-Go ($116.058 million) and bond financing ($93.735 million). The balance of the District's Hot Spot Improvements (excluding the bridge widening over the Dulles Toll Road) were included to receive NVTA funds for construction as follows: $6.4 million for southbound between Sterling Boulevard and the Dulles Toll Road (NVTA bond financing); $20 million for southbound between the Dulles Toll Toad to Route 50 (NVTA Paygo); $11.1 million for northbound between McLearen Road and the Dulles Toll Road (NVTA Paygo). In January 2014, NVTA approved an additional $6 million as part of FY 2014 Paygo funds to allocate for the balance of funds needed to complete the Hot Spot Improvements for southbound between Sterling Boulevard and the Dulles Toll Road.

To facilitate the implementation of the hot spot widening projects, NVTA and jurisdictional staff developed an agreement to govern the terms and conditions associated with the funding NVTA has agreed to provide to these regional projects and to ensure that the requirements of HB 2313 are met. The Standard Project Agreement (SPA) was approved by NVTA on March 13, 2014 to execute each project approval. Following the approval of the SPA, the Authority worked with the Virginia Department of Transportation (VDOT) on an agreement that could be used for projects that will be implemented directly by VDOT, which applies in this case to the Hot Spot Improvement projects for Route 28. Use of this agreement requires that VDOT will ultimately maintain the asset that is being constructed and/or it will be located in the VDOT right-of-way. NVTA approved the NVTA/VDOT SPA on October 6, 2014. The CTB authorized the Virginia Commissioner of Highways to execute these SPAs on November 12, 2014. On December 11, 2014, NVTA approved the SPAs for all Hot Spot Improvement projects for Route 28. A notice to proceed was issued in January 2015 and construction was completed in September 2017.

At the March 2016 annual meeting, the Route 28 Commission approved the use of $4.26 million in project completion funds to cover the cost of design for the widening portion of northbound from the Dulles Toll Road to Sterling Boulevard, and northbound from Route 50 to McLearen Road. Construction on the widening from the Dulles Toll Road to Sterling Boulevard was funded by NVTA and was completed in June 2020. Construction on the widening from Route 50 to McLearen Road was funded using tax district revenues and was completed in December 2020. These were the last projects to be completed in the Route 28 Tax District.

Refinancing and Debt Service Updates

In August 2016, a refunding bond sale for the Series 2016A and 2016B EDA Revenue Refunding Bonds was conducted in the amount of $88.8 million. This provided net present value debt service savings of approximately $12.94 million over the life of the bonds and refinanced the Series 2007 and 2008 EDA Revenue Bonds. In February 2022, a refunding bond sale for the Series 2022A was conducted in the amount of $49.1 million. This generated net present value debt service savings of approximately $6.58 million over the life of the bonds and refinanced the Series 2012 EDA Revenue Refunding Bonds. The following table displays the annual debt service payments following the Series 2022A EDA revenue refunding bond sale:

Bond Year	CTB Debt 2002 & 2012 Ref (State Issued)	EDA Debt Service – Series 2016 and Series 2022	Total
2023	$8,644,519	$9,027,410	$17,671,929
2024	8,644,519	9,022,994	17,667,513
2025	8,644,519	9,027,894	17,672,413
2026	8,644,519	9,022,594	17,667,113
2027	8,644,519	9,021,944	17,666,463
2028	3,484,519	9,025,344	12,509,863
2029	3,481,169	9,026,994	12,508,163
2030	3,485,269	9,026,444	12,511,713
2031	3,480,269	9,028,144	12,508,413
2032	3,480,469	9,026,444	12,506,913
2033	-	17,575,744	17,575,744
2034	-	18,805,244	18,805,244
2035	-	18,798,825	18,798,825
2036	-	18,878,750	18,878,750
2037	-	18,879,900	18,879,900
TOTAL	**$60,634,290**	**$183,194,669**	**$243,828,959**

FY 2023 Funding Adjustments

The following funding adjustments from the FY 2022 Adopted Budget Plan are necessary to support the FY 2023 program:

Fiscal Agent Payments **$329,338**

An increase of $329,338 or 2.8 percent from the FY 2022 Adopted Budget Plan amount of $11,826,948 for estimated payments to the fiscal agent is primarily due to anticipated assessed value adjustments.

Changes to FY 2022 Adopted Budget Plan

The following funding adjustments reflect all approved changes in the FY 2022 Revised Budget Plan since passage of the FY 2022 Adopted Budget Plan. Included are all adjustments made as part of the FY 2021 Carryover Review, FY 2022 Mid-Year Review, and all other approved changes through December 31, 2021:

Carryover Adjustments **$950**

As part of the *FY 2021 Carryover Review*, the Board of Supervisors approved funding of $950 due to the timing of payments made in FY 2021 and the corresponding adjustment to appropriation levels in FY 2022.

FUND STATEMENT

Category	FY 2021 Actual	FY 2022 Adopted Budget Plan	FY 2022 Revised Budget Plan	FY 2023 Advertised Budget Plan
Beginning Balance	**($1,216)**	**$0**	**$950**	**$0**
Revenue:				
Real Estate Taxes-Current[1]	$11,805,098	$10,826,948	$10,826,948	$11,156,286
Revenue from Buy Outs	0	1,000,000	1,000,000	1,000,000
Interest on Investments	2,752	0	0	0
Total Revenue	**$11,807,850**	**$11,826,948**	**$11,826,948**	**$12,156,286**
Total Available	**$11,806,634**	**$11,826,948**	**$11,827,898**	**$12,156,286**
Expenditures:				
Payments to the Fiscal Agent	$11,805,684	$11,826,948	$11,827,898	$12,156,286
Total Expenditures	**$11,805,684**	**$11,826,948**	**$11,827,898**	**$12,156,286**
Total Disbursements	**$11,805,684**	**$11,826,948**	**$11,827,898**	**$12,156,286**
Ending Balance[2]	**$950**	**$0**	**$0**	**$0**
Tax rate per $100 Assessed Value	**$0.17**	**$0.17**	**$0.17**	**$0.17**

[1] FY 2023 estimate based on January 1, 2022 assessed values and an advertised tax rate of $0.17 per $100 of assessed value.

[2] As all monies collected are required to be remitted to the Fiscal Agent monthly as collected, the ending balance should be zero unless as of the closing period, there were pending remittances to the Fiscal Agent.