

Proposed Resolution

Approving the First Amendment to the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor by and between Loudoun County, Fairfax County and the Airports Authority

WHEREAS, In July 2007, Loudoun and Fairfax Counties and the Airports Authority executed a Funding Agreement entitled "Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor", which describes, among other things, the commitment of each party to contribute to the cost of constructing the Dulles Corridor Metrorail Project;

WHEREAS, The Funding Agreement provides that Loudoun and Fairfax Counties shall notify the Airports Authority whether they approved of proceeding with their financing participation for Phase 2 of the Dulles Corridor Metrorail Project within 90 days of receipt from the Airports Authority of preliminary engineering and cost information for Phase 2;

WHEREAS, The Airports Authority delivered these Phase 2 preliminary engineering materials to Fairfax and Loudoun Counties on March 6, 2012;

WHEREAS, The Loudoun County Board of Supervisors has requested an additional 30 days to complete its review, and Fairfax County has agreed to this extension; and

WHEREAS, The proposed First Amendment to the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor, which is attached to this resolution, amends the Funding Agreement to provide the 30-day extension requested by Loudoun County, now, therefore, be it

RESOLVED, That the First Amendment to the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor is approved;

2. That the President and Chief Executive Officer is authorized and directed to execute the First Amendment to the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor; and

3. That the Loudoun County decision will now be due by July 4, 2012.

For consideration by the Board of Directors on April 18, 2012

FIRST AMENDMENT TO THE AGREEMENT TO FUND THE CAPITAL COST OF
CONSTRUCTION OF METRORAIL IN THE DULLES CORRIDOR

This First Amendment to the "Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor" ("Agreement"), dated as of July 19, 2007, is entered into as of April __, 2012, by and between Fairfax County, Virginia ("Fairfax"), Loudoun County, Virginia ("Loudoun"), and the Metropolitan Washington Airports Authority ("Airports Authority" and, collectively with Fairfax and Loudoun, the "Parties").

Whereas, Section 2.3(b) of the Agreement provides that Fairfax and Loudoun shall notify the Airports Authority whether they approve of proceeding with their financing participation for Phase 2 of the Dulles Corridor Metrorail Project within 90 days of receipt from the Airports Authority of preliminary engineering and cost information for Phase 2; and

Whereas, Fairfax and Loudoun received the Phase 2 preliminary engineering and cost information, as specified in Section 2.3(b) of the Agreement, from the Airports Authority on March 6, 2012; and

Whereas, the Loudoun County Board of Supervisors has requested an additional thirty (30) days to be able to adequately review and consider whether Loudoun County approves of proceeding with its financing participation of Phase 2, under the provisions of Section 2.3(b) of the Agreement; and

Whereas, the Fairfax County Board of Supervisors and the Board of Directors of the Airports Authority have agreed to extend the 90-day review period in Section 2.3(b) of the Agreement for an additional 30 days, as requested by the Loudoun County Board of Supervisors;

NOW, THEREFORE, the Parties agree to amend the Agreement by deleting the phrase "within 90 days" from the second sentence in Section 2.3(b), and to replace that phrase with the phrase "within 120 days". The Parties agree that the second sentence of Section 2.3(b), as amended in this manner, shall read as follows:

With respect to this contingency, Fairfax and Loudoun each shall notify the Airports Authority whether they approve proceeding with their financing participation for Phase 2 within 120 days of receipt from the Airports Authority of (i) the documents comprising 100% preliminary engineering for Phase 2, (ii) the documents demonstrating the amount of the cost estimate for Phase 2 at 100% preliminary engineering, and (iii) the documents demonstrating how the cost estimate for Phase 2 at 100% preliminary engineering was developed and computed.

The Parties further agree that all other provisions of the Agreement, including the provisions of Section 2.3(b) not affected by the above amendment to the section's second sentence, shall remain and continue in full force and effect.

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IN WITNESS WHEREOF, the Parties have executed this First Amendment to the Agreement as of the date entered herein.

FOR THE COUNTY OF FAIRFAX, VIRGINIA:

Anthony H. Griffin

County Executive

Date: _____

FOR THE COUNTY OF LOUDOUN, VIRGINIA:

Timothy Hemstreet

County Administrator

Date: _____

FOR THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY:

John E. Potter

President and CEO

Date: _____