

**Washington Metropolitan Area Transportation Authority
Board Action/Information Summary**

<input checked="" type="checkbox"/> Action <input type="checkbox"/> Information	MEAD Number:	Resolution: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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PURPOSE

The Metropolitan Washington Council of Governments (COG) Board approved the National Capital Region (NCR) Mutual Aid Agreement on November 9, 2005 and the COG Board recommended that each member government and other participating entities consider and execute the agreement. To date, all member jurisdictions and other participating entities have approved the agreement except for WMATA and the Commonwealth of Virginia, and COG has requested that WMATA affirm its support of the agreement.

DESCRIPTION

Mutual aid agreements have existed in the National Capital Region for decades. The focus on emergency response and homeland security after 9/11 sharpened awareness of the need for updated mutual aid capacities and agreements, including clarification of liability issues. The COG Board and the NCR Homeland Security Task Force requested attorneys for the COG jurisdictions to address these issues and recommend solutions. A number of state-based remedies were considered and discarded due to legal and political complexities, and focus turned to the possibility of a federal solution. Congressional legislation addressing the issue acceptable to the local and state jurisdictions was enacted as part of the Intelligence Reform and Terrorism Protection Act of 2004. The NCR Mutual Aid Agreement represents the general implementing document resulting from the enacted federal legislation. The Agreement supports all mutual aid generally provided between and among units of local government, including, but not limited to police, fire, emergency management, public health, and public works, including transportation. A party rendering aid under this Agreement is liable only to the extent permitted under the laws and procedures applicable to the party.

WMATA staff has reviewed the Agreement and have concluded that it is beneficial to WMATA and does not pose any legal impediments. In the event of an emergency, it is more likely that WMATA will be an agency receiving aid than rendering aid.

WMATA staff will continue to work with the local jurisdictions on the operational plans resulting from the Agreement to ensure that requests for transportation assistance during an emergency do not impede upon WMATA's ability to attend to customers' needs.

FUNDING IMPACT

Signing the Agreement will result in no funding impact to WMATA.

RECOMMENDATION

The Board authorizes the Acting General Manager to sign the NCR Mutual Aid Agreement.

Attachment: 11/05 National Capital Region Mutual Aid Agreement

National Capital Region Mutual Aid Agreement

THIS AGREEMENT, made and entered into this ____ day of November, 2005, between and among the District of Columbia, the State of Maryland, the Commonwealth of Virginia, and certain local governments of the National Capital Region, that are participating jurisdictions of the Metropolitan Washington Council of Governments (COG), and have evidenced agreement by execution hereto,

WITNESSETH:

WHEREAS, Federal, State, and local governments in the National Capital region have determined that provision of public safety and other emergency services across jurisdictional boundaries, both intrastate and interstate, will increase their ability to preserve the safety and welfare of the entire Region; and

WHEREAS, legislation in Maryland and Virginia authorizes their respective local governments to establish and carry into effect mutual aid agreements and plans on an intrastate basis, and legislation in Maryland, Virginia, and the District of Columbia authorizes the local governments to establish and carry into effect mutual aid agreements on an interstate basis; and

WHEREAS, federal legislation (Intelligence Reform and Terrorism Protection Act of 2004, Pub. L. 108-458, Section 7302, 118 Stat. 3638, 3840) acknowledges the need for intrastate and interstate mutual aid in the National Capital Region, between and among local governments, state governments, and federal agencies and activities, to protect the federal interest as well as that of the state and local governments and their constituents, and specifically authorizes the establishment and implementation of such interstate and intergovernmental mutual aid agreements and plans, and sets forth therein certain legal procedures, authorities, and limitations governing parties to such mutual aid agreements when assistance is provided thereunder, whether in response to a declared emergency, a single or recurrent need for assistance in response to a public event or events, or training or practice to enable or support such assistance.

NOW, THEREFORE, the undersigned parties do agree as follows:

1. Adoption

This Agreement is adopted pursuant to and implements provisions of the Intelligence Reform and Terrorism Protection Act of 2004, Pub. L. 108-458, Section 7302, 118 Stat. 3638, 3840. Definitions and concepts contained therein are incorporated into this Agreement by reference.

2. Emergency

An emergency may be declared by the President of the United States or authorized representative of the federal government. A state of emergency may be declared by the Governor of Maryland or Virginia or the Mayor of the District of Columbia, or such person delegated such authority pursuant to the respective laws of Maryland, Virginia, or the District of Columbia, or may be declared by the authorized official of any other signatory jurisdiction hereto. When an emergency or state of emergency exists within the boundaries of any of the parties hereto, as the result of, or due to the imminence of fire, flood, epidemic, war, internal disorder, act of terrorism, or other natural or human-caused disaster, the party or parties initially impacted shall notify other appropriate party or parties to this Agreement of such emergency or state of emergency and, if necessary or desirable its need for assistance. Assistance shall be rendered according to the procedures established in one or more operational plans developed and agreed to by the parties to this Agreement pursuant to the provisions of Paragraph 5, herein. Each party shall designate the appropriate official or officials within its jurisdiction who are empowered to request assistance, and agree to provide assistance, under this Agreement.

3. Public Service Event

A public service event may be certified by any of the authorized persons referenced in Paragraph 2 herein. A public service event may be a one-time, discrete event, not reaching the nature or criteria requiring the declaration of an emergency or state of emergency, but still requiring inter-jurisdictional support and assistance. The activities or situations giving rise to public service events often are known in advance, affording the parties the ability to specifically plan for inter-jurisdictional mutual aid to be requested and afforded. Public service events may also be recurrent activities, where the provision of inter-jurisdictional assistance expedites the response to a particular need or fills in temporary gaps in the service of the requesting jurisdiction. Once the nature and general definition of such recurrent public service events is certified by an authorized person, the actual request for response may be made in the normal course of activity by delegated subordinates. Assistance shall be rendered according to the procedures established in one or more operational plans developed and agreed to by the parties to this Agreement pursuant to the provisions of Paragraph 5, herein. Each party shall designate the appropriate official or officials within its jurisdiction who are empowered to request assistance under this Agreement.

4. Training

From time to time the parties to this Agreement, or any subset thereof, may engage in training exercises to better prepare for inter-jurisdictional and mutual assistance contemplated by this Agreement and the operational plans developed hereunder, including exercises, testing, and other activities using equipment and personnel to simulate performance of any aspect of giving or receiving aid. Parties may participate in such training exercises, and may cross jurisdictional boundaries in so doing, under the authorizations and protections of this Agreement. Formal description and creation of such training may be provided in one or more operational plans developed and agreed to by the parties to this Agreement pursuant to the provisions of Paragraph 5, herein, or may be addressed in other formal agreements between and among the parties. Each party shall designate the official or officials authorized to commit the party and its employees to training or exercises.

5. Operational Plans

The mutual aid and training provided for under this Agreement shall be available upon the development and approval by the parties hereto of one or more operational plans. Any such plan shall outline the procedure to be followed in responding to a request for mutual aid and to participate in training or exercises. Upon execution of this Agreement, each party hereto shall designate one or more persons to participate in the development of one or more regional operational plans. Execution of any such operational plan by two or more parties to this Agreement shall be sufficient to trigger actions between or among such executing parties under the authorizations and protections of this Agreement. The parties executing any such operational plan will meet annually to review and, if necessary, to propose amendments thereto. Any other party to this Agreement may participate in such operational plan reviews. Any amendment proposed to any such operational plan will not be effective until approved in writing by all the executing parties thereto.

6. Liability to Third Parties

The services performed pursuant to this Agreement shall be deemed for public and governmental purposes and all immunities from liability enjoyed by the local government, its officials and its employees within its boundaries shall extend to its participation in providing mutual aid and engaging in training and exercises inside and outside its boundaries. Litigation asserting liability hereunder must comport with the provisions Section 7302(d) of the Intelligence Reform and Terrorism Prevention Act of 2004. Nothing herein shall abrogate any immunity which may exist by statute or at common law. Where litigation asserting liability hereunder alleges joint liability among parties hereto from different states, the

parties will meet to discuss and cooperate in the defense or settlement of such litigation.

7. Waiver; Reimbursement

Unless otherwise agreed in writing, each party hereto waives any and all claims against all the other parties hereto that may arise out of its activities outside its respective jurisdictions while rendering mutual aid or engaging in training under this Agreement, except that, in the case of a Presidentially declared emergency or major disaster a party may seek reimbursement for its expenses from the party requesting the aid.

8. Employment Benefits

All pension, relief, disability, death benefits, workers compensation and other benefits enjoyed by the employees of parties rendering assistance shall extend to the services they perform under this Agreement outside their respective jurisdictions as if those services had been rendered in their own jurisdiction.

9. Direction of Assistance

Insofar as reasonable and appropriate the Operational Plans referenced in Paragraph 5 herein will comport with the National Incident Management System. Parties responding outside of their jurisdictions, and their employees actually providing the assistance, will be under the general control and direction of the appropriate official designated by the jurisdiction requesting aid.

10. Additional Parties

The initial parties hereto agree and concur to the addition of additional parties to this Agreement including: the Metropolitan Washington Airports Authority, the Washington Metropolitan Area Transit Authority, those local governments within the outer boundaries of those jurisdictions comprising the Metropolitan Washington Council of Governments, or are local governments adjacent to any existing party to this Agreement, and discrete agencies or entities of the Federal Government, the State of Maryland, and the Commonwealth of Virginia, with facilities within the outer boundaries of the parties to this Agreement.

11. Disputes

Should disagreement arise on the interpretation of the provisions of this Agreement, or amendments or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on

interpretation is not reached within thirty days, the parties shall forward the written presentation to the disagreement to respective higher officials for appropriate resolution.

12. Duration

This Agreement shall become effective upon execution by at least one party from both the State of Maryland and the Commonwealth of Virginia or one party from one of these states and the District of Columbia. It shall remain in effect until terminated by all but one the parties executing this Agreement, upon written notice setting forth the date of such termination. Withdrawal by a party hereto shall be made by thirty days written notice to all other parties and the Metropolitan Washington Council of Governments; such notice shall not terminate the Agreement among the remaining parties.

13. Execution

This Agreement and any amendments thereto may be executed in duplicate originals and filed with the Washington Metropolitan Council of Governments.

IN WITNESS WHEREOF, the parties have executed this Agreement and, by so doing, certify that the respective officials executing this Agreement on their behalf have been duly authorized to enter into this National Capital Region Public Safety Mutual Aid Agreement.

City of Alexandria

By: _____

Date: _____

County of Arlington

By: _____

Date: _____

City of Bowie

By: _____

Date: _____

City of College Park

By: _____

Date: _____

District of Columbia

By: _____

Date: _____

City of Fairfax

By: _____

Date: _____

County of Fairfax

By: _____

Date: _____

City of Falls Church

By: _____

Date: _____

County of Frederick

By: _____

Date: _____

City of Gaithersburg

By: _____

Date: _____

City of Greenbelt

By: _____
Date: _____

County of Loudoun

By: _____
Date: _____

City of Manassas

By: _____
Date: _____

City of Manassas Park

By: _____
Date: _____

County of Montgomery

By: _____
Date: _____

County of Prince George's

By: _____
Date: _____

County of Prince William

By: _____
Date: _____

City of Rockville

By: _____
Date: _____

City of Takoma Park

By: _____
Date: _____

Additional Parties:

State of Maryland

By: _____
Date: _____

Commonwealth of Virginia:

By: _____
Date: _____

By: _____
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By: _____
Date: _____

By: _____
Date: _____

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By: _____
Date: _____

By: _____
Date: _____

PRESENTED & ADOPTED:

SUBJECT: NATIONAL CAPITAL REGION MUTUAL AID AGREEMENT

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, Federal, State, and local governments in the National Capital Region have determined that provision of public safety and other emergency services across jurisdictional boundaries, both intrastate and interstate, will increase their ability to preserve the safety and welfare of the entire Region; and

WHEREAS, Section 12(f) of the WMATA Compact authorizes WMATA to enter into and perform agreements with any political subdivision or agency of any signatory party or with the federal government; and

WHEREAS, The Intelligence Reform and Terrorism Protection Act of 2004, Pub. L. 108-458, Section 7302, 118 Stat. 3638, 3840 (the "Act") acknowledges the need for intrastate and interstate mutual aid in the National Capital Region, between and among local governments, state governments, and federal agencies and activities, to protect the federal interest as well as that of the state and local governments and their constituents, and specifically authorizes the establishment and implementation of such interstate and intergovernmental mutual aid agreements and plans, and sets forth therein certain legal procedures, authorities, and limitations governing parties to such mutual aid agreements when assistance is provided thereunder, whether in response to a declared emergency, a single or recurrent need for assistance in response to a public event or events, or training or practice to enable or support such assistance; and

WHEREAS, The District of Columbia, the State of Maryland, the Commonwealth of Virginia, and certain local governments of the National Capital Region that are participating jurisdictions of the Metropolitan Washington Council of Governments have proposed a Mutual Aid Agreement to provide assistance across jurisdictional boundaries in the event of declared emergencies and public service events both within and without the WMATA Transit Zone; and

WHEREAS, It is in WMATA's interest to enter into the National Capital Region Mutual Aid Agreement and, if called upon, to provide emergency aid both within and beyond the WMATA Transit Zone limits, pursuant to the authority in the Act; now, therefore be it

RESOLVED, That the Board of Directors approves the National Capital Region Mutual Aid Agreement; and be it further

RESOLVED, That the Acting General Manager is authorized to execute the National Capital Region Mutual Aid Agreement, to designate an individual to participate in the development of the mutual aid operational plans and to implement such plans when they are completed; and be it finally

RESOLVED, That this Resolution shall be effective immediately,

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel

Proposed