


City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 17, 2010

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: CONSIDERATION OF WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA) INTERJURISDICTIONAL CAPITAL FUNDING AGREEMENT

ISSUE: Regional funding agreement to continue Metrobus and Metrorail capital funding, and the resultant long-term cost of this agreement to the City.

RECOMMENDATION: That City Council authorize the City Manager to execute, on behalf of the City, the *Capital Funding Agreement* (Attachment II) among Northern Virginia jurisdictions, the State of Maryland, the District of Columbia and the Washington Metropolitan Area Transit Authority in substantially the form presented to Council, with such changes as are approved by the City Manager and the City Attorney. The execution of this document by the City Manager shall constitute conclusive evidence of his approval, and that of the City Attorney, of any and all changes from the documents made available to the Council.

DISCUSSION: The Washington Metropolitan Area Transit Authority (WMATA) Board of Directors discussed and in early June approved a continuance of a six year capital improvement program which has identified unfunded, urgent capital needs of the region's WMATA bus and rail systems over the next six years from FY 2011 to FY 2016. This *Capital Funding Agreement* for the FY 2011 to FY 2016 time period is the successor inter-jurisdictional agreement to the Metro Matters six-year agreement that was in place from FY 2005 to FY 2010.

This new six-year agreement, which was negotiated on an inter-jurisdictional basis over the last few months, totals \$5.0 billion with \$2.5 billion to be funded from the federal government, and \$2.5 billion to be funded by state and local governments. Of the federal share, \$0.9 billion is from a new federal match program created for WMATA where the federal government will provide \$150 million per year to be matched by \$50 million each from the Commonwealth of Virginia, the State of Maryland, and the District of Columbia for a total of \$0.9 billion over six years. Localities, the states and the District of Columbia would provide \$2.5 billion over six years. Some of this is to match federal money, and some of it represents 100% local funding. The City's share would be \$62.6 million over six years. Each locality's share is determined by

established WMATA formulae and is depicted in Attachment III. The Commonwealth of Virginia is not a party to this *Capital Funding Agreement* although the State's \$50 million match to the federal funding has been appropriated. Disagreements over the State's role in WMATA Board governance continues to be an issue.

The region will benefit from the new WMATA capital funding agreement in several ways. One of the key focuses of this new agreement is to provide funds to repair the system, and to make the system safer and more convenient for passengers. To this end, one of the largest expenses, \$718 million, which will be incurred by WMATA, and funded by this agreement, is replacing the oldest cars on Metrorail's fleet, the 1000 series car. These cars, which account for over 25% of the Metrorail fleet (288 out of 1,118 cars) were acquired when Metrorail opened in the 1970's, and are in need of replacement. These cars have been involved in WMATA's most serious accidents, and do not have many safety features incorporated in newer cars. The *Capital Funding Agreement* also provides some funding for improvements which might be required by the National Transportation Safety Board after their investigation into the cause of the major accident which occurred at Ft. Totten in June, 2009.

With regard to Metrobus, the *Capital Funding Agreement* has within it funds to build a new WMATA bus terminal at Cinder Bed Road in Fairfax County to replace the Royal Street Bus Garage in Alexandria, which is the oldest Metrobus facility in Virginia. Getting the Royal Street garage closed has been a priority of the City for years, and the Mayor's ongoing efforts at WMATA to get this replacement facility underway have been successful. This will enable the City to plan for redevelopment of the Royal Street Bus Garage site into a more appropriate use.

As this is one of the largest dollar amounts, and most important capital funding commitments agreed to by the City, it is important to understand the key components of the proposed *Capital Funding Agreement*. The following highlights some of the key components that are more fully detailed on Attachment I:

- A CIP will be proposed annually by WMATA with jurisdictional opportunity for comment;
- The agreement is subject to annual appropriation consideration by each locality, but once an appropriation is made, a jurisdiction is obligated for that amount;
- The responsible official (i.e., City Manager) would be responsible for including the minimum required local share in his or her proposed budget or proposed CIP;
- The WMATA Board can propose increases in jurisdictional funding of the CIP each year above that reflected on Attachment 3, but the standalone District of Columbia *Local Funding Agreement* (Attachment V) establishes a soft cap, which can increase only if authorized by Congress;

- Multi-year projects started in one year, but finished in subsequent years, debt financed projects, and “state of good repair” projects have priority for funding; and
- Localities have the option of issuing their share of planned WMATA debt (Attachment IV) as locally issued debt (because their bond ratings are higher and therefore borrowing costs lower than WMATA) as an interest cost saving action (this was an Alexandria-initiated option in the original Metro Matters agreement that is being continued in this agreement).
- For improved accountability, the new agreement includes quarterly reporting to inform the jurisdictions of each project’s status relative to the planned schedule, scope and cost for that quarter. It also includes annual budget reconciliations for crediting project savings and revenue surpluses to the jurisdictions and developing recovery plans to address revenue shortfalls.

FISCAL IMPACT: This City’s share in this agreement will be approximately \$62.6 million over a six year period (FY 2011 to FY 2016). This compares to \$44.6 million for this six-year period that Council approved in the recently adopted City Capital Improvement Program. The primary reason for the increase is the City’s \$19.5 million share of the new rail car purchase for which funding is planned for FY 2014 to FY 2016. The City’s FY 2011 share will be approximately \$6.9 million, which is within the \$7.0 million contained in the City’s approved CIP. Attachment III lists the City’s forecasted share throughout the life of this agreement.

ATTACHMENTS:

- Attachment I. Key Features of Metro Matters and Proposed Capital Funding Agreements
- Attachment II. *Capital Funding Agreement*
- Attachment III. Funding Spreadsheets
- Attachment IV. Capital Funding Agreement Debt Option
- Attachment V. District of Columbia/Local *Capital Funding Agreement*

STAFF:

- Mark Jinks, Deputy City Manager
- Bruce Johnson, Chief Financial Officer
- Richard J. Baier, P.E., LEED AP, Director, T&ES
- Morgan Routt, Assistant Director, OMB
- Jim Maslanka, Division Chief of Transit, T&ES
- Antonio J. Baxter, Division Chief of Administration, T&ES

Key Features of Metro Matters and Proposed Capital Funding Agreements, Compared

TOPIC	METRO MATTERS	CAPITAL FUNDING AGREEMENT (with current draft)
Term of Agreement	Six years except for debt service and some out year spending (the "tail")	Six years with option to renew. Debt service requirements would continue beyond six year term.
Capital Improvement Program (CIP)	Known as the "Metro Matters Program" and covered four basic elements: IRP, Bus, Rail, Safety and Security. Funding amounts established in Attachment 4A for entire scope of Agreement. Changes between major elements without excess funds in the transferring category require jurisdictional approval except for revenue shortfalls and "recovery plans." Amounts subject to appropriation.	<ul style="list-style-type: none"> * Jurisdictions commit to seek \$5B for six-year CIP. * Covers 11 distinct areas. * Ongoing Metro Matters projects incorporated in CIP. Projects to be described and explicitly paired with a funding source. * CIP to be approved annually with a five-year planning component.
Jurisdictional Contribution Amounts	Specific allocated contributions for each jurisdiction were established for the full Metro Matters Agreement and "tail" periods.	<ul style="list-style-type: none"> * Jurisdictional commitment is to use all reasonable efforts to match all federal grants annually and to provide information on the amounts of System Performance funds that they will provide for the coming year. * There is no static schedule of funds as in Metro Matters. Metro is to provide an estimate of matching funds to be required in the upcoming fiscal year. * All System Performance funds allocated by Metro subsidy formulas must be contributed by all jurisdictions for the funds to be placed in the Annual Work Plan.
Funding for Annual Work Plan Projects	Silent on sources of funds other than the funds must be eligible to be considered matching funds for federal grants.	<ul style="list-style-type: none"> * Projects for which no funds have been obligated or expended during the year are dropped from the Annual Work Plan and must be reapproved. * Projects where work has been done but funds are not fully expended will have the unexpended funds rolled over the succeeding year. * New projects first included in the Annual Work Plan will be listed with the source(s) of funding. <p style="text-align: right;"><i>(continued on next page)</i></p>

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Key Features of Metro Matters and Proposed Capital Funding Agreements, Compared

TOPIC	METRO MATTERS	CAPITAL FUNDING AGREEMENT (with current draft)
Funding for Annual Work Plan Projects <i>(cont.)</i>		<ul style="list-style-type: none"> * If the project is a multi-year project then the project, for the second and succeeding years, has first call on the same type of funding. If sufficient funds are not available then it will be funded with other eligible types of funding. * Debt service and "state of good repair" projects have first claim on all funds that can be legally spent on those projects.
Subsidy Formulae	IRP by weighted average of Rail Capital and Bus Capital formulae. Rail by Rail Capital. Bus by Bus Capital. There is no process to update amounts due to WMATA.	<ul style="list-style-type: none"> * Rail, Bus and Paratransit Allocation formulas will apply to the respective expenditures plus debt service for those categories. * An average of the formulas applies to non-specific costs; Dedicated Funding projects matches will be divided equally among the signatories.
5 Contents of Annual Work Plan	1) identification of projects to have funds obligated or expended in next fiscal year; 2) budget including cost estimate of each project or activity by Program Element; 3) statement of jurisdictional contributions broken out by cash and debt service amounts; 4) summary of current year work with costs incurred to date and expected remaining costs; and summary of remaining Metro Matters projects along with the estimated cost to completed.	<ul style="list-style-type: none"> * Same as Metro Matters broken out by CIP element but also including the expected sources of the funds for the budgeted work. Annual Work Plan must also include the preliminary results of the Budget Reconciliation process for the recently concluded fiscal year. * Metro will offer a presentation to appropriate jurisdictional bodies in November.
Appropriation Commitment	Each year a jurisdiction must notify Metro before June 1 whether the required amount has been appropriated or will be appropriated along with written assurance that all reasonable efforts will be undertaken to obtain such appropriation.	<p>Same, but more detailed.</p> <ul style="list-style-type: none"> * No CIP or Annual Work Plan will be approved without all jurisdictions certifying that the funding levels in those documents are reasonable and accurate reflections of available funds.

(continued on next page)

Key Features of Metro Matters and Proposed Capital Funding Agreements, Compared

TOPIC	METRO MATTERS	CAPITAL FUNDING AGREEMENT (with current draft)
Appropriation Commitment <i>(cont.)</i>		* "Reasonable efforts" will require a jurisdiction to request its legislative body to appropriate the entire amount of funds required under the terms of this agreement.
Non-Payment	Penalties could be imposed if not due to a failure to appropriate.	* Parties commit to seek funding from fiscal authority. * Failure to appropriate will cause an adjustment to the program. * Failure to pay after appropriation will be addressed by debt issuance with the non-paying jurisdictions to bear the costs.
Annual Budget Reconciliation Process	Actual expenditures for projects and activities to date as compared to planned expenditures. Actual contributions to date compared to scheduled contributions. Projected contributions for remainder of program. Actual amount of grant funds received as compared to projected amount for the same time. Estimated cost to complete program.	* Same, but with expected sources of funds added to the estimated cost to complete section. * Completed by October 15. * Procedures for credit or return of surplus funds.
Quarterly Report	Not required.	* Completed for each quarter within 45 days following the conclusion of the quarter. * Identifies changes to scope, status of contracts, year-to-date expenditures, cash and debt sources billed versus paid amounts.
Audits	Each jurisdiction could request a separate audit.	Same, but request must be received within 180 days following release of WMATA audit for prior fiscal year.
Dispute Resolution	Informal, then to Board. Parties may propose alternate dispute resolution process arrangement.	Same.

Key Features of Metro Matters and Proposed Capital Funding Agreements, Compared

TOPIC	METRO MATTERS	CAPITAL FUNDING AGREEMENT (with current draft)
Reprogramming	Board approval obtained. To reprogram to a different element required determination that the work in the first element can be completed with the remaining funds.	Advance notice to contributing jurisdictions prior to submission to the Board of proposed reprogramming over \$1M.

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CAPITAL FUNDING AGREEMENT

Among

The State of Maryland;

The District of Columbia;

Arlington County, Virginia;

Fairfax County, Virginia;

The City of Alexandria, Virginia;

The City of Fairfax, Virginia;

The City of Falls Church, Virginia;

And

The Washington Metropolitan Area Transit Authority

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ATTACHMENT 3 District of Columbia Local Capital Funding Agreement

CAPITAL FUNDING AGREEMENT

THIS CAPITAL FUNDING AGREEMENT (Agreement) is made and entered into this ____ day of _____, 2010, by and among **the Washington Metropolitan Area Transit Authority (WMATA)**, a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; **the State of Maryland, acting by and through the Washington Suburban Transit District and the Department of Transportation;** **the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia (Contributing Jurisdictions):**

RECITALS

1. The WMATA transit system has played a critical role in the growth and prosperity of the National Capital Region and environs, and WMATA's continued economic vitality is essential to the regional transportation system and the environmental quality, economic, educational and cultural life of the Washington region.
2. The WMATA system was built and is operated through the substantial investment of public funds by the Federal Government and by State and local governments in the region.
3. The lack of sufficient secure and reliable funding to rehabilitate and maintain the WMATA transit system and to replace rail cars, buses, and other key transit assets is creating a transportation crisis, threatening the continued health and vitality of the system and jeopardizing the public investment.
4. Previously, the Parties entered into an agreement covering specific capital projects for FY2005 through FY10 (Metro Matters Funding Agreement) along with associated financing arrangements to cover those capital projects. That agreement expires on July 1, 2010 and the

Parties wish to create a follow-on agreement for both funding FY2011-2016 on an expenditure basis and to provide an ongoing master agreement for future support of WMATA's capital needs.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereby agree as follows:

SEC. 1 DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

- (1) "Agreement" means this Capital Funding Agreement.
- (2) "Allocated Contribution" means the financial share of the cost of the Capital Improvement Program to be contributed by a Contributing Jurisdiction, in accordance with the terms of this Agreement but shall not include funds to be provided to match the Dedicated Funding (PRIIA) funds.
- (3) "Annual Work Plan" means the annual plan developed by WMATA on both obligation and expenditure bases and submitted to the Contributing Jurisdictions which identifies the Capital Improvement Program projects and activities to be undertaken in the Capital Budget for a specific fiscal year and the estimated annual cash requirement of those projects and activities and the sources of funds expected to be used on an expenditure basis to meet that cash requirement.
- (4) "Authorized Representative" means the individual designated by the chief executive officer (or comparable official) of a Contributing Jurisdiction or WMATA to take actions on behalf of that Party regarding issues that arise in carrying out this Agreement.
- (5) "Capital Budget" is synonymous with the term Annual Work Plan.

(6) “Capital Improvement Program” (“CIP”) means the list of project elements including the useful life computations for each project contained therein for the period of July 1, 2010 through June 30, 2016 approved by the WMATA Board of Directors for the period of July 1, 2011 – June 30, 2016 as may subsequently be updated for this or each successive six-year period (for planning purposes only) and specific fund sources for use in supporting the specific scope, schedule, and budget (expressed in both obligation and expenditure terms) of projects that advance the Authority’s strategic objectives. See Attachment 1 for the FY2011-2016 CIP. The CIP is not considered a payment schedule. The CIP shall be updated annually as described in this Agreement.

(7) “Contributing Jurisdictions” means the State of Maryland acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia.

(8) “Days” means calendar days, unless otherwise specifically provided.

(9) “Debt” means any bond, security, debt issuance, certificate of participation, Grant Anticipation Debt, or other evidence of indebtedness issued by a public body, and includes commercial paper, lines of credit, and letters of credit to finance the program of projects to be completed under the terms of this Agreement. Debt shall be classified as either Short-Term Debt or Long-Term Debt.

(10) “Dedicated Funding” (PRIIA) means those federal funds provided to WMATA under the Passenger Rail Investment and Improvement Act of 2008 (Pub. L. 110-432). The PRIIA matching funds will be made available to WMATA pursuant to the applicable laws of the District of Columbia, Maryland, and the Commonwealth of Virginia.

(11) “Discretionary Grant” means any award of discretionary Federal financial assistance for a new or existing fixed guideway system from the capital investment grant program authorized under Section 5309 of Title 49 of the U.S. Code, or from any other discretionary grant program from any federal agency under which funds are provided on other than a formula basis.

(12) “Federal grant” means an award of financial assistance, including formula grants, discretionary grants, and cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government through the Federal Transit Administration or any other federal agency to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

(13) “FTA” means the Federal Transit Administration.

(14) “Formula grant” means any award of Federal financial assistance from the urban formula program authorized under Section 5307 of Title 49 of the U.S. Code or the fixed guideway modernization program authorized under Section 5309 of Title 49 of the U.S. Code, or similar successor programs.

(15) “Funding Sources” shall be the various categories of funds to be used to pay for the projects covered in the CIP. These funds may be either from federal or non-federal sources. Where the Agreement requires a more detailed description of the funding source, then the following categories shall be used: Dedicated Funding, Dedicated Funding matching funds,

Formula Grants, Formula Grants matching funds, Other Federal Grants, Other Federal Grants matching funds, System Performance Funds, and Other funds.

(16) "Grant Anticipation Debt" means any debt issuance the principal and interest on which are to be paid with the proceeds of Federal grant funds.

(17) "Interim Funding Sources" means one or more letters of credit or lines of credit and related reimbursement agreements, standby bond purchase agreements, commercial paper, or similar agreements or obligations, or any combination of the foregoing, issued to or for WMATA or entered into with WMATA by a bank, insurance company, or other financial institution, or one or more resolutions, indentures, or other security agreements providing for bonds or other evidence of indebtedness of WMATA.

(18) "Long-Term Debt" means Debt with a maturity greater than 1 year.

(19) "Metro Matters Funding Agreement" means the capital funding agreement dated October 25, 2004 by and among the Washington Metropolitan Area Transit Authority; the State of Maryland acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia and covering projects in WMATA's Fiscal Years 2005-2010.

(20) "Minimum Annual Allocated Contribution" means that annual amount of funds payable by a Contributing Jurisdiction sufficient to provide any required matching funds for (a) all federal formula and other federal grant funds awarded to WMATA and expected to be expended in the current Annual Work Plan excluding the local match to be provided by the District of Columbia, Virginia and Maryland for the Dedicated Funding (PRIIA) funds, and (b)

the System Performance Funds necessary to meet any maintenance of effort requirement for WMATA to receive Dedicated Funding.

(21) “Non-Federal funds” means funds provided by State and local sources and debt sources.

(22) “Party” or “Parties” means WMATA and the Contributing Jurisdictions.

(23) “Preventive Maintenance” means upgrades to, repairs to, and maintenance of, capital assets that provides additional value to the capital asset. The FTA definition of “preventive maintenance” is separate from and not connected to Preventive Maintenance as defined herein.

(24) “Reprogramming” means a change to an Annual Work Plan or Capital Budget that occurs outside of the Annual Work Plan process.

(25) “Short-Term Debt” means Debt with a maturity of 1 year or less.

(26) “System Performance Funds” means jurisdictional funds over and above those funds required to match any Federal grant and to be used for Capital Improvement Plan projects contained in the applicable Annual Work Plan.

(27) “WMATA” or “Authority” means the Washington Metropolitan Area Transit Authority.

SEC. 2 CAPITAL IMPROVEMENT PROGRAM

(a) **Agreement of the Parties.** -- WMATA and the Contributing Jurisdictions hereby agree to and adopt the Capital Improvement Program attached as Attachment 1. The Parties further agree to comply with the terms and conditions of this Agreement and to fully and faithfully carry out their respective obligations under this Agreement. Any commitment or agreement of any Contributing Jurisdiction required by this Agreement shall be subject to the

annual appropriation of funds and other limitations on expenditures or obligations under the law of the Contributing Jurisdiction or under other applicable law as described in Section 4(b)(3)(B). This Agreement shall not constitute an indebtedness of the Contributing Jurisdictions until funds are duly appropriated and quarterly payments become due pursuant to Section 5(c)(3) of this Agreement, nor shall it constitute an obligation for which the Contributing Jurisdictions are obligated to levy or pledge any form of taxation or for which the Contributing Jurisdiction has levied or pledged any form of taxation. Nothing in this Agreement affects requirements placed on the District of Columbia, State of Maryland and Commonwealth of Virginia by the Passenger Rail Investment and Improvement Act of 2008.

(b) Elements of Capital Improvement Program.

(1) Program Elements. – The Capital Improvement Program proposed to be funded by this Agreement consists of those projects identified for funding along with the sources of that funding in the annually approved CIP as they are updated in accordance with this Agreement. The CIP may include any capital project or purchase eligible for capital funding and may include, for example, projects in any of the following categories:

- (A) Vehicles and Vehicle Parts, such as replacement or purchase of new rail cars, buses, paratransit vehicles and/or service vehicles, rehabilitation of rail cars and buses and replacement parts to maintain the rail fleet.
- (B) Rail System Infrastructure Rehabilitation, such as multiple systems and equipment within the rail stations and tunnels that enable safe, reliable Metrorail service.
- (C) Maintenance Facilities, such as rehabilitation, maintenance, replacement and/or new bus garages and rail yards to support repairs to vehicle fleet.
- (D) Systems and Technology, such as technology systems, software and equipment supporting transit operations and business functions.

- (E) Track and Structures, such as steel running rail that guides Metrorail trains, the cross ties and fasteners that hold the rail in place, the ballast bed that supports the cross ties and the third rail that provides power to the train. Structures include the retaining walls that protect the track bed and underground tunnels, the concrete pads that keep the track bed properly elevated and the bridges that span roads and bodies of water.
- (F) Passenger Facilities, such as facilities at Metrorail stations, including bus loops, bus stops, parking garages, surface lots, Kiss-and-Ride spaces, access roads and bus loops, bike racks and lockers.
- (G) Maintenance Equipment such as equipment to rehabilitate track and maintain the vehicle fleet (rail and bus).
- (H) Other Facilities, such as facilities that house administrative offices, training rooms, revenue processing activities, material storage, police work and a print shop.
- (I) Program Management and Support including Credit Facility and Other Financial Fees and Expenses and Program Contingencies.
- (J) Safety and Security Projects.
- (K) Preventive Maintenance as defined in this Agreement.

(2) Description. -- The specific projects and activities and the sources of funding to support those specific projects and activities will be set forth in the Annual Work Plan.

(c) Cost. -- The estimated program cost of the initial Capital Improvement Program is approximately \$5,000,000,000 in year of expenditure dollars and covering a six-year period. The initial CIP covering FY 2011-2016 is provided as Attachment 1.

(d) Schedule. -- The initial Capital Improvement Program will be implemented over the period beginning WMATA fiscal year 2011 and ending fiscal year 2016. There will be an

Annual Work Plan for each fiscal year, as more specifically described in Section 4 of this Agreement.

(e) **Agreement to Fund Capital Improvement Program.** -- WMATA and the Contributing Jurisdictions hereby concur in and agree to fund the Capital Improvement Program in accordance with 4(b)(1)(B) of this Agreement.

(f) **Authorized Representative.** – Within 30 days after the Effective Date of this Agreement, WMATA and each of the Contributing Jurisdictions shall designate an Authorized Representative to act on that Party's behalf in implementing this Agreement.

SEC. 3 CAPITAL IMPROVEMENT PROGRAM FINANCIAL PLAN

(a) **Funding Sources.**

The projects and activities in the Capital Improvement Program shall be funded in the most cost effective manner from one or more of the following sources: (A) Funding Sources; (B) the issuance of Debt by WMATA, with WMATA's debt service to be paid with funds received from the Contributing Jurisdictions unless a Contributing Jurisdiction has opted out of the Long-Term Debt issue in accordance with this Agreement; and (C) such other funding sources, cash management strategies or financing methods as the WMATA Board determines to be appropriate to accomplish the goals of the Capital Improvement Program. The specific amounts estimated from each Funding Source will be set forth in each Annual Work Plan.

(b) **Formula for Contributing Jurisdiction Funding.** -- The Allocated Contributions of the Contributing Jurisdictions for the Capital Improvement Program will be based on the Board-adopted FY 2010 Operations Allocation Formulas applied to each project as shown in the FY2011-2016 CIP applied to each element of the Capital Improvement Program as follows:

- (1) The Rail allocation formula will apply to Rail projects and debt issued for Rail projects.
- (2) The Bus allocation formula will apply to Bus projects and debt issued for Bus projects.
- (3) The Paratransit formula will apply to Paratransit projects and debt issued for Paratransit projects.
- (4) An average of the Rail and Bus allocation formulas will apply to General financing expenditures and for project expenditures that cannot be allocated to Rail, Bus, or Paratransit.
- (5) Dedicated Funding funded projects – Will be divided equally among the District of Columbia, State of Maryland, and Commonwealth of Virginia subject to the provisions of the various state laws establishing dedicated funding sources to match federal funds made available under the Passenger Rail Investment and Improvement Act of 2008.

The allocation formulas will be recalculated every three (3) years to reflect the then-current approved Operating Budget allocation and applied prospectively to the three subsequent Annual Work Plans.

(c) **Debt Service.** – Debt service on obligations agreed to by the Contributing Jurisdictions and issued under the Metro Matters Funding Agreement shall become obligations issued under this Agreement. The Contributing Jurisdictions shall continue to make any debt service payments as were required under the terms of the Metro Matters Funding Agreement. New debt service for obligations issued under the terms of this Agreement will be funded by the Contributing Jurisdictions as more fully set forth in Section 4(b)(2) of this Agreement.

(d) **FY 2010 Capital Projects.** -- WMATA and the Contributing Jurisdictions agree that all projects whose funding was obligated under the Metro Matters Funding Agreement but for which expenditures will occur during the scope of this Agreement will become projects under this Agreement and governed by the terms of this Agreement including the funding obligations

of the Contributing Jurisdictions thereto. It is the intent of the Parties to terminate the Metro Matters Funding Agreement and incorporate all its capital commitments into this Agreement.

SEC. 4 IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM

(a) Programmatic Aspects.

(1) Long Term Programming -- To assist in the prioritization of projects, each Contributing Jurisdiction will, at the execution of this Agreement, provide a schedule of funds expected to be made available to WMATA for the 2011-2016 period and successor periods (for planning purposes only) covered by this Agreement. The schedule for WMATA fiscal years 2012 - 2016 is subject to adjustment as the submitting Contributing Jurisdiction obtains more updated information. It is not binding on any Party and shall not be considered as a payment schedule. The Annual Work Plan will contain the actual funding requirements and sources of funds for the current year. The WMATA Board of Directors will approve a six-year capital program each year, with such program covering potential funding sources, a description of the project prioritization process, an explanation of how the CIP would further the strategic goals of WMATA, and an identification of the performance metrics by which the outcome of the CIP will be measured. The prioritization process shall rank and select projects based on the projects' support of WMATA's strategic goals and funding availability.

The annual documentation of the capital program will describe qualitatively and quantitatively the broad outlines of the proposed capital spending and sources for that spending for the forthcoming fiscal year and the outcomes expected to be achieved by the proposed program. The discussion of the proposed spending shall include at least the following: (i) the sources of funds for the proposed spending, (ii) expenditures by mode (e.g. bus, rail, paratransit), (iii) expenditures by project phase (e.g. planning, design, land acquisition, construction), (iv) the

indicators of the outcomes to be achieved by the proposed projects, and (v) projected spending compared to prior year actual spending rate.

(2) **Annual Work Plan.** -- WMATA shall, as a part of its annual budget process each year during this Agreement, develop and submit to the Contributing Jurisdictions a draft Annual Work Plan for the Capital Improvement Program which shall include the preliminary results of the Budget Reconciliation process contained in section 5 of this Agreement. The Annual Work Plan shall be based upon and be consistent with the updated Capital Improvement Program prepared pursuant to the reconciliation process under Section 5 of this Agreement. The Annual Work Plan along with the Capital Program will be approved by the WMATA Board of Directors prior to the start of the fiscal year covering the specific Annual Work Plan.

(3) **Contents of Plan.** -- The Annual Work Plan shall include --

(A) an identification of the projects and activities in the Capital Improvement Program for which funds will be obligated or expended during the next WMATA fiscal year;

(B) a budget for the Annual Work Plan that includes a cost estimate and source of funds for each project and activity in the Plan, by CIP category;

(C) a statement of each Contributing Jurisdiction's required Allocated Contribution for the Annual Work Plan, based on a schedule of projected quarterly cash needs including an identification of what portion of that contribution is a direct capital contribution, and what portion (if any) is to be used by WMATA to pay debt service on WMATA Long-Term Debt and WMATA Short-Term Debt (each to be stated separately in the Plan);

(D) a summary of the CIP projects and activities undertaken in the then-current WMATA fiscal year, together with the costs incurred to date and the estimated remaining costs for those projects and activities; and

(E) the preliminary results of the Budget Reconciliation process contained in section 5 of this Agreement and a revised proposed CIP.

(4) **Schedule for Approval of CIP and Annual Work Plan.** To ensure a coordinated program, the Parties agree that each annual program will be developed and approved under the following schedule:

(A) The updated 6-year CIP will be made available to the Contributing Jurisdictions no later than the 10th business day in October.

(B) A presentation will be offered to the Northern Virginia Transportation Commission at a scheduled meeting no later than the November meeting.

(C) A presentation will be offered to the Mayor and Council of the District of Columbia no later than the Wednesday immediately prior to Thanksgiving.

(D) Subject to consultation with the Maryland Department of Transportation, a public presentation will be offered in both Prince George's County and Montgomery County no later than the Wednesday immediately prior to Thanksgiving.

(E) WMATA will also present the capital program and the Annual Work Plan information to affected legislative bodies as requested.

(F) The draft Annual Work Plan shall be submitted to the Contributing Jurisdictions by December 15.

(G) Comments are due from the Contributing Jurisdictions no later than February 15th. WMATA may not be able to consider comments received after February 15th in the development of the proposed Annual Work Plan.

(H) The proposed Annual Work Plan shall be provided to the Contributing Jurisdictions immediately following the March WMATA Board meeting and shall be used by the staff of the Contributing Jurisdictions to consult with WMATA Board representatives. The amount included as the Minimum Allocated Contribution on this final Annual Work Plan will remain substantially the same for the upcoming fiscal year, subject to downward adjustment as provided in Section 4(b)(3)(B), or as otherwise requested by the WMATA Board and approved by the Contributing Jurisdictions. The final CIP and Annual Work Plan will be adopted by the WMATA Board no later than the June meeting.

(5) WMATA Implementation Responsibilities.

(A) General. -- WMATA will administer the Capital Improvement Program and carry out all necessary procurement actions and management oversight. All procurement actions will be undertaken in accordance with WMATA procurement policies and applicable law.

(B) Federal Grants. -- To the extent that Federal financial assistance is provided for any project or activity in the Capital Improvement Program, WMATA will develop the required Federal grant applications and/or other necessary documentation to meet FTA or other Federal program requirements, and will carry out the federally assisted project or activity in compliance with all applicable Federal requirements.

(6) Funding Methodology For Projects in the Annual Work Plan. New projects for the Annual Work Plan will be listed with their funding identified by both year and

Funding Source. A project may be funded by more than one type of funding. If a project is a multi-year project, then in the second and succeeding years, that project will have the first call on that funding source unless another funding source is identified. In every case, funds needed for debt service including Short Term Debt and Interim Financing and funds needed for annual “state of good repair” items shall have first claim on all funds that may legally be spent on such projects. Projects which are underway but which have remaining amounts budgeted for them in the CIP shall have the unexpended funds “rolled over” to the succeeding fiscal year. The unexpended funds shall be in addition to the succeeding year’s CIP funding requirements.

(b) **Financial Aspects.**

(1) **Cash Sources.**

(A) **Federal Funds.** -- WMATA commits to take all necessary and appropriate actions to secure Federal funding in the CIP (including Federal formula and discretionary grant funds under the Federal transit/highway program, the Passenger Rail Investment and Improvement Act of 2008, and such other Federal financial assistance as may be made available during the term of this Agreement) to assist in the funding of the Capital Improvement Program. WMATA will manage the Capital Improvement Program within the funding amounts agreed to by the Contributing Jurisdictions, except as otherwise provided in paragraph (C) of this subsection.

(B) **Jurisdictional Commitments.**

(i) To the extent applicable, each Contributing Jurisdiction agrees to make its Allocated Contribution to fund the Capital Budget component of the CIP and the CIP as a whole as adjusted annually in accordance with this Agreement; provided, however, that in no case will the Allocated Contribution be less than the Contributing Jurisdiction’s estimated

annual share of any required matching funds for (1) all federal formula and other federal grant funds awarded to WMATA and expected to be expended in the current Annual Work Plan, and (2) the System Performance Funds necessary to meet any maintenance of effort requirement for WMATA to receive Dedicated Funding (“Minimum Annual Allocated Contributions”). Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The source of funds for such capital contributions is in the discretion of each Contributing Jurisdiction; provided that such funds must qualify as local match under applicable FTA or other agency grant program requirements. WMATA agrees to provide each Contributing Jurisdiction with their estimated Allocated Contribution by the 10th business day in October each year.

(ii) If the expected amount of federal grant funds requiring a non-federal match increases by more than 20% over the previous year’s grant funds received by WMATA, then the Parties will confer within 30 days to determine if a change to the funding requirement contained in Section 4(b)(1)(B)(i) of this Agreement is appropriate.

(iii) Additionally, each Contributing Jurisdiction agrees to make its best efforts to provide necessary System Performance Funds to pursue the projects in the Annual Work Plan to be funded with System Performance Funds above those required to obtain Dedicated Funding. Each Contributing Jurisdiction shall inform WMATA of the amount of any such System Performance Funds to WMATA in sufficient time for WMATA staff to prepare the draft and final capital program and Annual Work Plan. The System Performance Funds will be programmed into the CIP and Annual Work Plan using the WMATA funding formulas described in Section 3(b) of this Agreement. Only those amounts which are balanced among the

Contributing Jurisdictions based on the aforementioned funding formulas will be programmed into the CIP and Annual Work Plan.

(C) Additional Limitations.

(i) As authorized in Section 4(b)(7) of this Agreement, WMATA and the District of Columbia have entered into a separate Local Capital Funding Agreement of even date herewith (“DCLCFA”) to address certain issues concerning the implementation of this Agreement that must be handled separately according to District of Columbia law. The implementation of District of Columbia obligations, representations, and warranties under this Agreement shall be controlled by the provisions of the DCLCFA set forth on Attachment 3 to the extent of any inconsistency between this Agreement and the provisions of the DCLCFA identified on Attachment 3. Section 4(b)(2)(D) of the DCLCFA provides that, if the District of Columbia exercises its prepayment rights for all long-term debt under 4(b)(2)(D) of this Agreement, then notwithstanding anything to the contrary herein, the Allocated Contribution of the District of Columbia, as shown on Table 1 of Attachment 1 of this Agreement, may not be increased above the aggregate amount of \$397,314,000 to be paid from District of Columbia capital funds, without written approval of the District of Columbia. Payments for Long Term Debt service on Metro Matters Funding Agreement debt and Long Term Debt service anticipated in this Agreement, are not included in the Allocated Contribution aggregate cap for the District of Columbia.. For informational purposes, only, the District of Columbia represents that payments for amounts such as Long Term Debt service under the Metro Matters Funding Agreement and funds associated with debt service for projects under this Agreement are funded through annual appropriations in its Operating Budget. For example, the District of Columbia has included in its proposed operating budget for FY 2011 the sum of

\$258,318,034 for payment to WMATA, which includes an amount sufficient to pay Long Term Debt service for FY 2011.

(ii) The District of Columbia agrees to review its Allocated Contributions annually to determine if any adjustments may be made. If the District of Columbia agrees to increase the District of Columbia Allocated Contributions cap by an amendment to the DCLCFA, then such increase will be incorporated into this Agreement pursuant to the Annual Work Plan process.

(iii) In the event that (i) WMATA proposes an increase that would cause the District of Columbia's Allocated Contribution to exceed an aggregate amount of \$397,314,000; and (ii) the District of Columbia denies or withholds approval of the increase in excess of that stated amount, all other Contributing Jurisdictions shall be relieved of any obligation to fund the increase proposed by WMATA in their Allocated Contributions.

(iv) In the event that the District of Columbia denies or withholds approval of such increase, all Parties shall cooperate to develop alternative solutions to any resulting revenue or program shortfalls.

(2) Debt Sources.

(A) General. -- In accordance with the Annual Work Plan, all or any portion of the Capital Improvement Program may be funded through short- or long-term debt financing as described in this subsection and in accordance with Section 21 and Articles IX and X of the WMATA Compact.

(B) WMATA Responsibility. -- WMATA may issue debt to assist in the financing of the Capital Improvement Program. The WMATA Board may authorize the issuance of such debt, in one or more issuances during the term of this Agreement, at such times

as it determines appropriate, in its discretion, taking into account factors such as the cash flow needs of the CIP, market conditions for financing, and WMATA's debt capacity. Any debt issued by WMATA under this subsection may be secured by a lien and pledge of WMATA's gross revenues, or (subject to any required FTA approval) of WMATA's capital assets. Any such debt secured by WMATA's gross revenues may be on parity with or subordinate to the 2003 Gross Revenue Transit Refunding Bonds, the Gross Revenue Transit Bonds Series 2009A, and the Gross Revenue Transit Bonds Series 2009B. For any such debt that is secured by WMATA's capital assets, WMATA will endeavor, consistent with the cash flow needs of the CIP and with market demands, to match the length of the debt financing to the useful life of the pledged assets, unless WMATA determines that market or other financial considerations make a different debt length more prudent. In addition to debt secured by gross revenues or capital assets as described in this paragraph, WMATA may issue debt in accordance with subsection (f) of this Section.

(C) Contributing Jurisdiction Responsibility. -- The Contributing Jurisdictions which have not elected to prepay pursuant to paragraph (D) of this subsection each commit, subject to annual appropriations, to make the annual contributions necessary in order that WMATA can make payments of debt service on debt issued by WMATA under paragraph (B) of this subsection. The amount of such contributions will be included in the respective Allocated Contribution amounts of the Contributing Jurisdictions set forth in the CIP. Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The obligation to make contributions to pay such debt service shall survive the term of this Agreement and shall remain in effect throughout the term of the WMATA debt issuance involved.

(D) Prepayment Alternative for Contributing Jurisdictions.

(1) Election. -- A Contributing Jurisdiction may elect to prepay its portion of the debt financing (other than commercial paper, letter of credit, or line of credit) needed to fund the Capital Improvement Program, as described in the CIP, in lieu of making annual contributions to pay WMATA debt service pursuant to paragraph (3) of this subsection. The elections and commitments of the Contributing Jurisdictions to make such prepayments, as of the Effective Date of this Agreement, are reflected in the CIP. If any update to the CIP during the term of this Agreement contemplates long-term debt issuances by WMATA, then the Contributing Jurisdictions shall have an opportunity to change their elections regarding prepayment, by notice to WMATA. Such notice shall be provided in writing no later than one hundred twenty (120) days after the date WMATA notifies the Contributing Jurisdictions of the need to make an election regarding such additional debt issuance.

(2) Responsibility for Repayment. -- If a Contributing Jurisdiction issues debt to make its prepayment under this paragraph, it shall pay the proceeds of such debt issuance directly to WMATA in accordance with its Allocated Contribution as set forth in the CIP and in accordance with the procedures set forth in Attachment 2. Such Contributing Jurisdiction shall be solely responsible for the repayment of the principal and interest of any debt it issues under this paragraph.

(3) **Contributing Jurisdiction Commitment.**

(A) General. -- The maximum amount of the Contributing Jurisdictions' Allocated Contribution of the costs of the CIP is subject to the provisions of Section 4(b)(1)(C) of this Agreement. Nothing in this Agreement shall be construed to obligate a Contributing Jurisdiction to have, as of the date that it enters into this Agreement, funding or an

appropriation in the full amount of its Allocated Contribution of the costs of the CIP. The Contributing Jurisdictions shall be solely responsible for their Allocated Contributions of the cost of the CIP. Each Contributing Jurisdiction commits, subject to its constitutional or legally equivalent provisions and throughout the term of this Agreement, to use all reasonable efforts including, but not limited to, a request by the responsible official to include the Minimum Annual Allocated Contribution as described in the draft Annual Work Plan in the Contributing Jurisdiction's annual proposed budget or other financial submission to its fiscal authority and to pursue all legally available means to secure the necessary and appropriate budget, legislative, and appropriations actions in order to obtain funding in the full amount of its Allocated Contribution of the costs of the Capital Improvement Program. Each Contributing Jurisdiction shall be solely responsible for providing its Allocated Contribution to the cost of the CIP, and in no circumstance shall one Contributing Jurisdiction be responsible for the Allocated Contribution or other obligations of any other Contributing Jurisdiction under this Agreement.

(B) Annual Commitment. -- Each Contributing Jurisdiction shall annually provide WMATA with written notice, concurrent with comments on WMATA's proposed budget, that funds have been, are intended to be, or will not be appropriated to cover its Allocated Contribution for WMATA's upcoming fiscal year, and committing to make payment of such Allocated Contribution to WMATA. No CIP or Annual Work Plan shall be approved without the certification of each Contributing Jurisdiction that the funding levels are reasonable and accurate reflections of funds to be made available. If a Contributing Jurisdiction's appropriations process is not completed by June 1, such Contributing Jurisdiction shall provide to WMATA: (i) a written explanation for the failure to make such submissions by June 1 and confirmation that amounts equal to its Allocated Contribution have been or will be included in

the next fiscal year budget to be considered by the Contributing Jurisdiction's fiscal authority; and (ii) written assurances that all reasonable efforts will be undertaken to secure the ultimate appropriation of funds in a prompt and timely fashion, or if funds will not be appropriated, then the Contributing Jurisdiction shall notify WMATA and all other Contributing Jurisdictions through their representatives listed in section 12 of this Agreement or as may be updated by each Contributing Jurisdiction in the future within five business days of the fiscal body's action. If there is a failure to appropriate the full annual Allocated Contribution, the Annual Work Plan shall be revised to conform to the available funds and submitted to the WMATA Board of Directors and the other Contributing Jurisdictions for approval.

(C) Quarterly Payments. -- Each Contributing Jurisdiction's Allocated Contribution shall be based on the approved Annual Work Plan and any subsequent adjustments derived from the Annual Budget Reconciliation Process for the quarter covered by the invoice, and paid to WMATA on a quarterly basis in advance, no later than the first day of each quarter, throughout the term of this Agreement. Any debt service included in the invoice for either Short-Term Debt or Long-term Debt shall be separately identified on the invoice. WMATA shall submit bills to the Contributing Jurisdictions for such quarterly payments forty-five (45) days prior to the date such payments are due. Thus, for example, for the July-September quarter WMATA will bill the amount in the Annual Work Plan as approved or adjusted for July-September and send each Contributing Jurisdiction an invoice for its Allocated Contribution no later than the immediately preceding May 15th. Contributing Jurisdiction payments must be received by WMATA no later than July 1. The sum of each Contributing Jurisdiction's quarterly invoices during a given fiscal year shall not exceed that Contributing Jurisdiction's Allocated Contribution in the approved Annual Work Plan.

(4) Transitional System for FY2011 Billings -- To transition to the billing system covered by this Agreement, WMATA shall:

(A) Bill the Contributing Jurisdictions $\frac{1}{4}$ of the Allocated Contribution amounts for each of the first two quarters in FY2011 instead of the expected cash flow needs.

(B) Issue the final Annual Work Plan for FY2011 on or before July 1, 2010.

(C) Apply the Annual Budget Reconciliation Process to FY2011.

(D) Start the Quarterly Reporting required under the Agreement for the 1st quarter which closes on September 30, 2010, with the content of the report being progressively refined to meet the requirements of section 4(b)(5) and coming into full compliance with the report covering the 3rd quarter of FY2011.

(5) Quarterly Reports. At the conclusion of every quarter, WMATA shall prepare a report on the result of the preceding quarter for submittal to the Contributing Jurisdictions no later than forty five (45) days following the close of the quarter. Such report shall contain a review of capital project scope, cost, and schedule changes; the status of contracts necessary for the implementation of capital projects; the status of year-to-date expenditures relative to budget and the Annual Work Plan; the status of all cash and debt sources relative to budget and the Annual Work Plan; updated project cash flow projections and program cash requirements; and a comparison of the billed amount to amounts actually paid out for the preceding quarter. Such report shall be provided in a quarterly financial report to the WMATA Board.

(6) Timeliness of Payment.

(A) Treatment of Payments. -- Interest shall accrue on all payments made by a Contributing Jurisdiction until the funds are expended. WMATA shall place such funds so contributed into an interest earning account, with interest to be compounded monthly at WMATA's then current earnings rate for its short-term investments. Interest earned on funds contributed by a Contributing Jurisdiction shall be applied as a credit against future payments for Allocated Contributions due from that jurisdiction under this Agreement, unless otherwise directed in writing by that jurisdiction.

(B) Non-Payment or Late Payments. -- If a Contributing Jurisdiction fails to make a quarterly payment in full to WMATA when such payment is due after certification by the Contributing Jurisdiction as required under section 4(b)(3)(B), WMATA shall notify the other Contributing Jurisdictions and may issue debt or otherwise advance funds as deemed necessary by the WMATA General Manager to replace the amount of payment not timely received. In the event that WMATA issues debt, WMATA shall charge such Contributing Jurisdiction an amount equal to the sum of (i) the financing and interest costs and expenses (or lost interest earnings) incurred by or on behalf of WMATA in connection with such debt issuance or advance of funds; (ii) any administrative costs incurred by WMATA in connection with obtaining such replacement funding; and (iii) any penalties or losses incurred by WMATA assessed by a third party as a result of such late or non-payment. The total amount of the charges assessed under this paragraph, together with the unpaid quarterly payment, shall be due and payable to WMATA no later than thirty (30) days after the date of assessment by WMATA plus interest compounded monthly at the WMATA short-term investment earnings rate until the date of full payment.

(7) **Local Capital Funding Agreements.** -- WMATA, with the approval of the WMATA Board, may enter into Local Capital Funding Agreements with some or all of the Contributing Jurisdictions, consistent with this Agreement and the Attachments hereto, to establish arrangements to implement the Contributing Jurisdiction's commitment to pay its Allocated Contribution of the cost of the Capital Improvement Program, in the event that the budgetary process of a Contributing Jurisdiction makes such an agreement necessary or appropriate.

(8) **Interim Funding Sources and Security Interests.**

(A) **Interim Funding Authority.** -- The WMATA Board of Directors is authorized to use Interim Funding Sources, including borrowing, on behalf of WMATA in such amounts and at such times as, in the Board's sole judgment, are necessary and appropriate for the purpose of implementing the projects and activities in the Capital Improvement Program and any Annual Work Plan funded through direct capital contributions.

(B) **Security Interests.** -- WMATA may create security interests in its rights and interests in amounts paid or received as direct capital contributions from the Contributing Jurisdictions under this Agreement, as such amounts shall become available and are paid to or for the account of WMATA under the terms of this Agreement. Such amounts may be pledged as security for the costs of Interim Funding Sources. Each Contributing Jurisdiction shall comply with any reasonable and legal request of WMATA to execute, acknowledge, and deliver appropriate instruments and assurances as may be necessary or desirable to confirm and effectuate any such security interest created by WMATA in connection with Interim Funding Sources. Nothing in this subsection shall be construed as requiring any Contributing Jurisdiction to make any payment under this Agreement to anyone other than WMATA. For purposes of this

subsection, the “cost of Interim Funding Sources” includes payments of principal and interest thereunder and all fees, expenses, and other amounts incurred or payable under any Interim Funding Sources.

(C) Limitation. -- The borrowing authority authorized by this subsection may not be used by any Contributing Jurisdiction to satisfy its funding obligations under this Agreement.

(9) WMATA Risk Mitigation. -- Section 22 of the WMATA Compact prohibits WMATA from making any commitment or incurring any obligations with respect to the construction or acquisition of any transit facilities “until funds are available therefor.” The Parties acknowledge that the commitments of the Contributing Jurisdictions under this Agreement are intended to satisfy the requirements of Section 22 under an expenditure-based budget. In order to address the risk of non-appropriation or late payment of funds by a Contributing Jurisdiction or insufficient funding by the Federal Government, and to assure compliance with Section 22 of the WMATA Compact, WMATA intends to continue to maintain a risk mitigation credit facility using one or more of the following: a line of credit, letter of credit, commercial paper program, or other credit facility determined by WMATA in its discretion to be appropriate and feasible. Such risk mitigation credit facility shall be in addition to any other credit facility which may be put in place as a working capital or other cash flow aid.

(10) Annual Changes to the CIP -- In addition to making the funding commitments described in this Section and subject to the provisions of the District of Columbia Local Capital Funding Agreement (attached as Attachment 3), the Parties agree to adjust the program of projects included in the scope of this Agreement, each year within the term of this agreement on a rolling basis, in order to provide the funding required to meet WMATA’s

ongoing and updated CIP needs and other capital needs, and for planning WMATA's ongoing and updated CIP needs and other capital needs on a rolling basis for years beyond the term of this agreement.

SEC. 5 ANNUAL BUDGET RECONCILIATION PROCESS

(a) **Reconciliation.** -- As part of its annual budget process in each year during the term of this Agreement, WMATA shall prepare a reconciliation of --

(1) the actual expenditures for projects and activities under the current Capital Improvement Program to date, and for that fiscal year, as compared to the planned expenditures for such projects and activities for the same fiscal year;

(2) the actual Allocated Contribution of each of the Contributing Jurisdictions to date, as compared to the scheduled Allocated Contribution of each Contributing Jurisdiction for the current CIP;

(3) the projected Allocated Contributions of each Contributing Jurisdiction for the current CIP;

(4) the actual amount of Federal grant funds received for the Capital Improvement Program, as compared to the budgeted or projected amount of Federal grant funds for the same fiscal year; and

(5) the current forecast of expenditures; and

(6) the estimated cost to complete the remaining projects and activities in the current Capital Improvement Program and expected sources of those funds.

(b) **Application of Reconciled Payment Amounts.** On or before October 15th, WMATA shall have performed the reconciliation described in the above section, including whether there is a surplus of funds paid in by the Contributing Jurisdictions. The results of this

reconciliation shall be used in the Annual Work Plan currently under development as well as to review the Annual Work Plan for the fiscal year then currently in effect at the time that the reconciliation is completed. If the results of the reconciliation indicate a need to adjust the then-current year's Annual Work Plan billing amounts, those adjustments shall become effective with the billing for the 3rd quarter, which begins on January 1. The surplus amount may be made available to the Contributing Jurisdictions only if there is no expectation that those funds will be needed within the next six succeeding quarters measured from WMATA's fiscal year 3rd quarter (beginning on January 1) and that the refund of the surplus will not result in WMATA receiving less funds (including the surplus funds) than is required to be needed to meet the expected costs of the program over the next six calendar quarters. If surplus funds are provided to the Contributing Jurisdictions, the funds will be made available prior to the 3rd or 4th quarter of the fiscal year in which the reconciliation was completed.

(c) **Revenue Shortfalls.** -- If the reconciliation process conducted under subsection (a) of this Section reveals that there are shortfalls in revenues for the Capital Improvement Program due to late or insufficient contributions by a Contributing Jurisdiction or to the receipt of less than the assumed level of Federal funds, or other funds that support the CIP, WMATA shall develop a recovery plan for addressing such shortfalls. Such recovery plan, as approved by the WMATA Board of Directors through its annual budget process, shall include one or more of the following alternatives: (1) utilization of Interim Funding Sources; (2) value engineering, project re-design, or other cost reduction measures for future projects or activities; (3) re-scheduling of projects or activities in the Capital Improvement Program; (4) subject to agreement of the Contributing Jurisdictions, increasing the levels of Allocated Contributions from the

Contributing Jurisdictions; and/or (5) the implementation of Project Deferrals under subsection (e) of this Section.

(d) **Revenue Increases.** If the reconciliation process conducted under subsection (a) of this Section reveals that Federal or other funds have been received which substantially exceed the assumed level of funding, such excess funds shall be applied to (1) to the unfunded priorities in the Capital Needs Inventory or to other needs identified by the WMATA Board; or (2) to any outstanding indebtedness, thereby reducing the Allocated Contributions of the Contributing Jurisdictions, as determined by the WMATA Board of Directors through its annual budget process.

(e) **Project Deferrals.** If WMATA is unable to satisfactorily address revenue shortfalls under subsection (c) of this Section, the WMATA Board may, through the next WMATA budget process, modify the Capital Improvement Program to defer certain projects or activities in order to assure that the Capital Improvement Program can be funded during the term of this Agreement within the amount of available financial resources.

(f) **Updated Capital Improvement Program.** The WMATA staff shall, as soon as practical after each annual reconciliation process conducted under this Section, develop an updated Capital Improvement Program. This updated document, if approved by the WMATA Board, will replace and supercede all previous versions of the Capital Improvement Program and.

(g) **Reprogramming of Funds and Projects During the Term of This Agreement.** The Parties recognize that the scope, pricing or desirability of some projects will change during the term of this Agreement. To address these possibilities, WMATA agrees to provide the

Contributing Jurisdictions with advance notice of any request to reprogram funds in an amount greater than \$1,000,000 per project.

(h) **Final Distribution.** In the event that this Agreement is terminated pursuant to section 8 of this Agreement, any amounts remaining at the expiration of this Agreement shall be first used to fund any remaining unfunded projects or activities in the Capital Improvement Program as indicated in the attached Capital Improvement Program, and then, if any funds remain, will be credited or refunded to the Contributing Jurisdictions, as directed by the Contributing Jurisdictions.

(i) **Financial Records.**

(1) **Maintenance of Records.** -- During the term of this Agreement, WMATA agrees to maintain separate and complete accounting records which are consistent with generally accepted governmental accounting procedures and which accurately reflect all income and expenditures of funds which may be provided under this Agreement. WMATA will retain all such CIP records for the same period that records are required to be kept for the FTA or other federal grants, unless there is an outstanding written Contributing Jurisdiction or FTA financial or audit question, which is not resolved by the Contributing Jurisdiction or FTA auditor. The records of WMATA must be in sufficient detail to determine the character and timing of fund items; and of contract obligation and expenditure transactions authorized by this Agreement.

(2) **Audits.**

(A) **Timing for Performance.** -- A Contributing Jurisdiction or its agent may perform an audit of WMATA's expenditures of funds and the sources of those funds provided by this Agreement for a period of up to three (3) fiscal years preceding a request for audit from the Contributing Jurisdiction provided that the request is received no later than one

hundred eighty (180) days after the release of the WMATA audit for the preceding year and transmittal of the audit to the Contributing Jurisdictions with a notice of their audit rights under this Agreement. Any such audit shall be commenced within sixty (60) days after the date of the request, and shall be completed (to the maximum extent practicable) within 180 days after the date it is commenced. The Contributing Jurisdiction will assume all financial responsibility for any costs associated with the performance of such audits. If more than one Contributing Jurisdiction initiates an audit on a timely basis under this paragraph, the audits shall be consolidated into a single audit for the applicable fiscal years and the Contributing Jurisdictions participating in the audit shall share in the cost of the audit. WMATA agrees to cooperate fully with a Contributing Jurisdiction or its authorized agent or designee in the conduct of any audit carried out in accordance with this paragraph. In addition to the foregoing, in the event that any Contributing Jurisdiction's bond, the proceeds of which were used to meet the funding obligation of the Agreement or any transaction pertaining to such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly allow the Contributing Jurisdiction access, at the Contributing Jurisdiction's expense, to any record it may have relating to WMATA's use of the proceeds of such Contributing Jurisdiction's bond so that the Contributing Jurisdiction may participate and respond to any aspect of such investigation, inquiry or suit. In the event WMATA is notified that any Contributing Jurisdiction's bond, the proceeds of which were used to meet funding obligations of this Agreement or any transaction pertaining to any such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly notify the Contributing Jurisdiction and

allow the Contributing Jurisdiction to participate in all aspects of the conduct or any response WMATA may make in such regard.

(B) Audit Results. -- If it is determined as a result of such an audit under this paragraph that the Contributing Jurisdiction has made payments in excess of or less than the amount(s) provided for pursuant to the terms and conditions of this Agreement and the CIP, WMATA will make appropriate adjustments in the amount due to WMATA from such Contributing Jurisdiction in the next fiscal year. The audit rights provided under this paragraph shall survive the termination date of this Agreement.

SEC. 6 DISPUTES

(a) Informal Resolution -- The Parties agree to use all reasonable efforts to resolve any disputes, which arise under or otherwise relate to this Agreement. If the Parties, at staff level, cannot resolve such a dispute through initial discussions within thirty (30) days after the date it first arises, then the Party seeking a resolution shall, through its Authorized Representative, provide written notice of the nature of the dispute and the issues involved to the Authorized Representatives of each other Party involved. Such other Parties shall respond within thirty (30) days, stating their position on the issue presented and their proposal for resolution. The Authorized Representatives shall then meet within the next thirty (30) days in an attempt to resolve the dispute. If the dispute is not resolved within thirty (30) days following the date of the last meeting, any Party to the dispute may refer the matter to the WMATA Board for resolution.

(b) Alternative Resolution. -- If a dispute arising under this Agreement is not resolved pursuant to subsection (a) of this Section, the Parties thereto may agree to pursue a mutually acceptable alternative dispute resolution procedure. If such a procedure is not utilized

or does not result in a final and binding resolution of the dispute, any Party thereto may pursue a civil action for appropriate relief in a court of competent jurisdiction.

SEC. 7 REPRESENTATIONS AND WARRANTIES

(a) **By WMATA.** -- WMATA makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

(1) WMATA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;

(2) WMATA by proper WMATA Board action has duly authorized the execution and delivery of this Agreement;

(3) When executed and delivered by the Contributing Jurisdictions and by WMATA, this Agreement will constitute the legal, valid and binding obligation of WMATA enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally.

(4) No director, officer, or employee of WMATA who exercises or has exercised any functions or responsibilities over any procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect thereto during the term of this Agreement.

(b) **By Contributing Jurisdictions.** -- Each Contributing Jurisdiction makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

(1) The Contributing Jurisdiction has all necessary power and authority to enter into the transactions contemplated by this Agreement and to carry out its individual obligations hereunder;

(2) Each Contributing Jurisdiction has individually duly authorized the execution and delivery of this Agreement;

(3) When executed and delivered by each Contributing Jurisdiction, this Agreement will constitute the legal, valid and binding obligation of the individual entity enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally;

(4) No officer, or employee of any Contributing Jurisdiction who exercises or has exercised any functions or responsibilities over a procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect therewith during the term of this Agreement.

SEC. 8 EFFECTIVE DATE AND TERM OF AGREEMENT

(a) Effective Date. The Parties acknowledge and agree that this Agreement is in consideration of and contingent upon the execution of the Local Funding Agreement for Capital Funding by and between WMATA and the District of Columbia to be executed concurrently with the execution of this Agreement. Accordingly, this Agreement shall take effect on the date of execution by the last signatory to either this Agreement or the District of Columbia Local Funding Agreement for Capital Funding.

(b) Term. The term of this Agreement shall begin on the Effective Date and shall terminate on June 30, 2016. Where there are projects which have been started during the term of the Agreement or where bonds or other financial instruments have been issued pursuant to the Metro Matters Funding Agreement (for those Contributing Jurisdictions who did not opt out of the Long Term Debt issuance) or pursuant to this Agreement, the Contributing Jurisdictions, subject to annual appropriations, agree to continue to make their Allocated Contributions for those projects or debt service until the conclusion of the projects or the final maturity of the bonds or other financial instruments.

(c) Future Negotiations. No later than June 30, 2015, WMATA and the Contributing Jurisdictions agree to commence discussions for a successor capital funding agreement. WMATA will ask each Contributing Jurisdiction for an affirmative response to whether it wishes to participate in a successor agreement. Each Contributing Jurisdiction shall give an affirmative notice in accordance with Section 12 of this Agreement no later than October 1, 2015, either that: (1) it intends to continue under the Agreement, subject to amendment only of the projects included in the CIP and the cost of a new 6 year CIP and the renegotiation of the Local Funding Agreement with the District of Columbia (2) it requests negotiation of additional terms of the agreement in addition to those specified in the preceding clause or (3) it wishes to terminate the agreement as of June 30, 2016. It is the Parties' desire to limit negotiations only to the items listed in clause (1) if at all possible. A failure to timely respond will be deemed an election to terminate the Agreement. If a Contributing Jurisdiction gives or is deemed to give the required notice that it is terminating its participation in this Agreement, then the Agreement shall terminate as of June 30, 2016, except as covered by subsection (b), above.

SEC. 9 RECITALS

The Recitals set forth in this Agreement are material parts of this Agreement and are binding on the Parties to the same extent as the other terms and conditions hereof.

SEC. 10 NO THIRD PARTY BENEFICIARIES

The Parties to this Agreement do not intend any non-signatory to this Agreement or any other third Party to be a third Party beneficiary to this Agreement, nor do the Parties intend for any such third Party to have any rights or benefits under this Agreement or to have standing to bring an action or claim in any court or other forum to enforce any provision of this Agreement.

SEC. 11 AMENDMENTS

This Agreement may be amended or modified only by written agreement duly executed by all the Parties.

SEC. 12 NOTICES

All notices under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or sent by the U.S. Postal Service or by a courier service or national overnight delivery service, to any Party as follows:

To the State of Maryland:
Department of Transportation:

Director, Washington Area Transit Programs
Maryland Department of Transportation
4351 Garden City Drive, Suite 305
Hyattsville, MD 20785

with a copy to:

Chairman, Washington Suburban Transit District
4351 Garden City Drive, Suite 305
Hyattsville, MD 20785

To the District of Columbia:

Director
District Department of Transportation
2000 14th Street, N.W.
Washington, D.C. 20009

With copies to:

Chief Financial Officer for the District of Columbia
John A. Wilson Building, Room 203
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Attorney General for the District of Columbia
John A. Wilson Building, Room 409
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

To Arlington County, Virginia:

Director
Department of Management and Finance
2100 Clarendon Boulevard, Suite 501
Arlington, VA 22201

with a copy to:

Director
Department of Environmental Services
2100 Clarendon Boulevard, Suite 900
Arlington, VA 22201

To Fairfax County, Virginia:

Director
Fairfax County Department of Transportation
12055 Government Center Parkway, 10th Floor
Fairfax, VA 22035-5511

To the City of Alexandria, Virginia:

City Manager
City of Alexandria
301 King Street
Alexandria, VA 22314

To the City of Fairfax, Virginia:

Mayor
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030

with a copy to:

Transportation Director
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030

To the City of Falls Church, Virginia:

City Manager
City of Falls Church
300 Park Avenue
Falls Church, VA 22046

To the Washington Metropolitan Area Transit Authority:

General Manager
600 Fifth Street, N.W.,
Washington, D.C. 20001

with a copy to:

The General Counsel
Washington Metropolitan Area Transit Authority
600 Fifth Street, N.W., Second Floor
Washington, D.C. 20001

SEC. 13 SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the Contributing Jurisdictions and WMATA.

SEC. 14 NO DEBT GUARANTEES

No Contributing Jurisdiction guarantees the debt of WMATA or any other Contributing Jurisdiction, nor any obligation of WMATA or any other Contributing Jurisdiction.

SEC. 15 REQUIREMENT FOR ANNUAL APPROPRIATIONS

Notwithstanding any other provisions of this Agreement, all obligations of the Contributing Jurisdictions are subject to discretionary annual appropriation of funds by the governing bodies thereof or other appropriate legislative bodies thereof and shall be consistent with the anti-deficiency laws applicable to each Contributing Jurisdiction.

SEC. 16 COUNTERPARTS

This Agreement may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement. The counterpart with the most recent date shall determine the date of entry of this Agreement by the Parties listed on page one.

IN WITNESS WHEREOF, WMATA and the Contributing Jurisdictions have executed this Agreement on this _____ day of _____, 2010.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

Attest:

By:

Secretary

Richard Sarles
Interim General Manager

[Seal]

Dated: _____

Approved as to Form and Legal Sufficiency:

By: _____
Office of General Counsel

[signatures continued on following page]

STATE OF MARYLAND

acting by and through the Washington Suburban Transit District and the Department of Transportation

MARYLAND DEPARTMENT OF TRANSPORTATION

Attest:

Witness

By: _____ [Seal]
Secretary

and

WASHINGTON SUBURBAN TRANSIT DISTRICT

Attest:

Witness

By: _____ [Seal]
Chairman

Approved as to Form and Legal Sufficiency:

By: _____
Assistant Attorney General

Date: _____

[signatures continued on following page]

DISTRICT OF COLUMBIA

Attest:

Witness

By: _____ [[Seal]
Mayor

Approved as to Form and Legal Sufficiency:

By: _____
Attorney General

Dated: _____

[signatures continued on following page]

COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

Attest:

Clerk to the County Board

By: _____ [Seal]

Chair
County Board
Arlington County, Virginia

Approved as to Form and Legal Sufficiency:

By: _____
Arlington County Attorney

Dated: _____

[signatures continued on following page]

FAIRFAX COUNTY, VIRGINIA

Attest:

Clerk to the Board of Supervisors

By: _____ [Seal]
County Executive
Fairfax County, Virginia

Approved as to Form and Legal Sufficiency:

By: _____
County Attorney

Dated: _____

[signatures continued on following page]

CITY OF ALEXANDRIA, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____

[signatures continued on following page]

CITY OF FAIRFAX, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
Mayor

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____

[signatures continued on following page]

CITY OF FALLS CHURCH, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____

Attachment 1

(dollars in millions)

Financial Plan

	Annual Work Plan Year:	FY2012	FY2013	FY2014	FY2015	FY2016	Total
	FY2011 Budget	Forecast	Forecast	Forecast	Forecast	Forecast	FY2011-16
► Federal Funds:							
Federal Formula Grant Funds:							
Section 5307 Grant	\$139,944	\$145,542	\$151,363	\$158,932	\$166,878	\$175,222	\$937,881
Section 5309 Grant	101,468	105,527	109,748	115,235	120,997	127,047	680,021
Subtotal - Formula Grants	\$241,412	\$251,068	\$261,111	\$274,167	\$287,875	\$302,269	\$1,617,902
Federal Bus Funds	-	-	-	-	-	-	-
Federal Dedicated Funds	150,000	150,000	150,000	150,000	150,000	150,000	900,000
► Subtotal: Federal Funds	\$391,412	\$401,068	\$411,111	\$424,167	\$437,875	\$452,269	\$2,517,902
► State and Local Funds:							
Match to Federal Formula Grants	\$60,353	\$62,767	\$65,278	\$68,542	\$71,969	\$75,567	\$404,476
Local Additional Funds	107,560	107,560	107,560	107,560	107,560	107,560	645,360
Subtotal: Federal Match & Local	\$167,913	\$170,327	\$172,838	\$176,102	\$179,529	\$183,127	\$1,049,836
District of Columbia	62,973	63,879	64,820	66,044	67,330	68,679	393,725
Montgomery County	29,213	29,633	30,070	30,638	31,234	31,860	182,647
Prince Georges County	32,164	32,627	33,108	33,733	34,390	35,079	201,101
Maryland Subtotal	61,377	62,260	63,178	64,371	65,623	66,939	383,748
Alexandria	6,901	7,000	7,103	7,238	7,378	7,526	43,147
Arlington County	12,903	13,089	13,281	13,532	13,796	14,072	80,673
City of Fairfax	0,435	0,442	0,448	0,457	0,465	0,475	2,722
Fairfax County	22,871	23,200	23,542	23,987	24,454	24,944	142,998
Falls Church	0,451	0,458	0,465	0,473	0,483	0,492	2,822
Virginia Subtotal	43,562	44,189	44,840	45,687	46,576	47,509	272,363
Subtotal: Contributions	167,913	170,327	172,838	176,102	179,529	183,127	1,049,836
Match to Federal Dedicated Funds	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$900,000
Subtotal: State and Local Funds	\$317,913	\$320,327	\$322,838	\$326,102	\$329,529	\$333,127	\$1,949,836
Misc. CIP Funding Sources	\$0,000	\$28,435	\$17,565	\$0,000	\$0,000	\$0,000	\$46,000
Total without Debt	\$709,325	\$749,831	\$751,514	\$750,268	\$767,404	\$785,396	\$4,513,738
Debt Strategy	\$0,000	\$0,000	\$0,000	\$50,000	\$195,000	\$195,000	\$440,000
Grand Total	\$709,325	\$749,831	\$751,514	\$800,269	\$962,404	\$980,396	\$4,953,739

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Table 1**► State and Local Funds:**

	Annual Work Plan Year: FY2011 Budget	FY2012 Forecast	FY2013 Forecast	FY2014 Forecast	FY2015 Forecast	FY2016 Forecast	Total FY2011-16
Match to Federal Formula Grants	\$60.353	\$62.767	\$65.278	\$68.542	\$71.969	\$75.567	\$404.476
Local Additional Funds	\$107.560	\$107.560	\$107.560	\$107.560	\$107.560	\$107.560	\$645.360
Subtotal: Federal Match & Local	\$167.913	\$170.327	\$172.838	\$176.102	\$179.529	\$183.127	\$1,049.836
District of Columbia	62.973	63.879	64.820	66.044	67.330	68.679	393.725
Montgomery County	29.213	29.633	30.070	30.638	31.234	31.860	182.647
Prince Georges County	32.164	32.627	33.108	33.733	34.390	35.079	201.101
Maryland Subtotal	61.377	62.260	63.178	64.371	65.623	66.939	383.748
Alexandria	6.901	7.000	7.103	7.238	7.378	7.526	43.147
Arlington County	12.903	13.089	13.281	13.532	13.796	14.072	80.673
City of Fairfax	0.435	0.442	0.448	0.457	0.465	0.475	2.722
Fairfax County	22.871	23.200	23.542	23.987	24.454	24.944	142.998
Falls Church	0.451	0.458	0.465	0.473	0.483	0.492	2.822
Virginia Subtotal	43.562	44.189	44.840	45.687	46.576	47.509	272.363
Subtotal: Contributions	167.913	170.327	172.838	176.102	179.529	183.127	1,049.836
Match to Federal Dedicated Funds	150.000	150.000	150.000	150.000	150.000	150.000	900.000
Subtotal: State and Local Funds	\$317.913	\$320.327	\$322.838	\$326.102	\$329.529	\$333.127	\$1,949.836

- 54 NOTES:
 1) Does not include Debt Service.
 2) Allocated based on six-year project expenditures using FY10 allocation. All modes use FY10 modal allocation (e.g. bus allocation for bus projects).

Table 2**► Estimate of Jurisdictional Share of Debt:**

Debt assumed to be issued for rail cars

	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017
District of Columbia				16.747	65.314	65.314	-
Montgomery County				10.015	39.057	39.057	-
Prince Georges County				8.954	34.919	34.919	-
Maryland Subtotal				18.968	73.976	73.976	-
Alexandria				2.216	8.643	8.643	-
Arlington County				4.651	18.139	18.139	-
City of Fairfax				0.158	0.616	0.616	-
Fairfax County				7.136	27.830	27.830	-
Falls Church				0.124	0.482	0.482	-
Virginia Subtotal				14.285	55.710	55.710	-
Total				50.000	195.000	195.000	-

Table 3

Estimate of Jurisdictional Share of Debt Service Payments:

	Annual Work Plan Year: FY2011 Budget	FY2012 Forecast	FY2013 Forecast	FY2014 Forecast	FY2015 Forecast	FY2016 Forecast	Total FY2011-16
District of Columbia				0.620	3.656	8.489	10.906
Montgomery County				0.371	2.186	5.076	6.521
Prince Georges County				0.331	1.955	4.539	5.831
Maryland Subtotal				0.702	4.141	9.615	12.352
Alexandria				0.082	0.484	1.123	1.443
Arlington County				0.172	1.015	2.358	3.029
City of Fairfax				0.006	0.034	0.080	0.103
Fairfax County				0.264	1.558	3.617	4.647
Falls Church				0.005	0.027	0.063	0.080
Virginia Subtotal				0.529	3.118	7.241	9.302
Total				1.850	10.915	25.345	32.560

Initial Capital Improvement Program:

A Vehicles/ Vehicle Parts

Replacement of Rail Cars

	Annual Work Plan Year: FY2011 Budget	FY2012 Forecast	FY2013 Forecast	FY2014 Forecast	FY2015 Forecast	FY2016 Forecast	Total FY2011-16
CIP 057 1000 Series Rail Car Replacement	\$79.253	\$20.465	\$12.029	\$135.633	\$350.478	\$120.199	\$718.057
CIP 060 4000 Series Rail Car Replacement	0.000	0.000	0.000	22.899	0.728	186.220	209.847
Subtotal	\$79.253	\$20.465	\$12.029	\$158.531	\$351.206	\$306.419	\$927.904

Replacement of Buses

CIP 006 Bus Replacement	\$74.227	\$71.966	\$56.307	\$59.170	\$80.347	\$100.878	\$442.894
Subtotal	\$74.227	\$71.966	\$56.307	\$59.170	\$80.347	\$100.878	\$442.894

Rehabilitation of Rail Cars

CIP 064 1000 Series Rail Car HVAC Rehabilitation	\$4.247	\$1.111	\$0.000	\$0.000	\$0.000	\$0.000	\$5.358
CIP 058 2000/3000 Series Rail Car Mid-Life Rehabilitation	3.256	0.248	0.000	0.000	0.000	0.000	3.505
CIP 067 Rail Car Safety & Reliability Enhancements	12.082	2.499	1.502	1.653	1.699	1.755	21.191
CIP 063 Rail Rehabilitation Program	12.439	12.522	12.703	12.892	12.981	14.164	77.700
CIP 125 Rail Lifecycle Overhaul	40.861	20.800	20.864	20.932	20.831	20.831	145.118
Subtotal	\$72.886	\$37.179	\$35.069	\$35.476	\$35.512	\$36.750	\$252.872

Rehabilitation of Buses

CIP 005 Bus Rehabilitation Program	\$24.401	\$30.081	\$30.862	\$31.672	\$32.251	\$33.005	\$182.273
CIP 008 Bus Repairables	7.178	7.907	12.770	11.511	15.378	16.427	71.172

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		Annual Work Plan Year:						
		FY2011 Budget	FY2012 Forecast	FY2013 Forecast	FY2014 Forecast	FY2015 Forecast	FY2016 Forecast	Total FY2011-16
CIP 137	Bus Lifecycle Overhaul	21,471	10,715	10,748	10,783	10,731	10,731	75,179
Subtotal		\$53,050	\$48,704	\$54,380	\$53,966	\$58,361	\$60,163	\$328,624
Replacement of MetroAccess Vehicles								
CIP 015	MetroAccess Fleet Replacement	\$11,428	\$12,055	\$12,202	\$10,277	\$8,571	\$10,846	\$65,379
Subtotal		\$11,428	\$12,055	\$12,202	\$10,277	\$8,571	\$10,846	\$65,379
Replacement of Service Vehicles								
CIP 009	Service Vehicle Replacement	\$2,062	\$6,823	\$7,964	\$6,968	\$7,937	\$5,718	\$37,472
Subtotal		\$2,062	\$6,823	\$7,964	\$6,968	\$7,937	\$5,718	\$37,472
Rail Car Fleet Expansion								
CIP 062	6000 Series Rail Car Procurement	\$8,052	\$0,843	\$1,658	\$1,101	\$0,000	\$0,000	\$11,654
CIP 069	75% 8-Car Train-- Rail Cars (7000 Series)	0,000	0,000	0,000	0,000	21,593	2,341	23,933
Subtotal		\$8,052	\$0,843	\$1,658	\$1,101	\$21,593	\$2,341	\$35,587
Bus Fleet Expansion								
CIP 003	Bus Capacity Enhancements: Fleet Expansion	\$0,000	\$0,000	\$0,000	\$0,000	\$8,687	\$8,687	\$17,374
Subtotal		\$0,000	\$0,000	\$0,000	\$0,000	\$8,687	\$8,687	\$17,374
Bus Enhancements								
CIP 001	Antenna Reduction/ Security Enhancements	\$0,000	\$0,000	\$0,000	\$0,000	\$0,000	\$0,000	\$0,000
CIP 002	Automatic Vehicle Location Equipment Replacement	9,419	16,053	13,530	0,000	0,000	0,000	39,002
CIP 007	Bus Camera Installation	0,000	3,006	0,000	0,000	0,000	0,000	3,006
Subtotal		\$9,419	\$19,059	\$13,530	\$0,000	\$0,000	\$0,000	\$42,007
Subtotal		\$310,376	\$217,093	\$193,138	\$325,489	\$572,214	\$531,802	\$2,150,112
B Rail System Infrastructure Rehabilitation								
Rail Line Segment Rehabilitation								
CIP 108	Rail Rehabilitation Tier 1: Dupont to Grosvenor	\$0,000	\$0,000	\$0,000	\$41,813	\$51,405	\$51,404	\$144,622
CIP 107	Rail Rehabilitation Tier 1: Dupont to Silver Spring	57,010	65,480	54,549	28,395	0,000	0,000	205,434
CIP 110	Rail Rehabilitation Tier 1: National Airport to Stadium Armory	34,546	60,416	59,548	98,786	80,118	68,457	401,872
Subtotal		\$91,556	\$125,897	\$114,097	\$168,994	\$131,523	\$119,861	\$751,928
Subtotal		\$91,556	\$125,897	\$114,097	\$168,994	\$131,523	\$119,861	\$751,928
C Maintenance Facilities								
Rehabilitation and Replacement of Bus Garages								
CIP 085	Royal Street Bus Garage Replacement (Cinder Bed Road)	\$16,595	\$31,768	\$47,979	\$2,436	\$0,000	\$0,000	\$98,779
CIP 086	Southeastern Bus Garage Replacement (DC Village)	5,732	30,746	14,918	0,000	0,000	0,000	51,396
CIP 084	Southern Avenue Bus Garage Replacement	10,533	29,246	51,759	21,720	0,000	0,000	113,258
Subtotal		\$32,861	\$91,759	\$114,657	\$24,156	\$0,000	\$0,000	\$263,433
Maintenance of Bus Garages								

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		Annual Work Plan Year:						Total
		FY2011 Budget	FY2012 Forecast	FY2013 Forecast	FY2014 Forecast	FY2015 Forecast	FY2016 Forecast	FY2011-16
CIP 119	Bus Garage Facility Repairs Tier 1: Western, Northern and Lan	\$18,879	\$25,739	\$31,052	\$32,237	\$19,800	\$17,250	\$144,957
Subtotal		\$18,879	\$25,739	\$31,052	\$32,237	\$19,800	\$17,250	\$144,957
Maintenance of Rail Yards								
CIP 116	Rail Yard Facility Repairs Tier 1: Alexandria, Brentwood and Ne	\$0,000	\$24,761	\$29,777	\$41,770	\$32,776	\$26,671	\$155,755
Subtotal		\$0,000	\$24,761	\$29,777	\$41,770	\$32,776	\$26,671	\$155,755
Rail Maintenance Facilities								
CIP 071	Test Track & Commissioning Facility	\$5,154	\$17,451	\$17,505	\$0,000	\$0,000	\$46,264	\$86,373
Subtotal		\$5,154	\$17,451	\$17,505	\$0,000	\$0,000	\$46,264	\$86,373
Environmental Compliance Projects								
CIP 010	Environmental Compliance Projects	\$0,623	\$0,655	\$0,692	\$0,733	\$0,770	\$0,812	\$4,285
CIP 011	Underground Storage Tank Replacement	2,135	4,406	2,530	2,426	1,004	2,934	15,435
Subtotal		\$2,757	\$5,061	\$3,222	\$3,159	\$1,775	\$3,746	\$19,720
Maintenance Bus and Rail Facilities								
CIP 127	Support Equipment - MTPD	\$1,031	\$1,030	\$1,030	\$1,037	\$1,033	\$1,032	\$6,192
CIP 126	Financial Planning, Project Administration, and System Wide In	2,169	1,642	3,340	1,060	3,724	3,211	15,146
Subtotal		\$3,200	\$2,672	\$4,370	\$2,097	\$4,756	\$4,243	\$21,338
Expansion of Bus Garages								
CIP 078	Bladensburg Shop Reconfiguration	\$3,092	\$6,159	\$7,208	\$9,431	\$0,000	\$0,000	\$25,890
CIP 038	Bus Garage Capacity Enhancements	1,562	0,000	0,000	0,000	0,000	22,802	24,364
Subtotal		\$4,655	\$6,159	\$7,208	\$9,431	\$0,000	\$22,802	\$50,254
Subtotal		\$67,505	\$173,603	\$207,790	\$112,849	\$59,107	\$120,976	\$741,831
D Systems and Technology								
Power System Upgrades - Rail								
CIP 077	8-Car Train Power Upgrades	\$4,123	\$0,000	\$0,000	\$0,000	\$0,000	\$0,000	\$4,123
CIP 076	100 % 8-Car Train - Power Upgrades	0,000	0,000	6,986	7,980	6,791	7,258	29,016
Subtotal		\$4,123	\$0,000	\$6,986	\$7,980	\$6,791	\$7,258	\$33,139
Operations Support Software								
CIP 042	Bus & Rail Asset Management Software	\$1,109	\$4,140	\$5,872	\$3,613	\$6,757	\$4,948	\$26,439
CIP 043	Bus Operations Support Software	2,062	3,080	3,089	3,099	3,598	3,084	18,012
CIP 044	Customer & Regional Integration	4,295	4,791	3,776	4,821	4,797	4,797	27,278
CIP 045	Data Centers and Infrastructures	7,422	1,602	0,745	4,959	4,913	6,168	25,810
CIP 047	Enterprise Geographic Information System	2,062	3,080	2,574	2,583	3,598	2,570	16,467
CIP 052	Network and Communications	3,092	5,468	6,201	4,132	5,141	6,168	30,203
CIP 053	Network Operations Center (NOC)	1,937	3,500	3,573	3,099	1,028	0,000	13,138
CIP 051	Police Dispatch and Records Management	0,000	0,000	0,000	0,995	0,000	0,000	0,995
CIP 140	Rail Mileage Based Asset Management	4,123	0,000	0,000	0,000	8,504	10,281	22,909
CIP 056	Rail Operations Support Software	2,303	4,211	5,148	5,165	5,141	5,140	27,108

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	Annual Work Plan Year:	FY2012	FY2013	FY2014	FY2015	FY2016	Total
	FY2011 Budget	Forecast	Forecast	Forecast	Forecast	Forecast	FY2011-16
Subtotal	\$28.406	\$29.872	\$30.979	\$32.466	\$43.477	\$43.158	\$208.358
Business Support Software & Equipment							
CIP 030	Currency Processing Machines	\$1.014	\$1.447	\$0.439	\$0.000	\$0.000	\$2.900
CIP 054	Customer Electronic Communications & Outreach	1.546	3.336	2.832	2.066	2.056	13.893
CIP 046	Document Management System	1.546	0.000	0.000	2.626	2.613	11.453
CIP 049	Management Support Software	2.985	2.566	2.574	10.158	10.623	28.907
CIP 050	Metro IT OneStop and Office Automation	2.774	3.094	5.446	3.231	4.112	20.714
CIP 103	Police Portable Radio Replacement	0.670	0.667	0.669	0.000	0.000	2.675
CIP 048	Sensitive Data Protection Technology	4.476	5.221	4.760	4.259	4.112	26.941
Subtotal	\$15.011	\$16.332	\$16.720	\$22.341	\$23.518	\$13.560	\$107.483
Rail Fare Equipment							
CIP 091	Automatic Fare Collection Machines	\$0.000	\$1.075	\$1.030	\$1.033	\$4.613	\$14.426
CIP 031	Debit/Credit Processing Requirements	1.907	0.257	0.257	0.258	0.257	3.193
CIP 092	Ethernet Wiring for Rail Fare Machines	1.340	0.000	0.000	0.000	0.000	1.340
CIP 032	Fare Media Encoders	0.000	0.579	1.013	0.000	0.000	1.592
CIP 094	Improvements to Coin Collection Machines	2.276	0.000	0.000	0.000	0.000	2.276
CIP 093	Integrating regional NEXTFARE System	1.788	0.980	0.880	0.728	0.982	6.341
CIP 097	Open Bankcard and Automatic Fare Collection Systems	1.546	2.310	2.317	4.954	4.786	15.912
Subtotal	\$8.858	\$5.200	\$5.498	\$6.973	\$10.638	\$7.914	\$45.081
Subtotal	\$56.398	\$51.405	\$60.183	\$69.760	\$84.423	\$71.891	\$394.060
E Track and Structures							
Track Rehabilitation							
CIP 023	Third Rail Rehabilitation	\$0.000	\$5.518	\$4.184	\$4.408	\$4.606	\$23.550
CIP 089	Track Fasteners	2.062	2.053	2.059	2.066	2.056	12.353
CIP 019	Track Floating Slab Rehabilitation	1.728	1.260	1.319	1.555	1.616	9.166
CIP 021	Track Pad/Shock Absorber Rehabilitation	4.334	2.047	2.155	2.271	2.419	15.716
CIP 024	Track Rehabilitation	44.449	33.269	33.223	31.918	33.369	213.468
CIP 022	Track Structural Rehabilitation	2.333	1.542	2.890	1.840	1.787	12.268
CIP 141	Cheverly Abutment	3.196	0.000	0.000	0.000	0.000	3.196
CIP 018	Track Welding Program	1.467	2.656	2.863	3.089	3.307	16.942
Subtotal	\$59.568	\$48.343	\$48.693	\$47.147	\$49.161	\$53.747	\$306.658
Station/Tunnel Rehabilitation							
CIP 026	Station/Tunnel Leak Mitigation	\$3.057	\$3.298	\$3.276	\$3.451	\$3.607	\$20.451
Subtotal	\$3.057	\$3.298	\$3.276	\$3.451	\$3.607	\$3.761	\$20.451
Subtotal	\$62.625	\$51.642	\$51.969	\$50.598	\$52.767	\$57.508	\$327.109
F Passenger Facilities							
Elevator/Escalator Facilities							
CIP 072	Elevator Rehabilitation	\$2.371	\$3.490	\$2.265	\$1.136	\$1.645	\$13.067

		Annual Work Plan Year:						Total
		FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2011-16
		Budget	Forecast	Forecast	Forecast	Forecast	Forecast	
CIP 132	Elevator/Escalator Repairables	4,329	4,825	4,840	4,855	5,346	4,832	29,027
CIP 073	Escalator Rehabilitation	4,948	8,315	11,738	13,946	13,879	9,767	62,594
Subtotal		\$11,648	\$16,630	\$18,843	\$19,938	\$20,870	\$16,758	\$104,688
Maintenance of Rail Station Facilities								
CIP 138	System-wide Infrastructure Rehabilitation	\$43,957	\$30,210	\$9,267	\$0,000	\$0,000	\$0,000	\$83,434
CIP 087	Station Rehabilitation Program	7,759	7,832	7,960	8,089	8,153	8,358	48,151
Subtotal		\$51,716	\$38,042	\$17,227	\$8,089	\$8,153	\$8,358	\$131,585
Bicycle & Pedestrian Facilities								
CIP 035	Bicycle & Pedestrian Facilities: Capacity Improvements	\$0,976	\$1,019	\$1,138	\$1,197	\$1,268	\$1,338	\$6,936
CIP 036	Replacement of Bicycle Racks & Lockers	0,457	0,469	0,421	0,436	0,448	0,464	2,695
Subtotal		\$1,433	\$1,488	\$1,559	\$1,633	\$1,716	\$1,801	\$9,631
Rail Station: Capacity/Enhancements								
CIP 039	Core & System Capacity Project Development	\$0,515	\$1,027	\$1,030	\$1,033	\$1,542	\$1,028	\$6,175
CIP 074	Installation of Parking Lot Credit Card Readers	0,000	0,000	0,000	0,000	0,000	3,364	3,364
CIP 088	Station Entrance Canopies	0,000	0,000	0,000	0,000	0,000	10,281	10,281
Subtotal		\$0,515	\$1,027	\$1,030	\$1,033	\$1,542	\$14,673	\$19,820
Bus Priority Corridor Improvements								
CIP 037	Bus Priority Corridor Network Enhancements	\$2,062	\$2,053	\$2,059	\$2,066	\$2,056	\$6,168	\$16,465
Subtotal		\$2,062	\$2,053	\$2,059	\$2,066	\$2,056	\$6,168	\$16,465
Rail Station Equipment								
CIP 099	Police Emergency Management Equipment	\$0,914	\$0,000	\$0,000	\$0,000	\$0,000	\$0,067	\$0,981
Subtotal		\$0,914	\$0,000	\$0,000	\$0,000	\$0,000	\$0,067	\$0,981
Subtotal		\$68,288	\$59,240	\$40,718	\$32,759	\$34,338	\$47,825	\$283,169
G Maintenance Equipment								
Rail Maintenance Equipment								
CIP 136	FCC Radio Frequency Communication Changes	\$0,176	\$1,027	\$10,297	\$9,298	\$0,000	\$0,000	\$20,797
CIP 065	Geometry Vehicle	0,564	4,011	1,676	0,225	0,000	0,000	6,476
CIP 139	NTSB Recommendations	10,308	10,265	10,297	0,000	0,000	0,000	30,871
CIP 066	Rail Shop Repair Equipment	2,165	4,209	4,222	4,236	4,215	4,215	23,261
CIP 020	Replacement of Rail Track Signage	1,014	1,060	1,117	1,177	1,250	1,235	6,854
CIP 027	Switch Machine Rehabilitation Project	0,908	0,950	1,001	1,054	1,101	1,157	6,170
CIP 025	Track Maintenance Equipment	17,292	20,708	10,039	10,475	10,425	12,964	81,904
CIP 135	Train Control Signal	1,031	10,265	10,297	0,000	0,000	0,000	21,593
CIP 133	Wayside Work Equipment	4,123	3,080	2,059	2,066	0,000	0,000	11,328
Subtotal		\$37,582	\$55,574	\$51,006	\$28,530	\$16,991	\$19,571	\$209,254
Bus Repair Equipment								
CIP 004	Bus Repair Equipment	\$2,732	\$2,855	\$3,015	\$3,125	\$3,213	\$3,380	\$18,320

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		Annual Work Plan Year:						
		FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	Total
		Budget	Forecast	Forecast	Forecast	Forecast	Forecast	FY2011-16
Subtotal		\$2.732	\$2.855	\$3.015	\$3.125	\$3.213	\$3.380	\$18.320
Business Facilities Equipment								
CIP 028	Materials Handling Equipment	\$0.158	\$0.139	\$0.144	\$0.149	\$0.153	\$0.158	\$0.901
CIP 029	Warehouse Vertical Storage Units/Shelving	0.675	0.695	0.600	0.622	0.766	0.660	4.018
Subtotal		\$0.833	\$0.834	\$0.744	\$0.771	\$0.919	\$0.818	\$4.919
Subtotal		\$41.147	\$59.263	\$54.765	\$32.426	\$21.123	\$23.769	\$232.493
H Other Facilities								
Business Support Facilities								
CIP 134	Carmen Turner Facility Parking Garage	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
CIP 080	Jackson Graham Building Renovation	3.608	0.000	0.000	0.000	0.000	0.000	3.608
CIP 033	Replacement of Revenue Facility Equipment	0.695	0.266	0.180	0.507	0.409	0.264	2.321
CIP 034	Revenue Collection Facility (RCF) Building Expansion	0.000	1.274	1.320	0.000	0.000	0.000	2.594
Subtotal		\$4.303	\$1.540	\$1.500	\$0.507	\$0.409	\$0.264	\$8.523
MTPD Support Facilities								
CIP 101	Police Substation - New District 2/Training Facility	\$1.296	\$2.524	\$13.014	\$0.544	\$0.000	\$0.000	\$17.379
CIP 102	Police Substation - New District 4	0.000	0.000	0.000	0.000	0.000	0.000	0.000
CIP 100	Police Training Facility	0.000	0.000	0.000	0.000	0.000	0.000	0.000
CIP 106	Special Operations Division Facility	0.831	1.626	8.338	0.341	0.000	0.000	11.136
Subtotal		\$2.127	\$4.150	\$21.353	\$0.885	\$0.000	\$0.000	\$28.515
Subtotal		\$6.429	\$5.690	\$22.853	\$1.393	\$0.409	\$0.264	\$37.038
I Project Management and Support								
Program Management								
CIP 130	Program Management	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
Subtotal		\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
Credit Facility								
CIP 131	Credit Facility	\$5.000	\$6.000	\$6.000	\$6.000	\$6.500	\$6.500	\$36.000
Subtotal		\$5.000	\$6.000	\$6.000	\$6.000	\$6.500	\$6.500	\$36.000
Subtotal		\$5.000	\$6.000	\$6.000	\$6.000	\$6.500	\$6.500	\$36.000
Total		\$709.325	\$749.831	\$751.514	\$800.269	\$962.404	\$980.396	\$4,953.739

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Implementation of Capital Funding Agreement Debt Option

As provided for under section 4(b)(2)(D) of the Agreement, Contributing Jurisdictions may opt out of long-term debt issued by WMATA.

Long-term debt will include debt with a term longer than one year including, but not limited to, revenue bonds, certificates of participation, revenue anticipation notes and leases but excluding Short Term Debt and Interim Financing.

Jurisdictions will not have the option to opt out of Short-Term Debt and Interim Financing (including any lines of credit) that WMATA will use to balance short-term cash flow requirements and to satisfy the anti-deficiency provisions of the WMATA Compact.

Each year WMATA will indicate its plans to issue Long-Term Debt and provide for local jurisdictions to opt out as part of the Annual Work Plan process. WMATA will make its best efforts to estimate the debt issue's par amount, net proceeds, structure, the anticipated average interest rate and cost of issuance, to facilitate local decision-making.

Any local jurisdiction that chooses to opt out of a debt issue will fund its proportion of the net proceeds in cash on or before the date of closing of the debt issue. The jurisdiction's share of the proposed net proceeds will be determined by the Capital Funding Agreement allocation formula.

The debt service for the bond issue will be paid by the remaining jurisdictions according to their pro rata share, as determined by the Capital Funding Agreement Program allocation formula.

Hypothetical Example:

If in FY 2011, the Capital Funding Agreement Annual Work Plan indicates a need for \$120 in debt financing. WMATA plans to issue long-term debt to meet this need and estimates annual debt service of \$9.60 per year. Jurisdiction A, whose share of the Capital Funding Agreement formula is 20% chooses to opt out of the debt and informs WMATA in writing of that decision during the approval period for the annual work program.

At closing of the bond issue, Jurisdiction A provides \$24 (20% of \$120) to WMATA and WMATA funds the balance with the proceeds of the bond issue. The size of the bond issue is reduced to net \$96. Debt service is set at \$7.70 per year.

Jurisdiction A has no further obligation regarding this debt issue. The remaining jurisdictions will make capital contributions including debt service to WMATA when billed so WMATA can make timely payments to the lenders.

Capital contributions for debt issues will be considered the "first in" funds from the local jurisdictions relative to annual and total funding caps. Annual funding caps for the opting out jurisdiction will be reduced by the estimated debt service that would be due if the Jurisdiction did not opt out. The balance of the local funding capacity will be used to pay project expenditures along with federal funds and other miscellaneous capital revenue sources.

LOCAL CAPITAL FUNDING AGREEMENT

By and Between

The District of Columbia;

And

The Washington Metropolitan Area Transit Authority

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LOCAL CAPITAL FUNDING AGREEMENT

THIS LOCAL CAPITAL FUNDING AGREEMENT (Agreement) is made and entered into this ____ day of _____, 2010, by and between **the Washington Metropolitan Area Transit Authority (WMATA)**, a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; **and the District of Columbia**, a municipal corporation (**Contributing Jurisdiction**).

RECITALS

1. The WMATA transit system has played a critical role in the growth and prosperity of the National Capital Region and environs, and WMATA's continued economic vitality is essential to the regional transportation system and the environmental quality, economic, educational and cultural life of the Washington region.
2. The WMATA system was built and is operated through the substantial investment of public funds by the Federal Government and by State and local governments in the region.
3. The lack of sufficient secure and reliable funding to rehabilitate and maintain the WMATA transit system and to replace rail cars, buses, and other key transit assets is creating a transportation crisis, threatening the continued health and vitality of the system and jeopardizing the public investment.
4. Previously, the Parties entered into an agreement covering specific capital projects for FY2005 through FY10 (Metro Matters Funding Agreement) along with associated financing arrangements to cover those capital projects. That agreement expires on July 1, 2010 and the Parties wish to create a follow-on agreement for both funding FY2011-2016 on an expenditure basis.

5. To address this issue, the Parties have agreed upon a Capital Funding Agreement that will, with the cooperation and participation of the other members of the interstate compact, namely, the State of Maryland; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia (the “Other Contributing Jurisdictions”) (the Contributing Jurisdiction and the Other Contributing Jurisdictions are hereafter referred to collectively as the “Contributing Jurisdictions”), and the Federal Government, provide sufficient revenues to fund the Capital Funding Agreement, for fiscal years 2011 through 2016.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereby agree as follows:

SEC. 1 DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

- (1) “Agreement” means this Local Capital Funding Agreement.
- (2) “Allocated Contribution” means the financial share of the cost of the Capital Improvement Program to be contributed by a Contributing Jurisdiction, in accordance with the terms of this Agreement but shall not include payments provided to match the Dedicated Funding (PRIIA) funds. Notwithstanding the foregoing, the maximum amount of the Contributing Jurisdiction’s financial share of the cost of the capital Improvement Program shall not exceed \$397,314,000. The Allocated Contribution, as shown on Table 1 of Attachment 1 to this Agreement, may not be increased above the aggregate amount of \$397,314,000 to be paid from the District of Columbia Capital Funds without written approval of the District of Columbia. Payments for Long Term Debt service on the Metro Matters Funding Agreement

debt and Long Term Debt service anticipated in this Agreement are not included in the Allocated Contribution aggregate cap for the District of Columbia. For informational purposes only, the District of Columbia represents that payments for amounts such as Long Term Debt service under the Metro Matters Funding Agreement and funds associated with debt service for projects under this Agreement are funded through annual appropriations in its Operating Budget. For example, the District of Columbia has included in its proposed Operating Budget for FY 2011 \$258,318,034 for payment to WMATA, which includes an amount sufficient to pay Long Term Debt service for FY 2011.

(3) “Annual Work Plan” means the annual plan developed by WMATA on both obligation and expenditure bases and submitted to the Contributing Jurisdictions which identifies the Capital Improvement Program projects and activities to be undertaken in the Capital Budget for a specific fiscal year and the estimated annual cash requirement of those projects and activities and the sources of funds expected to be used on an expenditure basis to meet that cash requirement.

(4) “Authorized Representative” means the individual designated by the chief executive officer (or comparable official) of the Contributing Jurisdiction or WMATA to take actions on behalf of that Party regarding issues that arise in carrying out this Agreement.

(5) “Capital Budget” is synonymous with the term Annual Work Plan.

(6) “Capital Improvement Program” (“CIP”) means the list of project elements including the useful life computations for each project contained therein for the period of July 1, 2010 through June 30, 2016 approved by the WMATA Board of Directors for the period of July 1, 2011 – June 30, 2016 as may subsequently be updated for this six-year period or each successive six-year period (for planning purposes only) and specific fund sources for use in

supporting the specific scope, schedule, and budget (expressed in both obligation and expenditure terms) of projects that advance the Authority's strategic objectives. See Attachment 1 for the FY2011-2016 CIP. The CIP is not considered a payment schedule. The CIP shall be updated annually as described in this Agreement.

(7) "Capital Funding Agreement" means that certain agreement by and among the Washington Metropolitan Area Transit Authority (WMATA), the District of Columbia, and the Other Contributing Jurisdictions to provide funding for WMATA for its FY2011-2016 CIP.

(8) "Capital Project" means any physical public betterment or improvement, the acquisition of property of a permanent nature, or the purchase of equipment or furnishings, and includes:

(A) Costs of any preliminary plans, studies, and surveys in connection with such betterment, improvement, acquisition or purchase;

(B) Costs incidental to such betterment, improvement, acquisition, or purchase, and the financing thereof, including the cost of any election, professional fees, printing or engraving, production or reproduction of documents, publication of notices, taking title, bond insurance, and interest during construction; and

(C) The reimbursement of any fund or account for amounts expended for the payment of any such costs.

(9) "Contributing Jurisdiction" means the District of Columbia acting by and through the Mayor.

(10) "Contributing Jurisdictions" means collectively, the Contributing Jurisdiction and the Other Contributing Jurisdictions.

(11) "Days" means calendar days, unless otherwise specifically provided.

(12) “Debt” means any bond, security, debt issuance, certificate of participation, Grant Anticipation Debt, or other evidence of indebtedness issued by a public body, and includes commercial paper, lines of credit, and letters of credit to finance the program of projects to be completed under the terms of this Agreement.

(13) “Dedicated Funding” (PRIIA) means those federal funds provided to WMATA under the Passenger Rail Investment and Improvement Act of 2008 (Pub. L. 110-432). The PRIIA matching funds will be made available to WMATA pursuant to the applicable laws of the District of Columbia, Maryland, and the Commonwealth of Virginia.

(14) “Discretionary Grant” means any award of discretionary Federal financial assistance for a new or existing fixed guideway system from the capital investment grant program authorized under Section 5309 of Title 49 of the U.S. Code, or from any other discretionary grant program from any federal agency under which funds are provided on other than a formula basis.

(15) “Federal grant” means an award of financial assistance, including formula grants, discretionary grants, and cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government through the Federal Transit Administration or any other federal agency to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

(16) “FTA” means the Federal Transit Administration.

(17) “Formula grant” means any award of Federal financial assistance from the urban formula program authorized under Section 5307 of Title 49 of the U.S. Code or the fixed guideway modernization program authorized under Section 5309 of Title 49 of the U.S. Code, or similar successor programs.

(18) “Funding Sources” shall be the various categories of funds to be used to pay for the projects covered in the CIP. These funds may be either from federal or non-federal sources. Where the Agreement requires a more detailed description of the funding source, then the following categories shall be used: Dedicated Funding, Dedicated Funding matching funds, Formula Grants, Formula Grants matching funds, Other Federal Grants, Other Federal Grants matching funds, System Performance Funds, and Other funds.

(19) “Grant Anticipation Debt” means any debt issuance the principal and interest on which are to be paid with the proceeds of Federal grant funds.

(20) “Interim Funding Sources” means one or more letters of credit or lines of credit and related reimbursement agreements, standby bond purchase agreements, commercial paper, or similar agreements or obligations, or any combination of the foregoing, issued to or for WMATA or entered into with WMATA by a bank, insurance company, or other financial institution, or one or more resolutions, indentures, or other security agreements providing for bonds or other evidence of indebtedness of WMATA.

(21) “Long-Term Debt” means Debt with a maturity greater than 1 year.

(22) “Metro Matters Funding Agreement” means the capital funding agreement dated October 25, 2004 by and among the Washington Metropolitan Area Transit Authority; the State of Maryland acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax

County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia and covering projects in WMATA's Fiscal Years 2005-2010.

(23) "Minimum Annual Allocated Contribution" means that annual amount of funds payable by a Contributing Jurisdiction sufficient to provide any required matching funds for (a) all federal formula and other federal grant funds awarded to WMATA and expected to be expended in the current Annual Work Plan excluding the local match to be provided by the District of Columbia, Virginia and Maryland for the Dedicated Funding (PRIIA) funds, and (b) the System Performance Funds necessary to meet any maintenance of effort requirement for WMATA to receive Dedicated Funding.

(24) "Non-Federal funds" means funds provided by State and local sources and debt sources.

(25) "Other Contributing Jurisdictions" means the State of Maryland acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia.

(26) "Party" or "Parties" means WMATA and the Contributing Jurisdictions.

(27) "Preventive Maintenance" means upgrades to, repairs to, and maintenance of, capital assets that provides additional value to the capital asset. The FTA definition of "preventive maintenance" is separate from and not connected to Preventive Maintenance as defined herein.

(28) "Reprogramming" means a change to an Annual Work Plan or Capital Budget that occurs outside of the Annual Work Plan process.

(29) "Short-Term Debt" means Debt with a maturity of 1 year or less.

(30) “System Performance Funds” means jurisdictional funds over and above those funds required to match any Federal grant and to be used for Capital Improvement Plan projects contained in the applicable Annual Work Plan.

(31) “WMATA” or “Authority” means the Washington Metropolitan Area Transit Authority.

SEC. 2 CAPITAL IMPROVEMENT PROGRAM

(a) **Agreement of the Parties.** -- WMATA and the Contributing Jurisdictions have agreed to and adopted the Capital Improvement Program attached as Attachment 1 to the Capital Funding Agreement executed by WMATA and the Contributing Jurisdictions. The Parties further agree to comply with the terms and conditions of this Agreement and to fully and faithfully carry out their respective obligations under this Agreement. The Contributing Jurisdiction’s obligations under the terms and conditions of this Agreement are subject to the following:

(1) Pursuant to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351 1511-1519 (2008) (the “**Federal ADA**”), and D.C. Official Code §§ 1-206.03(e) and 47-105; (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (the “**D.C. ADA**” and (i) and (ii) collectively, as amended from time to time, the “**Anti-Deficiency Acts**”); and (iii) Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46, the District cannot obligate itself to any financial commitment in any present or future year unless the necessary funds to pay that commitment have been appropriated by the Congress of the United States (the “Congress”) and are lawfully available for the purpose committed. Thus, pursuant to the Anti-Deficiency Acts, nothing in this Agreement creates an obligation of the District in anticipation of an appropriation

by Congress for such purpose, and the District's legal liability for the payment of any amount under this Agreement does not and may not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year as approved by Congress.

(2) During the term of this Agreement, the Mayor of the District of Columbia or other appropriate official shall, for each fiscal period, include in the appropriate budget application submitted to the Council of the District of Columbia the amount necessary to fund the District's known potential financial obligations under this Agreement for such fiscal period. In addition, in the event that the District proposes to issue bonds or notes to refund the bonds subject to this Agreement, the Mayor of the District of Columbia or other appropriate official, and if any payments under this Agreement have not been made, the Mayor shall include in a budget application submitted to the Council of the District of Columbia the amount necessary to fund the District's known unpaid amounts. In the event that a request for such appropriations is excluded from the budget approved by the Council and submitted to Congress by the President for the applicable fiscal year or if no appropriation is made by Congress to pay any amount under this Agreement for any period after the fiscal year for which appropriations have been made, and in the event appropriated funds for such purposes are not otherwise lawfully available, the District will not be liable to make any payment under this Agreement upon the expiration of any then-existing appropriation.

(3) Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of the District shall have any personal liability in connection with the breach of the provisions of this Section or in the event of a Default by the District under this Agreement.

(4) This Agreement shall not constitute an indebtedness of the District nor shall it constitute an obligation for which the District is obligated to levy or pledge any form of taxation or for which the District has levied or pledged any form of taxation. No District of Columbia Official or employee is authorized to obligate or expend any amount under this Agreement unless such amount has been appropriated by Act of Congress and is lawfully available.

IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. OFFICIAL CODE § 1-204.46, NO CONTRIBUTING JURISDICTION OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THIS AGREEMENT UNLESS SUCH AMOUNT HAS BEEN APPROVED AND APPROPRIATED BY CONGRESS.

Nothing in this Agreement affects requirements placed on the District of Columbia, State of Maryland and Commonwealth of Virginia by the Passenger Rail Investment and Improvement Act of 2008.

(b) **Elements of Capital Improvement Program.**

(1) **Program Elements.** – The Capital Improvement Program proposed to be funded by the Capital Funding Agreement among the Parties and this Agreement consists of those projects identified for funding and the sources of that funding in the annually approved CIP as they are updated in accordance with this Agreement. The CIP may include any capital project or purchase eligible for capital funding and may include, for example, projects in any of the following categories:

- (A) Vehicles and Vehicle Parts, covering the replacement or purchase of new rail cars, buses, paratransit vehicles and/or service vehicles, rehabilitation of rail cars and buses and replacement parts to maintain the vehicle fleet.
- (B) Rail System Infrastructure Rehabilitation, covering the multiple systems and equipment within the rail stations and tunnels that enable safe, reliable service.

- (C) Maintenance Facilities, covering the rehabilitation, maintenance, replacement and/or new bus garages and rail yards to support repairs to vehicle fleet.
- (D) Systems and Technology, covering the technology systems, software and equipment supporting transit operations and business functions.
- (E) Track and Structures, covering the steel running rail that guides Metro's train cars, the cross ties and fasteners that hold the rail in place, the ballast bed that supports the cross ties and the third rail that provides power to the train. Structures include the retaining walls that protect the track bed and underground tunnels, the concrete pads that keep the track bed properly elevated and the bridges that span roads and bodies of water.
- (F) Passenger Facilities, covering the facilities at Metro's 86 Metrorail stations, including bus loops, bus stops, parking garages, surface lots, Kiss-and-Ride spaces, access roads and bus loops, bike racks and lockers.
- (G) Maintenance Equipment, covering the Equipment to rehabilitate track and maintain the vehicle fleet (rail and bus).
- (H) Other Facilities, covering the facilities that house administrative offices, training rooms, revenue processing activities, material storage, police work and a print shop.
- (I) Program Management and Support including Credit Facility and Other Financial Fees and Expenses and Program Contingencies.
- (J) Safety and Security Projects.
- (K) Preventive Maintenance as defined in this Agreement.

(2) Description. -- The specific projects and activities and the sources of funding to support those specific projects and activities will be set forth in the Annual Work Plan.

(c) Cost. -- The estimated program cost of the initial Capital Improvement Program is approximately \$5,000,000,000 in year of expenditure dollars and covering a six-year period.

The initial CIP covering FY 2011-2016 is provided as Attachment 1.

(d) **Schedule.** -- The initial Capital Improvement Program will be implemented over the period beginning WMATA fiscal year 2011 and ending fiscal year 2016. There will be an Annual Work Plan for each fiscal year, as more specifically described in Section 4 of this Agreement.

(e) **Agreement to Fund Capital Improvement Program.** -- WMATA and the Contributing Jurisdiction hereby concur in and agree to fund the Capital Improvement Program in accordance with 4(b)(1)(B) of this Agreement for those projects in the CIP which meet the Contributing Jurisdiction's definition of "Capital Project" as defined in this Agreement.

(f) **Authorized Representative.** -- Within 30 days after the Effective Date of this Agreement, WMATA and the Contributing Jurisdictions shall designate an Authorized Representative to act on that Party's behalf in implementing this Agreement.

SEC. 3 CAPITAL IMPROVEMENT PROGRAM FINANCIAL PLAN

(a) **Funding Sources.**

The projects and activities in the Capital Improvement Program shall be funded in the most cost effective manner from one or more of the following sources: (A) Funding Sources; (B) the issuance of Debt by WMATA, with WMATA's debt service to be paid with funds received from the Contributing Jurisdictions unless the Contributing Jurisdiction or Other Contributing Jurisdiction has opted out of the Long-Term Debt issue in accordance with this Agreement; and (C) such other funding sources, cash management strategies or financing methods as WMATA determines to be appropriate to accomplish the goals of the Capital Improvement Program. The specific amounts estimated from each Funding Source will be set forth in each Annual Work Plan.

(d) **FY 2010 Capital Projects.** -- WMATA and the Contributing Jurisdictions agree that all projects whose funding was obligated under the Metro Matters Funding Agreement but for which expenditures will occur during the scope of this Agreement will become projects under this Agreement and governed by the terms of this Agreement including the funding obligations of the Contributing Jurisdictions thereto. It is the intent of the Parties to terminate the Metro Matters Funding Agreement and incorporate all its capital commitments into this Agreement.

SEC. 4 IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM

(a) **Programmatic Aspects.**

(1) **Long Term Programming** -- To assist in the prioritization of projects, each Contributing Jurisdiction will, at the execution of this Agreement, provide a schedule of funds expected to be made available to WMATA for the FY2011-2016 period and successor periods (for planning purposes only) covered by this Agreement. The schedule for WMATA Fiscal Years 2012-2016 is subject to adjustment as the submitting Contributing Jurisdiction obtains more updated information. It is not binding on any Party and shall not be considered a funding or payment schedule. The Annual Work Plan will contain the actual funding requirements and sources of funds for the current year. The WMATA Board of Directors will approve a six-year capital program each year, with such program covering potential funding sources, a description of the project prioritization process, an explanation of how the CIP would further the strategic goals of WMATA, and an identification of the performance metrics by which the outcome of the CIP will be measured. The prioritization process shall rank and select projects based on the projects' support of WMATA's strategic goals and funding availability.

The annual documentation of the capital program will describe qualitatively and quantitatively the broad outlines of the proposed capital spending and sources for that spending

for the forthcoming fiscal year and the outcomes expected to be achieved by the proposed program. The discussion of the proposed spending shall include at least the following: (i) the sources of funds for the proposed spending, (ii) expenditures by mode (e.g. bus, rail, paratransit), (iii) expenditures by project phase (e.g. planning, design, land acquisition, construction), (iv) the indicators of the outcomes to be achieved by the proposed projects, and (v) projected spending compared to prior year actual spending rate.

(2) **Annual Work Plan.** -- WMATA shall, as a part of its annual budget process each year during this Agreement, develop and submit to the Contributing Jurisdictions a draft Annual Work Plan for the Capital Improvement Program which shall include the preliminary results of the Budget Reconciliation process contained in section 5 of this Agreement. The Annual Work Plan shall be based upon and be consistent with the updated Capital Improvement Program prepared pursuant to the reconciliation process under Section 5 of this Agreement. The Annual Work Plan along with the Capital Program will be approved by the WMATA Board of Directors prior to the start of the fiscal year covering the specific Annual Work Plan.

(3) **Contents of Plan.** -- The Annual Work Plan shall include --

(A) an identification and description of the projects and activities in the Capital Improvement Program for which funds will be obligated or expended during the next WMATA fiscal year;

(B) a budget for the Annual Work Plan that includes a cost estimate and source of funds for each project and activity in the Plan, by CIP category;

(C) a statement of the Contributing Jurisdiction's and Other Continuing Jurisdictions' required Allocated Contribution for the Annual Work Plan, based on a

schedule of projected quarterly cash needs and including an identification of what portion of that contribution is a direct capital contribution, and what portion (if any) is to be used by WMATA to pay debt service on WMATA Long-Term Debt and WMATA Short-Term Debt (each to be stated separately in the Plan);

(D) a summary of the CIP projects and activities undertaken in the then-current WMATA fiscal year, together with the costs incurred to date and the estimated remaining costs for those projects and activities; and

(E) the preliminary results of the Budget Reconciliation process contained in section 5 of this Agreement and a revised proposed CIP.

(4) **Schedule for Approval of CIP and Annual Work Plan** – To ensure a coordinated program, the Parties agree that each annual program will be developed and approved under the following schedule:

(A) The updated 6-year CIP will be made available to the Contributing Jurisdictions no later than the 10th business day in October.

(B) A presentation will be offered to the Northern Virginia Transportation Commission at a scheduled meeting no later than the November meeting.

(C) A presentation will be offered to the Mayor and Council of the District of Columbia no later than the Wednesday immediately prior to Thanksgiving.

(D) Subject to consultation with the Maryland Department of Transportation, a public presentation will be offered in both Prince George's County and Montgomery County no later than the Wednesday immediately prior to Thanksgiving.

(E) WMATA will also present the capital program and the Annual Work Plan information to affected legislative bodies as requested.

(F) The draft Annual Work Plan shall be submitted to the Contributing Jurisdictions by December 15.

(G) Comments are due from the Contributing Jurisdictions no later than February 15th. WMATA may not be able to consider comments received after February 15th in the development of the proposed Annual Work Plan.

(H) The proposed Annual Work Plan shall be provided to the Contributing Jurisdictions immediately following the March WMATA Board meeting. The time prior to final Board adoption of the Annual Work Plan may be used by Contributing Jurisdictions to discuss any additional concerns with their WMATA Board Members. The amount included as the Minimum Annual Allocated Contribution on this proposed Annual Work Plan will remain substantially the same for the upcoming fiscal year, subject to downward adjustment as provided in Section 4(b)(3)(B), or as otherwise requested by the WMATA Board and approved by the Contributing Jurisdictions. The final CIP and Annual Work Plan will be adopted by the WMATA Board no later than the June meeting.

(5) WMATA Implementation Responsibilities --

(A) General. -- WMATA will administer the Capital Improvement Program and carry out all necessary procurement actions and management oversight. All procurement actions will be undertaken in accordance with WMATA procurement policies and applicable law.

(B) Federal Grants. -- To the extent that Federal financial assistance is provided for any project or activity in the Capital Improvement Program, WMATA will develop the required Federal grant applications and/or other necessary documentation to meet FTA or

other Federal program requirements, and will carry out the federally assisted project or activity in compliance with all applicable Federal requirements.

(6) **Funding Methodology For Projects in the Annual Work Plan.** New projects for the Annual Work Plan will be listed with their funding identified by both year and Funding Source. A project may be funded by more than one type of funding. If a project is a multi-year project, then in the second and succeeding years, that project will have the first call on that funding source unless another funding source is identified. In every case, funds needed for debt service including Short Term Debt and Interim Financing and funds needed for annual “state of good repair” items shall have first claim on all funds that may legally be spent on such projects. Projects which are underway but which have remaining amounts budgeted for them in the CIP shall have the unexpended funds “rolled over” to the succeeding fiscal year. The unexpended funds shall be in addition to the succeeding year’s CIP funding requirements.

(b) **Financial Aspects.**

(1) **Cash Sources.**

(A) **Federal Funds.** -- WMATA commits to take all necessary and appropriate actions to secure Federal funding in the CIP (including Federal formula and discretionary grant funds under the Federal transit/highway program, the Passenger Rail Investment and Improvement Act of 2008, and such other Federal financial assistance as may be made available during the term of this Agreement) to assist in the funding of the Capital Improvement Program. WMATA will manage the Capital Improvement Program within the funding amounts agreed to by the Contributing Jurisdictions, except as otherwise provided in paragraph (C) of this subsection.

(B) **Jurisdictional Commitment.**

(i) To the extent applicable, the Contributing Jurisdiction agrees to make its Allocated Contribution to fund the Capital Budget component of the CIP and the CIP as a whole as adjusted annually in accordance with this Agreement; provided, however, that in no case will the Allocated Contribution be less than the Contributing Jurisdiction's estimated annual share of any required matching funds for (1) all federal formula and other federal grant funds awarded to WMATA and expected to be expended in the current Annual Work Plan, and (2) the System Performance Funds necessary to meet any maintenance of effort requirement for WMATA to receive Dedicated Funding ("Minimum Annual Allocated Contributions"). Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The source of funds for such capital contributions is in the discretion of the Contributing Jurisdiction; provided that such funds must qualify as local match under applicable FTA or other agency grant program requirements. To assist the Contributing Jurisdiction with using the correct sources of funds for its Allocated Contributions, WMATA agrees to invoice the Contributing Jurisdiction for its Allocated Contributions by such subelements as the Contributing Jurisdiction shall reasonably request in order to ensure compliance with the Capital Project definition contained in this Agreement. WMATA agrees to provide the Contributing Jurisdiction with its estimated Allocated Contribution by the 10th business day in October each year.

(ii) If the expected amount of federal grant funds requiring a non-federal match increases by more than 20% over the previous year's grant funds received by WMATA, then the Parties will confer within 30 days to determine if a change to the funding requirement contained in Section 4(b)(1)(B)(i) of this Agreement is appropriate.

(iii) Additionally, the Contributing Jurisdiction agrees to make its best efforts to provide necessary System Performance Funds to pursue the projects in the Annual

Work Plan to be funded with System Performance Funds above those required to obtain Dedicated Funding. The Contributing Jurisdictions shall inform WMATA of the amount of any such System Performance Funds to WMATA in sufficient time for WMATA staff to prepare the draft and final capital program and Annual Work Plan. The System Performance Funds will be programmed into the CIP and Annual Work Plan using the WMATA funding formulas described in Section 3(b) of this Agreement. Only those amounts which are balanced among the Contributing Jurisdictions based on the aforementioned funding formulas will be programmed into the CIP and Annual Work Plan.

(C) Additional Limitations.

(i) As authorized in Section 4(b)(7) of the Capital Funding Agreement, WMATA and the District of Columbia have entered into a separate Local Capital Funding Agreement (the "Agreement") of even date herewith to address certain issues concerning the implementation of this Agreement that must be handled separately according to District of Columbia law. The implementation of District of Columbia obligations, representations, and warranties under this Agreement shall be controlled by the provisions of the Agreement to the extent of any inconsistency between the Capital Funding Agreement and the provisions of the Agreement. Section 4(b)(2)(D) of the Agreement provides that, if the District of Columbia exercises its prepayment rights for all long-term debt under 4(b)(2)(D) of the Capital Funding Agreement, then notwithstanding anything to the contrary herein, the Allocated Contribution of the District of Columbia may not be increased above the aggregate amount of \$397,314,000 to be paid from District of Columbia capital funds. Payments for Long Term Debt service on Metro Matters debt, and Long Term Debt service anticipated in this Agreement, are not included in the Allocated Contribution aggregate cap and are not subject to such aggregate

cap for the District of Columbia as shown on Table 1 of Attachment 1 of this Agreement. For information purposes only, the District of Columbia represents that payments for amounts such as Long Term Debt service under Metro Matters and funds associated with debt service for projects under this Agreement are funded through annual appropriations in its Operating Budget. For example, the District of Columbia has included in its proposed Operating Budget for FY 2011 the sum of \$258,318,034 for payment to WMATA, which includes an amount sufficient to pay Long Term Debt service for FY2011.

(ii) The District of Columbia agrees to review its Allocated Contributions annually to determine if any adjustments may be made. If any adjustment is made to increase the District of Columbia Allocated Contributions cap by an amendment to this Agreement, then such increase will be incorporated into the Capital Funding Agreement pursuant to the Annual Work Plan process

(iii) In the event that (1) WMATA proposes an increase that would cause the District of Columbia's Allocated Contribution to exceed an aggregate amount of \$397,314,000; and (2) the District of Columbia denies or withholds approval of the increase in excess of that stated amount, all other Contributing Jurisdictions shall be relieved of any obligation to fund the increase proposed by WMATA in their Allocated Contributions.

(iv) In the event that the District of Columbia denies or withholds approval of such increase, all Parties shall cooperate to develop alternative solutions to any resulting revenue or program shortfalls.

(2) **Debt Sources.**

(A) General. -- In accordance with the Annual Work Plan, all or any portion of the Capital Improvement Program may be funded through short- or long-term debt

financing as described in this subsection and in accordance with Section 21 and Articles IX and X of the WMATA Compact.

(B) WMATA Responsibility. -- WMATA may issue debt to assist in the financing of the Capital Improvement Program. The WMATA Board may authorize the issuance of such debt, in one or more issuances during the term of this Agreement, at such times as it determines appropriate, in its discretion, taking into account factors such as the cash flow needs of the CIP, market conditions for financing, and WMATA's debt capacity. Any debt issued by WMATA under this subsection may be secured by a lien and pledge of WMATA's gross revenues, or (subject to any required FTA approval) of WMATA's capital assets. Any such debt secured by WMATA's gross revenues may be on parity with or subordinate to the 2003 Gross Revenue Transit Refunding Bonds, the Gross Revenue Transit Bonds Series 2009A, and the Gross Revenue Transit Bonds Series 2009B. For any such debt that is secured by WMATA's capital assets, WMATA will endeavor, consistent with the cash flow needs of the CIP and with market demands, to match the length of the debt financing to the useful life of the pledged assets, unless WMATA determines that market or other financial considerations make a different debt length more prudent. In addition to debt secured by gross revenues or capital assets as described in this paragraph, WMATA may issue debt in accordance with subsection (f) of this Section.

(C) Contributing Jurisdiction and Other Contributing Jurisdiction Responsibilities. -- The Contributing Jurisdictions which have not elected to prepay pursuant to paragraph (D) of this subsection each commit, subject to annual appropriations, to make the annual contributions necessary in order that WMATA can make payments of debt service on debt issued by WMATA under paragraph (B) of this subsection. The amount of such

contributions will be included in the respective Allocated Contribution amounts of the Contributing Jurisdictions set forth in the CIP. Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The obligation to make contributions to pay such debt service shall survive the term of this Agreement and shall remain in effect throughout the term of the WMATA debt issuance involved.

(D) Prepayment Alternative for Contributing Jurisdictions.

(1) Election. -- A Contributing Jurisdiction or Other Contributing Jurisdiction may elect to prepay its portion of the debt financing (other than commercial paper, letter of credit, or line of credit) needed to fund the Capital Improvement Program, as described in the CIP, in lieu of making annual contributions to pay WMATA debt service pursuant to paragraph (3) of this subsection. The elections and commitments of the Contributing Jurisdictions to make such prepayments, as of the Effective Date of this Agreement, are reflected in the CIP. If any update to the CIP during the term of this Agreement contemplates long-term debt issuances by WMATA, then the Contributing Jurisdictions shall have an opportunity to change their elections regarding prepayment, by notice to WMATA. Such notice shall be provided in writing no later than one hundred twenty (120) days after the date WMATA notifies the Contributing Jurisdictions of the need to make an election regarding such additional debt issuance.

(2) Responsibility for Repayment. -- If a Contributing Jurisdiction issues debt to make its prepayment under this paragraph, it shall pay the proceeds of such debt issuance directly to WMATA in accordance with its Allocated Contribution as set forth in the CIP and in accordance with the procedures set forth in Attachment 2. Such

Contributing Jurisdiction shall be solely responsible for the repayment of the principal and interest of any debt it issues under this paragraph.

(3) Contributing Jurisdiction Commitment.

(A) General. – The maximum amount of the Contributing Jurisdictions' Allocated Contribution of the costs of the CIP is subject to the provisions of Section 4(b)(1)(C) of this Agreement. Nothing in this Agreement shall be construed to obligate the Contributing Jurisdiction or any Other Contributing Jurisdiction to have, as of the date that it enters into this Agreement, funding or an appropriation in the full amount of its Allocated Contribution of the costs of the CIP. The Contributing Jurisdictions shall be solely responsible for their Allocated Contributions of the cost of the CIP. The Contributing Jurisdiction commits, subject to its constitutional or legally equivalent provisions and throughout the term of this Agreement, to use all reasonable efforts including, but not limited to, a request by the responsible official to include the Minimum Annual Allocated Contribution as described in the draft Annual Work Plan in the Contributing Jurisdiction's annual proposed budget or other financial submission to its fiscal authority and to pursue all legally available means to secure the necessary and appropriate budget, legislative, and appropriations actions in order to obtain funding in the full amount of its Allocated Contribution of the costs of the Capital Improvement Program. The Contributing Jurisdiction shall be solely responsible for providing its Allocated Contribution to the cost of the CIP, and in no circumstance shall one Contributing Jurisdiction be responsible for the Allocated Contribution or other obligations of any other Contributing Jurisdiction under this Agreement.

(B) Annual Commitment. -- The Contributing Jurisdiction shall annually provide WMATA with written notice, concurrent with comments on WMATA's

proposed budget, that funds have been, are intended to be, or will not be appropriated to cover its Allocated Contribution for WMATA's upcoming fiscal year, and committing to make payment of such Allocated Contribution to WMATA. No CIP or Annual Work Plan shall be approved without the certification of the Contributing Jurisdiction and the Other Contributing Jurisdictions that the funding levels are reasonable and accurate reflections of funds to be made available. If the Contributing Jurisdiction's Mayor has not submitted its annual budget request to the Council of the Contributing Jurisdiction by June 1, the Contributing Jurisdiction shall provide to WMATA: (A) a written explanation for the failure to make such submission by June 1 and documentation showing that the necessary sums are included in that budget request, and (B) written assurance that the Mayor will make all reasonable efforts to pursue all legally available means to secure the ultimate appropriation of funds in a prompt and timely fashion, all in accordance with the provisions of Sections 2(a) of this Agreement and Subsection (a)(3) of this Section or, if funds will not be appropriated, then the Contributing Jurisdiction shall notify WMATA and all Other Contributing Jurisdictions through their representatives listed in section 12 of this Agreement or as may be updated by the Contributing Jurisdictions in the future within five business days of the fiscal body's action. If there is a failure to appropriate the full annual Allocated Contribution, the Annual Work Plan shall be revised to conform to the available funds and submitted to the WMATA Board of Directors and the Contributing Jurisdictions for approval.

(C) Quarterly Payments. -- The Contributing Jurisdiction's Allocated Contribution shall be based on the approved Annual Work Plan and any subsequent adjustments derived from the Annual Budget Reconciliation Process for the quarter covered by the invoice, and paid to WMATA on a quarterly basis in advance, no later than the first day of each quarter,

throughout the term of this Agreement. Any debt service included in the invoice for either Short-Term Debt or Long-Term Debt shall be separately identified on the invoice. WMATA shall submit bills to the Contributing Jurisdictions for such quarterly payments forty-five (45) days prior to the date such payments are due. Thus, for example, for the July-September quarter WMATA will bill the amount in the Annual Work Plan as approved or adjusted for July-September and send the Contributing Jurisdiction and the Other Contributing Jurisdictions an invoice for its Allocated Contribution no later than the immediately preceding May 15th. Contributing Jurisdiction payments must be received by WMATA no later than July 1. The sum of the Contributing Jurisdiction's quarterly invoices during a given fiscal year shall not exceed the Contributing Jurisdiction's Allocated Contribution in the approved Annual Work Plan.

(4) Transitional System for FY2011 Billings -- To transition to the billing system covered by this Agreement, WMATA shall:

(A) Bill the Contributing Jurisdictions $\frac{1}{4}$ of the annual capital budget amounts for each of the first two quarters in FY2011 instead of the expected cash flow needs. The invoice for the 1st quarter of FY2011 shall be due on or before July 1, 2010.

(B) Issue the final Annual Work Plan for FY2011 on or before July 1, 2010.

(C) Apply the Annual Budget Reconciliation Process to FY2011.

(D) Start the Quarterly Reporting required under the Agreement for the 1st quarter which closes on September 30, 2010, with the content of the report being progressively refined to meet the requirements of section 4(b)(5) and coming into full compliance with the report covering the 3rd quarter of FY2011..

(5) **Quarterly Reports.** At the conclusion of every quarter, WMATA shall prepare a report on the result of the preceding quarter for submittal to the Contributing Jurisdiction no later than forty-five (45) calendar days following the close of the quarter. Such report shall contain a review of capital project scope, cost, and schedule changes; the status of contracts necessary for the implementation of capital projects; the status of year-to-date expenditures relative to budget and the Annual Work Plan; the status of all cash and debt sources relative to budget and the Annual Work Plan; updated project cash flow projections and program cash requirements; and a comparison of the billed amount to amounts actually paid out for the preceding quarter. The report shall be on a project by project basis. Such report shall be provided in a quarterly financial report to the WMATA Board.

(6) **Timeliness of Payment.**

(A) **Treatment of Payments.** -- Interest shall accrue on all payments made by a Contributing Jurisdiction until the funds are expended. WMATA shall place such funds so contributed into an interest earning account, with interest to be compounded monthly at WMATA's then current earnings rate for its short-term investments. Interest earned on funds contributed by the Contributing Jurisdiction shall be applied as a credit against future payments for Allocated Contributions due from that jurisdiction under this Agreement, unless otherwise directed in writing by that jurisdiction.

(B) **Non-Payment or Late Payments.** -- If the Contributing Jurisdiction fails to make a quarterly payment in full to WMATA when such payment is due after certification by the Contributing Jurisdiction as required under section 4(b)(3)(B), WMATA shall notify the Other Contributing Jurisdictions and may issue debt or otherwise advance funds as deemed necessary by the WMATA General Manager to replace the amount of payment not

timely received. In the event that WMATA issues debt, WMATA shall charge the Contributing Jurisdiction an amount equal to the sum of (i) the financing and interest costs and expenses (or lost interest earnings) incurred by or on behalf of WMATA in connection with such debt issuance or advance of funds; (ii) any administrative costs incurred by WMATA in connection with obtaining such replacement funding; and (iii) any penalties or losses incurred by WMATA assessed by a third party as a result of such late or non-payment. The total amount of the charges assessed under this paragraph, together with the unpaid quarterly payment, shall be due and payable to WMATA no later than thirty (30) days after the date of assessment by WMATA plus interest compounded monthly at the WMATA short-term investment earnings rate until the date of full payment.

(7) **Local Capital Funding Agreements.** -- WMATA, with the approval of the WMATA Board, may enter into Local Funding Agreements with some or all of the Contributing Jurisdictions, consistent with the Capital Funding Agreement and the Attachments thereto, to establish arrangements to implement the Contributing Jurisdiction's commitment to pay its Allocated Contribution of the cost of the Capital Improvement Program, in the event that the budgetary process of the Contributing Jurisdiction makes such an agreement necessary or appropriate.

(8) **Interim Funding Sources and Security Interests.**

(A) **Interim Funding Authority.** -- The WMATA Board of Directors is authorized to use Interim Funding Sources, including borrowing, on behalf of WMATA in such amounts and at such times as, in the Board's sole judgment, are necessary and appropriate for the purpose of implementing the projects and activities in the Capital Improvement Program and any Annual Work Plan funded through direct capital contributions.

(B) Security Interests. -- WMATA may create security interests in its rights and interests in amounts paid or received as direct capital contributions from the Contributing Jurisdictions under this Agreement, as such amounts shall become available and are paid to or for the account of WMATA under the terms of this Agreement. Such amounts may be pledged as security for the costs of Interim Funding Sources. The Contributing Jurisdiction shall comply with any reasonable and legal request of WMATA to execute, acknowledge, and deliver appropriate instruments and assurances as may be necessary or desirable to confirm and effectuate any such security interest created by WMATA in connection with Interim Funding Sources. Nothing in this subsection shall be construed as requiring the Contributing Jurisdiction to make any payment under this Agreement to anyone other than WMATA. For purposes of this subsection, the “cost of Interim Funding Sources” includes payments of principal and interest thereunder and all fees, expenses, and other amounts incurred or payable under any Interim Funding Sources.

(C) Limitation. -- The borrowing authority authorized by this subsection may not be used by the Contributing Jurisdiction to satisfy its funding obligations under this Agreement.

(9) WMATA Risk Mitigation. -- Section 22 of the WMATA Compact prohibits WMATA from making any commitment or incurring any obligations with respect to the construction or acquisition of any transit facilities “until funds are available therefor.” The Parties acknowledge that the commitments of the Contributing Jurisdictions under this Agreement are intended to satisfy the requirements of Section 22 under an expenditure-based budget. In order to address the risk of non-appropriation or late payment of funds by a Contributing Jurisdiction or insufficient funding by the Federal Government, and to assure

compliance with Section 22 of the WMATA Compact, WMATA intends to continue to maintain a risk mitigation credit facility using one or more of the following: a line of credit, letter of credit, commercial paper program, or other credit facility determined by WMATA in its discretion to be appropriate and feasible. Such risk mitigation credit facility shall be in addition to any other credit facility which may be put in place as a working capital or other cash flow aid.

(10) **Annual Changes to the CIP** -- In addition to making the funding commitments described in this Section, and subject to the provisions of the District of Columbia Local Capital Funding Agreement (attached as Attachment 3), the Parties agree to adjust the program of projects included in the scope of this Agreement, each year within the term of this Agreement on a rolling basis, in order to provide the funding required to meet WMATA's ongoing and updated CIP needs and other capital needs, and for planning WMATA's ongoing and updated CIP needs and other capital needs on a rolling basis for years beyond the term of this Agreement.

SEC. 5 ANNUAL BUDGET RECONCILIATION PROCESS

(a) **Reconciliation.** -- As part of its annual budget process in each year during the term of this Agreement, WMATA shall prepare a reconciliation of --

(1) the actual expenditures for projects and activities under the current Capital Improvement Program to date, and for that fiscal year, as compared to the planned expenditures for such projects and activities for the same fiscal year;

(2) the actual Allocated Contribution of each of the Contributing Jurisdictions to date, as compared to the scheduled Allocated Contribution of each Contributing Jurisdiction for the current CIP;

(3) the projected Allocated Contributions of each Contributing Jurisdiction for the current CIP;

(4) the actual amount of Federal grant funds received for the Capital Improvement Program, as compared to the budgeted or projected amount of Federal grant funds for the same fiscal year; and

(5) the current forecast of expenditures; and

(6) the estimated cost to complete the remaining projects and activities in the current Capital Improvement Program and expected sources of those funds.

(b) Application of Reconciled Payment Amounts. On or before October 15th, WMATA shall have performed the reconciliation described in the above section, including whether there is a surplus of funds paid in by the Contributing Jurisdictions. The results of this reconciliation shall be used in the Annual Work Plan currently under development as well as to review the Annual Work Plan for the fiscal year then currently in effect at the time that the reconciliation is completed. If the results of the reconciliation indicate a need to adjust the then-current year's Annual Work Plan billing amounts, those adjustments shall become effective with the billing for the 3rd quarter, which begins on January 1. The surplus amount may be made available to the Contributing Jurisdictions only if there is no expectation that those funds will be needed within the next six succeeding quarters and that the refund of the surplus will not result in WMATA receiving less funds (including the surplus funds) than is required to be needed to meet the expected costs of the program over the next six calendar quarters measured from WMATA's fiscal year 3rd quarter (beginning on January 1). If surplus funds are provided to the Contributing Jurisdictions, the funds will be made available prior to the 3rd or 4th quarter of the fiscal year in which the reconciliation was completed.

(c) **Revenue Shortfalls.** -- If the reconciliation process conducted under subsection (a) of this Section reveals that there are shortfalls in revenues for the Capital Improvement Program due to late or insufficient contributions by one or more of the Contributing Jurisdictions or to the receipt of less than the assumed level of Federal funds, or other funds that support the CIP, WMATA shall develop a recovery plan for addressing such shortfalls. Such recovery plan, as approved by the WMATA Board of Directors through its annual budget process, shall include one or more of the following alternatives: (1) utilization of Interim Funding Sources; (2) value engineering, project re-design, or other cost reduction measures for future projects or activities; (3) re-scheduling of projects or activities in the Capital Improvement Program; (4) subject to agreement of the Contributing Jurisdictions, increasing the levels of Allocated Contributions from the Contributing Jurisdictions; and/or (5) the implementation of Project Deferrals under subsection (e) of this Section.

(d) **Revenue Increases.** -- If the reconciliation process conducted under subsection (a) of this Section reveals that Federal or other funds have been received which substantially exceed the assumed level of funding, such excess funds shall be applied to (1) to the unfunded priorities in the Capital Needs Inventory or to other needs identified by the WMATA Board; or (2) to any outstanding indebtedness, thereby reducing the Allocated Contributions of the budget process.

(e) **Project Deferrals.** -- If WMATA is unable to satisfactorily address revenue shortfalls under subsection (c) of this Section, the WMATA Board may, through the next WMATA budget process, modify the Capital Improvement Program to defer certain projects or activities in order to assure that the Capital Improvement Program can be funded during the term of this Agreement within the amount of available financial resources.

(f) **Updated Capital Improvement Program**. The WMATA staff shall, as soon as practical after each annual reconciliation process conducted under this Section, develop an updated Capital Improvement Program. This updated document, if approved by the WMATA Board, will replace and supercede all previous versions of the Capital Improvement Program and.

(g) **Reprogramming of Funds and Projects During the Term of This Agreement**. The Parties recognize that the scope, pricing or desirability of some projects will change during the term of this Agreement. To address these possibilities, WMATA agrees to provide the Contributing Jurisdictions with advance notice of any request to reprogram funds in an amount greater than \$1,000,000 per project.

(h) **Final Distribution**. – In the event that this Agreement is terminated pursuant to section 8 of this Agreement, any amounts remaining at the expiration of this Agreement shall be first used to fund any remaining unfunded projects or activities in the Capital Improvement Program as indicated in the attached Capital Improvement Program, and then, if any funds remain, will be credited or refunded to the Contributing Jurisdictions, as directed by the Contributing Jurisdictions.

(i) **Financial Records**.

(1) **Maintenance of Records**. -- During the term of this Agreement, WMATA agrees to maintain separate and complete accounting records which are consistent with generally accepted governmental accounting procedures and which accurately reflect all income and expenditures of funds which may be provided under this Agreement. WMATA will retain all such CIP records for the same period that records are required to be kept for the FTA or other federal grants, unless there is an outstanding written Contributing Jurisdiction or FTA financial

or audit question, which is not resolved by the Contributing Jurisdiction or FTA auditor. The records of WMATA must be in sufficient detail to determine the character and timing of fund items; and of contract obligation and expenditure transactions authorized by this Agreement.

(2) Audits.

(A) Timing for Performance. -- The Contributing Jurisdiction or its agent may perform an audit of WMATA's expenditures of funds and the sources of those funds provided by this Agreement for a period of up to three (3) fiscal years preceding the request for audit from the Contributing Jurisdiction provided that the request is received no later than one hundred-eighty (180) days after the release of the WMATA audit for the preceding year. Any such audit shall be commenced within sixty (60) days after the date of the request, and shall be completed (to the maximum extent practicable) within 180 days after the date it is commenced. The Contributing Jurisdiction will assume all financial responsibility for any costs associated with the performance of such audits. If the Contributing Jurisdiction and one or more Other Contributing Jurisdictions initiates an audit on a timely basis under this paragraph, the audits shall be consolidated into a single audit for the applicable fiscal years and the Contributing Jurisdictions participating in the audit shall share in the cost of the audit. WMATA agrees to cooperate fully with the Contributing Jurisdiction or its authorized agent or designee in the conduct of any audit carried out in accordance with this paragraph. In addition to the foregoing, in the event that the Contributing Jurisdiction's bond, the proceeds of which were used to meet the funding obligation of the Agreement or any transaction pertaining to such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly allow the Contributing Jurisdiction access, at the Contributing Jurisdiction's expense, to any record it may have relating to

WMATA's use of the proceeds of such Contributing Jurisdiction's bond so that the Contributing Jurisdiction may participate and respond to any aspect of such investigation, inquiry or suit. In the event WMATA is notified that any Contributing Jurisdiction's bond, the proceeds of which were used to meet funding obligations of this Agreement or any transaction pertaining to any such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly notify the Contributing Jurisdiction and allow the Contributing Jurisdiction to participate in all aspects of the conduct or any response WMATA may make in such regard.

(B) Audit Results. -- If it is determined as a result of such an audit under this paragraph that the Contributing Jurisdiction has made payments in excess of or less than the amount(s) provided for pursuant to the terms and conditions of this Agreement and the CIP, WMATA will make appropriate adjustments in the amount due to WMATA from such Contributing Jurisdiction in the next fiscal year. The audit rights provided under this paragraph shall survive the termination date of this Agreement.

SEC. 6 DISPUTES

(a) Informal Resolution -- The Parties agree to use all reasonable efforts to resolve any disputes, which arise under or otherwise relate to this Agreement. If the Parties, at staff level, cannot resolve such a dispute through initial discussions within thirty (30) days after the date it first arises, then the Party seeking a resolution shall, through its Authorized Representative, provide written notice of the nature of the dispute and the issues involved to the Authorized Representatives of each other Party involved. Such other Parties shall respond within thirty (30) days, stating their position on the issue presented and their proposal for resolution. The Authorized Representatives shall then meet within the next thirty (30) days in an

attempt to resolve the dispute. If the dispute is not resolved within thirty (30) days following the date of the last meeting, any Party to the dispute may refer the matter to the WMATA Board for resolution.

(b) **Alternative Resolution.** -- If a dispute arising under this Agreement is not resolved pursuant to subsection (a) of this Section, the Parties thereto may agree to pursue a mutually acceptable alternative dispute resolution procedure. If such a procedure is not utilized or does not result in a final and binding resolution of the dispute, any Party thereto may pursue a civil action for appropriate relief in a court of competent jurisdiction.

SEC. 7 REPRESENTATIONS AND WARRANTIES

(a) **By WMATA.** -- WMATA makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

(1) WMATA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;

(2) WMATA by proper WMATA Board action has duly authorized the execution and delivery of this Agreement;

(3) When executed and delivered by the Contributing Jurisdictions and by WMATA, this Agreement will constitute the legal, valid and binding obligation of WMATA enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally.

(4) No director, officer, or employee of WMATA who exercises or has exercised any functions or responsibilities over any procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from

any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect thereto during the term of this Agreement.

(b) **By the Contributing Jurisdiction.** -- The Contributing Jurisdiction makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

(1) The Contributing Jurisdiction has all necessary power and authority to enter into the transactions contemplated by this Agreement and to carry out its individual obligations hereunder;

(2) The Contributing Jurisdiction has duly authorized the execution and delivery of this Agreement;

(3) When executed and delivered by the Contributing Jurisdiction, this Agreement will constitute the legal, valid and binding obligation of the individual entity enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally;

(4) No officer, or employee of the Contributing Jurisdiction who exercises or has exercised any functions or responsibilities over a procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect therewith during the term of this Agreement.

SEC. 8 EFFECTIVE DATE AND TERM OF AGREEMENT

(a) **Effective Date.** The Parties acknowledge and agree that the Capital Funding Agreement is in consideration of and contingent upon the execution of the Local Funding

Agreement for Capital Funding by and between WMATA and the District of Columbia to be executed concurrently with the execution of this Agreement. Accordingly, this Agreement shall take effect on the date of execution by the last signatory of the District of Columbia Local Funding Agreement for Capital Funding or the last signatory of the Capital Funding Agreement.

(b) Term. The term of this Agreement shall begin on the Effective Date and shall terminate on June 30, 2016. Where there are projects which have been started during the term of the Agreement or where bonds or other financial instruments have been issued pursuant to the Metro Matters Funding Agreement (for the Contributing Jurisdiction or Other Contributing Jurisdictions who did not opt out of the Long Term Debt issuance) or pursuant to the Capital Funding Agreement, the Contributing Jurisdiction, subject to annual appropriations, agrees to continue to make its Allocated Contribution for those projects or debt service until the conclusion of the projects or the final maturity of the bonds or other financial instruments.

(c) Future Negotiations. No later than June 30, 2015, WMATA and the Contributing Jurisdiction agree to commence discussions for a successor capital funding agreement. No later than June 30, 2015, WMATA will ask the Contributing Jurisdiction and all Other Contributing Jurisdictions for an affirmative response to whether it wishes to participate in a successor agreement. The Contributing Jurisdiction shall give an affirmative notice in accordance with Section 12 of this Agreement, either that: (1) it intends to continue under the Agreement, subject to an amendment only of the projects included in the CIP and the cost of a new six-year CIP and the renegotiation of the DCLCFA with the District of Columbia; (2) it requests the renegotiation of additional terms of the Agreement in addition to those specified in the preceding clause; or (3) it wishes to terminate the Agreement as of June 30, 2016. It is the Parties' desire to limit negotiations only to the items listed in clause (1) if at all possible. A failure to timely respond

will be an election to terminate the Agreement. If a Contributing Jurisdiction gives or is deemed to give the required notice that it is terminating its participation in this Agreement, then the Agreement shall terminate on June 30, 2016 except as covered by subsection (b), above.

SEC. 9 RECITALS

The Recitals set forth in this Agreement are material parts of this Agreement and are binding on the Parties to the same extent as the other terms and conditions hereof.

SEC. 10 NO THIRD PARTY BENEFICIARIES

The Parties to this Agreement do not intend any non-signatory to this Agreement or any other third Party to be a third Party beneficiary to this Agreement, nor do the Parties intend for any such third Party to have any rights or benefits under this Agreement or to have standing to bring an action or claim in any court or other forum to enforce any provision of this Agreement.

SEC. 11 AMENDMENTS

This Agreement may be amended or modified only by written agreement duly executed by all the Parties.

SEC. 12 NOTICES

All notices under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or sent by the U.S. Postal Service or by a courier service or national overnight delivery service, to WMATA or the Contributing Jurisdiction as follows:

To the District of Columbia:

Director
District Department of Transportation
2000 14th Street, N.W.
Washington, D.C. 20009

With copies to:

Chief Financial Officer for the District of Columbia
John A. Wilson Building, Room 203
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Attorney General for the District of Columbia
John A. Wilson Building, Room 409
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

To the Washington Metropolitan Area Transit Authority:

General Manager
600 Fifth Street, N.W.,
Washington, D.C. 20001

with a copy to:

The General Counsel
Washington Metropolitan Area Transit Authority
600 Fifth Street, N.W., Second Floor
Washington, D.C. 20001

SEC. 13 SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the Contributing Jurisdictions and WMATA.

SEC. 14 NO DEBT GUARANTEES

The Contributing Jurisdiction does not guarantee the debt of WMATA or any Other Contributing Jurisdiction, nor any obligation of WMATA or any Other Contributing Jurisdiction.

SEC. 15 REQUIREMENT FOR ANNUAL APPROPRIATIONS

Notwithstanding any other provisions of this Agreement, all obligations of the Contributing Jurisdictions are subject to discretionary annual appropriation of funds by the governing bodies thereof or other appropriate legislative bodies thereof and shall be consistent with the anti-deficiency laws applicable to each Contributing Jurisdiction.

SEC. 16 COUNTERPARTS

This Agreement may be executed in two (2) identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement. The counterpart with the most recent date shall determine the date of entry of this Agreement by the Parties listed on page one.

IN WITNESS WHEREOF, WMATA and the Contributing Jurisdiction have executed this Agreement on this _____ day of _____, 2010.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

Attest:

By:

Secretary

Richard Sarles
Interim General Manager

[Seal]

Dated: _____

Approved as to Form and Legal Sufficiency:

By: _____
Office of General Counsel

[signatures continued on following page]

DISTRICT OF COLUMBIA

Attest:

Witness

By: _____ [[Seal]

Mayor

Approved as to Form and Legal Sufficiency:

By: _____
Attorney General

Dated: _____

24
6-22-10

City of Alexandria

MEMORANDUM

DATE: JUNE 18, 2010
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: JAMES K. HARTMANN, CITY MANAGER *J*
SUBJECT: METRO CAPITAL FUNDING – WMATA GOVERNANCE

On Tuesday night, when Council considers the new Metro Capital Funding Agreement (Docket Item #24), it would be an appropriate time to discuss the WMATA governance issue relating to the State's request for two representatives to the WMATA Board of Directors. Attached you will find a draft copy of the summary of this issue prepared by Northern Virginia Transportation Commission (NVTC) staff, as well as a letter from Peter Rogoff, Administrator of the Federal Transit Administration, which expresses concern (page 2) about the Commonwealth of Virginia's commitment to Metro capital funding.

Attachments

cc: Mark Jinks, Deputy City Manager
Michele Evans, Deputy City Manager
Bruce Johnson, Chief Financial Officer
Jackie Henderson, City Clerk & Clerk of Council

NVTC
Northern Virginia Transportation Commission

Thinking Outside the Car Since 1964

STATE AND LOCAL EFFORT IN VIRGINIA
TO FUND THE WASHINGTON
METROPOLITAN AREA TRANSIT
AUTHORITY

REVISED DRAFT: June 16, 2010

WMATA Governance

- The Washington Metropolitan Area Transit Authority Compact states that Virginia's two voting members and their two alternates shall be appointed by NVTC from among its members (Article III, Section 5 (a)).
- From the beginning, NVTC has appointed a voting member and alternate from Fairfax County and a voting member from Arlington with an alternate from Alexandria.
- The Commonwealth of Virginia is represented on NVTC with the designee of the Secretary of Transportation (typically the Director of the Department of Rail and Public Transportation).

Secretary Connaughton's Request

- On May 26, 2010, Virginia Secretary of Transportation Sean Connaughton wrote to NVTC Chairman Cathy Hudgins requesting that NVTC appoint two representatives of the Commonwealth to serve on the WMATA Board of Directors.
- Secretary Connaughton included a table he stated shows that the Commonwealth is providing more funding for WMATA in FY 2011 than any individual NVTC jurisdiction. He states his belief that this increase in funding, plus a recent commitment of resources to improve the performance of a federally mandated state safety oversight program, justifies his request for state representation on the WMATA Board.

Reaction of NVTC's Jurisdictions

- Representatives of NVTC's local governments point out that there are several reasons not to act on the Secretary's request, including:
 - ◆ The two new state representatives would replace two of NVTC's four current WMATA Board members;
 - ◆ Local representatives are best equipped to respond to the concerns of their constituents who use and pay for WMATA through their local and state taxes, regional gas tax and fares and parking charges;
 - ◆ Local effort to fund WMATA has far exceeded that of the state from the beginning (the WMATA Compact was signed in 1967 and the first state aid for WMATA was received in FY 1973);
 - ◆ Local effort to fund WMATA has totaled \$2.6 billion from FY 2001 through FY 2011 while state aid has been \$827.5 million;

Reaction of NVTC's Jurisdictions

- ◆ State aid, while significant, has fluctuated greatly making it difficult to plan and budget, and is dependent on appropriations by the General Assembly and allocations by the Commonwealth Transportation Board. These groups respond to statewide priorities, which often conflict with those of Northern Virginia;
- ◆ Maryland currently appoints two voting members of the WMATA Board while providing 100% of Maryland's funding share. State priorities have differed from WMATA's local Maryland jurisdictions and earlier this year the state threatened to withhold vital WMATA funding;
- ◆ In Virginia, the state controls all new funding sources and the General Assembly has repeatedly denied local efforts to impose additional local and regional taxes to support WMATA;

Reaction of NVTC's Jurisdictions

- ◆ The Commonwealth has failed to meet its own statutory target of funding 95% of eligible net transit expenses. Since FY 2001 it has a shortfall of \$831.6 million which exceeds its actual contributions. Before the state claims funding supremacy for WMATA it should make up its cumulative shortfall;
- ◆ Secretary Connaughton's May 26th letter implied that NVTC would not receive the \$50 million annual match for new federal capital assistance for WMATA (PRIIA) unless it accepted his terms. This calls into question whether the state commitment is reliable. The previous Secretary of Transportation and Governor made written commitments, without preconditions, citing state statutes;

Reaction of NVTC's Jurisdictions

- ◆ Adding to doubt about Virginia's intentions is the fact that DRPT would not commit to its PRIIA match beyond the first 10 years, as regional staffs crafted the financial analysis for TPB's updated Constrained Long Range Plan. Maryland and D.C. representatives were prepared to make such a commitment;
- ◆ In allocating state transit assistance to NVTC for WMATA, staff of DRPT have demonstrated in the past a lack of understanding of WMATA, especially regarding its multi-year capital funding programs. In FY 2008, DRPT staff unfairly provided a significantly lower matching ratio for WMATA's Metro Matters capital projects based on a misunderstanding of its purpose. This cost NVTC and WMATA \$2.3 million;

Reaction of NVTC's Jurisdictions

- ◆ There is some question about how two state representatives could be appointed from NVTC's members to serve on the WMATA Board because the Commonwealth currently has only one member of NVTC. (This legal issue is being researched);
- ◆ The Greater Washington Board of Trade and the Metropolitan Washington Council of Governments are conducting a review of WMATA governance issues. Even if local governments supported the Secretary's request, it would be premature to act now.

History of State Funding of WMATA and Local Bus Systems in Northern Virginia

- Among all the reasons to reject Secretary Connaughton's request, the lack of a sustained funding effort by the Commonwealth, relative to the local effort of NVTC's local jurisdictions and WMATA customers, is paramount.
- Appendix Table 1 shows the history of state aid received by NVTC from the Commonwealth of Virginia through FY 2010, for all of Northern Virginia's public transit systems. WMATA comprises the vast majority, especially for operating assistance. Local bus systems did not begin to receive significant state assistance through NVTC until the late 1980's.
- It should be noted that the figures in Appendix Table 1 reflect aid actually received in each fiscal year by NVTC on a reimbursable basis, and will show timing differences from aid approved in the Commonwealth's six-year program.

History of State Funding of WMATA and Local Bus Systems in Northern Virginia

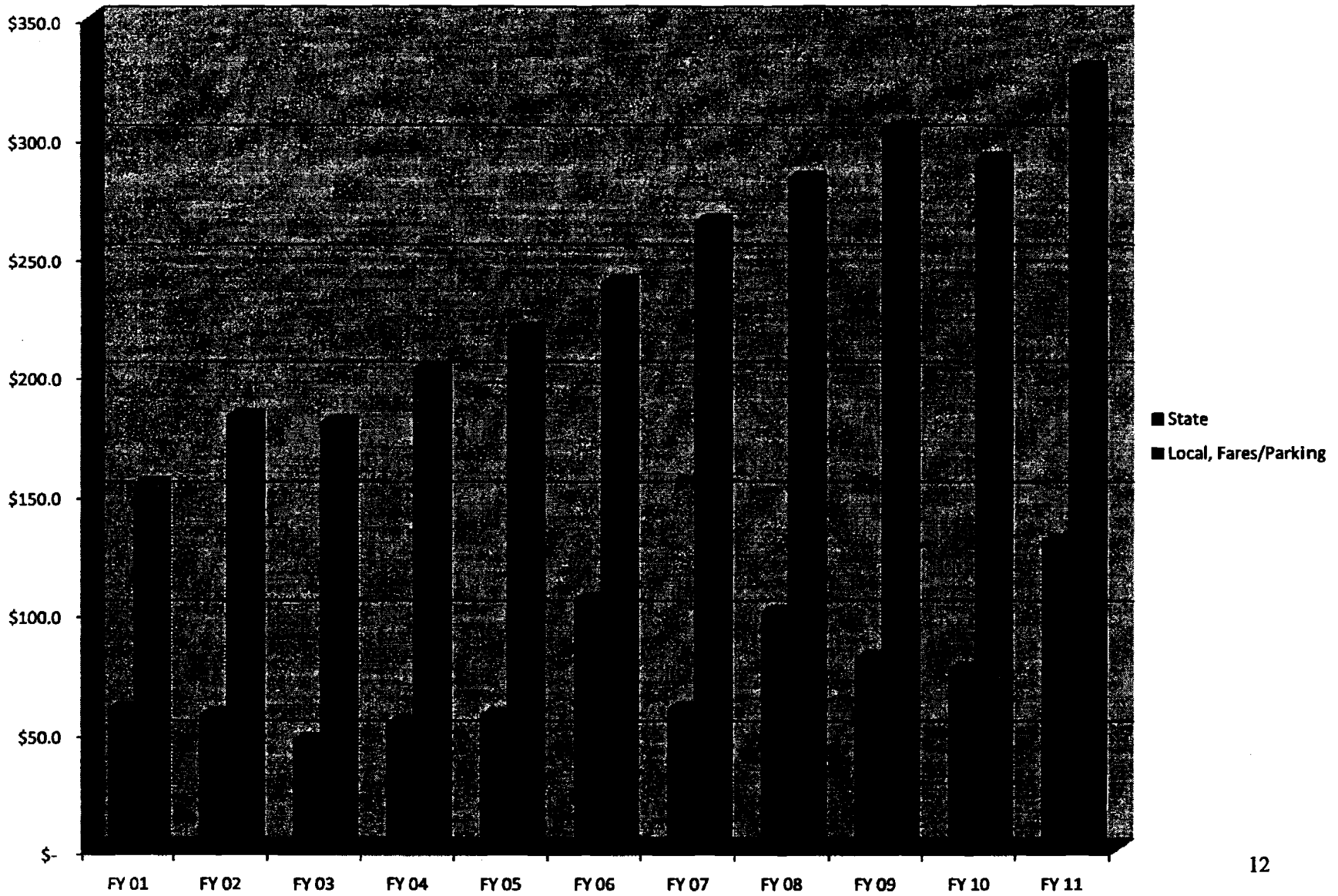
- Appendix Table 1 shows that state funding has grown substantially from a modest beginning of \$4.4 million in FY 1973 to reach an estimated \$112 million in FY 2010. Especially in recent years, however, state aid has fluctuated sharply, which makes it difficult for NVTC's local jurisdictions to plan and budget.
- In the 38 year history, there were 13 years in which state aid received by NVTC dropped from the previous year. Ten of those years displayed a double-digit percentage reduction, the most recent of which was a drop to an estimated \$112 million in FY 2010 from \$166 million in FY 2009 (33%).

State and Local Funding of WMATA FY 2001-2011

- The next slide and Appendix Table 2 show for the past decade the assistance for WMATA as allocated by the Commonwealth Transportation Board in its six-year program, compared to local effort to fund WMATA.
- Local effort includes General Fund contributions of NVTC's local governments, NVTC's two percent regional gas tax (changed to 2.1% in FY 2011) and fares and parking revenue paid by WMATA's customers for their Northern Virginia trips.
- The next slide shows annual comparisons of state and local effort. Each year local effort far exceeds that of the state. For example, the difference is estimated to be \$130 million (153%) in FY 2011 and \$214 million in FY 2010 (280%).

Local and State Funding of WMATA

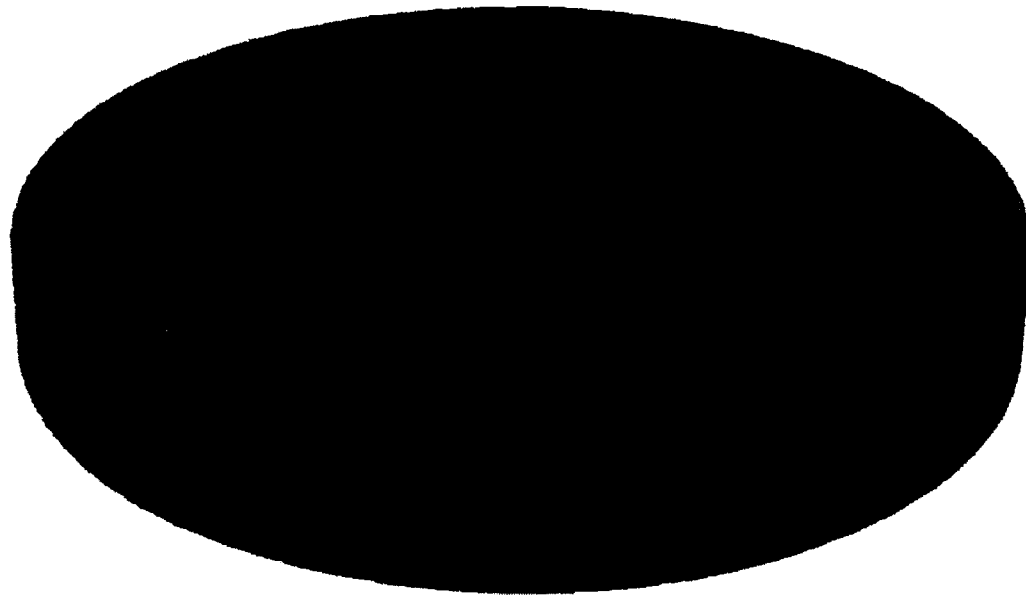
Millions of Year of Expenditure Dollars



State and Local Funding of WMATA FY 2001-2011

- As can be seen in Appendix Table 2, even with the infusion of \$50 million in state contributions in FY 2011, to match new federal “PRIIA” funds, the anticipated share of combined state and local effort in FY 2011 is 28.3% compared to 71.7% for NVTC’s jurisdictions. In FY 2001, the Commonwealth also achieved a 28% share and reached 30.6% in FY 2006, but in the intervening years dropped as low as 18.5% (in FY 2007).
- Cumulatively, state funding shown in the six-year programs totals \$827.5 million (24%) and local effort totals \$2.6 billion (76%) from FY 2001 through FY 2011.

**Cumulative Local and State Funding FY 01 - FY 11
Millions of Year of Expenditure Dollars**



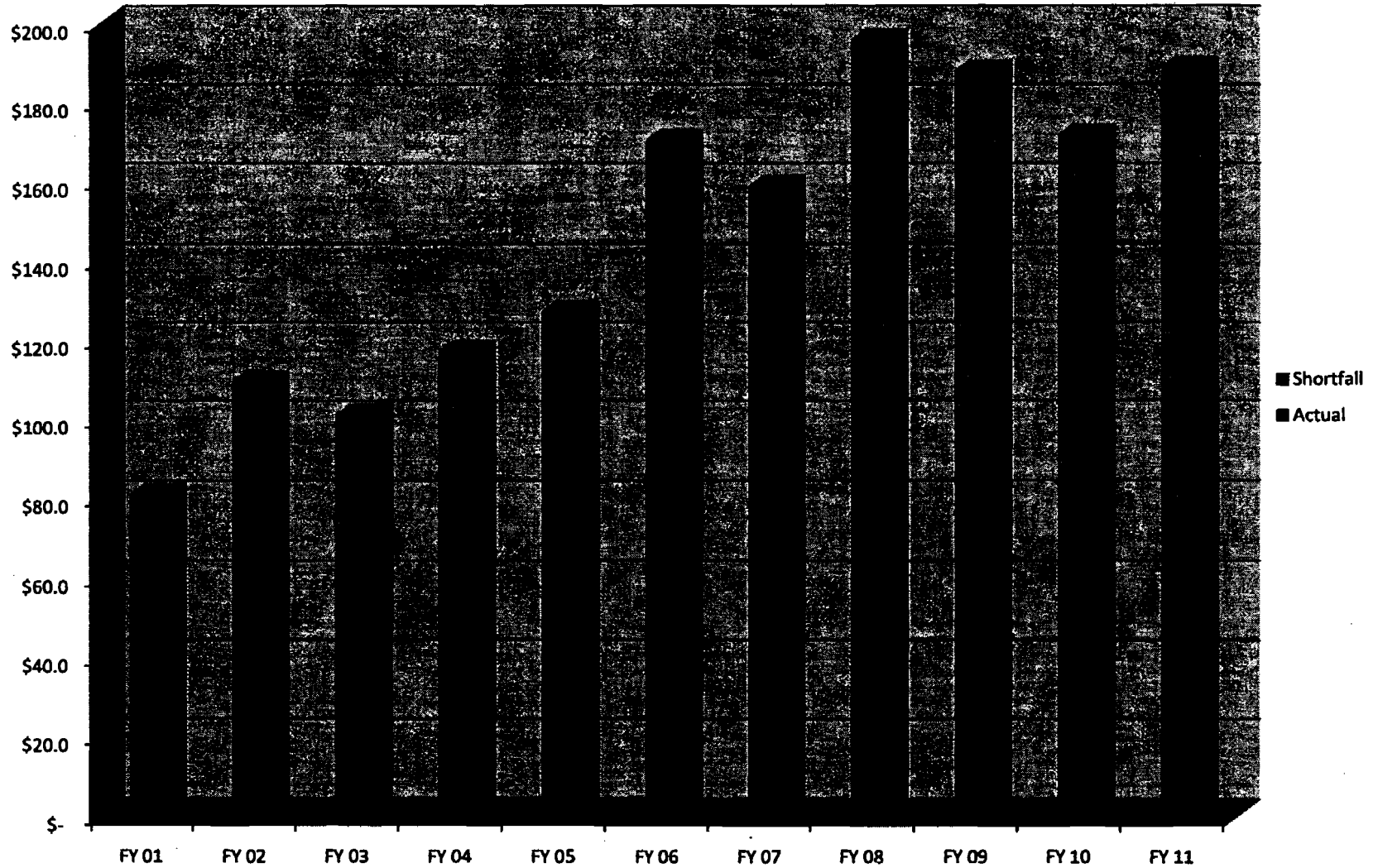
- State
- Local, Fares/Parking

State Funding Shortfall FY 2001-2011

- For the past decade, the Commonwealth has failed to achieve its own statutory target for funding 95% of eligible net transit expenses of WMATA (and all other state transit systems). The target excludes wages and fringe benefits of transit operators, mechanics, maintenance workers and contract labor who comprise as much as 50 to 60% of WMATA's annual operating expenses. These operator wages are also ineligible for federal assistance so funding falls entirely on local governments and customers.
- Annual shortfalls varying from \$109 million in FY 2011 to \$21.1 million in FY 2001 are shown in the next slide and in Appendix Table 3.
- Of the 11 years shown, state shortfalls exceeded state aid actually provided in seven years.

State Operating and Capital Assistance Programmed by DRPT (excluding PRIIA in FY 2011)

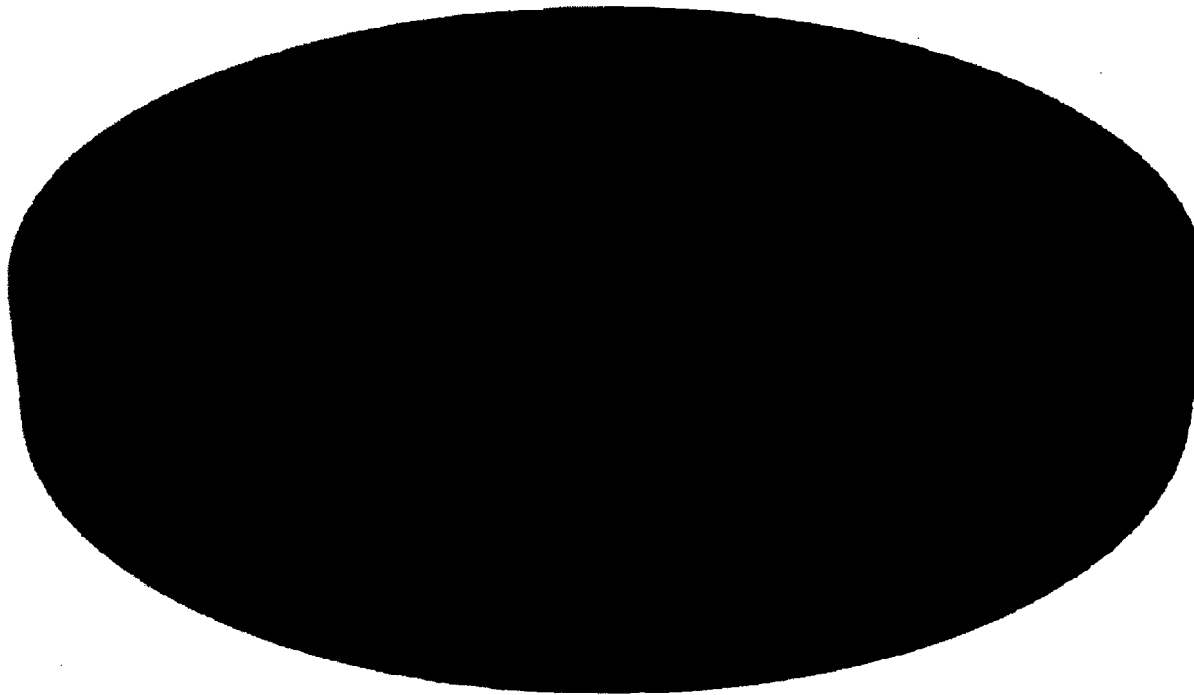
Millions of Year of Expenditure Dollars



State Funding Shortfall FY 2001-2011

- Cumulatively, the state shortfalls total \$831.6 million and exceed the total amount of state aid for WMATA (\$777.4 million) during the period of FY 2001-2011, excluding the new \$50 million PRIIA match in FY 2011.
- To calculate the shortfall, the FY 2011 state PRIIA match of \$50 million was excluded, because the statutory target is 95% and those funds provide 100%. Consequently, they do not contribute to the shortfall.

**Cumulative State Operating and Capital Assistance and
Shortfall
FY 01 - FY11 (excluding PRIIA)
--Millions of Year of Expenditure Dollars--**



- Actual
- Shortfall

Local Effort to Fund WMATA Versus Local Effort at Other Transit Systems in Virginia

- Per capita local effort of NVTC's WMATA jurisdictions far exceeds that of any other transit system in Virginia (by a factor of almost 10).
 - ◆ Despite the ongoing challenges of the recession, for FY 2010 the Northern Virginia Transportation District has a local level of effort funding transit of \$211 per person. NVTC's five WMATA jurisdictions have a combined local effort of \$255 per person. The next largest effort is in the Richmond District at \$30 per person.
 - ◆ The statewide average excluding the Northern Virginia District is only \$19.56, so Northern Virginia's per capita level of local effort is more than 10 times greater than the rest of the Commonwealth.

Local Effort to Fund WMATA Versus Local Effort at Other Transit Systems in Virginia

- (?) ||
- ◆ If the state wishes to have half of Virginia's Board representation at WMATA based on a share of combined state and local funding effort of less than 30%, will it demand the same representation on all other transit systems outside of Northern Virginia?
 - ◆ For example, the Commonwealth has one seat (of a total of 17) on the Board of Directors of Hampton Roads Transit, while providing 31.7% of the combined state and local effort as of FY 2011.

Conclusion

- While state aid for WMATA is significant, especially with new PRIIA matching funds as of FY 2011, local effort has far exceeded that of the Commonwealth.
- Consequently, the Commonwealth is not justified in seeking two seats on the WMATA Board based on its funding effort.
- There are many other reasons for NVTC not to act on Secretary Connaughton's request to replace two NVTC members of the WMATA Board with representatives of the Commonwealth.
- For further information, contact Scott Kalkwarf, Director of Finance and Administration, at NVTC: scott@nvtc.org
- Additional funding and transit performance data are available at www.thinkoutsidethecar.org

APPENDIX

**APPENDIX TABLE 1—State Funds Received By NVTC to Support Transit in Northern Virginia
FY 1973-2010
(Millions of Year of Expenditure Dollars)**

Fiscal Year	State Transit Assistance for NVTC Jurisdictions ¹	
	Amount	Year-over-Year Change
2010	159.7	61
2009 ³	166.0	61
2008	103.4	(62)
2007	75.6	(24)
2006	99.7	24
2005	68.0	11
2004	61.3	(6)
2003	65.0	5
2002	62.2	(2)
2001	71.1	12
2000	63.5	(7)
1999	59.6	10
1998	50.0	(9)
1997	56.6	6
1996	52.4	16
1995	52.4	16
1994	43.1	(17)
1993	43.1	(17)
1992	42.2	(16)
1991	42.2	(16)
1990	43.7	(14)
1989	43.7	(14)
1988	28.8	38
1987	28.8	38
1986	20.4	(2)
1985	20.4	(2)
1984	20.6	46
1983	20.6	46
1982	5.5	(62)
1981	5.5	(62)
1980	4.8	(68)
1979	4.8	(68)
1978	3.6	(72)
1977	3.6	(72)
1976	6.0	(43)
1975	6.0	(43)
1974	10.4	(43)
1973	4.4	-

1. State assistance contracted during the fiscal year, excludes federal funds for VRE applied for by PRTC, state-provided federal capital project funds paid directly to VRE and local shares for VRE paid initially to NVTC and PRTC.
 2. Estimated.
 3. Includes \$38.8 million special appropriations utilized in FY 2009 to opt out of Metro Matters Debt.

APPENDIX TABLE 2
State & Local Funding of WMATA According to DRPT Six-Year Improvement Programs
Millions of Year of Expenditure Dollars

	<u>Operating</u>		<u>Capital</u>		<u>Total</u>		<u>PRIA Match</u>	<u>Total</u>		
	<u>State</u>	<u>Local</u>	<u>State</u>	<u>Local</u>	<u>State</u>	<u>Local</u>		<u>State</u>	<u>Local</u>	
Including Fare and Parking Revenue:										
FY 11 Draft	\$ 51.2	\$ 304.1	\$ 28.6	\$ 24.3	\$ 79.8	\$ 328.4	\$ 50.0	\$ 129.8	\$ 328.4	
					19.6%	80.4%		28.3%	71.7%	
FY10 Revised	\$ 50.2	\$ 280.7	\$ 26.2	\$ 9.8	\$ 76.4	\$ 290.5	\$ -	\$ 76.4	\$ 290.5	
					20.8%	79.2%		20.8%	79.2%	
FY09 Revised	\$ 57.6	\$ 275.8	\$ 23.3	\$ 27.9	\$ 80.9	\$ 303.6	\$ -	\$ 80.9	\$ 303.6	
					21.0%	79.0%		21.0%	79.0%	
FY08 (a)	\$ 52.2	\$ 252.1	\$ 47.9	\$ 30.8	\$ 100.1	\$ 282.8	\$ -	\$ 100.1	\$ 282.8	
					26.1%	73.9%		26.1%	73.9%	
FY07	\$ 49.7	\$ 228.6	\$ 10.2	\$ 36.0	\$ 59.9	\$ 264.7	\$ -	\$ 59.9	\$ 264.7	
					18.5%	81.5%		18.5%	81.5%	
FY06 (b)	\$ 52.4	\$ 207.1	\$ 52.9	\$ 31.6	\$ 105.3	\$ 238.7	\$ -	\$ 105.3	\$ 238.7	
					30.6%	69.4%		30.6%	69.4%	
FY05	\$ 44.3	\$ 197.3	\$ 12.9	\$ 21.0	\$ 57.2	\$ 218.3	\$ -	\$ 57.2	\$ 218.3	
					20.8%	79.2%		20.8%	79.2%	
FY04	\$ 42.3	\$ 185.1	\$ 11.6	\$ 17.3	\$ 53.9	\$ 202.4	\$ -	\$ 53.9	\$ 202.4	
					21.0%	79.0%		21.0%	79.0%	
FY03	\$ 39.4	\$ 172.3	\$ 7.3	\$ 7.3	\$ 46.7	\$ 179.6	\$ -	\$ 46.7	\$ 179.6	
					20.6%	79.4%		20.6%	79.4%	
FY02	\$ 42.4	\$ 160.6	\$ 15.0	\$ 21.6	\$ 57.4	\$ 182.2	\$ -	\$ 57.4	\$ 182.2	
					24.0%	76.0%		24.0%	76.0%	
FY01	\$ 41.7	\$ 139.7	\$ 18.2	\$ 14.2	\$ 59.9	\$ 153.9	\$ -	\$ 59.9	\$ 153.9	
					28.0%	72.0%		28.0%	72.0%	

(a) includes \$20M special appropriation for rolling stock provided at 80%.

(b) includes \$40M special appropriation for railcars provided at 80%.

APPENDIX TABLE 3
State Funding Shortfalls for WMATA Capital and Operating Expenses
--Millions of Year of Expenditure Dollars--

	<u>Capital</u>			<u>Operating</u>			<u>Total</u>		
	<u>Eligibility</u>	<u>Actual</u>	<u>Shortfall</u>	<u>Eligibility</u>	<u>Actual</u>	<u>Shortfall</u>	<u>Eligibility</u>	<u>Actual</u>	<u>Shortfall</u>
FY 2011 (c)	50.2	28.6	(21.6)	138.5	51.2	(87.3)	188.7	79.8	(108.9)
FY 2010	34.2	26.2	(8.0)	137.4	50.2	(87.2)	171.6	76.4	(95.2)
FY 2009	48.6	23.3	(25.3)	139.4	57.6	(81.8)	188.0	80.9	(107.1)
FY 2008(a)	74.5	47.8	(26.7)	121.2	52.2	(69.0)	195.7	100.0	(95.7)
FY 2007	43.9	10.2	(33.7)	114.9	49.7	(65.2)	158.8	59.9	(98.9)
FY 2006(b)	66.9	52.9	(14.0)	103.4	52.4	(51.0)	170.3	105.3	(65.0)
FY 2005	32.2	12.9	(19.3)	95.1	44.3	(50.8)	127.3	57.2	(70.1)
FY 2004	27.5	11.6	(15.9)	89.7	42.3	(47.4)	117.2	53.9	(63.3)
FY 2003	13.9	7.3	(6.6)	87.1	39.4	(47.7)	101.0	46.7	(54.3)
FY 2002	34.8	15.0	(19.8)	74.6	42.4	(32.2)	109.4	57.4	(52.0)
FY 2001	30.8	18.2	(12.6)	50.2	41.7	(8.5)	81.0	59.9	(21.1)

(a) includes \$20M special appropriation for rolling stock provided at 80%.

(b) includes \$40M special appropriation for railcars provided at 80%.

(c) Excludes \$50M PRIIA match provided at 100%.



U.S. Department
of Transportation
**Federal Transit
Administration**

Administrator

1200 New Jersey Ave., S.E.
Washington, DC 20590

JUN 17 2010

Mr. Richard Sarles
Interim General Manager
Washington Metropolitan Area Transit Authority
600 Fifth Street NW
Washington, DC 20001-2693

Re: Review of Project List for Funding under the
Passenger Rail Investment and Improvement Act (PRIIA)

Dear Mr. Sarles:

The Federal Transit Administration (FTA) has reviewed the revised list of projects dated May 19, 2010 that the Washington Metropolitan Area Transportation Authority (WMATA) proposes for funding using the Fiscal Year (FY) 2010 appropriations provided under the authority of Section 601 of the Passenger Rail Investment and Improvement Act (PRIIA). For the most part, we concur with the projects that you propose to address WMATA's most urgent safety needs. However, we do take exception to the following items:

CIP125 – Rail Preventive Maintenance – \$40.9 million: As we understand it, you proposed to the WMATA board to add another \$30 million in preventive maintenance (\$20 million for rail and \$10 million for bus), with a “payback” provision should farebox revenue permit, to help close the gap in your FY11 Operating budget. As such, FTA believes that these funds should come from your FY10 Section 5307 Urbanized Area and/or your Section 5309 Fixed Guideway formula funds, not the PRIIA funds, given the importance of other safety-related capital needs identified in your FY11 capital budget.

CIP024 – Track Rehabilitation -- \$44.4 million: We do concur that this is a worthy project, but want to emphasize the priority of upgrading the No. 8 Turnouts from unguarded to guarded, based on the prior National Transportation Safety Board (NTSB) recommendations. Therefore, please consider additional funding for this item to expedite that work if possible.

CIP139 – NTSB Recommendations – \$10.3 million: We concur that an allocation to immediately address the forthcoming NTSB recommendations from the June 22, 2009 accident, as well as previous and subsequent investigations, is appropriate. We question whether the amount you are recommending is sufficient.

Please consider these comments and submit a final list accordingly.

In my letter to you dated May 12, I emphasized the fact that FTA will award PRIIA funds to WMATA on a dollar-for-dollar basis for each dollar provided by the three jurisdictions over and above their base level of support as defined by their budgeted contribution for FY 2010. In this way, FTA will ensure that Federal PRIIA funds will match local contributions that truly supplement rather than supplant prior year contributions.

The Administration is committed to advancing PRIIA funds to address the critical safety needs of the WMATA system. As such, I am deeply troubled by recent reports that the Commonwealth of Virginia may be revisiting its commitment to provide their contribution. Indeed, recent statements by State officials call into question whether the Commonwealth is now in compliance with the requirement in PRIIA that each jurisdiction secure a "dedicated funding source" to match Federal PRIIA dollars. Please know that FTA will monitor this situation carefully. Obviously, we will not be in a position to commit Federal matching funds to WMATA if the size and certainty of the local funding commitments are in doubt.

Please call me at (202) 366-4040 if you would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Rogoff", written in a cursive style.

Peter Rogoff
Administrator