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HERNDON TOWN COUNCIL
Tuesday
May 11, 2021

Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments, the regularly scheduled May 11, 2021 Herndon Town Council Public Hearing would be by electronic means. The meeting was broadcast and recorded through Cisco Webex and details for the meeting were made available to the public on Thursday, May 6, 2021. In attendance electronically were: Mayor Sheila A. Olem; Vice Mayor Cesar del Aguila; and Councilmembers Naila Alam; Pradip Dhakal; Signe Friedrichs; Sean M. Regan; and Jasbinder Singh.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Tammy Chastain, Deputy Director of Public Works; John Irish, Deputy Director of Public Works; and Margie Tacci, Deputy Town Clerk.

Announcements

Margie Tacci, Deputy Town Clerk, welcomed those listening to the May 11, 2021 Town Council public hearing and stated that night's regularly scheduled Herndon Town Council meeting was a virtual meeting, which was being conducted electronically pursuant to:

- ❖ Virginia Code Section 2.2-3708.2, as amended;
- ❖ the Governor's Executive Orders, as amended; and
- ❖ in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon

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Town Council on September 8, 2020, which superseded previously adopted amendments.

- Proper notice of the electronic meeting was provided in accordance with the Code of Virginia;
- Agenda and meeting materials, along with information for viewing the meeting and submitting comments for the record are available on the town's website; and
- Electronic meetings will begin with a roll call to determine a quorum and all votes, including adjournment, will be by roll call vote.

CALL TO ORDER

1. Roll Call & Determination of Quorum

Mayor Olem called the public hearing by electronic means to order at 7:00 p.m. and asked Ms. Tacci to call the roll for attendance. Mayor Olem asked each Councilmember to respond by clearly stating their name and indicating they were present.

Following the roll call for attendance, Mayor Olem confirmed there was an electronic quorum present. All members were present electronically, with Mayor Olem presiding. As Ms. Tacci stated, the meeting that evening was being conducted pursuant to the appropriate laws associated with the COVID-19 pandemic disaster.

Mayor Olem asked Council to observe meeting decorum by showing their hand to be recognized by the chair for comments and stating their last names before providing comments and when making or seconding motions. She reminded those participating to follow the town's Meeting Guidelines that were used for all government meetings to maintain good order, which included: refraining from participation unless and until recognized by the chair; being respectful in comments; refraining from threatening or intimidating language; profane, vulgar, obscene, or threatening remarks were not permitted; and attacks on the character, motive, or other harmful remarks against individual members of Council, town staff, or the public would not be tolerated.

APPROVAL OF MINUTES

Vote on March 16, 2021

Town Council Work Session Minutes

On motion of Councilmember Friedrichs, seconded by Councilmember Dhakal and carried by unanimous roll call vote by electronic means, the minutes of the March 16, 2021 Town Council Work Session were approved. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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Vote on March 23, 2021

Town Council Public Hearing Minutes

On motion of Councilmember Dhakal, seconded by Councilmember Friedrichs, and carried by unanimous roll call vote by electronic means, the minutes of the March 23, 2021 Town Council Public Hearing were approved. The vote was: Councilmembers Alam Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

ANNOUNCEMENTS

Mayor Olem announced that Council was using "point of order" inconsistently during meetings and causing some confusion in their proceedings. Mayor Olem asked Town Attorney and Parliamentarian, Lesa Yeatts to briefly explain "point of order" and generally explain the operation of Robert's Rules regarding Council inquiries during meetings.

Ms. Yeatts provided Council with a brief review of points of order, parliamentary inquiries, and requests for information. Ms. Yeatts gave Council detailed definitions of the terms, examples of when they are used, clarification of who these actions are directed towards, and information about the goals of these different actions which are all outlined in Robert's Rules of Order. Ms. Yeatts welcomed any questions and reminded Council she was available.

There was a brief question and answer session between Councilmember Dhakal and Ms. Yeatts clarifying that a point of order is used to question when meeting rules were being broken.

Councilmember Singh provided comments about the term "respectful" and violations. There was a brief question and answer session between Councilmember Singh and Ms. Yeatts regarding the Chair making the final decision about points of order or things being struck from the record, pursuant to Robert's Rules of Order.

There was a brief discussion between Vice Mayor del Aguila and Ms. Yeatts about the process and challenges to the Chair's rulings. Ms. Yeatts clarified the final ruling came from the Chair or an objection sustained by the majority of the body. There was a brief question and answer session between Vice Mayor del Aguila about the term "Chair" and its use since a meeting may not always be chaired by the Mayor.

2.-4. COMMENTS FROM THE TOWN MANAGER

Mayor Olem recognized William H. Ashton II, Town Manager, for his comments and updates. She asked Council to hold their questions until the end of each update.

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Pandemic Update

Mr. Ashton reported numbers were encouraging with around 20 cases per day compared to around 250 cases per day earlier in the pandemic. Around 650,000 doses of the vaccine had been administered in Fairfax County, and PCR testing was at under three percent positive. He stated the epidemic curve was on a downward slide, they were on a good trajectory, and measures were working. Mr. Ashton also stated Fairfax County Health was encouraging everyone to get the vaccine.

Mr. Ashton stated there had been no staff positives in a couple of weeks. He also said they were looking at suspending the town's COVID administrative regulation and leave elements related to COVID on June 1, 2021. They were also bringing telework employees back and working to get Council back in-person for their July meetings. Efforts were also being made to reopen the Herndon Community Center and to have a Fourth of July fireworks display. He stated they were not back to normal, but they were moving closer.

Regarding the "ARPA funds," Mr. Ashton stated guidance came from the Department of Treasury and the town's money would come from the state. The town was considered a non-entitlement community, and the guidance was still open to interpretation. He indicated they were in a holding pattern for guidance related to non-entitlement communities.

Questions from Council

Councilmember Singh said he found it difficult to understand Mr. Ashton's audio.

Mayor Olem provided brief comments about the call she and Mr. Ashton were both on earlier that week regarding the pandemic.

Council Initiatives Update

Mayor Olem stated she asked Councilmember Singh to provide the adopted process for prioritizing Council initiatives. He provided it in writing, it was distributed to Council, and it was available with that night's agenda. She clarified they did not need any action that night and read the guidelines aloud for those listening that might not have access to the document.

Mayor Olem thanked Councilmember Singh for providing this.

Councilmember Singh said there was a question on the floor the past week about "weights" they might assign. He said he was looking into that and a way to assign numerical values using a metric. He wanted the public to keep in mind "the town government and public should be focused on one topic or theme at a time because the government has limited administrative capacity and public attention is often short

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lived.” He indicated Council could only discuss a couple of things at a time. He felt they should develop a reasonable order. Councilmember Singh said that was part of the record and people could review that discussion.

Mayor Olem reminded those not speaking to mute.

Mr. Ashton stated he had no additional updates that evening.

Mayor Olem stated there would be fireworks on the Fourth of July.

5. COMMENTS FROM THE TOWN COUNCIL

Vice Mayor del Aguila: Provided feedback on the Strategic Initiatives. He was glad they did that and thanked staff. Vice Mayor del Aguila indicated there were lessons learned including having more of an agenda. He also thought they should focus more on Council having reviewed and understood material for them to ask questions. He did not think it was productive for staff to present and there should be an emphasis on Council asking questions. He thought it was a good start, but they spent too much time in the three hours on the process. Vice Mayor del Aguila did like Councilmember Singh’s scale and the ability to address future problems. He mentioned Council’s desired outcomes going forward and said he looked forward to the next session.

Councilmember Alam: Councilmember Alam’s comments were inaudible.

Councilmember Dhakal: Echoed Vice Mayor del Aguila’s comments about the Strategic Planning Meeting. He felt there were some heated discussions, but it was supposed to be that way as they generated ideas and brainstormed, as seven different people. He felt their end goal was to do something good for the town, and they were moving in a good direction. He also felt there were lessons learned and wanted more discussion and question and answer. Councilmember Dhakal reiterated it was their duty to review the presentations and read the staff reports so they could have more question and answer format to find problems and solutions. He loved it and felt it would be smoother going forward. He gave kudos to staff and thanked everyone.

Councilmember Friedrichs: No comments.

Councilmember Regan: Wanted everyone to know there was a Children’s Northern Virginia Science Center in Fair Oaks Mall that would be expanding and moving to a new location in Dulles at the Kincora development. The design was underway, and construction would start soon. There was an online event to reveal the design of the center on Thursday, May 20, 2021 at 5:00 p.m. Councilmember Regan said it would be great for families across Northern Virginia and stated the site was www.launchthefuture.org to register to attend virtually.

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Councilmember Singh: Said the gist of his proposal was that any initiative should be owned by a councilmember who explicitly says what the problem is. He thought that was the only way the public would understand, and the councilmember should get as much information about that problem, so everything was explicit. Councilmember Singh felt they could not depend on staff to solve the problems and some problems would be in contradiction to practices being followed. He further stated he felt that staff may not understand where they were coming from. He thought it was important they spend time and articulate and keep those things in mind. Councilmember Singh thought that if something was on the floor without enough information it may be voted down. He indicated he wanted to be clear on where he was coming from.

Mayor Olem: Shared it was National Police Week. She stated it was a time when the public respect, honor, and remember fallen or retired officers. Mayor Olem stated they had a few HPD officers who retired in the town recently.

Mayor Olem also reminded Council that for business related emails they needed to copy the Town Clerk in case there is a FOIA request.

Mayor Olem also stated she was thrilled Councilmember Singh brought his proposal forward because she did not think staff had enough information to answer their questions. She did not understand some of the things Council wanted and she felt it would be helpful to know why they want certain things done.

Councilmember Regan asked her to repeat the comment about communications and the Town Clerk.

Mayor Olem clarified that if councilmembers were responding to an email sent to Council or someone sent them an email making a statement, councilmembers would sometimes say they received comments about something at meeting, but the Clerk would not have been copied. Mayor Olem said a couple of times she had forwarded things and the Town Clerk did not know she had gotten it. Sometimes people send Council emails that do not go to the Clerk or the rest of Council. Mayor Olem stated they had to keep public records, and for FOIA, they need a record. She said this was helpful because the Town Clerk staff made sure they are compliant, and it makes it easier if someone has a request.

Councilmember Friedrichs asked everyone to make sure their microphones were muted.

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Olem asked the Deputy Town Clerk whether she had received comments for the record or Transactional Disclosure Declarations from Council on any items listed on that evening's agenda, and the Deputy Town Clerk stated that she had not received any comments or any transactional disclosures for that evening's meeting.

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6. COMMENTS FROM THE AUDIENCE

Mayor Olem asked Ms. Tacci if there were any registered speakers during Comments from the Audience, and Ms. Tacci stated there was one registered speaker.

Mayor Olem outlined the participation process for Webex. She stated Council would use a speakers list to call on those who have registered to provide "Comments from the Audience" to address Council on any matter that was not listed as a public hearing item on that night's agenda. She would call on each person that signed up to speak. She would then pause briefly while staff enabled the speaker's ability to address Council. Speakers would have up to three minutes and should state their name and address for the record. Comments from the Audience were limited to 45 minutes or approximately 15 speakers.

Mayor Olem stated that a timer would appear on the Webex screen and encouraged speakers to wrap up when there were 30 seconds left on the timer. She then called on the following individuals, who provided comments:

- Jessica Glaser, 1074 Elden St., Herndon: Provided comments about negative experiences with the Herndon Police Department. A copy of Ms. Glaser's full comments is on file in the Town Clerk's Office.

GENERAL

7. Resolution 21-G-43, to authorize the Town Manager to sign the Virginia Water/Wastewater Agency Response Network (VA WARN) and the National Capital Region Water/Wastewater Agency Response Network (NCR WARN) Mutual Aid Agreements.

Mayor Olem recognized Tammy Chastain, Deputy Director of Public Works, who presented the staff report and PowerPoint dated May 11, 2021 which are on file in the Town Clerk's office.

Ms. Chastain stated based on other state Water/Wastewater Agency Response Network (WARN) programs, both VA WARN and National Capitol Region NCR WARN agreements are designed to provide a utility to utility response during an emergency. The mission is to support and promote statewide emergency preparedness, disaster response, and mutual assistant matters for public and private water and wastewater utilities for natural and man-made events.

She outlined that the VA WARN and NCR Warn agreements are available to all public and private water and wastewater utilities in the Commonwealth of Virginia and the National Capital Region, respectively. There was no cost to participate, but there would

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be a related cost for assistance provided. There was no requirement to respond to requests. Fairfax Water, Fairfax County, and Loudoun Water were members of both.

Staff recommended that the Town Council authorize the Town Manager to sign the VA WARN and NCR WARN mutual aid agreements.

Councilmember Friedrichs moved to approve Resolution 21-G-43, authorizing the Town Manager to sign the Virginia Water and the National Capital Region Water/Wastewater Agency Response Network (NCR WARN) Mutual Aid Agreements. Councilmember Dhakal seconded the motion.

Councilmembers Friedrichs and Dhakal provided brief supportive comments.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

Resolution 21-G-43, to authorize the Town Manager to sign the Virginia Water/Wastewater Agency Response Network (VA WARN) and the National Capital Region Water/Wastewater Agency Response Network (NCR WARN) Mutual Aid Agreements.

WHEREAS, the National Infrastructure Protection Plan and in particular the Sector Specific Plan for the Water Sector developed by the United States Environmental Protection Agency identifies the development of a Water and Wastewater Agency Response Network in each state as an important means of helping to ensure resilient water and wastewater infrastructure in the public interest; and

WHEREAS, in furtherance of such national Water Sector plan, Virginia's longstanding, nationally-recognized professional associations known as the Virginia Section of the American Water Works Association ("VA AWWA") and the Virginia Water Environment Association ("VWEA") have jointly formed the Virginia Water and Wastewater Agency Response Network ("VA WARN") Committee to develop the EPA-recommended network and associated procedures for implementation in Virginia; and

WHEREAS, to develop the EPA-recommended network and associated procedures for implementation in the National Capital Region; the Metropolitan Washington Council of Governments (COG) has facilitated the formation of the National Capital Region WARN (NCR WARN); and

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WHEREAS, the VA WARN and NCR WARN Committees have developed the attached forms of the VA WARN and NCR WARN Mutual Aid Agreements for use by public and private Water Sector utilities for purposes of requesting assistance and responding to such requests as well as related forms of an Event Agreements for providing assistance of defined scopes on defined terms and conditions; and

WHEREAS, the VA WARN and NCR WARN Mutual Aid Agreements are intended to supplement and integrate with Statewide Mutual Aid Programs administered by the Virginia Department of Emergency Management, with the Emergency Management Assistance Compact, and with other mutual aid agreements of local, intrastate and interstate scope; and

WHEREAS, the Town of Herndon owns and operates water and wastewater facilities, is responsible for public water supply and wastewater management in the Commonwealth of Virginia and National Capital Region and is therefore eligible to participate in VA WARN and NCR WARN.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby authorizes the Town Manager to sign the VA WARN and NCR WARN Mutual Aid Agreements.

[Note: Attached for reference at the end of the minutes are the Virginia Water/Wastewater Agency Response Network (VA WARN) and the National Capital Region Water/Wastewater Agency Response Network (NCR WARN) Mutual Aid Agreements.]

8. Resolution 21-G-44, to award Contract #B-21-02, Center Street Improvements Project.

Mayor Olem recognized the Deputy Director of Public Works, John Irish, who presented a staff report and PowerPoint dated May 11, 2021, which are on file in the Town Clerk's office.

Mr. Irish stated the Center Street Improvements project was part of the CIP. The project consisted of reconstruction and realignment of the existing intersection to incorporate additional turn lanes and a new, fully-operational traffic signal, which is to be furnished and installed in conjunction with improvements to the existing storm drainage system and pedestrian facilities located at the Center Street and Elden Street intersection.

He outlined and shared bids received and the apparent lowest bidder, Fort Myer Construction Corporation was found to be responsive and responsible. Reimbursement of funds up to \$431,500 or 50 percent of total construction costs were available through

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a Virginia Department of Transportation (VDOT) Revenue Sharing agreement between the Town of Herndon and VDOT.

Staff recommended Contract #B-21-02, Center Street Improvements Project, be awarded to Fort Myer Construction Corporation for \$863,000.00. Staff also recommended an \$86,300 contingency, which is approximately 10 percent of the contract amount, be authorized.

Councilmember Regan moved to approve Resolution 21-G-44, awarding Contract #B-21-02, Center Street Improvements, to Fort Myer Construction Corporation. Councilmember Friedrichs seconded the motion.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

Resolution 21-G-44, to award Contract #B-21-02, Center Street Improvements Project.

WHEREAS, the Center Street Improvements Project is in the Capital Improvement Program; and

WHEREAS, Contract #B-21-02, Center Street Improvements, was advertised on March 15, 2021; and

WHEREAS, a pre-bid conference was held on March 22, 2021 and was attended by one firm; and

WHEREAS, the following bids were received and opened on April 15, 2021 at a public bid opening:

<u>Contractor</u>	<u>Bid</u>
Fort Myer Construction Corporation	\$ 863,000.00
Arthur Construction Corporation	\$ 949,146.20
Sagres Construction Corporation	\$ 975,000.00
Ashburn Construction Corporation	\$ 1,077,430.75
Anchor Construction Corporation	\$ 1,147,721.00; and

WHEREAS, the Fort Myer Construction Corporation. submitted the lowest bid which was found to be responsive and responsible; and

WHEREAS, staff recommends in addition to the contract that a contingency of \$86,300, which is approximately 10 percent of the bid, be authorized; and

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WHEREAS, funds to support this contract are available in the Capital Projects Account Number #015-0886-491650; and

WHEREAS, reimbursement of funds up to \$431,500 or 50% of total construction costs are available through a Virginia Department of Transportation (VDOT) Revenue Sharing agreement between the Town of Herndon and VDOT.

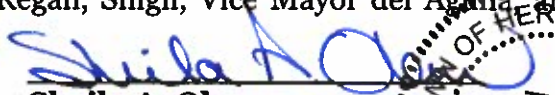
NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #B-21-02, Center Street Improvements, to Fort Myer Construction Corporation, in the amount of \$863,000.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby authorizes a contingency of \$86,300.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes the Town Manager's designee to approve contract modifications (change orders) that increase project scope and costs, utilizing the project contingency.

9. ADJOURNMENT

Councilmember Dhakal moved to adjourn the meeting of the May 11, 2021 public hearing, and Councilmember Friedrichs seconded the motion. The question was called on the motion which carried by unanimous roll call vote by electronic means, and the meeting of the May 11, 2021 public hearing adjourned at 7:51 p.m. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."


Sheila A. Olem
Mayor


Jessica Sizemore
Legislative Assistant



Minutes approved by Town Council: August 10, 2021.

VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK MUTUAL AID AGREEMENT

THIS MUTUAL AID AGREEMENT (this "Agreement") is made and entered into by and among the undersigned Member Utilities of the Virginia Water and Wastewater Agency Response Network, each of which is responsible for public water supply or wastewater management in the Commonwealth of Virginia.

BACKGROUND

A. The National Infrastructure Protection Plan and in particular the Sector Specific Plan for the Water Sector developed by the United States Environmental Protection Agency ("EPA") identifies the development of a Water/Wastewater Agency Response Network in each State as an important means of helping to ensure resilient water and wastewater infrastructure in the public interest.

B. In furtherance of such national Water Sector plan, Virginia's longstanding, nationally-recognized professional associations known as the Virginia Section of the American Water Works Association ("VA AWWA") and the Virginia Water Environment Association ("VWEA") have jointly formed the Virginia Water and Wastewater Agency Response Network ("VA WARN") Committee to develop the EPA-recommended network and associated procedures for implementation in Virginia.

C. The VA WARN Committee has developed this form of Agreement for use by public and private Water Sector utilities for purposes of requesting assistance and responding to such requests.

D. This Agreement is intended to supplement and integrate with the Statewide Mutual Aid Program administered by the Virginia Department of Emergency Management, with the Emergency Management Assistance Compact, and with other mutual aid agreements of local, intrastate and interstate scope.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein, the parties hereto agree as follows:

SECTION 1 – DEFINITIONS

"ASSISTING UTILITY" means a Member Utility that elects to provide assistance in the form of personnel, equipment, materials or supplies to a Requesting Utility pursuant to an individual Event Agreement following a request for assistance under this Agreement.

"AUTHORIZED REPRESENTATIVE" means an officer, principal or employee of a Member Utility authorized in writing by that entity to request, offer or provide assistance pursuant to this Agreement.

"EVENT AGREEMENT" means a separate agreement entered into by and between a Requesting Utility and Assisting Utility for the purpose of providing and accepting assistance for a Utility Event. See Exhibit B.

"PERIOD OF ASSISTANCE" means the period of time commencing when the Assisting Utility dispatches personnel, equipment, materials or supplies pursuant to an individual Event Agreement and ending when personnel, equipment and remaining materials or supplies return to the Assisting Utility (*i.e.*, portal to portal).

"REQUESTING UTILITY" means a Member Utility that requests assistance pursuant to this Agreement or that receives assistance pursuant to an individual Event Agreement.

"MEMBER UTILITY" means any locality, water authority, wastewater authority, sanitary district, sanitation district or public service corporation that (i) owns or operates any water storage, treatment, transmission or distribution facilities for drinking or other domestic uses, or any wastewater collection or treatment facilities and (ii) has been accepted and acknowledged in writing as a member of VA WARN by the Chair of VA WARN Committee following delivery and receipt of this executed Agreement.

"UTILITY EVENT" means any event or occurrence, or threat thereof, whether natural or manmade, the desired response to which is or is likely to be beyond the affected Member Utility's capability or then-available resources including but not limited to personnel, equipment, materials and supplies. A Utility Event may be a one-time event not reaching the nature or criteria requiring the declaration of a disaster, emergency or local emergency but still requiring inter-utility assistance. A Utility Event may be a recurrent event or occurrence where inter-utility assistance is beneficial for expediting the response to a particular need or filling temporary gaps in service of the Requesting Utility.

SECTION 2 – PROCEDURES FOR REQUESTING ASSISTANCE

2.1 ASSISTANCE REQUEST – When a Member Utility is affected by a Utility Event, it may request assistance by (a) submitting a written request for assistance to another Member Utility in the form provided at Exhibit A hereto, as amended and updated in the discretion of the VA WARN Committee from time to time, or (b) verbally communicating a request for assistance to another Member Utility followed as soon as practicable by a written confirmation of such request. Assistance shall not be requested under this Agreement by a Member Utility unless resources otherwise reasonably available to the Member Utility are deemed to be inadequate. A Requesting Utility may cancel a request for assistance at any time and shall provide such notice thereof as soon as practicable to the Member Utilities of whom it has made a request for assistance. The Requesting Utility may communicate the cancellation verbally but shall provide written confirmation as soon as practicable thereafter.

2.2 RESPONSE – After a Member Utility receives a request for assistance, its Authorized Representative evaluates whether resources are available to assist and informs the Requesting Utility as soon as possible if it is able and willing to provide assistance. Execution of this Agreement does not establish a duty to respond to a request for assistance. Each Member Utility shall retain absolute discretion as to determinations regarding its ability to respond and its decision whether to do so. If the Member Utility is able and willing to provide assistance, the Member Utility's Authorized Representative responds with the type of available resources and the approximate arrival time that such assistance could be provided to the Requesting Utility.

2.3 EVENT AGREEMENT – To enter into an agreement to provide assistance, the Requesting Utility and the Assisting Utility shall communicate directly and enter into an Event Agreement, the form of which is provided in Exhibit B hereto.

2.4 AUTHORIZED REPRESENTATIVES – Upon execution of this Agreement, each Member Utility shall designate and notify the VA WARN Committee of one or more Authorized Representatives authorized to act on its behalf in requesting or agreeing to provide assistance under this Agreement. Each Member Utility shall notify the VA WARN Committee whenever a current Authorized Representative(s) is no longer authorized to act on its behalf and whenever it designates a new or additional Authorized Representative. All notices pursuant to this Paragraph shall be made in writing on a form provided by the VA WARN Committee, which shall include 24-hour access contact information and shall be signed on behalf of the Member Utility. If a Member Utility designates more than one person as an Authorized Representative, each Authorized Representative shall be considered fully authorized to act for the Member Utility in requesting or agreeing to provide assistance under this Agreement, and each Authorized Representative shall have the responsibility for expedient notification of the other Authorized Representative(s) within the Member Utility of requests for assistance that he has made or assistance he has agreed to provide on behalf of the Member Utility.

SECTION 3 – ROLE OF VA WARN COMMITTEE

The parties acknowledge and agree that the role of the VA WARN Committee, its individual members and any advisors is limited to the development and administrative support of VA WARN, on a voluntary basis and not as a party to this Agreement or as representative of any party hereto. While the VA WARN Committee may volunteer to assist the parties in coordinating requests for assistance or in other ways, this Agreement does not contemplate that the VA WARN Committee will be a required intermediary in arranging the details of assistance or reimbursement therefor and instead this Agreement contemplates that such arrangements will be arranged directly by and between Member Utilities. The VA WARN Committee, its members and any advisors assume no responsibility for this Agreement, for the delivery of assistance hereunder, or for any obligation incurred by any party hereto.

SECTION 4 – TERM AND WITHDRAWAL

4.1 TERM – This Agreement shall be in effect upon execution by two Member Utilities and subsequent acceptance and acknowledgment in writing as a member of VA WARN by the Chair of VA WARN Committee. This Agreement shall continue in full force and effect so long as there are at least two Member Utilities.

4.2 WITHDRAWAL – Any Member Utility may withdraw from this Agreement upon 30 days written notice. Withdrawal from this Agreement shall in no way affect a Requesting Utility's obligation to reimburse an Assisting Utility for costs incurred pursuant to an Event Agreement, which obligation shall survive such withdrawal.

SECTION 5 – MODIFICATIONS AND ADMINISTRATIVE PROCEDURES

5.1 MODIFICATION OF THIS AGREEMENT – This Agreement may be modified upon agreement of the parties according to the following procedure. From time to time, the VA WARN Committee may recommend approval of a proposed modification, either on its own initiative or following its endorsement of a suggestion made by a Member Utility. Modification to this Agreement shall be made on the basis of receipt by the VA WARN Committee of the written approval of the proposed modification by at least two thirds of the parties hereto. The effective date of the modification shall be 90 days after the day on which notice is given to all Member Utilities of the receipt of such approval. All parties that have failed or declined to approve the proposed modification on or before the effective date shall be deemed to have withdrawn from this Agreement as of the effective date.

5.2 MODIFICATION OF FORM OF EVENT AGREEMENT – The form of Event Agreement attached as Exhibit B hereto shall be modified only by the same procedure provided in Paragraph 5.1 for modification of this Agreement.

5.3 ADMINISTRATIVE PROCEDURES – The VA WARN Committee may adopt such administrative procedures as it deems appropriate to facilitate implementation of VA WARN and this Agreement, either on its own initiative or following its endorsement of a suggestion made by a Member Utility. The adoption of such procedures shall not be deemed a modification of this Agreement or the Event Agreement and therefore shall not require approval under Paragraph 5.1 or Paragraph 5.2.

SECTION 6 – MISCELLANEOUS PROVISIONS

6.1 OTHER AGREEMENTS – The parties acknowledge and agree that any Member Utility may have entered into other mutual aid agreements, either with other Member Utilities or with third parties, which shall not be deemed to be amended, superseded or repealed by execution of this Agreement. This Agreement shall govern with respect to all actions expressly taken or made pursuant hereto. Nothing in this Agreement is intended to interfere with any party's ability to request or provide

assistance under the Virginia Statewide Mutual Aid Program or the Emergency Management Assistance Compact.

6.2 INTERPRETATION – This Agreement shall be construed in accordance with and governed for all purposes by the laws of the Commonwealth of Virginia.

6.3 SEVERABILITY – Should any provision of this Agreement be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, that fact shall not affect or invalidate any other provision, which shall remain in full force and effect.

6.4 ASSIGNMENT – This Agreement shall not be assigned or transferred by any party.

6.5 NO THIRD PARTY BENEFICIARIES – This Agreement is solely for the benefit of the Member Utilities who are parties hereto and shall not confer any rights or benefits on any other person or entity.

6.6 COUNTERPARTS – This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties further agree that a facsimile or scanned signature may substitute for and have the same legal effect as an original signature, and that any copy of this executed Agreement made by photocopy, facsimile, or scanner shall be considered an original.

6.7 AUTHORIZATION OF SIGNATURE – In the case of a locality, authority or district, the party represents and warrants that its execution of this Agreement is made by an individual authorized to do so by its governing body. In the case of a public service corporation, the party represents and warrants that its execution of this Agreement by the undersigned is duly authorized and validly performed.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed in their names and on their behalf.

[SIGNATURE PAGES FOLLOW]

**VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
MUTUAL AID AGREEMENT SIGNATURE PAGE**

MEMBER UTILITY

Utility Name: _____

Signature: _____

Signatory's Name (print): _____

Signatory's Title: _____

Date: _____

APPROVED AS TO FORM:

Lesa J. Yeatts
Lesa J. Yeatts, Town Attorney

-- FOR USE BY VA WARN COMMITTEE ONLY --

**MEMBERSHIP ACCEPTANCE AND ACKNOWLEDGMENT
BY VA WARN COMMITTEE CHAIR**

Signature: _____

Signatory's Name (print): _____

Date: _____

**VA WARN MUTUAL AID AGREEMENT EXHIBIT A
ASSISTANCE REQUEST FORM**

VA WARN MUTUAL AID AGREEMENT EXHIBIT A						
ASSISTANCE REQUEST FORM						
Event Name:				Requesting Utility:		
Date:						
Time:						
Requesting Utility Contact Name:						
	Phone:			E-mail:		
Description of Assistance Requested:						
Specific Resources Needed:						
Mobilization:						
	Date Needed:			Time needed:	Pick hrs:	hrs
Demobilization:						
	Release Date:			Time needed:	Pick hrs:	hrs
Deployment Considerations:						
	Work Location/Facilities:			Pick One:		
	Working Conditions			Pick One:		
	Living Conditions			Pick One:		
	Health & Safety Concerns:			Pick One:		
	Safety Concerns/Remarks:					
	Additional Conditions Comments:					
Requesting Utility Resource Coordination Contact				Name/Title:		
	Phone:			E-mail:		
Staging Area:			Location:			
	Address 1:					
	Address 2:					
	City:		State:		Zip:	
Authorized Representative Name:						Date:

**VA WARN MUTUAL AID AGREEMENT EXHIBIT B
EVENT AGREEMENT FORM**

VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK EVENT AGREEMENT

THIS EVENT AGREEMENT (this "Agreement") is made and entered into by and between the undersigned Requesting Utility and Assisting Utility and shall be in effect as of the date of execution of the last signatory hereto.

BACKGROUND

A. The parties are Member Utilities of the statewide mutual aid network for water and wastewater utilities known as the Virginia Water and Wastewater Agency Response Network ("VA WARN") and are signatories to the VA WARN Mutual Aid Agreement.

B. The undersigned Requesting Utility has requested assistance pursuant to the VA WARN Mutual Aid Agreement, and the undersigned Assisting Utility desires to assist the Requesting Utility as more fully set forth herein.

C. The VA WARN Committee has developed this form of agreement for use by VA WARN Member Utilities in agreeing to provide and accept assistance as needed to respond to a Utility Event.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein, the parties hereto agree as follows:

SECTION 1 – DEFINITIONS

Terms not specifically defined herein shall have the definitions provided in the VA WARN Mutual Aid Agreement to which the Requesting Utility and Assisting Utility are both parties.

SECTION 2 – SCOPE OF ASSISTANCE

To support the Requesting Utility's response to a Utility Event, the Assisting Utility agrees to provide, and the Requesting Utility hereby accepts, assistance as set forth on Attachment A hereto. Such assistance is provided subject to the terms and conditions of this Agreement, including without limitation the Assisting Utility's right to recall its personnel and resources in whole or in part and the Requesting Utility's right to reduce or cancel the previously agreed upon Scope of Assistance pursuant to Paragraph 3.1 below.

SECTION 3 – PROCEDURES FOR PROVISION OF MUTUAL AID

3.1 SUPERVISION, CONTROL, AND RECALL – Personnel and other resources of the Assisting Utility shall remain under the supervision and control of the

Assisting Utility. The Assisting Utility shall coordinate with the Requesting Utility regarding response activities for assignment to the Assisting Utility's personnel. The Assisting Utility shall have the right and duty to refuse directions that it considers to be unsafe, contrary to law, or not in accordance with the Scope of Assistance at Attachment A hereto. The Assisting Utility's personnel and other resources shall remain subject to recall, in whole or in part, by the Assisting Utility at any time. The Assisting Utility shall provide at least twenty-four hours advance notice of intent to withdraw personnel or resources to the Requesting Utility, unless such notice is not practicable, in which case such notice as is practicable shall be provided. The Requesting Utility may at any time reduce the Scope of Assistance at Attachment A, including by reducing the Period of Assistance or the personnel or other resources requested; provided, however, that the Requesting Utility shall remain responsible for reimbursing the Assisting Utility pursuant to Section 4 for expenses incurred.

3.2. FOOD, HOUSING, AND SELF-SUFFICIENCY – Unless otherwise agreed, the Requesting Utility shall have the responsibility of providing food and housing for the personnel of the Assisting Utility from the time of their arrival at the designated location to the time of their departure.

3.3 COMMUNICATIONS – Unless otherwise agreed, the Requesting Utility shall have the responsibility for coordinating communications between the personnel of the Assisting Utility and the Requesting Utility and shall provide radio equipment as available and radio frequency information to facilitate such communications. The Assisting Utility shall be responsible for communications among its personnel regardless of the availability of radio equipment from the Requesting Utility.

3.4 RIGHTS AND PRIVILEGES – Unless otherwise provided by law, the Assisting Utility's officers, principals or employees retain the same privileges, immunities, rights, duties and benefits associated with their position with or employment by the Assisting Utility.

3.5 SUMMARY REPORT – Within ten days of the return of all personnel deployed under this Agreement, the Requesting Utility shall prepare a summary report of the event and provide a copy to the Assisting Utility. The report shall be in a format established by the VA WARN Committee or, if none, in the format used by the Virginia Department of Emergency Management, and shall include a chronology of events and description of personnel, equipment, materials and supplies provided.

SECTION 4 – REIMBURSABLE EXPENSES

The terms and conditions governing reimbursement for any assistance provided pursuant to this Agreement shall be in accordance with the following provisions and applicable VA WARN administrative procedures, unless otherwise agreed upon by the Requesting Utility and Assisting Utility and set forth in Attachment A hereto.

4.1 PERSONNEL – During the Period of Assistance, the Assisting Utility shall continue to pay its employees according to its normal policies. The Requesting Utility shall reimburse the Assisting Utility for all direct and indirect payroll costs (including overtime) and expenses (including travel expenses, benefits, costs of insuring for workers' compensation claims, and other expenses) incurred during the Period of Assistance, unless otherwise agreed and set forth by the parties in this Agreement.

4.2 EQUIPMENT – The Assisting Utility shall be reimbursed by the Requesting Utility for the use or damage (unless such damage is caused by gross negligence, or willful and wanton misconduct of the Assisting Utility's personnel) of its equipment during the Period of Assistance according to either a pre-established local or state hourly rate or according to the actual replacement, operation, and maintenance expenses incurred. For those instances in which some costs may be reimbursed by the Federal Emergency Management Agency, the eligible direct costs shall be determined in accordance with 44 CFR 206.228, or other regulations in effect at the time of the Utility Event. Each Utility shall maintain its own equipment in safe and operational condition. At the request of the Assisting Utility, fuels, miscellaneous supplies, and minor repairs may be provided by the Requesting Utility, if practical. If the equipment charges are based on a pre-established local or state hourly rate, then these charges to the Requesting Utility shall be reduced by the total value of the fuels, supplies, and repairs furnished by the Requesting Utility and by the amount of any insurance proceeds received by the Assisting Utility for damage to or loss of such equipment.

4.3 MATERIALS AND SUPPLIES – The Assisting Utility shall be reimbursed for all materials and supplies furnished by it and used or damaged during the Period of Assistance, except for the costs of equipment, fuel, maintenance materials, labor and supplies, which shall be included in the equipment rate established above, unless such damage is caused by gross negligence, or willful and wanton misconduct of the Assisting Utility's personnel. The measure of reimbursement shall be determined in accordance with 44 CFR 206.228 or other regulations in effect at the time of the Utility Event. In the alternative, the Utilities may mutually agree in writing that the Requesting Utility will replace, with like kind and quality as determined by the Assisting Utility, the materials and supplies used or damaged.

4.4 RECORD KEEPING – The Assisting Utility shall maintain records and submit invoices for reimbursement by the Requesting Utility in accordance with the Assisting Utility's existing policies and practices. The Requesting Utility may provide information, directions, and assistance for record keeping to the Assisting Utility personnel to facilitate future potential reimbursement to the Requesting Utility from the federal or State government.

4.5 PAYMENT – Unless otherwise mutually agreed in writing, the Assisting Utility shall invoice the Requesting Utility for all reimbursable expenses with an itemized statement as soon as practicable after the expenses are incurred, but not later than sixty (60) days after the Period of Assistance, unless the deadline for identifying damage or expenses is extended in accordance with applicable federal or State regulations. The

Requesting Utility shall pay the bill, or advise of any disputed items, not later than sixty (60) days following receipt of the invoice, unless the parties mutually agree in writing to a different time.

4.6 WAIVER OF REIMBURSEMENT – An Assisting Utility may elect to assume or donate, in whole or in part, the costs associated with any loss, damage, expense or use of the personnel or other resources provided by the Assisting Utility.

4.7 EFFECT OF WITHDRAWAL FROM VA WARN MUTUAL AID AGREEMENT – Withdrawal by either Utility from the VA WARN Mutual Aid Agreement shall in no way affect the obligations of the Utilities under this Event Agreement, including but not limited to the Requesting Utility's obligation to reimburse the Assisting Utility for costs incurred pursuant to this Event Agreement.

SECTION 5 – INSURANCE

5.1 WORKERS' COMPENSATION COVERAGE – Each Utility shall be responsible for its own actions and those of its employees and is responsible for complying with the Virginia Workers' Compensation Act.

5.2 AUTOMOBILE LIABILITY COVERAGE – Each Utility shall be responsible for its own actions and is responsible for complying with the Virginia motor vehicle financial responsibility laws. Each Utility agrees to maintain automobile liability coverage in the amount of at least \$1,000,000 combined single limit and coverage for owned, non-owned, and hired vehicles, or maintain a comparable self-insurance program.

5.3 GENERAL LIABILITY, PUBLIC OFFICIALS LIABILITY, AND LAW ENFORCEMENT LIABILITY – To the extent permitted by law and without waiving sovereign immunity of governmental entities, each Utility shall be responsible for any and all claims, demands, suits, actions, damages, and causes for action related to or arising out of or in any way connected with its own actions and the actions of its personnel pursuant to this Agreement. Each Utility agrees to obtain general liability and, in the case of governmental entities, public official's liability and law enforcement liability insurance, if applicable, with minimum single limits of no less than one million dollars, or to maintain a comparable self-insurance program.

SECTION 6 – MISCELLANEOUS PROVISIONS

6.1 OTHER AGREEMENTS – The parties acknowledge and agree that either party may have entered into other mutual aid agreements, either with other Member Utilities or with third parties, which shall not be deemed to be amended, superseded or repealed by execution of this Agreement. This Agreement shall govern with respect to the Scope of Assistance set forth at Attachment A hereto. Nothing in this Agreement is intended to interfere with either party's ability to request or provide assistance under the Virginia Statewide Mutual Aid Program or the Emergency Management Assistance Compact. In the event of a declaration of an emergency or

disaster, the parties may agree in writing to terminate this Event Agreement to enable an efficient response to be coordinated instead through the Statewide Mutual Aid Program and Emergency Management Assistance Compact, as appropriate.

6.2 INTERPRETATION – This Agreement shall be construed in accordance with and governed for all purposes by the laws of the Commonwealth of Virginia and shall be interpreted as if it were mutually drafted by the parties.

6.3 SEVERABILITY – Should any provision of this Agreement be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, that fact shall not affect or invalidate any other provision, which shall remain in full force and effect. It is the intent of the parties to this Agreement, and the parties agree, that in lieu of any provision of this Agreement that is illegal, invalid or unenforceable, the parties in good faith shall supply as part of this Agreement a legal, valid and enforceable provision as similar to such illegal, invalid or unenforceable term or provision as may be possible.

6.4 ASSIGNMENT – This Agreement shall not be assigned or transferred by any party without the written consent of the other party hereto.

6.5 NO THIRD PARTY BENEFICIARIES – This Agreement is solely for the benefit of the parties hereto and their permitted successors and assignees and shall not confer any rights or benefits on any other person or entity.

6.6 COUNTERPARTS – This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties further agree that a facsimile or scanned signature may substitute for and have the same legal effect as an original signature, and that any copy of this executed Agreement made by photocopy, facsimile, or scanner shall be considered an original.

6.7 AUTHORIZATION OF SIGNATURE – In the case of a locality, authority or district, the party represents and warrants that its execution of this Agreement is made by an individual authorized to do so by its governing body. In the case of a public service corporation, the party represents and warrants that its execution of this Agreement by the undersigned is duly authorized and validly performed.

NOW, THEREFORE, in consideration of the covenants and obligations set forth in this Agreement, the parties have caused the execution of this Agreement.

[SIGNATURE PAGE FOLLOWS]

**VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
EVENT AGREEMENT SIGNATURE PAGE**

REQUESTING UTILITY

Utility Name: _____

Authorized Representative's Signature: _____

Authorized Representative's Name (print): _____

Authorized Representative's Title: _____

Date: _____

ASSISTING UTILITY

Utility Name: _____

Authorized Representative's Signature: _____

Authorized Representative's Name (print): _____

Authorized Representative's Title: _____

Date: _____

VA WARN EVENT AGREEMENT ATTACHMENT A					
SCOPE OF ASSISTANCE					
This form is used by the Assisting Utility to respond to request for assistance by a Requesting Utility. Upon acceptance by the Requesting Utility, this form, either as originally submitted by the Assisting Utility or as revised by the parties prior to the Requesting Utility's acceptance, as appropriate, is attached to the Event Agreement to define the Scope of Assistance. The Assisting Utility reserves the right to recall its personnel and resources, and the Requesting Utility reserves the right to reduce the Scope of Assistance, as provided in Paragraph 3.1 of the Event Agreement.					
Assisting Utility:					
Assisting Utility Authorized Representative:				Date:	
Requesting Utility:			Date:		
Event Name:			Time:		
Requesting Utility Contact Name:					
	Phone:		E-mail:		
Description of Assistance Offered:					
Specific Resources Available:					
Assisting Utility Resource Coordination Contact:					
	Phone:		E-mail:		
Mobilization:					
	Date Available:		Time needed:	Pick hrs:	hrs
Demobilization:					
	Date Released:		Time needed:	Pick hrs:	hrs

COST ESTIMATE (details below):			
Total Cost Estimate:		Total Cost Estimate (Total from Excel sheet):	\$0.00
Total Travel Costs:			
			\$0.00
# of fuel consuming equipment:		# of non-fuel consuming equipment:	
Travel Costs:			
Personal Vehicle:		Vehicle Rental/Fuel/Mileage:	
Governmental Vehicle Costs:		Air Travel:	
Meals/tips:		Lodging:	
Notes/Comments:			
Total Equipment Costs:			\$0.00
Equipment Costs (insert lines as needed):			
	Description:	Cost:	
1			
2			
3			
4			
5			
Total Commodity (Materials & Supplies) Costs:			\$0.00
Commodity Costs (insert lines as needed):			
	Description:	Cost:	
1			
2			
3			
4			
5			
Total Other Costs:			\$0.00
Other Costs (insert lines as needed):			
	Description:	Cost:	
1			
2			
3			
4			
5			



**NATIONAL CAPITAL REGION
WATER AND WASTEWATER
MUTUAL AID AGREEMENT**

I. INTRODUCTION

This Mutual Aid Agreement (Agreement) is made and entered into on _____ by the Signatories of this Agreement responsible for water supply and wastewater management within the National Capital Region (NCR). It is implemented under the authority of the federal Intelligence Reform and Terrorism Protection Act of 2004, Public Law 108-458, specifically Section 7302, as amended, authorizing the establishment of mutual aid agreements in the National Capital Region.

1. Authority: This Agreement has been executed by the heads of the signatory water and wastewater agencies or authorities, who have in turn been authorized to do so by their respective governing bodies. By execution of this Agreement document, the signatory representatives certify that they have been so authorized.

2. Role of Metropolitan Washington Council of Governments (COG): The Metropolitan Washington Council of Governments participates in activities covered by this Agreement as staff support for administrative maintenance of the Agreement, not as a signatory. It may also assist Signatories in coordinating initial requests for mutual aid assistance. It is not envisioned that COG will be a required intermediary in arranging the details of mutual aid delivery, or in reimbursement efforts. These arrangements will be handled by the individual Signatories.

3. Withdrawal: An agency or authority Signatories to this Agreement may withdraw from participation in the Agreement by written notification, upon 30 days notice. Withdrawal from this Agreement shall in no way affect a Requesting Signatory's duty to reimburse a Responding Signatory for cost incurred during a Period of Assistance, which duty shall survive such withdrawal.

4. Intrastate Assistance and EMAC: Nothing in this Agreement is intended to interfere with Signatory's ability to request assistance or provide assistance under a state emergency management process, either within the state or out-of-state as part of the Emergency Management Assistance Compact (EMAC) process.

5. Resource Inventory: Signatories to this Agreement, upon signing, shall provide an inventory of equipment resources and staff provisions to a centrally managed, annually-updated database accessible by all Signatories. Upon request of the Signatories, and with appropriate financial support, COG will manage such database under such security provisions as may be agreed upon by the Signatories.

II. DEFINITIONS

In addition to the definitions set out below, the definitions included in the Intelligence Reform Act are incorporated by reference into this Agreement.

"Authorized Official" - An individual that is authorized by the Signatory's governing body or senior management (e.g. executive director or general manager, etc.) to request assistance or offer assistance under this Agreement.

"Emergency" - An Emergency may be declared by the President of the United States or authorized representative of the federal government. A State of Emergency may be declared by the Governor of Maryland or Virginia or the Mayor of the District of Columbia, or such person delegated such authority pursuant to the respective laws of Maryland, Virginia, or the District of Columbia, or may be declared by the Authorized Official of any local jurisdiction within the service area of any of the signatory parties hereto. A Water Emergency, as defined herein, may be declared by the Chief Operating Officer of a water or wastewater utility operating within the NCR. When an Emergency, State of Emergency, or Water Emergency exists within the boundaries of any of the parties hereto, as the result of, or due to the imminence of fire, flood, epidemic, war, internal disorder, act of terrorism, or other natural or human-caused disaster, the party or parties initially impacted shall notify other parties to this Agreement of such Emergency State of Emergency, or Water Emergency, and, if necessary or desirable its need for assistance. Assistance shall be rendered according to the procedures established and agreed to by the parties to this Agreement. Each party shall designate its appropriate Authorized Official or Officials who are empowered to request assistance, or agree to provide assistance, under this Agreement. As used here after, the term "emergency" will include a Water Emergency.

"Homeland Security Presidential Directive-5 (HSPD-5)" - A Presidential directive issued on February 28, 2003 and intended to enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system.

"Intelligence Reform Act" - The Intelligence Reform and Terrorism Protection Act of 2004, Pub. L. 108-458, Section 7302, 118 Stat. 3638, 3840, as it may be amended from time to time.

"Signatory" - Any public Water or Wastewater agency or authority that manifests intent to participate in Water and Wastewater Mutual Aid by executing this Agreement.

"National Incident Management System (NIMS)" - A system mandated by HSPD-5 that provides a consistent nationwide approach for Federal, State, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. Its provisions are documented in FEMA Document 501, March 1, 2004, as it may be amended from time to time. NIMS includes utilization of the defined Incident Command System, which describes specific operational relationships in

management of an incident, including designation of an Incident Commander and supporting staff structure.

"Period of Assistance" - A specified period of time when a Responding Signatory assists a Requesting Signatory. The period commences when personnel, equipment, or supplies depart from a Responding Signatory's facility and ends when the resources return to their facility (portal to portal). All protections identified in the agreement apply during this period.

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

"Requesting Signatory" - A Signatory who requests assistance under this Agreement.

"Responding Signatory" - A Signatory that responds to a request for assistance under this Agreement.

"Water Emergency" - A natural or manmade event impacting a water or wastewater system, which is, or is likely to be, beyond the control of the services, personnel, equipment, and facilities of a Signatory.

III. DESIGNATION OF AUTHORIZED OFFICIALS

1. Introduction: The Signatories recognize that the individuals designated to serve as Authorized Officials will change during the duration of this Agreement and that it would not be practical to amend the Agreement every time this authority is granted or withdrawn from an individual. Therefore, this Agreement requires each Signatory to identify at least one initial Authorized Official and sets out the procedure for notifying Signatories when the authority to act as an Authorized Official is given to or withdrawn from an individual.

2. Initial Designation: When an agency or authority becomes a Signatory in this Agreement, that agency or authority shall provide a letter identifying anyone initially authorized to serve as an Authorized Official. This letter shall be sent to COG for dissemination to the other Signatories. There may be more than one initial designation for an agency or authority.

NCR WARN AGREEMENT

3. Changes in Designation: Each Signatory shall notify the other Signatories and COG when a person is designated as an Authorized Official or is no longer an Authorized Official. This notice shall be given in writing *except* that when it would not be practicable to give advance written notice, the notice may be given by facsimile or e-mail, and confirmed in writing.

4. Multiple Authorized Officials: If more than one person is designated as an Authorized Official for an agency or authority, each may be considered fully authorized to act for the agency or authority in requesting or agreeing to provide assistance under this Agreement. Authorized Officials will have the responsibility for expedient notification of other Authorized Officials within their Signatory agency or authority of requests for assistance they have made or assistance they have agreed to provide.

5. Contact information: Communications regarding the designation of Authorized Officials or changes in Authorized Officials shall include contact information for 24-hour access.

IV. MAKING AN ASSISTANCE REQUEST

1. Initiating an Assistance Request: In the event of an Emergency, Water Emergency or a Public Service Event, a signatory's Authorized Official may request mutual aid and assistance from another participating signatory. Requests for assistance can be made orally or in writing. When made orally, the request for personnel, equipment, and supplies shall be prepared in writing as soon as practicable. Requests for assistance shall be directed to the Authorized Official of the potential Responding Signatory. The potential Responding Signatory is under no obligation to agree to provide assistance, and may make that determination based on current considerations of its own operations.

The initial assistance request may be initiated via a group process (e.g., e-mail, conference call, group meeting, etc.), but must conclude with bilateral understanding between Signatories incorporating the specific parameters identified in item (2) below. Upon request, COG will assist Signatories in coordinating initial requests for mutual aid assistance (e.g. setting up initial conference calls).

2. Initial Assistance Request Parameters: The initial assistance request will be accomplished in communication between Authorized Officials of a Requesting Signatory and any potential Responding Signatories. This communication will establish:

- (a) the general scope of the requested assistance (including whether the request is for staff support, equipment, materials, etc.),
- (b) the anticipated Period of Assistance,
- (c) whether the potential Responding Signatory is agreeing to assist,
- (d) whether reimbursement is anticipated, and
- (e) the identification and contact information for the staff personnel for each Signatory who will coordinate the details of the assistance. (For the Requesting Signatory, this will include identification of the Incident Commander, and if they have been designated, the Planning Section Chief, the Logistics Section Chief and the Finance/Administration Section Chief.)

The above parameters should be documented in writing. To facilitate this, an Initial Request Documentation Form and other federal forms for documenting reimbursement are provided in Appendix A.

3. Assistance Request Cancellation: A Requesting Signatory may cancel a request for assistance at any time by providing notice of the cancellation to the Signatories from whom assistance was requested. Any method reasonably expected to provide notice of the cancellation to the affected Signatories is acceptable, including but not limited to telephone, radio communications, e-mail or correspondent, provided that any oral request shall be confirmed as soon as practicable in writing or by e-mail.

V. IMPLEMENTATION OF MUTUAL AID OPERATIONS

1. National Incident Management System: When providing assistance under this Agreement, under an Emergency declared by the President of the United States, a Governor of Maryland or Virginia, the Mayor of the District of Columbia, or their authorized designees, or the Authorized Official of any local jurisdiction within the service area of any of the signatory parties hereto, the Requesting Utility and Responding Utility shall be organized and shall function under the National Incident Management System.

2. Control: Responding Signatory personnel shall remain under the direction and control of the Responding Signatory. The Responding Signatory's designated supervisor shall coordinate response activities with the Incident Command structure of the Requesting Signatory. The designated supervisor shall have the right and duty to refuse directions which the supervisor considers to be unsafe, contrary to law, or significantly not in accordance with the general scope of assistance agreed to by the Authorized Officials.

3. Food and Shelter: Whenever practical, the Requesting Signatory will provide food and shelter for Responding Signatory personnel. However, it is recognized that this may not be practical in exigent conditions, in which case the Responding Signatory's designated supervisor is authorized to secure the resources necessary to meet the needs of its personnel. The cost for such resources must not exceed the State per diem rates for the Requesting Signatory's area. The Requesting Signatory will be responsible for reimbursing the Responding Signatory for costs associated with providing food and shelter, if agreed to in advance per the Initial Request Documentation Form (Appendix) or the like.

4. Communication: The Requesting Signatory shall provide Responding Signatory personnel with radio equipment as available, or radio frequency information to program existing radio, in order to facilitate communications with local responders and utility personnel.

5. Status: Unless otherwise provided by law, the Responding Signatory's officers and employees retain the same privileges, immunities, rights, duties, and benefits as provided in their respective jurisdictions.

NCR WARN AGREEMENT

6. Licenses and Permits: To the extent permitted by law, Responding Signatory personnel who hold licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance.

7. Safety: Staff of the Responding Signatory shall comply with standard safety procedures of the Responding Signatory and with any safety Agreements for the incident issued by the Incident Command organization of the Requesting Signatory and provided to the Responding Signatory. The supervisor of the Responding Signatory will review incident specific safety Agreements, and if there are significant conflicts between the safety Agreement and the standard safety procedures of the Responding Signatory, these will be expediently brought to the attention of the Requesting Signatory safety officer for resolution.

8. Equipment: The Responding Signatory shall only provide equipment that it reasonably believes to be in good working order and appropriate for the expected use of the equipment. If the equipment is provided with personnel to operate it, maintenance of the equipment shall be the responsibility of the Responding Signatory. If support personnel are not provided, the Responding Signatory shall provide appropriate preventive maintenance instructions, which the Requesting Signatory shall be responsible for implementing.

9. Identification: Staff from a Responding Signatory shall be equipped with personal identification from that Signatory, and shall wear apparel that identifies the Responding Signatory. Vehicles provided will also be labeled with visual identification of the Responding Signatory.

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

11. Termination of Assistance: Normally, the assistance will be terminated upon determination of the Incident Commander that it is no longer required to address the needs of the incident, and the Responding Signatory's team will be demobilized according to NIMS procedures. However, the Responding Signatory's Authorized Official retains the right to withdraw some or all of its resources at any time. Notice of intention to withdraw must be communicated to the Requesting Signatory's Authorized Official as soon as possible and withdrawal of assistance will be coordinated in the field with the Requesting Signatory's Incident Command staff.

VI. COST REIMBURSEMENT

Unless otherwise mutually agreed in whole or in part, the Requesting Signatory shall reimburse the Responding Signatory for each of the following categories of costs incurred while providing aid and assistance during the specified Period of Assistance. In the event of a federally declared emergency, and where reimbursement is expected, the Requesting Signatory is responsible for reimbursing the Responding Signatory, but may request FEMA reimbursement.

1. Personnel: Responding Signatory personnel are to be paid for work completed during a specified Period of Assistance according to the terms provided in their employment contracts or other conditions of employment. The Responding Signatory designated supervisor(s) must keep accurate records of work performed by personnel during the specified Period of Assistance. Requesting Signatory reimbursement to the Responding Signatory must consider all personnel costs, including salaries or hourly wages, costs for fringe benefits, and indirect costs.

2. Equipment: The Requesting Signatory shall reimburse the Responding Signatory for the use of equipment during a specified Period of Assistance. As a minimum, rates for equipment use must be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Responding Signatory uses rates different from those in the FEMA Schedule of Equipment Rates, the Responding Signatory must provide such rates in writing to the Requesting Signatory prior to supplying resources. Mutual agreement on which rates are used must be reached in writing prior to dispatch of the equipment. Reimbursement for equipment not referenced on the FEMA Schedule of Equipment Rates must be developed based on actual recovery of costs.

3. Materials and Supplies: The Requesting Signatory must reimburse the Responding Signatory in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. The Responding Signatory must not charge direct fees or rental charges to the Requesting Signatory for other supplies and reusable items that are returned to the Responding Signatory in a clean, damage-free condition. Reusable supplies that are returned to the Responding Signatory with damage must be treated as expendable supplies for purposes of cost reimbursement.

4. Payment Period:
The Responding Signatory must provide an itemized bill to the Requesting Signatory for all expenses incurred by the Responding Signatory while providing assistance under this Agreement. The Responding Signatory must send the itemized bill not later than (90) ninety days following the end of the Period of Assistance. The Responding Signatory may request additional periods of time within which to submit the itemized bill, and Requesting Signatory shall not unreasonably withhold consent to such request. The Requesting Signatory must pay the bill in full on or before the forty-fifth (45th) day following the billing date. The Requesting Signatory may request additional periods of time within which to pay the itemized bill, and Responding Signatory shall not unreasonably withhold consent to such request, provided, however, that all payment shall occur not later than one year after the date a final itemized bill is submitted to the Requesting Signatory.

5. Records - Each Responding Signatory and their duly authorized representatives shall have access to a Requesting Signatory's books, documents, notes, reports, papers and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. Each Requesting Signatory and their duly authorized representatives shall have access to a Responding Signatory's books, documents, notes, reports, papers and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. Such records shall be maintained for at least three (3) years or longer where required by law.

VII. DISPUTE PROVISION

If any controversy or claim arises out of, or relates to, the execution of the Agreement, including, but not limited to, alleged breach of the Agreement, the disputing Signatories shall first attempt to resolve the dispute by negotiation, followed by mediation and finally shall be settled by arbitration in accordance with the Rules of the American Arbitration Association. Any court of competent jurisdiction may enter the judgment rendered by the arbitrators as final judgment that is binding on the parties.

VIII. CONFIDENTIAL INFORMATION

To the extent provided by law, any Signatory or Associate Signatory shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information disclosed under this Agreement. If any Signatory, Associate Signatory, third party or other entity requests or demands, by subpoena or otherwise, that a Signatory or Associate Signatory disclose any Confidential Information disclosed under this Agreement, the Signatory or Associate Signatory shall immediately notify the owner of the Confidential Information and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information by asserting all applicable rights and privileges with respect to such information and shall cooperate fully in any judicial or administrative proceeding relating thereto.

IX. PERIODIC REVIEWS

Annually on the approximate anniversary of the effective date of the Agreement, the COG will coordinate a review and update of the Agreement by the Signatories. This review and update will include the following components:

1. Activities Review: A listing of assistance provided under the auspices of the Agreement between Signatories for Water Emergencies and Public Service Events. This will include a brief summary of the incident and the nature of the assistance provided. This review will include a brief description of any joint training activities undertaken by multiple Signatories for the purpose of promoting increased effectiveness of assistance under the Agreement.

2. Authorized Official Information Update: Redesignation of existing Authorized Officials or designation of new Authorized Officials, including provision of 24-hour contact information.

3. Resource Inventory: Updated listing by each Signatory of resources that would be most likely to be shared under the Agreement, including the anticipated cost reimbursement rates. This listing, which is not envisioned to be comprehensive, would include:

- (a) Deployable personnel teams,
- (b) Field or other equipment,
- (c) Material stockpiles and expendables.

4. Proposed Agreement Revisions: Proposals by Signatories of revisions which might be made to the Agreement, or to related regional agreements, for enhanced mutual aid assistance and coordination.

X. AGREEMENT MODIFICATIONS AND SUPPORTING ANNEXES

1. This Agreement may be modified upon agreement of the Signatories. Upon receipt of a proposed modification from a Signatory, COG will facilitate a timely exchange of information and viewpoints on the proposed modification with the objective of obtaining agreement of the Signatories for adoption or rejection by a time certain. Specific modification to the Agreement document will be accomplished on the basis of receipt by COG of written affirmation of the proposed change by at least two thirds of the Signatories. Once a non-approving Signatory is informed by COG or by another Signatory that the amendment has been approved by a two-thirds vote, the amendment will go into effect after 90 days, and the non-approving Signatory will be deemed to have withdrawn from the Agreement.

2. As deemed appropriate to expedite operations under this Agreement, supporting annexes may be developed. Such annexes would be expected to cover such topics as the management, maintenance and operation of shared resources acquired for the region (e.g. mobile response laboratories, etc.) or standard procedures for anticipated recurrent activities. These annexes may be proposed by any Signatory or by COG, and will be reviewed and adopted based on consensus of the Signatories, consistent with the paragraph 1 above.

XI. SEVERABILITY PROVISION

The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

XII. PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS OR BENEFITS

This Agreement is for the sole benefit of the Signatories and no person or entity may have any rights under this Agreement as a third party beneficiary. Assignments of benefits and delegations of duties created by this Agreement are prohibited and must be without effect.

NCR WARN AGREEMENT

XIII. EXECUTION

This Agreement and any amendments thereto may be executed in duplicate originals and filed with COG. The Agreement shall be considered in effect upon its execution by two qualifying agencies or authorities.

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

Water/Wastewater System: _____

By: _____

Date: _____

APPROVED AS TO FORM:



Lesa J. Yeatts, Town Attorney

APPENDIX A: Reimbursement Forms

**INITIAL REQUEST DOCUMENTATION FORM
NCR WATER AND WASTEWATER MUTUAL AID NETWORK**

Requesting Signatory: _____ Authorized Official: _____	Date: _____
Responding Signatory: _____ Authorized Official: _____ ☐ Agreed	
☐ Staff Support: _____ _____ _____	
☐ Equipment: _____ _____ _____	
☐ Material: _____ _____ _____	
Reimbursement Expected: ☐ Yes ☐ No Note: Reimbursable costs are to be tracked by the Responding Signatory and invoiced consistent with current FEMA procedures, as provided in Agreement section VI.	
Anticipated Period of Time of Assistance: _____	
Designated implementing staff: Requesting Signatory: Incident Commander: _____ Contact Info: _____ Support Command Staff: _____ _____	
Responding Signatory: _____ Contact Info: _____	
Notes: _____ _____ _____	

NCR WARN AGREEMENT

U.S. DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY PROJECT WORKSHEET				O.M.B. No. 1660-0017 Expires October 31, 2008	
PAPERWORK BURDEN DISCLOSURE NOTICE Public reporting burden for this form is estimated to average 90 minutes per response. Burden means the time, effort and financial resources expended by persons to generate, maintain, disclose, or to provide information to us. You may send comments regarding the burden estimate or any aspect of the collection, including suggestions for reducing the burden to: Information Collections Management, U.S. Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (OMB Control Number 1660-0017). You are not required to respond to this collection of information unless a valid OMB number appears in the upper right corner of this form. NOTE: Do not send your completed questionnaire to this address.					
DISASTER	PROJECT NO.	PA ID NO.	DATE	CATEGORY	
FEMA-DR-					
DAMAGED FACILITY			WORK COMPLETE AS OF		
APPLICANT			COUNTY		
LOCATION			LATITUDE	LONGITUDE	
DAMAGE DESCRIPTION AND DIMENSIONS					
SCOPE OF WORK					
Does the Scope of Work change the pre-disaster conditions at the site? ☐ Yes ☐ No Special Considerations issues included? ☐ Yes ☐ No Hazard Mitigation proposal included? ☐ Yes ☐ No Is there insurance coverage on this facility? ☐ Yes ☐ No					
PROJECT COST					
ITEM	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
TOTAL COST					
PREPARED BY		TITLE	SIGNATURE		
APPLICANT REP.		TITLE	SIGNATURE		

FEMA Form 90-91, FEB 06

REPLACES ALL PREVIOUS EDITIONS.

FEMA forms: <http://www.fema.gov/government/grant/pa/forms.shtm>FEMA equipment rates: <http://www.fema.gov/government/grant/pa/eqrates.shtm>

NOTE:

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