

ITEM 8 – Action

April 18, 2018

Approval of the New Metropolitan Transportation Planning Process
“3C” Agreement Between the State Departments of Transportation
(DOT) and TPB

Staff Recommendation: Adopt Resolution R19-2018 to approve the “3C” Agreement and to authorize the TPB chairman to sign the agreement.

Issues: None

Background: At the March 23 meeting, the board was briefed on the draft “3C” Agreement. The board will be briefed on the final draft and will be asked to approve it.

**PLANNING AGREEMENT
ON PERFORMANCE BASED METROPOLITAN TRANSPORTATION PLANNING
RESPONSIBILITIES FOR THE NATIONAL CAPITAL REGION**

This Planning Agreement on Performance Based Metropolitan Transportation Planning Responsibilities for the National Capital Region (“3C” Agreement/Planning Agreement/Agreement) is made and entered into as of April 18, 2018, by and among the National Capital Region Transportation Planning Board, the region’s Metropolitan Planning Organization (TPB); and the District of Columbia Department of Transportation (DDOT), the State of Maryland Department of Transportation (MDOT), the Commonwealth of Virginia Department of Transportation (VDOT), and the Commonwealth of Virginia Department of Rail and Public Transportation (DRPT), hereinafter referred to as the **States and Providers of Public Transportation**, collectively “the Parties”.

WHEREAS, the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) on June 30, 1983 jointly issued, and on May 27, 2016 updated, rules and regulations which require that each urbanized area, as a condition to the receipt of Federal capital or operating assistance, have a continuing, cooperative and comprehensive transportation (3-C) planning process carried out by a metropolitan planning organization (MPO) in cooperation with the States and their local jurisdictions that results in plans and programs consistent with the planned development of the “urbanized area” pursuant to 23 U.S.C. 134, 23 U.S.C. 150, and 49 U.S.C. 5303, as amended; and

WHEREAS, the Fixing America’s Surface Transportation Act (P.L. 114-94)(FAST Act), and the Moving Ahead for Progress in the 21st Century Act (P.L. 112-41) (MAP-21 Act), Sec. 20005, reiterate the need for the 3-C planning process; and

WHEREAS, 23 CFR 450.314 – Metropolitan Planning Agreements – requires MPOs, States and Providers of Public Transportation to cooperatively determine the mutual responsibilities necessary to carry out the metropolitan transportation planning process, and directs MPOs, States and Providers of Public Transportation to periodically review and update these agreements; and

WHEREAS, 23 CFR 450.306 - Scope of the metropolitan transportation planning process – establishes a performance-driven approach to transportation decision-making to be carried out in the metropolitan transportation planning and programming process; and

WHEREAS, the 1990 Clean Air Act Amendments identify specific responsibilities of MPOs relating to air quality planning and the determination of conformity of transportation plans and programs; and

WHEREAS, on July 14, 1966, the TPB was designated as the MPO for the Washington Urbanized Area by an agreement entered into by the Governor of the Commonwealth of Virginia, Governor of the State of Maryland, and the Mayor of the District of Columbia; and

WHEREAS, the TPB serves as the MPO for the National Capital Region, including the Washington DC-VA-MD Urbanized Area, Frederick, MD Urbanized Area, and the Waldorf, MD Urbanized Area; and

WHEREAS, the States and Providers of Public Transportation, through agreement with the Metropolitan Washington Council of Governments (COG), as the administrative agent of the TPB, provide for the financial assistance and mutually agree upon terms and conditions for which such assistance will be provided; and

WHEREAS, 23 U.S.C 134[d] [2] and 49 U.S.C 5303[d] [2], as amended by sections 1201 and 20005 of MAP-21, require that, by October 1, 2014, each MPO that serves an area designated as a Transportation Management Areas (TMA), of which the TPB is one, consist of:

1. Local elected officials,
2. Officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by operators of public transportation, and
3. Appropriate State officials; and

WHEREAS, the TPB has long included representation by public transportation operators through a Board structure whose voting membership includes Board representatives from the Washington Metropolitan Area Transit Authority (WMATA), an agency that meets the above MAP-21 criteria and provides the vast majority of public transportation trips in the metropolitan area, and Board representatives from other local public transportation operators who directly fund public transportation, including commuter bus and rail services, thus complying with the MAP-21 requirements in this regard; and

WHEREAS, the TPB's continuous, cooperative, and comprehensive metropolitan planning process, and the States' and Providers of Public Transportation's planning and programming activities provide local jurisdictions, public agencies, individuals, and representatives of public transportation with opportunities to cooperate in the metropolitan transportation planning process; and

WHEREAS, the TPB and States must certify that the federal metropolitan transportation planning process addresses the major issues in the metropolitan planning area and is being conducted in accordance with all the applicable requirements in 23 CFR 450.336; and

WHEREAS, nothing in this Agreement shall be construed as limiting or affecting the legal authorities of the Parties, or as requiring the Parties to perform beyond their respective authority; and

NOW, THEREFORE, the TPB, the States and the Providers of Public Transportation agree to authorize the TPB Chairman to sign this agreement, to authorize the staff Director of the TPB to sign the LOAs as specified in Article 5, and agree to conduct a cooperative, comprehensive and continuing transportation planning and programming process for the National Capital Region (Region), and their mutual responsibilities for carrying out this process are described as follows:

Article 1

Scope of the Performance-Based Metropolitan Transportation Planning Process

The TPB, in cooperation with the States and the Providers of Public Transportation, will conduct a performance-driven, outcome-based metropolitan transportation planning process that is continuous, cooperative, and comprehensive and they will develop long-range metropolitan transportation plans and Transportation Improvement Programs (TIPs) that provide for the consideration of projects, strategies, and services to address the federal planning factors specified in 23 CFR 450.306.

The TPB will use a performance-based approach to support the national goals described in 23 USC 150(b) and the general purposes described in 49 USC 5301(b). The approach will establish performance targets that address the performance measures or standards established under 23 CFR part 490 (when applicable), 49 USC 5326(c), and 49 USC 5329(d) to use in tracking progress toward attainment of critical outcomes for the Region. Selection and establishment of performance targets will be in accordance with the appropriate target setting framework established at 23 CFR part 490 and will be coordinated, to the maximum extent practicable, with the relevant States. Selection and establishment of performance targets will also address performance measures described in 49 USC 5326(c) and 49 USC 5329(d) and be coordinated, to the maximum extent practicable, with the relevant public transportation providers.

Either directly or by reference, the TPB will integrate into the metropolitan transportation planning process the goals, objectives, performance measures, and targets described in other State transportation processes, plans, and reports to include factors specified in 23 CFR 450.306(d)(4).

The TPB will carry out the metropolitan planning process in coordination with the States' transportation planning processes that are required in regulations at 23 CFR 450 Subpart B-Statewide and Nonmetropolitan Transportation Planning and Programming.

The TPB will coordinate and prepare the coordinated public transit-human services transportation plan consistent with the metropolitan transportation planning process required by 49 USC 5303.

The TPB carries out the performance-driven, outcome-based metropolitan transportation process by performing a range of activities that promote an integrated approach to transportation development. The TPB activities comply with federal laws and requirements, provide a regional transportation policy framework and forum for coordination, and provide technical resources for decision-making. The TPB's 28 committee and sub-committees, as of date of execution, conduct an average of 10 meetings per month to ensure that TPB members, including the States and Providers of Public Transportation, local jurisdictions, and additional interested parties, engage with and meet the scope of the performance-based metropolitan transportation planning process.

Article 2
Funding for Transportation Planning and the Unified Planning Work Program

The TPB will, in cooperation with the States and Providers of Public Transportation, develop a Unified Planning Work Program (UPWP) that documents the performance-driven, outcome-based approach to metropolitan transportation planning activities in accordance with 23 CFR 450.308 and 23 CFR part 420 and performed with funds provided under 23 USC 104(d), 49 USC 5305(d), and 23 USC 133(d)(4).

The UPWP will document activities, tasks, and the planning priorities facing the metropolitan planning area. The UPWP will identify work proposed for the next 1- or 2-year fiscal period, beginning July 1 and ending June 30, by major activity and task and provide sufficient detail as to who will perform the work, the schedule for completing the work, the resulting products, the proposed funding by activity and task, and a summary of the total amounts and sources of Federal and matching funds.

To fund the activities agreed upon by the TPB and States as described in the UPWP, on October 3, 2003, and amended on September 13, 2008, COG, as the administrative agent for the TPB, and the States executed an Agreement upon which the terms and conditions of administrative support and assistance will be provided.

Between January and March of each year, the TPB, the States and the Providers of Public Transportation, in cooperation with the local jurisdictions and other TPB members, will prepare the UPWP, including documenting the metropolitan transportation planning activities anticipated within the Region. In March, the TPB will approve the UPWP and submit it to FHWA, FTA and the States for approval and funding. When necessary, the TPB can approve amendments, modifications, and technical corrections to the UPWP and submit it to FHWA and FTA for information and review.

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Article 3
Metropolitan Planning Organization Designation and Redesignation

The TPB has been designated the MPO for the National Capital Region by the Governors of Maryland and Virginia, and the Mayor of the District of Columbia to carry out the metropolitan transportation planning process under 23 CFR 450, Subpart C and required by 23 USC 134 and 49 USC 5303, as amended. The TPB includes the contiguous Washington DC-VA-MD Urbanized Area, Frederick, MD Urbanized Area, and Waldorf, MD Urbanized Area.

The Bylaws of the TPB, as amended on February 15, 2017, establish its membership, time and place of meeting, officers, voting procedures, committees, staffing, and relationship to COG, public participation, and procedures for amendments. The States and COG executed an “Agreement for the Support of the Metropolitan Planning Organization Transportation Planning Process in the Washington Metropolitan Area” on October 30, 2003, amended on September 17, 2008, specifying the COG responsibilities for supporting the MPO transportation planning process as described in the annually federally approved UPWP.

In the event there is a need for redesignation, the TPB will carry out the requirements in accordance with the provisions under 23 CFR 450.310.

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Article 4 Metropolitan Planning Area Boundaries

The TPB will, under agreement between the MPO and Governors and Mayor, determine the boundaries of the metropolitan planning area, as established under 23 CFR 450.312, to accomplish the performance-driven, outcome-based long-range metropolitan planning approach.

After each census, the TPB will review this planning boundary in cooperation with the States and Providers of Public Transportation to determine if the existing boundaries meet the minimum statutory requirements for new and updated urbanized areas. The TPB will adjust the boundary, as necessary, to reflect the most comprehensive boundary to foster an effective planning process that ensures connectivity between modes, improves access to modal systems, and promotes efficient overall transportation investment strategies. The TPB planning boundary for the Region includes the Washington DC-VA-MD Urbanized Area, Frederick, MD Urbanized Area, and the Waldorf, MD Urbanized Area. Figures 1 and 2 on page 17 and 18 show the TPB planning area boundary for the Region, the location of each of the participating local jurisdictions, and the urbanized areas.

Where part of the urbanized areas served by the TPB extends into an adjacent metropolitan planning area, or vice versa, the TPB will establish agreement(s) allowing for minor adjustments to each region's boundaries and outlining responsibilities for each metropolitan planning area overlap. The agreement(s) will also detail coordination processes, the division of transportation planning responsibilities among and between the regions and data sharing for the establishment and measurement of performance targets and standards established under 23 CFR part 490 (as applicable), 49 USC 5326(c), and 49 USC 5329(d). The TPB and the Baltimore Regional Transportation Board established an agreement, on May 12, 2015, for the urbanized areas overlapping the planning areas of those two MPOs. The TPB and the Fredericksburg Area Metropolitan Planning Organization established an agreement, on November 17, 2004, for the urbanized areas overlapping the planning areas of those two MPOs.

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Article 5

Metropolitan Planning and Supporting Agreements

The TPB will, in cooperation with the States and Providers of Public Transportation, periodically evaluate this Agreement and supporting agreements and cooperatively determine the mutual responsibilities for carrying out the metropolitan transportation planning process under 23 CFR 450.314.

The TPB will, in cooperation with the States and Providers of Public Transportation, periodically evaluate this Agreement and supporting agreements to include specific provisions for the development of financial plans that support the performance-driven, outcome-based long-range metropolitan transportation plan and the Transportation Improvement Program (TIP), and development of the annual listing of obligated projects, as described in Article 9 – Development and Content of the Metropolitan Transportation Plan, Article 10 - Development and Content of the Transportation Improvement Program, and Article 11 – Annual Listing of Projects with Federal Funding Obligations of this Agreement, respectively.

As permitted under 23 CFR 450.314(h)(2)ii) the TPB, with the States and Providers of Public Transportation, and, when applicable, operators of public transportation and local jurisdictions, will jointly document, in the form of Letter(s) of Agreement (LOA), roles and responsibilities for the cooperative development and sharing of information related to transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the Region, and the collection of data for the States' asset management plans for the National Highway System. Outside of this Agreement, the LOA's, executed among the TPB, States and Providers of Public Transportation, and, where applicable, operators of public transportation and local jurisdictions, will address participation in the metropolitan planning process in general and include performance management provisions for required areas of Highway Safety, Highway Pavement and Bridge Condition, System Performance, Transit Safety, and Transit Asset Management.

The TPB's non-attainment area includes Calvert County, Maryland, which is outside its Metropolitan Planning Area (MPA) but within the Calvert-St. Mary MPO's MPA. In such instances, 23 CFR 450.314(c) requires MPOs to establish a written agreement among the relevant States' departments of transportation, States' air quality agencies, and affected local agencies describing the process for cooperative planning and analysis of all projects outside the MPA and within the nonattainment or maintenance area. The TPB and the Calvert-St. Mary's MPO established an agreement, on January 22, 2016, describing how transportation-related emissions will be treated for purposes of determining conformity in accordance with the EPA's transportation conformity regulations, as required in 40 CFR part 93, subpart A, and address policy mechanisms for resolving conflicts concerning transportation-related emissions that may arise.

As of April 18, 2018, and subject to future adjustments, the TPB's urbanized area includes locations that are within the MPA of two adjacent MPOs and vice-versa. To the south the urbanized area of northern Stafford County, Virginia, while part of the TPB's urbanized area

is within the MPA of the Fredericksburg MPO (FAMPO). Similarly, parts of Anne Arundel County and Howard County, Maryland, while part of the TPB's urbanized area are within the MPA Baltimore Regional Transportation Board (BRTB). Further the City of Laurel and parts of Prince George's County, Maryland while part of the TPB's MPA are within the BRTB urbanized area. As required under 23 CFR 450.314 (g), when an urbanized area is designated to more than one MPO, the MPOs will establish a written agreement describing the roles and responsibilities of each MPO in coordinating the metropolitan transportation planning process to assure development of consistent metropolitan transportation plans and Transportation Improvement Programs across the Metropolitan Planning Area boundaries, especially when a proposed transportation project extends across the boundaries of the MPA, in accordance with 23 FR 450.314 (e). The TPB and the Fredericksburg Area MPO established an agreement, on November 17, 2004. The TPB and BRTB established an agreement, on May 12, 2015.

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Article 6
Interested Parties, Participation, and Consultation

The TPB will develop, use, and maintain a documented Public Participation Plan (PPP) to provide citizens, affected public agencies, and all interested parties with reasonable opportunities to be involved in the performance-driven metropolitan transportation planning process and to review and comment at key decision points as specified in 23 CFR 450.316. The PPP will be coordinated with the States' public involvement and consultation on transportation planning processes.

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Article 7
**Transportation Planning Studies, Development of Programmatic Mitigation Plans, and
Project Development Process Under the National Environmental Policy Act (NEPA)**

The TPB, the States and the Providers of Public Transportation may undertake a multimodal, systems-level corridor or subarea planning study as part of the metropolitan transportation planning process as specified in 23 CFR 450.318.

The development of these studies will involve consultation with, or joint efforts among, the TPB, States and Providers of Public Transportation. The results or decision of these planning studies may be used as part of the overall project development process consistent with the National Environmental Policy Act (NEPA).

The TPB, the States and the Providers of Public Transportation may also undertake development of programmatic mitigation plans as part of the metropolitan transportation planning process to address the potential environmental impacts of future transportation projects as specified in 23 CFR 450.320.

The development of these plans will involve consultation with, or joint efforts among, the TPB, States and Providers of Public Transportation, FHWA and/or the FTA, and other federal, state, and local agency or agencies with jurisdiction and special expertise over the resources being addressed in the plan(s). These entities will also determine the scope and content of such plan(s) and may integrate these programmatic mitigation plan(s) with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, State Wildlife Action Plans, and land use plans for the region.

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Article 8

Congestion Management Process in Transportation Management Areas

The TPB will, in cooperation with the States and the Providers of Public Transportation, operators of public transportation, and local officials, address congestion management through a process that provides for safe and effective integrated management and operation of the multimodal transportation system, as required by 23 CFR 450.322. This process will be based on the cooperative development and implementation of a metropolitan-wide strategy, including new and existing transportation facilities eligible for funding under title 23 USC and title 49 USC Chapter 53, job access projects, and operational management strategies.

Development of a congestion management process, through the performance-driven transportation planning process, may result in multimodal system performance measures and strategies that can be reflected in the performance-based metropolitan transportation plan, TIP, and performance-driven planning and programming requirements. It may assess the extent of congestion and support the evaluation of the effectiveness of congestion reduction and mobility enhancement strategies for the movement of goods and people.

In lieu of a congestion management process, the TPB may develop a congestion management plan that includes projects and strategies that will be considered in the TIP as specified in 23 CFR 450.322(h).

The TPB conducts the congestion management process through four components: (1) It monitors and evaluates transportation system performance, (2) defines and analyzes strategies, (3) implements strategies and assess, and (4) compiles project-specific congestion management information. It is updated as information becomes available, engagement conducted through the metropolitan planning process, and results incorporated into the performance-driven metropolitan transportation planning and programming requirements as specified in Article 1 - Scope of the Performance-Driven Metropolitan Transportation Planning Process.

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Article 9

Development and Content of the Metropolitan Transportation Plan

At least every 4 years, the TPB shall develop or amend an integrated multimodal performance-based long-range metropolitan transportation plan that includes both long-range and short-range strategies and actions to facilitate the safe and efficient movement of people and goods in addressing current and future transportation trends and demands as specified in 23 CFR 450.324. The TPB shall approve this plan and submit it for information purposes to the States and make copies of updated and/or revised transportation plans available to the FHWA and FTA.

When updating the performance-based long-range metropolitan transportation plan, the TPB shall base the update on the latest available estimates and assumptions for population, land use, travel, employment, congestion, economic activity, and environmental concerns. The TPB shall approve the performance-based long-range metropolitan transportation plan (Plan) contents and supporting analyses produced for any update to the long-range Plan.

The TPB will make a conformity determination on the Plan and any regionally significant updates or amendments in accordance with the Clean Air Act and the United States Environmental Protection Agency's (EPA's) transportation conformity regulations 40 CFR part 93, subpart A and the air quality conformity process and agreement.

The Plan shall include, at minimum, the elements listed under 23 CFR 450.324 (f)(1-11). The Plan shall be designed such that, once implemented, it makes progress toward achieving the performance targets established under 23 CFR 450.306 (c) and (d). The performance measures and targets and a description of progress made toward target achievement since the Plan's last update shall be included.

As part of the quadrennial update to the Plan, the TPB, States and Providers of Public Transportation will cooperatively develop, share, review, and adopt estimates of revenues and costs required for the financial plan that demonstrate fiscal constraint for the Plan as specified in 23 CFR 450.324(f)(11).

The TPB uses the committee structures and meeting schedules for the metropolitan transportation process, as needed and as described in Article 1 – Scope of the Performance-Based Metropolitan Transportation Planning Process, to meet the requirements of the Plan as specified in 23 CFR 450.324. The TPB's coordinates with numerous planning processes at the local and state levels to help determine the content of the Plan. The TPB is guided by its own vision and priorities which in turn reflect federal policy guidance.

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Article 10

Development and Content of the Transportation Improvement Program (TIP)

The TPB will develop a TIP for the Region that reflects the investment priorities established in the current long-range metropolitan transportation plan developed pursuant to Article 9 of this Agreement and shall cover a period of no less than four (4) years as specified in 23 CFR 450.326.

The TIP will be updated at least every four (4) years and be approved by the TPB and States for their approval and inclusion in their State Transportation Improvement Programs (STIP). Copies of any updates or revisions will be provided to FHWA and FTA.

The TPB will make a conformity determination on the TIP and any major updates or amendments in accordance with the Clean Air Act and the United States EPA's transportation conformity regulations 40 CFR part 93, subpart A and the air quality conformity process and agreement.

The TPB will provide all interested parties with a reasonable opportunity to comment on the proposed TIP pursuant to the Plan.

The TIP will be designed such that, once implemented, it makes progress toward achieving the performance-driven, outcome-based targets established under 23 CFR §450.306 (c) and (d). A description of how the investments make progress toward achievement of the targets in the Plan shall be included. The TIP will include, at minimum, the elements listed under 23 CFR 450.326 (e) through (h).

The TPB, States and Providers of Public Transportation, will cooperatively develop, share, review, and adopt estimates of costs and estimates of funds that are available or committed or reasonably expected to be available that are required for the financial plan that demonstrate fiscal constraint for the TIP as specified in 23 CFR 450.326 (j) & (k).

The selection of projects from the TIP by the TPB, States and Providers of Public Transportation will be made as specified in 23 CFR 450.332.

TIP amendments and administrative modifications will be consistent with the established Transportation Improvement Program development procedures, the Public Participation Plan, and federal requirements as specified in 23 CFR 450.328. The TIP is amended or modified on a monthly and sometimes even weekly basis, through staff approvals, TPB Steering Committee actions, or large-scale amendments brought to the TPB for adoption.

The TPB uses the committee structures and meeting schedules for the metropolitan transportation process, as needed and as described in Article 1 – Scope of the Performance-Based Metropolitan Transportation Planning Process, to meet the requirements of the TIP for the Region as specified in 23 CFR 450.326. The TPB coordinates with numerous planning processes at the local and state levels to help determine the content of the program. The TPB is guided by its own vision and priorities which in turn reflect federal policy guidance.

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Article 11
Annual Listing of Projects with Federal Funding Obligations

Annually, and no later than 90 days after the close of the program year, which concurs with the Transportation Improvement Program fiscal year, the TPB, States and Providers of Public Transportation will cooperatively develop a listing of projects from the TIP for which federal transportation funds were obligated in the preceding fiscal year. This report will contain the projects and financial information required by 23 CFR 450.334. This report will be made publicly available.

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Article 12
Self-Certification and Federal Certifications

The TPB and the States will certify that the metropolitan planning process for the National Capital Region is being carried out in accordance with all applicable Federal requirements as specified in 23 CFR 450.336 and 23 CFR 450.330.

The TPB develops its self-certification statement describing how its metropolitan transportation planning process meets the federal requirements as specified in 23 CFR 450.336. This statement shall be approved concurrent with approval of the TIP.

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This Agreement is approved by the respective parties hereto as of the date shown above.

Chair
National Capital Region Transportation Planning Board

Director
District of Columbia Department of Transportation

Secretary
Maryland Department of Transportation

Secretary
Virginia Department of Transportation

Director
Virginia Department of Rail and Public Transportation

Figure 1 - TPB Metropolitan Planning Area for the National Capital Region

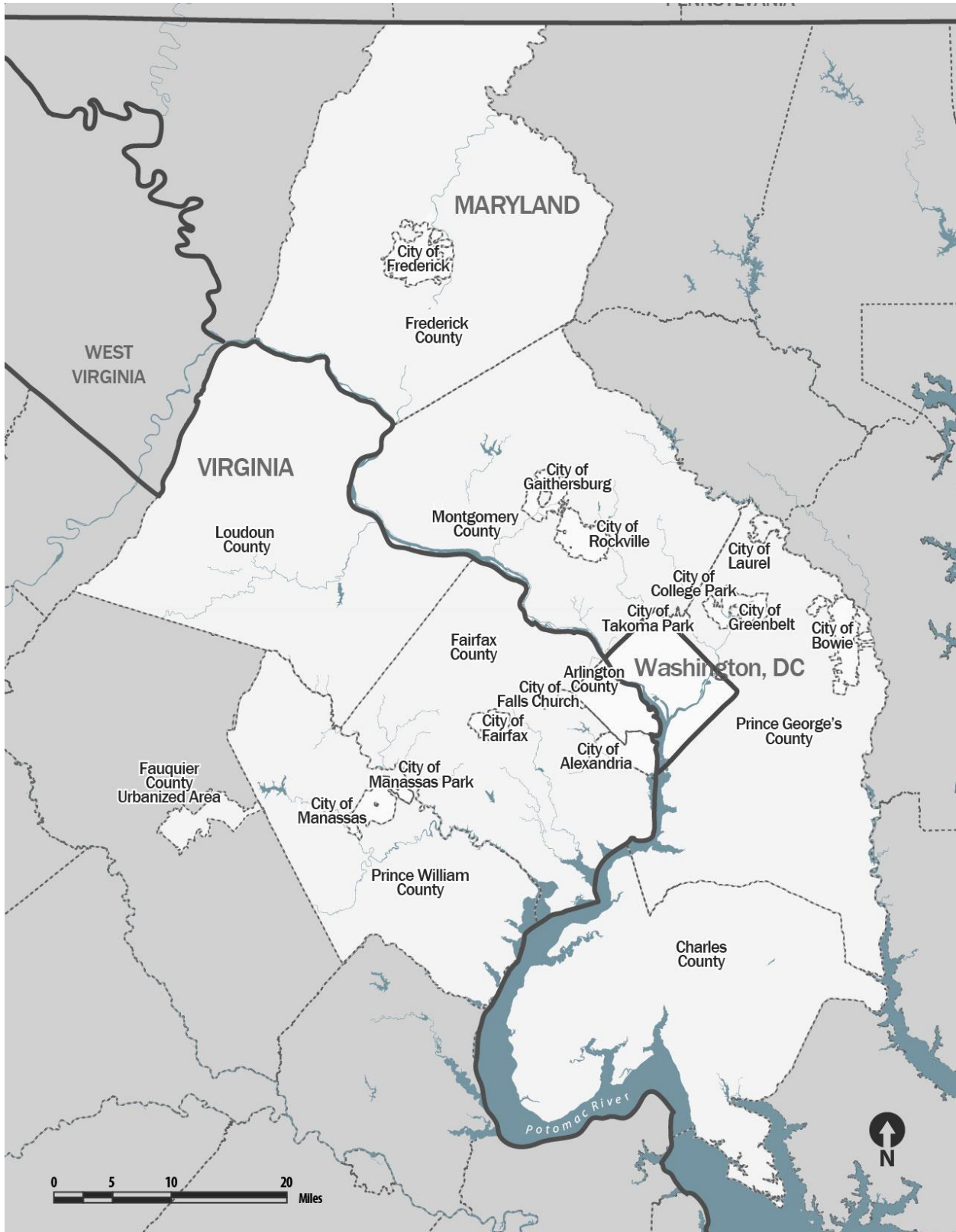


Figure 2 – Urbanized Areas in the TPB National Capital Region

