

**MEMORANDUM OF UNDERSTANDING
ON METROPOLITAN TRANSPORTATION PLANNING RESPONSIBILITIES
FOR THE HAMPTON ROADS AREA**

This agreement is made and entered into as of _____2008 by and between the Virginia Department of Transportation, hereinafter referred to as the Department, the Hampton Roads Area Metropolitan Planning Organization, hereinafter referred to as the MPO, the Transportation District Commission of Hampton Roads and Williamsburg Area Transport hereinafter referred to as the Public Transit Operators, the Virginia Department of Environmental Quality (VDEQ, also referred to as the State Air Quality Agency), the Hampton Roads Air Quality Committee (HRAQC), and the Hampton Roads Planning District Commission (HRPDC) serving as planning and administrative staff to the MPO, hereinafter referred to as the Staff.

WHEREAS, joint responsibilities must be met for establishing and maintaining a cooperative, comprehensive and continuing (3-C) metropolitan transportation planning and programming process as defined and required by the United States Department of Transportation in regulations at [23 CFR 450 Subpart C](#);

WHEREAS, the regulations at [23 CFR 450.314\(a\)](#) direct that the MPO, Department, and Public Transit Operator(s) responsibilities for carrying out the 3-C process shall be cooperatively determined and clearly identified in a written agreement;

WHEREAS, the regulations at [23 CFR 450.314\(b\)](#) additionally direct that the Department (the responsible authority for Virginia public roads, thus “affected local agencies” are not included), State Air Quality Agency (VDEQ), and MPO shall have a written agreement that describes the process for cooperative planning and analysis of projects that are in nonattainment or maintenance areas that extend beyond a metropolitan area’s boundary;

WHEREAS, the regulations at [23 CFR 450.314\(c\)](#) additionally direct that, in nonattainment and maintenance areas, if the MPO is not the designated agency for air quality planning under section 174 of the Clean Air Act (42 U.S.C. 7504), there shall be a written agreement between the MPO and the designated air quality planning agency describing their respective roles and responsibilities for air quality related transportation planning;

WHEREAS, pursuant to the federal transportation conformity regulation at 40 CFR Parts 51 and 93, state transportation conformity regulations, to be made effective at [9 VAC 5-151](#), define the Lead Planning Organization (LPO) as the organization certified by the state as being responsible for the preparation of control strategy implementation plan revisions for non-attainment areas under §174 of the federal Clean Air Act and, accordingly, the HRAQC has been duly

designated as the LPO for the Hampton Roads area, and is recognized herein as the locally designated air quality planning agency as referenced in [23 CFR 450.314\(c\)](#); and

WHEREAS, the regulations at [23 CFR 450.314\(f\)](#) additionally direct that those MPOs with planning boundaries that include a portion of the same Transportation Management Area (TMA) shall establish a written agreement that clearly identifies the roles and responsibilities of each MPO in meeting specific TMA requirements.

NOW, THEREFORE, it is recognized and agreed that, as the regional transportation planning and programming authority in cooperation with the Staff, the Department, the Public Transit Operators, the LPO (HRAQC) and the State Air Quality Agency (VDEQ), the MPO shall serve as the forum for cooperative development of the transportation planning and programming activities and products for the Hampton Roads area. It is also agreed that the following articles will guide the 3-C process.

Article 1

Planning and Modeling Boundaries

The MPO is responsible as the lead for coordinating transportation planning and programming in the Hampton Roads metropolitan transportation planning area (MPA) that includes the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg; the Counties of Isle of Wight, James City, and York; and the urbanized area of Gloucester County. A map providing a visual and itemized description of the current MPA will be included on the HRPDC website. It is recognized that the scope of the regional study area used with the transportation demand model may extend beyond the MPA. The boundaries of the MPA shall be subject to approval of the MPO and the state Governor.

Article 2

MPO & Transportation Technical Committee (TTC)

(A) The MPO is the chief regional authority responsible for cooperative development and approval of the core transportation planning activities and products for the urbanized region including:

- the MPO budget and Unified Planning Work Program (UPWP);
- the Constrained Long Range Transportation Plan (CLRP);
- the Transportation Improvement Program (TIP) including all regionally significant projects regardless of their funding source;
- the Congestion Management Process (CMP) in TMAs;
- the Participation Plan; and

- ensuring all planning and programming documents are developed in accordance with the federal requirements (including consultation with relevant land use management, environmental and planning agencies, coordination and consistency of plans and programs with related SAFETEA-LU transportation elements, and, if applicable, planning and transportation conformity findings)

The MPO will consider, analyze as appropriate, and reflect in the planning and programming process the metropolitan planning factors and requirements for MPO and state certifications as required by sections [23 CFR 450.306](#), and [450.334](#), respectively.

The MPO shall establish and follow rules of order and record and shall be responsible for electing a chairman and other officers as deemed appropriate. Voting membership of the MPO shall consist of the following representatives, designated by and representing their respective governments and agencies:

- One representative participating on behalf of the Department
- One representative of each of the Public Transit Operators
- Locally elected officials representing each County, independent City, or other appropriate representation within the transportation planning area
- HRPDC Executive Director/Secretary

The individual voting representatives may be revised from time to time as designated by the respective government or agency. Voting and nonvoting members may be added or deleted by the MPO by a majority of all voting members in accordance with non-substantial voting membership changes as allowed in [23 CFR 450.310](#). MPO members will be identified on the HRPDC website.

(B) The Transportation Technical Committee (TTC) consists of the designated technical staff of the MPO members, plus other interests deemed necessary and approved by the MPO. The TTC provides technical review and assistance in transportation planning and transportation-related air quality planning. Members are responsible for providing, obtaining, and validating the required latest official travel and socio-economic planning data and assumptions for the regional study area. Members are to ensure proper use of the data and assumptions by the MPO with appropriate travel forecast related models. Additional and specific responsibilities may be defined from time to time by the MPO.

(C) Regular Meetings- The MPO and TTC shall each be responsible for establishing and maintaining a regular meeting schedule to carry out respective responsibilities and to conduct official business. Meeting policies and procedures shall follow regulations set forth in SAFETEA-LU. The regular meeting schedule of the MPO shall be posted online and all meetings shall be open to the public. Any meeting consisting of 3 or more MPO members will be publicly advertised on the HRPDC website and open to the public.

Article 3
Unified Planning Work Program

Transportation planning activities anticipated within the region during the next year, regardless of funding sources, shall be documented and prepared annually by the Staff and TTC and reviewed and endorsed by the MPO. Prior to the expenditure of any funds, such UPWP shall be subject to the approval of the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and the Department for funding the activities. Any changes in transportation planning and related activities, regardless of funding source, shall be accomplished by amendments to the UPWP and adoption by the MPO according to the same, full procedure as the initial UPWP.

Article 4
Participation Plan

The MPO shall adopt and maintain a formal, written Participation Plan. The Participation Plan shall provide reasonable opportunity for involvement by all interested parties in carrying out the metropolitan area's transportation planning and programming process, providing reasonable opportunities for preliminary review and comment especially at key decision points. The initial or revised Participation Plan shall undergo a minimum 45 day public review and comment period. The Participation Plan will be published and available online. The Department shall assist, upon request of the MPO, to provide documents in alternative formats to facilitate the participation of persons with limited English proficiency or visual impairment.

The MPO also shall, to the extent practicable, develop and follow documented process(es) that at least outline the roles, responsibilities and key points for consulting with adjoining MPOs, other governments and agencies regarding other planning activities, and Indian Tribal or federal public lands and thereby ensure compliance with all sections of [23 CFR 450.316](#). The process(es) shall identify procedures for circulating (or providing ready access to) draft documents with supporting materials that reference, summarize or detail key assumptions and facilitate agency consultations, and public review and comment before formal adoption of a transportation plan or program.

Article 5
Congestion Management Process

Each MPO, in cooperation with the Department, shall develop and adopt performance goals and measures for the regional transportation network. The Hampton Roads Metropolitan Planning Area is a Transportation Management Area (TMA) and shall be responsible for developing an ongoing congestion

management process for monitoring, operating and maintaining the regional transportation network as required by [23 CFR 450.320](#).

Article 6 Air Quality Planning

Areas of the country designated by the US Environmental Protection Agency as non-attainment or maintenance for one or more of the national ambient air quality standards (NAAQS) are subject to various federal and state air quality regulatory requirements, which include demonstrations of “transportation conformity” as a means to ensure that regional transportation plans and programs conform with applicable state implementation plans (SIP). Both the designations and the associated air quality planning requirements are subject to change over time.

Accordingly, the Department will lead the development of regional conformity analyses and associated conformity consultation procedures to meet all applicable federal, state and local conformity requirements for transportation plans and/or improvement programs, and any updates, revisions or amendments thereto. Federal conformity regulations are currently specified in 40 CFR Parts 51 and 93, with corresponding state conformity requirements identified in [9 VAC 5-151](#). Conformity consultation procedures will be coordinated as appropriate with procedures outlined in the Transportation Participation Plan developed by the MPO and updated as appropriate following any relevant and material updates to applicable federal and state requirements. The Department will also coordinate with the US Department of Transportation to obtain approvals for all conformity analyses.

In response to requirements of [23 CFR 450.314\(b\)](#), the regional conformity analyses to be prepared by the Department will be conducted for the entire nonattainment or maintenance area or areas contained within MPA boundaries. Where such areas extend outside the MPA, reasonable estimates will be made for traffic and associated emissions for the extended area to be applied as appropriate in the required conformity emission tests for the entire nonattainment or maintenance area. Should the Hampton Roads nonattainment or maintenance area be re-designated in the future to extend beyond current boundaries, this agreement may need to be modified to include the additional jurisdiction(s).

Additionally, in response to the requirements of Section 174 of the Clean Air Act as amended and [23 CFR 450.314\(c\)](#), roles and responsibilities for the LPO (HRAQC) and the State Air Quality Agency (VDEQ) are as defined in the state conformity regulations. In general, the LPO is the forum for cooperative air quality planning while the State Air Agency retains responsibility for obtaining final approval at state levels for SIP revisions including maintenance plans. In this context, HRAQC will work with the VDEQ in the development as appropriate of any SIP revisions affecting the Hampton Roads area. In particular, HRAQC and

the VDEQ will consult and coordinate extensively with the MPO and the Department whenever transportation conformity is involved directly or indirectly, including, for example, but not limited to, the development of motor vehicle emission budgets for transportation conformity as well as the development and implementation of Transportation Control Measures (TCMs) or other motor vehicle control measures to be included in a SIP or otherwise required by law. Similarly, HRAQC and the VDEQ will consult and coordinate with the MPO, the Department and other agencies and stakeholders as appropriate in the development of any other regional air quality-related transportation planning documents that may be required under federal or state law.

Finally, if a conflict regarding transportation conformity arises among state agencies or between state agencies and the MPO, this conflict shall be taken to the Governor of the State for resolution consistent with applicable federal and state conformity regulations for resolving conflicts.

Article 7 Inclusion and Selection of Project Recommendations

Selection of projects for inclusion into CLRP

Recommended transportation investments and strategies to be included in the CLRP shall be determined cooperatively by the MPO, the Department, and the public transit operators. Prior to the formal adoption of a final CLRP, the MPO shall provide the public and other interested stakeholders with reasonable opportunities for involvement and comment as specified in 23 CFR §450.316 and in accordance with the procedures outlined in the Participation Plan. The MPO shall demonstrate explicit consideration and response to public input received during the development of the CLRP.

Development of the Transportation Improvement Program (TIP)

To the extent that funds are reasonably available, the projects to be included in the TIP shall be cooperatively determined by the MPO, the Department and the public transit operators. Projects may be included and programmed in the TIP only if they are consistent with the recommendations in the CLRP. The Department shall provide the MPO a list of project, program, or grouped obligations by year and phase for all Department funded projects to facilitate the development of the TIP document. The format of the STIP will be based on the executed agreement between FHWA, FTA, and the Commonwealth. The MPO may include additional detail or supporting information as an appendix to the TIP document. The MPO shall add locally funded projects. Once the TIP is compiled and adopted by the MPO, the MPO shall forward the TIP to the Department. The Department shall incorporate the TIP into the STIP. Once complete, the STIP will be forwarded to FHWA for review and approval.

The MPO shall develop a prioritized list of projects eligible for funding with federal Congestion Mitigation and Air Quality (CMAQ) funds. The list shall show the allocations approved by the MPO for each eligible CMAQ project. Virginia law requires that projects funded, in whole or part, from federal CMAQ funds shall be selected and obligated in accordance with Virginia Acts of Assembly item 427 C 3.

The MPO shall provide the Department with a list of the proposed Transportation Enhancement (TE) grant projects for which the MPO has provided its endorsement. Selected TE projects shall be reported by the Department to the appropriate MPO for inclusion in the TIP.

Article 8 Financial Planning and Programming, and Obligations

The Department, the MPO and the transit operators are responsible for financial planning that demonstrates how CLRPs and TIPs can be implemented consistent with principles for financial constraint. Federal requirements direct that specific provisions be agreed on for cooperatively developing and sharing information for development of financial plans to support the CLRP (23 CFR 450.322(f)(10)) and TIP (23 CFR 450.324(h) & (i)), as well as the development of the annual listing of obligated projects (23 CFR 450.332).

Fiscal Constraint and Financial Forecasts

The CLRP and TIP shall be fiscally constrained pursuant to 23 CFR §450.322 and §450.324, respectively, with project costs inflated to reflect the expected year of expenditure. To support the development of the financial plan for the CLRP, the Department shall provide the MPO with a long-range forecast of expected state and federal transportation revenues for the metropolitan planning area. The MPO shall review the forecast and add any local or private funding sources reasonably expected to be available during the planning horizon. Recommendations on any alternative financing strategies to fund the projects and programs in the transportation plan shall be identified and included in the plan. In the case of new funding sources, strategies for ensuring their availability shall be identified and documented. If a revenue source is subsequently removed or substantially reduced (i.e., by legislative or administrative actions) the MPO will not act on a full update or amended CLRP and/or TIP that does not reflect the changed revenue situation. Updates or amendments to a TIP, or the STIP are acceptable as long as the changes don't involve the removed or reduced sources of funding.

Annual Obligation Report

Within 90 days after the close of a federal fiscal year VDOT and the Virginia Department of Rail and Public Transportation shall provide the MPO with Annual Obligation Report information. To the extent possible, this report (s) will contain

the projects (including investments in pedestrian walkways and bicycle transportation facilities) for which federal highway or transit funds were obligated in the preceding program year. It shall include all federally funded projects authorized including those revised to increase obligations in the preceding program year, at a minimum include TIP project description and implementing agency information and identify, for each project, the amount of Federal funds requested in the TIP, the Federal funding that was obligated during the preceding year, and the Federal funding remaining and available for subsequent years. The MPO shall publish the Annual Obligation Report on the Web and in accordance with any other procedures outlined in the Public Participation Plan to ensure adequate access by the public and other interested stakeholders.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first written above.

Paul D. Fraim
Chairman
Hampton Roads
Metropolitan Planning Organization

WITNESS BY _____

Pierce R. Homer
Secretary of Transportation
Commonwealth of Virginia

WITNESS BY _____

Michael S. Townes
Executive Director
Transportation District Commission
Of Hampton Roads

WITNESS BY _____

Mark D. Rickards
Executive Director
Williamsburg Area Transport

WITNESS BY _____

Ms. Jeanne Zeidler
Chairman
Hampton Roads
Air Quality Committee

WITNESS BY _____

David K. Paylor
Virginia Department of
Environmental Quality

WITNESS BY _____

Dwight L. Farmer
Executive Director
Hampton Roads
Planning District Commission

WITNESS BY _____