

**DURHAM-CHAPEL HILL-CARRBORO
METROPOLITAN PLANNING ORGANIZATION**

**MEMORANDUM OF UNDERSTANDING
FOR
COOPERATIVE, COMPREHENSIVE, AND CONTINUING
TRANSPORTATION PLANNING**

Between

THE GOVERNOR OF THE STATE OF NORTH CAROLINA,
CITY OF DURHAM, TOWN OF CHAPEL HILL, TOWN OF CARRBORO
TOWN OF HILLSBOROUGH, COUNTY OF DURHAM,
COUNTY OF ORANGE, COUNTY OF CHATHAM, TRIANGLE TRANSIT, AND
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

in cooperation with

THE UNITED STATES DEPARTMENT OF TRANSPORTATION

November 13, 2013

WITNESSETH THAT

WHEREAS, Section 134(a) of Title 23 United States Codes states:

Policy – It is in the national interest—

(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and (2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

WHEREAS, Section 134(c) of Title 23 United States Codes states:

General Requirements.—

(1) Development of long-range plans and TIPs.— To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall

develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

(2) Contents.— The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) Process of development.— The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

WHEREAS, Chapter 136, Section 66.2(a) of the General Statutes of North Carolina states:

Each MPO, with cooperation of the Department of Transportation, shall develop a comprehensive transportation plan in accordance with 23 U.S.C. Section 134. In addition, an MPO may include projects in its transportation plan that are not included in a financially constrained plan or are anticipated to be needed beyond the horizon year as required by 23 U.S.C. Section 134. For municipalities located within an MPO, the development of a comprehensive transportation plan will take place through the metropolitan planning organization. For purposes of transportation planning and programming, the MPO shall represent the municipality's interests to the Department of Transportation.

WHEREAS, Chapter 136, Section 66.2(b) of the General Statutes of North Carolina states:

After completion and analysis of the plan, the plan shall be adopted by both the governing body of the municipality or MPO and the Department of Transportation as the basis for future transportation improvements in and around the municipality or within the MPO. The governing body of the municipality and the Department of Transportation shall reach agreement as to which of the existing and proposed streets and highways included in the adopted plan will be a part of the State highway system and which streets will be a part of the municipal street system. As used in this Article, the State highway system shall mean both the primary highway system of the State and the secondary road system of the State within municipalities.

WHEREAS, Chapter 136, Section 66.2(d) of the General Statutes of North Carolina states:

For MPOs, either the MPO or the Department of Transportation may propose changes in the plan at any time by giving notice to the other party, but no change shall be effective until it is adopted by both the Department of Transportation and the MPO.

WHEREAS, a transportation planning process includes the operational procedures and working arrangements by which short and long-range transportation plans are soundly conceived and developed and continuously evaluated in a manner that will:

1. Assist governing bodies and official agencies in determining courses of action and in formulating attainable capital improvement programs in anticipation of community needs; and,
2. Guide private individuals and groups in planning their decisions which can be important factors in the pattern of future development and redevelopment of the area;

WHEREAS, it is the desire of these agencies that a continuing, cooperative, and comprehensive transportation planning process, be established for the Durham-Chapel Hill-Carrboro Metropolitan Planning Area in compliance with Title 23 U.S.C. Section 134 and any subsequent amendments to that statute, and any implementing regulations; Title 49 U.S.C. Chapter 53 and any subsequent amendments to these statutes, and any implementing regulations; and the Clean Air Act of 1970, as amended, [42 U.S.C. 7504 and 7506(c)].

WHEREAS, it is the desire of these parties that all prior Memoranda of Understanding between the parties be superseded and replaced by this Memorandum of Understanding.

NOW THEREFORE, the following Memorandum of Understanding is made:

Section I

It is hereby agreed that the City of Durham, Town of Chapel Hill, Town of Carrboro, Town of Hillsborough, County of Durham, County of Orange, County of Chatham, and the North Carolina Department of Transportation in cooperation with the United States Department of Transportation will participate in a continuing, cooperative, and comprehensive transportation planning process with responsibilities and undertakings as related in the following paragraphs:

1. The Durham-Chapel Hill-Carrboro Metropolitan Planning Area, will consist of the Durham Urbanized Area as defined by the United States Department of Commerce, Bureau of the Census, plus that area beyond the existing urbanized area boundary that is expected to become urbanized or be affected by urban policies within a twenty-year planning period. This area is hereinafter referred to as the Metropolitan Planning Area.
2. The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) shall include the boards of general purpose local government – the Durham City Council, Chapel Hill Town Council, Carrboro Board of Aldermen, Hillsborough Board of Commissioners, Durham County Board of Commissioners, Orange County Board of Commissioners, and Chatham County Board of Commissioners; the North Carolina Department of Transportation; a MPO Board hereinafter defined, a MPO Technical

Committee hereinafter defined, and the various agencies and units of local, regional, state, and federal government participating in the transportation planning for the area.

3. The Metropolitan Planning Area boundary will be periodically reviewed and revised in light of new developments, basic data projections for the current planning period, and as may otherwise be required by federal and state laws.
4. The continuing transportation planning process will be a cooperative one reflective of and responsive to the programs of the North Carolina Department of Transportation, and to the comprehensive plans for growth and development of the Municipalities of Durham, Chapel Hill, Carrboro, and Hillsborough; and the Counties of Durham, Orange, and Chatham. Attention will be given to cooperative planning with the neighboring metropolitan and rural planning organizations.
5. The continuing transportation planning process will be in accordance with the intent, procedures, and programs of Title VI of the Civil Rights Act of 1964, as amended.
6. The continuing transportation planning process will be in accordance with the intent, procedures, and programs of Clean Air Act of 1970, as amended.
7. Transportation policy decisions within the MPO are the shared responsibility of the MPO Board, the N.C. Board of Transportation, and participating local governments.
8. Transportation plans and programs, and land use policies and programs, for the Planning Area, having regional impacts, will be coordinated with Triangle Transit, the neighboring metropolitan and rural planning organizations, and Triangle J Council of Governments.
9. A MPO Board is hereby established with the responsibility for cooperative transportation decision-making for the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO). The MPO Board shall have the responsibility for keeping the policy boards informed of the status and requirements of the transportation planning process; assisting in the dissemination and clarification of the decisions, inclinations, and policies of the policy boards, and for providing opportunities for citizen participation in the transportation planning process.

The MPO Board will be responsible for carrying out the provisions of 23 U.S.C. Section 134; Title 49 U.S.C. Chapter 53; and 42 U.S.C. 7504 and 7506(c); including but not limited to:

- a. Establishment of goals and objectives for the transportation planning process;

- b. Review and approval of a Prospectus for transportation planning which defines work tasks and responsibilities for the various agencies participating in the transportation planning process;
- c. Review and approval of the transportation Unified Planning Work Program;
- d. Review and approval of changes to the National Highway System, Functional Classification, and Metropolitan Planning Area boundary;
- e. Review and approval of the Comprehensive and Metropolitan Transportation Plans. As specified in General Statutes Section 136-66.2(a), the Comprehensive Transportation Plan shall include the projects in the Metropolitan Transportation Plan and may include additional projects that are not included in the financially constrained plan or are anticipated to be needed beyond the horizon year as required by 23 U.S.C. Section 134. As specified in General Statutes Section 136-66.2(d) revisions to the Comprehensive Transportation Plan are required to be jointly approved by the North Carolina Department of Transportation and the MPO Board;
- f. Review and approval of the Transportation Improvement Program and changes to the Transportation Improvement Program. As specified in 23 U.S.C. Section 134(k), all federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area (excluding projects carried out on the National Highway System) shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator;
- g. Review and approval of planning procedures for air quality conformity and review and approval of air quality conformity determination for projects, programs, and plans;
- h. Review and approval of a Congestion Management Process;
- i. Review and approval of the distribution and oversight of federal funds designated for the DCHC MPO under the provisions of MAP-21 and any other subsequent Transportation Authorizations;
- j. Review and approval of a policy for public involvement for the DCHC MPO;
- k. Review and approval of an agreement between the MPO, the State, and public transportation operators serving the Metropolitan Planning Area that defines mutual responsibilities for carrying out the metropolitan planning process in accordance with 23 C.F.R. 450.314;

- l. Oversight of the Lead Planning Agency staff;
- m. Revision in membership of the MPO Technical Committee hereinafter defined;
- n. Development and approval of committee bylaws for the purpose of establishing operating policies and procedures;
- o. Review and approval of cooperative agreements with other transportation organizations, transportation providers, counties, and municipalities.

The membership of the MPO Board shall include:

- a. Two members of the Durham City Council;
- b. One member of the Chapel Hill Town Council;
- c. One member of the Carrboro Board of Aldermen;
- d. One member of the Hillsborough Board of Commissioners;
- e. One member of the Durham County Board of Commissioners;
- f. One member of the Orange County Board of Commissioners;
- g. One member of the Chatham County Board of Commissioners;
- h. One member of the North Carolina Board of Transportation;
- i. One member of the Triangle Transit Board of Trustees.

Municipal and county public transit providers shall be represented on the MPO Board through their respective municipal and county local government board members.

It shall be the responsibility of each member jurisdiction to appoint a representative and an alternate(s) to the MPO Board.

A quorum of the MPO Board shall consist of a majority of the voting members whose votes together represent a majority of the possible weighted votes identified in the weighted vote schedule below. A majority vote shall be sufficient for approval of matters coming before the committee with the exception that a committee member may invoke the following weighted vote provisions on any matter:

<u>Government Body</u>	<u>Votes</u>
City of Durham	16*
Town of Chapel Hill	6
Durham County	4
Orange County	4
Town of Carrboro	2
Chatham County	2
Town of Hillsborough	2
N.C. Board of Transportation	1

Triangle Transit	<u>1</u>
Total	38

* 8 votes per representative

Representatives from each of the following bodies will serve as non-voting members of the MPO Board:

- a. A representative of the Federal Highway Administration;
- b. A representative of the Federal Transit Administration;
- c. Other local, regional, state, or federal agencies impacting transportation in the planning area at the invitation of the MPO Board.

The MPO Board will meet as often as it is deemed appropriate and advisable. On the basis of a majority vote, the MPO Board may appoint members of the Board to act as Chair and Vice-Chair with the responsibility for coordination of the Board's activities. A member of the Lead Planning Agency staff will serve as Secretary to the Board and will work cooperatively with the staff of other jurisdictions.

10. A MPO Technical Committee shall be established with the responsibility of general review, guidance and coordination of the transportation planning process for the planning area and with the responsibility for making recommendations to the respective local, state, and federal governmental agencies and the MPO Board regarding any necessary actions relating to the continuing transportation planning process. The MPO Technical Committee shall be responsible for development, review and recommendations for approval and changes to the Prospectus, Unified Planning Work Program, Transportation Improvement Program, National Highway System, Functional Classification, Metropolitan Planning Area boundary, Metropolitan Transportation Plan, and Comprehensive Transportation Plan, for planning citizen participation, and for documenting reports of various transportation studies.

Membership of the MPO Technical Committee shall include technical representatives from local and state agencies directly related to and concerned with the transportation planning process for the planning area. Representatives will be designated by the chief executive officer of each represented agency. Departments or divisions within local and state agencies that should be represented on the MPO Technical Committee include, but are not limited to, those responsible for transportation planning, land use planning, transportation operations, public works and construction, engineering, public transportation, environmental conservation and planning, bicycle and pedestrian planning, and economic development. Initially, the membership shall include, but not be limited to, the following:

- a. The City of Durham 5 representatives
- b. The Town of Chapel Hill 3 representatives

c. The Town of Carrboro	2 representatives
d. The Town of Hillsborough	1 representative
e. Durham County	3 representatives
f. Orange County	3 representatives
g. Chatham County	1 representative
h. The N.C. Department of Transportation	5 representatives
i. Triangle J Council of Governments	1 representative
j. Duke University	1 representative
k. N.C. Central University	1 representative
l. The University of North Carolina	1 representative
m. The Raleigh-Durham Airport Authority	1 representative
n. Triangle Transit	1 representative
o. The Research Triangle Park Foundation	1 representative
p. The N.C. Department of the Environment and Natural Resources	1 representative

The City of Durham's membership shall not include members of the Lead Planning Agency staff.

In addition to voting membership, the following agencies shall have non-voting membership:

a. The Federal Highway Administration	1 representative
b. The Federal Transit Administration	1 representative
c. The U.S. Army Corps of Engineers	1 representative
d. The U.S. Environmental Protection Agency	1 representative
e. The U.S. Fish and Wildlife Service	1 representative
f. The N.C. Department of Cultural Resources	1 representative
g. The N.C. Department of Commerce	1 representative
h. The U.S. Department of Housing and Urban Development	1 representative
i. The N.C. Railroad Company	1 representative
j. The N.C. Trucking Association	1 representative
k. The N.C. Motorcoach Association	1 representative
l. Regional Transportation Alliance	1 representative

The MPO Technical Committee shall meet when it is deemed appropriate and advisable. On the basis of a majority vote, the MPO Technical Committee may appoint voting members of the Committee to act as Chair and Vice-Chair with the responsibility for coordination of the Committee's activities.

11. The Durham City Council, Chapel Hill Town Council, Carrboro Board of Aldermen, Hillsborough Board of Commissioners, Durham County Board of Commissioners, Orange County Board of Commissioners, and Chatham County Board of Commissioners shall

serve as the primary means for citizen input to the continuing transportation planning process. During the Metropolitan Transportation Plan reevaluation, citizen involvement in the planning process shall be encouraged during re-analysis of goals and objectives and plan formation. This citizen involvement will be obtained through procedures outlined in the MPO's policy for public involvement.

The MPO Board may also receive public input or hold public hearings as may also be required by federal or state law.

Section II

It is further agreed that the subscribing agencies will have the following responsibilities, these responsibilities being those most logically assumed by the several agencies:

The Municipalities and the Counties

The municipalities and the counties will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus. The municipalities and the counties shall coordinate zoning and subdivision approval within their respective jurisdictions in accordance with the adopted Metropolitan Transportation Plan and the Comprehensive Transportation Plan.

Additionally, the City of Durham will serve as the Lead Planning Agency for the transportation planning process in the Planning Area.

The municipalities and the counties will participate in funding the portion of the costs of the MPO's work program not covered by federal or state funding as reflected in the annual Planning Work Program approved by the MPO Board. The portion to be paid by each municipal and county member government will be based upon its pro rata share of population within the MPO Planning Area, utilizing the most recent certified North Carolina Office of State Planning municipal and county population estimates. In addition, MPO members may also voluntarily contribute additional funds for other purposes such as to participate in funding the costs of special studies, or other specialized services as mutually agreed upon.

Funding provided by member agencies will be used to provide the required local match to federal funds. Failure by member agencies to pay the approved share of costs would impact the MPO's ability to match federal funds and could have the effect of invalidating the MPO's Unified Planning Work Program and the annual MPO self-certification, and could also result in the withholding of transportation project funds. Failure by member governments to pay the approved share of costs may also result in the withholding of MPO services and funding.

The municipalities and the counties receiving federal transportation funding designated for the Durham Urbanized Area as approved by the MPO Board through the Unified Planning Work Program shall comply with adopted reporting and oversight procedures.

North Carolina Department of Transportation

The Department will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus. Should any authorized local government body choose to adopt or amend a transportation corridor official map for a proposed public transportation corridor pursuant to N.C.G.S. § 136-44.50, the Department may offer assistance by providing mapping, data, inventories, or other Department resources that could aid the local government body in adopting or amending a transportation corridor official map.

Triangle Transit

Triangle Transit will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus. Triangle Transit shall comply with adopted reporting and oversight procedures for the receipt of federal transportation funding designated for the Durham Urbanized Area as approved by the MPO Board through the Unified Planning Work Program.

E-Verify Compliance for All Parties to this Agreement

Each of the parties covenants that if it enters into any subcontracts in order to perform any of its obligations under this contract, it shall require that the contractors and their subcontractors comply with the requirements of NC Gen. Stat. Article 2 of Chapter 64. In this E-Verify Compliance section, the words contractors, subcontractors, and comply shall have the meanings intended by applicable provisions of NC Gen. Stat. Chapters 153A and 160A.

Section III

Parties to this Memorandum of Understanding may terminate their participation in the continuing transportation planning process by giving ninety (90) days written notice to the other parties prior to the date of termination. If any party should terminate participation, this Memorandum of Understanding shall remain in force and the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization shall continue to operate as long as 75% or more of the population within the Metropolitan Planning Area is represented by the remaining members. For the purpose of determining 75% representation, the populations within incorporated areas are represented by the respective municipal governments and the populations within the unincorporated areas are represented by the respective county governments.

Section IV

In witness whereof, the parties of this Memorandum of Understanding have been authorized by appropriate and proper resolutions to sign the same, the City of Durham by its City Manager, the Town of Chapel Hill by its Mayor, the Town of Carrboro by its Mayor, the Town of Hillsborough by its Mayor, Durham County by its Chair, Orange County by its Chair, Chatham County by its Chair, Triangle Transit by its Chair, and the Secretary of Transportation on behalf of the Governor of the State of North Carolina and the North Carolina Department of Transportation, this the _____ day of _____, ____.

(Seal)

City of Durham

Clerk

By _____
Manager

(Seal)

Town of Chapel Hill

Clerk

By _____
Mayor

(Seal)

Town of Carrboro

Clerk

By _____
Mayor

(Seal)

Town of Hillsborough

Clerk

By _____
Mayor

(Seal)

County of Durham

Clerk

By _____
Chair

(Seal)

County of Orange

Clerk

By _____
Chair

(Seal)

County of Chatham

Clerk

By _____
Chair

(Seal)

Triangle Transit

Clerk

By _____
Chair

(Seal)

North Carolina Department of
Transportation

By _____
Secretary