

MEMORANDUM OF UNDERSTANDING
Regarding the Cooperative Agreement for Transportation Planning
for the Greater Des Moines Metropolitan Planning Area
Between the Des Moines Area Metropolitan Planning Organization
and the Des Moines Area Regional Transit Authority

This Memorandum of Understanding ("MOU") is made and entered into between the Des Moines Area Metropolitan Planning Organization (hereinafter referred to as the "MPO"); and the Des Moines Area Regional Transit Authority, the operator of the publicly owned transit system (hereinafter referred to as "DART").

Recitals

WHEREAS, various federal grants and aids are available for carrying out metropolitan transportation planning activities; and

WHEREAS, the Governor of Iowa has designated the MPO as the agency to carry out metropolitan transportation planning activities for the greater Des Moines urbanized area (hereinafter referred to as the "Planning Area"); and

WHEREAS, DART provides mass transportation services within the Planning Area; and

WHEREAS, DART is a designated recipient in the Planning Area for federal transit operating aids under Section 5307 of the Federal Transit Act as amended; and

WHEREAS, metropolitan transportation planning activities come under the jurisdiction of the U.S. Department of Transportation (hereinafter referred to as "USDOT") and are subject to the metropolitan planning requirements of 23 U.S.C. 134 and 49 U.S.C. 5303 of the Federal Transportation Act as amended; and

WHEREAS, the Planning Area boundaries for the purposes of the planning provisions of the applicable federal law have been determined by agreement between the MPO and the Iowa Governor; the planning responsibilities of the MPO and DART overlap within those boundaries; and there is a need to coordinate their respective planning responsibilities in order to maximize efficiency, minimize duplication, and lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods; and;

WHEREAS, pursuant to 23 CFR §450.310(e), responsibilities and procedures for carrying out a cooperative planning process with state agencies are contained in the Unified Planning Work Program ("UPWP) approved periodically by the MPO and the Iowa Department of Transportation (hereinafter referred to as "Iowa DOT").

NOW, THEREFORE, pursuant to 23 CFR §450.310(b) and in consideration of these premises, of other good and valuable consideration, and of their mutual and dependent needs, the parties hereto contract and agree as follows:

Article I: Statement of Purpose

The MPO, in cooperation with DART, shall undertake a continuing, cooperative, and comprehensive transportation planning and programming process for the Planning Area in accordance with federal, state, and local goals for metropolitan planning, the provisions of 23 U.S.C. 134, 49 U.S.C. App 1607, and 23 CFR Part 450, as amended, and in accordance with the provisions of this MOU.

Article II: Overall Responsibilities

- A. Subject to paragraph C of this Article, the MPO shall be responsible for and shall be considered the lead agency in conducting the following transportation planning and programming activities pursuant to 23 CFR Part 450, as amended:
1. Formulating, approving, and periodically updating a multimodal metropolitan transportation plan (MTP) for the Planning Area, which shall conform to all applicable federal requirements and work program content and schedules.
 2. Reviewing and implementing the MPO MTP in a timely manner for use as a guide in local transit planning and programming activities.
 3. Coordinating of long-range (6-20 years) transit planning and programming with other transportation planning and programming agencies, with cooperation and assistance from DART. Cooperating with and assisting DART in short-and mid-range (up to six (6) years) transit planning and programming.
 4. Generating and annually ~~formulating and~~ approving the transportation improvement program (TIP) for the Planning Area, which shall cover a period of not less than four (4) years and may include projects outside the Planning Area for information only. DART will formulate the transit portion of the TIP for consideration and inclusion in the TIP.
 5. Assessing the conformity of the ~~Planning Area transportation plan~~ ~~MTP~~ and TIP with the State Implementation Plan for Air Quality Management.
 6. Conducting such additional air quality related transportation planning and analyses as shall be determined by agreement between MPO and the Iowa DOT.
 7. Generating and annually ~~formulating and~~ approving the ~~unified-Unified P~~ ~~Planning Work P~~ ~~rogram~~ (UPWP), which shall identify all transportation-related planning activities to be funded with state and federal financial aids and technical assistance in accordance with applicable law and regulations and the time schedule adopted by the Iowa DOT. The MPO will coordinate with DART to formulate the transit portion of the UPWP for consideration and inclusion in the UPWP.
 8. Providing one of the necessary forums for cooperative transportation planning and decision-making, and establishing a public involvement process that ensures opportunities for early and continuing involvement of local governmental units, DART, the general public, and others in the review and evaluation of all transportation plans and programs.
 9. Considering and implementing planning guidance received from the Iowa DOT to the fullest extent consistent with local goals.

10. Making data, assumptions, criteria, methodology, and analyses available to the Iowa DOT and other participants in a timely manner.
 11. Providing the Iowa DOT with copies of all transportation plans and program initiatives and all resolutions concerning their adoption or endorsement.
 12. Providing the Iowa DOT with an annual self-certification and a quadrennial review that the MPO's transportation planning process conforms with all applicable federal requirements pursuant to 23 CFR PART 450.
 13. Complying with planning and corresponding certification procedures regarding Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990, both as amended from time-to-time, and regulations promulgated under either.
 14. Formulating, approving, and periodically updating a coordinated human service/public transportation plan, also known as a Passenger Transportation Plan, which shall conform to all applicable federal and state requirements.
 15. Providing support, via the MPO's Regional Travel Demand Model, to assist DART's operational planning efforts, as necessary.
 16. Coordinating efforts among the Iowa DOT and DART to comply with 23 CFR 450.314(h) which states that MPOs, states, and transit providers shall jointly agree upon and develop specific written provisions for cooperatively development and sharing information related to transportation performance data, the selection of performance targets, the reporting of performance targets, and the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO, as described in Article III-
 17. Informing DART of traffic impact studies, corridor studies, comprehensive planning efforts, or other transportation planning efforts by local communities or the Iowa DOT that are on existing transit routes, planned transit routes, or otherwise may affect DART's operations.
- B. DART shall be responsible for and shall be considered the lead agency in conducting the following transportation planning and programming activities:
1. Preparing and updating a short-and mid-range (up to six (6) years) transit system development program, which shall include, but not be limited to, transit system policies and service demands, transit service modifications and extensions, transit fares, and transit system capital facilities needs dictated by federal policies and local needs.
 2. Providing information relative to the proposed programming of federal, state, and local funds for metropolitan transit system improvements and services, which fall under DART jurisdiction.
 3. Preparing and submitting applications for state and federal mass transportation capital and planning assistance grants and administering approved grants not inconsistent with the UPWP.

4. Conducting preliminary engineering and final design studies relating to mass transportation capital facilities including, but not limited to, transit stations, shelters, bus stop signs, garages, maintenance buildings, operator buildings, and rolling stock.
5. Conducting detailed operational planning necessary to establish or modify transit routes, schedules, fares, stop locations, transfer points, vehicle assignments, and other operating procedures, with support from the MPO's Regional Travel Demand Model, as necessary, in accord with the proposals contained in the five-year transit system development program and in keeping with the current TIP, UPWP, and MTP.
6. Preparing and updating paratransit service plans and making corresponding certifications regarding compliance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990, both as amended from time-to-time, and regulations promulgated under either.
7. Reviewing and incorporating the MPO MTP in a timely manner for use as a guide in local transit planning and programming activities.
8. Conducting transit marketing planning including, but not limited to, the conduct of market surveys, the design of user information materials, and the development of transit promotion programs.
9. Conducting transit management planning including, but not limited to, activities related to personnel procedures and training programs, maintenance policies, fare collection and handling procedures, and accounting practices.
10. Collecting data to meet the requirements of the National Transit Data Base of the Federal Transit Act as amended.
11. Collecting data to meet any applicable requirements of Iowa DOT Administrative Rules.
12. Developing and adopting a Transit Asset Management Plan and updating the plan at least every four years.
13. Developing and adopting Transit State of Good Repair (SGR) targets annually.
- ~~12.~~14. Conducting continuing assessment of DART accident history and preparing and updating plans for risk management and accident reduction.
- ~~13.~~15. Coordinating with the MPO to formulate the transit portion of the UPWP for consideration and inclusion in the UPWP.
- ~~14.~~16. Participating in efforts led by the MPO to comply with 23 CFR 450.314(h) which states that MPOs, states, and transit providers shall jointly agree upon and develop specific written provisions for cooperatively development and sharing information related to transportation performance data, the selection of performance targets, the reporting of performance targets, and the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO, as described in Article III.

~~15.17.~~ Providing to the MPO data necessary for complying with performance measure requirements, MTP and other transportation plan development, and development and maintenance of the MPO's Regional Travel Demand Model.

- C. Transportation planning responsibilities not assigned by this MOU shall be assigned to DART or the MPO by a subsequent agreement between the parties and will be performed by the party to whom they are thus assigned.
- D. Nothing herein contained shall be interpreted to modify or abrogate duties imposed directly upon the respective parties by applicable statute or regulation, such as Title VI compliance and public participation.

Article III: Scope of Work and Geographic Area

On May 27, 2016, the final rule for statewide and metropolitan transportation planning was published, based on 2012's Moving Ahead for Progress in the 21st Century (MAP-21) Act and 2015's Fixing America's Transportation System (FAST) Act. As part of this final rule, 23 CFR 450.314(h) was amended to state:

The MPO(s), State(s), and the providers of public transportation shall jointly agree upon and develop specific written provisions for cooperatively developing and sharing 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 of the MPO (see §450.306(d)), and the collection of data for the State asset management plan for the NHS for each of the following circumstances: when one MPO serves an urbanized area, when more than one MPO serves an urbanized area, and when an urbanized area that has been designated as a TMA overlaps into an adjacent MPA serving an urbanized area that is not a TMA. These provisions shall be documented either as part of the metropolitan planning agreements required under paragraphs (a), (e), and (g) of this section; or documented in some other means outside of the metropolitan planning agreements as determined cooperatively by the MPO(s), State(s), and providers of public transportation.

The phase-in deadline for this requirement is May 27, 2018. The following approach was cooperatively developed to address 23 CFR 450.314(h):

- Agreement between the Iowa DOT and Metropolitan Planning Organizations on applicable provisions through documentation included in each MPO's Unified Planning Work Program.
- Agreement between the Iowa DOT and relevant public transit agencies on applicable provisions through documentation included in each public transit agency's consolidated funding application.
- Agreement between each Metropolitan Planning Organization and relevant public transit agencies on applicable provisions through documentation included in the appropriate cooperative agreement(s) between the Metropolitan Planning Organization and relevant public transit agencies.

Accordingly, the MPO and DART agree to the following provisions:

1. DART will adopt a Transit Asset Management (TAM) Plan by October 1, 2018, and will provide a copy to the MPO.

2. DART will update its TAM plan at least every four years, with a horizon period of at least four years. DART will provide a copy to the MPO whenever the TAM document is updated.
3. DART will adopt Transit State of Good Repair (SGR) targets annually. SGR targets will be reported to the FTA's National Transit Database and to the MPO.
4. Following the initial target setting, the MPO will choose to support DART's SGR targets or adopt MPO-specific targets no later than 180 days after the date DART sets its targets. MPO targets will be revisited as directed by FTA.
5. MPO staff will report the MPO SGR targets to the DOT.

Article IV: Scope of Work and Geographic Area

The cooperative metropolitan transportation planning process shall be carried out in accordance with a UPWP approved by the MPO and the Iowa DOT, in consultation with appropriate transportation providers, including DART. DART, as one of the various transportation providers, will conduct its planning and operational activities in accordance with the approved UPWP and in keeping with the current TIP.

It is the intent of this MOU to assist the metropolitan transportation planning process in appropriately addressing the ten (10) factors identified in 23 U.S.C. 134(1) and 49 USC 5303(b) that are to be considered as part of the planning process.

The UPWP shall (1) address the planning priorities facing the Planning Area; (2) describe all metropolitan transportation and transportation related air quality planning activities anticipated within the Planning Area, regardless of funding source; (3) document planning activities to be performed with funds provided under Title 23, USC, and the Federal Transit Act; and (4) set forth a description of the specific metropolitan transportation planning activities and products to be completed each fiscal year, the corresponding staff and budgetary requirements, and the allocation of the total costs between the participating governments and cooperating agencies, including DART.

- A. Responsibility for the following planning activities shall be identified in the UPWP, where applicable.
 1. Preparing technical and other reports to assure documentation of the development, refinement, and reappraisal of the transportation plan.
 2. Conducting detailed corridor or sub-area studies to evaluate major transportation investment alternatives and their social, economic, and environmental impacts pursuant to 23 CFR Part 450.
 3. Providing for the involvement of traffic, ridesharing, parking, transportation safety and enforcement agencies; commuter rail operators; airport authorities; appropriate private transportation providers; and city officials.

4. Providing for the involvement of local, state, and federal environment resources and permit agencies as appropriate.
- B. The cooperative metropolitan transportation planning process that is to be conducted under this MOU, reflected in the UPWP and TIP, and governed by the provisions of 23 CFR Part 450, shall encompass the entire Planning Area.
- C. In developing the UPWP and performing activities pursuant to this MOU, the MPO will identify the likely effect of transportation policy decisions on land use and development, and the UPWP will be formulated to achieve consistency of transportation plans and programs with the provisions of all applicable short-and long-term, governmental land use and development plans in the Planning Area, including projections of Planning Area economic, demographic, environmental protection, growth management, and land use activities consistent with metropolitan and 10caVcentrai city development goals (community, economic, housing, etc.), and projections of potential transportation demands based on the interrelated level of activity in these areas.

Article IV: Organization and Administration

- A. The MPO shall appoint and maintain such citizen, technical, and/or policy committees and task force groups as deemed appropriate to carry out effectively the comprehensive metropolitan transportation planning process as set forth in the UPWP. DART shall have a voting representative who attends the MPO Transportation Technical Committee (TTC) and MPO Transportation Policy Committee (TPC) meetings and shall be otherwise represented on appropriate advisory committees and task force groups.
- B. MPO may enter into such institutional arrangements, service contracts, or agency agreements deemed necessary to carry out the scope of work under this MOU, with the understanding that the MPO shall remain accountable for completion of planning products in accordance with the UPWP. All such contracts, subcontracts, agreements, or other written understandings for services shall conform to the appropriate provisions of 49 CFR 18 (common rule) as supplemented by 23 CFR 20 issued by the Federal Highway Administration (FHWA), FTA Circular 4220.1B, and any changes or revisions thereto, and other applicable guidance that the FTA, FHWA, or USDOT may issue.
- C. When consultants are to be employed in accomplishing work under this MOU, all parties providing funding for such work shall have the right to review and advise on basic study methods, underlying assumptions, contemplated scope of work, and intended procedures, and to review and approve subcontracts.

Article VI: Inspection of Work

The Iowa DOT and the USDOT shall, at all times during the effective period of this MOU, be accorded proper facilities for inspection of the metropolitan transportation planning work activities and shall, in accordance with Article XI, have access to all data, information, records, and documents pertaining to the work under this MOU.

Article VII: Work Products

The MPO and DART shall give each other, and on request shall give appropriate Iowa DOT and USDOT personnel, the opportunity to review and comment on their respective reports produced under this MOU prior to publication of the final report. All reports and documents published by

the parties under this MOU shall give appropriate credit to all other parties and to participating Iowa DOT and USDOT agencies. The Iowa DOT and the USDOT shall have the royalty-free, nonexclusive, and irrevocable right to reproduce, publish, distribute, or otherwise use, and to authorize others to use, the work produced under this MOU for government purposes.

Article VIII: Prohibited Interest

No member, officer, or employee of MPO or any state or local public body during his or her tenure or for one year thereafter may have or acquire any interest whatsoever, direct or indirect, in this MOU or proceeds thereof or any benefit arising therefrom.

No member of or delegate to the Congress of the United States of America may have or acquire any interest whatsoever, direct or indirect, in this MOU or proceeds thereof or any benefit arising therefrom.

Article ~~VIII~~IX: Funding and Payment

Funding levels and financial responsibilities for the continuing metropolitan transportation planning process shall be established annually by DART and the MPO in conjunction with the preparation, review, approval, and implementation of the UPWP, and shall consider such factors as the availability of federal planning monies and state and local matching funds, statewide allocation formulas developed in cooperation with the MPO, and the relative benefits to and from participating agencies.

Upon adoption of the UPWP by the MPO and approval by the Iowa DOT, the UPWP shall be deemed to constitute a part of this MOU with respect to the scope of work and funding arrangements. Specific terms or conditions governing the financial aspects of the UPWP will be set forth in the Iowa DOT annual authorization letter and shall bind and benefit the parties to this MOU. All costs incurred during the progress of the metropolitan transportation planning work activities under this MOU shall be shared by the MPO and the other participating agencies on the basis of the cost allocation schedule set forth in the UPWP and/or the approved MPO budget.

Progress reports containing a narrative and financial account of the work accomplished to date pursuant to this MOU, and funded in whole or in part by or through either party to the other, shall be furnished by the MPO and DART, respectively, at no greater than quarterly intervals. These reports shall be due forty-five (45) days, after the end of the first, second, and third quarters, and sixty (60) days after the final quarter. It is mutually acknowledged that the Iowa DOT and/or the USDOT may withhold or delay approval of invoices if required progress reports or scheduled products are not submitted in a timely and satisfactory manner.

Article IX: Cost Principles

- A. Allowable Costs. Actual costs incurred under this MOU and for which any reimbursement is sought shall meet the following criteria:
1. Are verifiable from records of the MPO or DART, as the case may be.
 2. Are not included as match funds as prescribed by federal law or regulation for any other federally assisted program.
 3. Are necessary and reasonable for proper and efficient accomplishment of the UPWP.

4. Are in conformance with the standards for allowability of costs set forth in Office of Management and Budget (OMB) Circular A-87, revised, and with applicable guidelines, regulations, or federal agreement provisions issued by the USDOT, FHWA, or FTA.
 5. Are not paid by the federal government under another assistance agreement unless authorized for use as match funds under another federal agreement and the laws and regulations governing such agreement.
 6. Are provided for in the approved UPWP budget.
 7. No contributions where costs are not incurred, such as volunteer services or donated property may be accepted on the non-federal share.
- B. Indirect Costs. Expenditures charged on an indirect basis shall be supported by an indirect cost allocation plan and/or indirect cost proposal. Such plans and/or proposals will be negotiated and approved by the relevant state and/or federal agency prior to recovering any indirect costs incurred under this MOU.

Article XI: Property Utilization and Management

It is mutually acknowledged, and this MOU is made subject to the requirement that the MPO and DART must comply with proper management standards as set forth in 49 CFR §§ 18.31, 18.32, 18.33, and 18.36, as amended, and, if applicable, the revised OMB Circular A-L02, as amended.

Article XII: Records and Audits

The MPO and DART, respectively, shall, for the continuing, cooperative, and comprehensive transportation planning and programming process, maintain accounting systems, which adequately account for all funds provided for, accruing to, or otherwise received from the federal, state, or local units of government or any other quasi-public or private source under this MOU and/or the UPWP, all in accordance with Generally Accepted Accounting Principles (GAAP).

All eligible costs, including paid services and expenses contributed by the MPO, shall be charged to the approved UPWP and shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges. All accounting records and other evidence pertaining to the costs incurred by MPO or DART under this MOU or the UPWP shall be maintained by the MPO or DART, as the case may be, and shall be clearly identified and readily accessible. The Iowa DOT and the USDOT shall have authority to audit, review, examine, copy, and transcribe any pertinent data, information, records, or documents relating to this MOU or the UPWP at any reasonable time. The MPO and DART, as the case may be, shall retain all records and documents applicable to this MOU or the UPWP for a period of not less than three (3) years after final payment is made by any federal funding agency.

The MPO and DART, respectively, shall each have a single, organization-wide financial and compliance audit performed by a qualified, independent auditor if required to do so under federal laws and regulations (see OMB Circular A-128, Sec. 4). The audits shall be performed in accordance with OMB Circular A-128, and any state single, organization-wide audit guidelines. A copy of the audits shall be furnished to the Iowa DOT and USDOT upon request.

Article XIII: Certification Regarding Lobbying

The respective signatories for the MPO and DART, certify by signing this MOU that, to the best of his or her knowledge and belief, no federal appropriated funds have been paid or will be paid, by or on behalf of their respective agencies, to any person for the purpose of influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant or making of any federal loan, the entering into of any Memorandum of Understanding or other cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or Memorandum of Understanding, the entity will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed by the respective parties when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction pursuant to Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The MPO and DART each also agrees by signing this MOU that it shall require that the language of this certification be included in all lower tier subcontracts that exceed \$100,000 and that all such subcontractors shall certify and disclose accordingly.

Article XIV: Effective Date and Duration of MOU

This MOU shall become effective when signed on behalf of the MPO and DART, and shall remain in force unless and until terminated under provisions of Article XIV, or until superseded by a new MOU. This MOU may be amended from time to time as facts or circumstances warrant or as may be required by federal and/or state laws, administrative regulations, departmental orders, or guidelines having the full force and effect of law.

Article XV: Termination of MOU

Either the MPO or DART may terminate this MOU by giving sixty (60) days written notice of such termination to the other party. In the event of termination, the respective parties will be entitled to receive just and equitable compensation for any satisfactory work completed under this MOU or the UPWP up to the effective date of such termination.

Article XVI: Miscellaneous

Time is of the essence of this MOU. This MOU is made in the State of Iowa and shall be modified or amended by a written document signed by the party against whom enforcement is sought. Where this MOU requires or contemplates the approval or consent of any party, such approval or consent will not be unreasonably withheld. This MOU may be signed in more than one counterpart, in which case each counterpart shall constitute an original of this MOD. Article and

other headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this MOD. Whenever notice is required by this MOU, it will be given in writing and delivered personally, or it will be mailed in the United States Postal Service, postage prepaid and return receipt requested, and addressed to the other party at the last address reasonably known, in which case it will be deemed given when mailed. Wherever used herein, the singular shall include the plural, the plural shall include the singular, and pronouns shall be read as masculine, feminine or neuter as the context requires. The prevailing party in any litigation or arbitration relating to this MOU shall be entitled to recover reasonable attorney fees from the other party for all matters, including but not limited to appeals. Polk County, Iowa, shall be the proper venue for any litigation involving this MOD.

IN WITNESS WHEREOF, the parties have hereto caused this MOU to be executed by their proper officers and representatives having authority to do so.

METROPOLITAN PLANNING ORGANIZATION

~~Tom Armstrong~~Steve Gaer, MPO Chairperson Date _____

DES MOINES ARE REGIONAL TRANSIT AUTHORITY

Tom Gayman, DART Commission Chairperson Date _____