

DRAFT April 5, 2018

Performance Management Agreement

between

[insert MPO name],

[insert provider(s) of public transportation], and

the North Carolina Department of Transportation (NCDOT)

[*add SCDOT and RFATS here for the Charlotte CMAQ agreement]

WHEREAS, the United States Department of Transportation promulgated transportation planning regulations in 23 CFR 450.314, and

WHEREAS, MPO(s), State(s), and providers of public transportation are required by 23 CFR 450.314 to cooperatively determine their mutual responsibilities in carrying out the performance-based planning and programming requirements established by federal law, and

WHEREAS, the 23 CFR 450.314(h) requires that Metropolitan Planning Organizations (MPO)(s), State(s), and providers of public transportation shall jointly agree upon and develop specific written procedures 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 achievement of critical outcomes for the region of the MPO, and the collection of data for the State asset management plan for the National Highway System (NHS).¹

NOW, THEREFORE, BE IT RESOLVED, that the parties do hereby agree to adhere to the following protocols for coordination to meet performance-based planning and programming requirements in accordance with 23 CFR 450 and established federal guidance.

1) Transportation performance data

- a. NCDOT will collect and provide (or otherwise make available) to the _____ MPO and the providers of public transportation, with data used in developing statewide targets for all applicable measures.
- b. If the MPO chooses to develop its own target for any measure, _____ MPO will collect and provide NCDOT with any supplemental data used in association with the MPO target setting process, if applicable.

¹ For definitions of performance “targets” and other terms in this agreement, see 23 CFR 490.101.

2) Selection of transportation performance targets

- a) NCDOT, the MPO, and the provider(s) of public transportation will set performance targets in coordination with each other.
 - (i) Coordination will include as many of the following opportunities as deemed appropriate for the measure: in-person meetings, webinars, conference calls, work group/committee representation, and email/written communication.
 - (ii) For each performance measure, MPO's shall establish a target by either agreeing to plan and program projects so that they contribute toward the accomplishment of NCDOT's target for that performance measure, or commit to a quantifiable target for that performance measure for their metropolitan planning area (23 CFR 490.209 (c)(4)).
 - (iii) Per 23 CFR 490.209 (c) (5), MPO's that establish quantifiable fatality rate or serious injury rate targets shall report the VMT estimate to NCDOT used for such targets and the methodology used to develop the estimate. The methodology should be consistent with other Federal reporting requirements, if applicable.
 - (iv) If the MPO chooses to set its own target, the MPO will develop the target in coordination with NCDOT and the provider(s) of public transportation.
- b) The NCDOT will set statewide performance targets to meet the federal performance management requirements
 - (i) The NCDOT will provide written notice to the MPO when NCDOT sets a target. This notice will provide the targets and the date NCDOT set the target, which will begin the 180-day time-period in which the MPO must set performance targets.
 - (ii) If the MPO chooses to support the statewide or provider(s) of public transportation targets, the MPO will provide documentation in the form of a support resolution to NCDOT and the provider(s) of public transportation that the MPO agrees to plan and program projects that will contribute toward the achievement of the statewide and/or provider(s) of public transportation targets.
 - (iii) If the MPO chooses to set its own target(s), the MPO will provide NCDOT and the provider(s) of public transportation documentation (in the form of a signed resolution) that includes the target(s) and when the MPO established those target(s).

- c) Provider(s) of public transportation Targets:
- i) The Tier 1 providers of public transportation will establish performance targets to meet the federal performance management requirements for transit asset management and transit safety (pending final rule). Tier 1 transit providers are defined in 23 CFR 625.5.
 - ii) The provider of public transportation will provide written notice to the MPO and NCDOT when they establish target(s). This notice will provide the targets and the date the target was set. The date the initial targets were set will begin the 180-day time-period within which the MPO must establish their transit-related performance targets. MPO's may choose to update their targets when the provider(s) of public transportation updates their targets, or when the MPO amends their Metropolitan Transportation Plan (MTP). At a minimum, an MPO shall update their transit-related targets when the MPO updates the MTP by extending the MTP's horizon year in accordance with 23 CFR 450.324 (c).
 - iii) If the MPO chooses to support the provider(s) of public transportation target(s), the MPO will provide to NCDOT and the provider of public transportation documentation in the form of a support resolution duly considered by the MPO's governing body that the MPO agrees to plan and program MPO projects so that they contribute toward achievement of the transit provider's target.
 - iv) For Tier 2 providers of public transportation that choose to participate in NCDOT's group plan: NCDOT shall notify MPOs and those participating Tier 2 providers within 30 days of establishment of transit-related targets. The MPO will provide documentation to NCDOT and the provider of public transportation of target establishment or support in the form of a resolution duly considered by the MPO's governing body. Tier 2 transit providers are defined in 23 CFR 625.5.

3) Reporting of performance targets

- a. Reporting of targets and performance will be done as specified in 23 CFR 490, 23 CFR 450, 49 CFR 625, and 49 CFR 673.
- b. NCDOT will report all targets to FHWA and FTA as applicable. NCDOT will provide written notice of the targets to the MPO within 15 business days of reporting targets.
- c. The MPOs will report any MPO targets to NCDOT within 15 business days after the MPO establishes a target. The MPO will provide documentation of target

establishment to NCDOT and the provider of public transportation in the form of a resolution duly considered by the MPO's governing body.

- d. The MPO agrees to report their annually established safety targets to NCDOT within 15 business days of establishment. (23 CFR 490.209(c)). Establishment of targets shall be evidenced by a signed resolution from the MPO's governing board.
- 4) Reporting of performance to be used in tracking progress toward achievement of critical outcomes for the region of the MPO.
- a. Where available and practicable, NCDOT will provide the MPO with the statewide performance data used in developing statewide targets. All updates of this data will include prior performance data, as available and practicable.
 - b. If MPO sets a different target than the statewide target the MPO will provide NCDOT with MPO-wide performance data used to develop the target. All updates of performance data by the MPO will include prior performance data.
 - c. Where applicable, the MPO will provide data to NCDOT for the CMAQ on-road emissions measure.
 - d. Where applicable, the MPO will provide NCDOT and the provider of public transportation with a copy of the CMAQ Performance Plan at least 45 days prior to when NCDOT's performance period reports are due per 23 CFR 490.107. As applicable, NCDOT will include as an attachment the MPO's CMAQ Performance Plan as a part of NCDOT's performance period report.
- 5) The collection of data for the State asset management plans for the NHS
- a. NCDOT will be responsible for the collection of bridge and pavement condition data for the State asset management plan for the NHS. This includes NHS roads are that are not on a State highway system but instead are under the ownership of local jurisdictions, if such roads exist.
- 6) All parties agree that email communications shall be considered written notice for all portions of this agreement.
- 7) The State, MPO, and providers of public transportation are responsible for financial planning that demonstrates how MTP's and TIP's can be implemented consistent with principles of fiscal constraint. Federal requirements (23 CFR 450.314(a)) direct that specific provisions be agreed upon for cooperatively developing and sharing information for development of financial plans to support the MTP (23 CFR 450.324) and metropolitan TIP (23 CFR 450.326), as well as development of the annual listing

of obligated projects (23 CFR 450.334). For purposes of this agreement, the following shall not apply to providers of public transportation:

- a) To support the development of the financial plan for the MTP, the North Carolina Department of Transportation (NCDOT) shall provide the MPO with a listing of the most recent 10-year historical funding for the Counties located within the MPO boundary categorized by funding source. The MPO will review the historical information and extrapolate the funding trends for the MTP's planning horizon while considering other factors that may affect a reasonable funding forecast. The MPO shall add any local or private funding sources reasonably expected to be available during the planning horizon. If the MPO recommends any alternative financing strategies to fund the projects and programs in the MTP, they shall be identified and included in the MTP. 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 MTP 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.
- b) Annual Obligation Report: Within 90 days after the close of a federal fiscal year, NCDOT shall provide the MPO with the information needed to be included in the annual listing of obligated projects. The MPO shall publish the annual listing of obligated projects on their web site and in accordance with any other procedures outlined in their Public Participation Plan to ensure adequate access by the public and other interested stakeholders. To the extent possible, this report 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, it shall include:
 - i) TIP project description and implementing agency information,
 - ii) Identify for each project, the amount of Federal funds requested in the TIP/STIP,
 - iii) the Federal funding that was obligated during the preceding year,
 - iv) and the Federal funding remaining and available for subsequent years.

[signature page to follow]

Signature page

Representation on Authority of Parties/Signatories.

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

Bobby Lewis, Chief Operating Officer, NCDOT

Date

NC CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION “CAMPO”

By: _____
Chris Lukasina, Executive Director

ACKNOWLEDGEMENT by
NC CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION, “CAMPO”

State of North Carolina
County of Wake

I, Valorie D. Lockhart, a Notary Public for said County and State, do hereby certify that Chris Lukasina, Executive Director personally came before me this day and acknowledged the due execution for the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2017.

Valorie D. Lockhart, Notary Public

(Affix notary seal)

My Commission Expires: February 17, 2021