

**MEMORANDUM OF AGREEMENT FOR
TRANSPORTATION PLANNING AND PROGRAMMING**

NEBRASKA DEPARTMENT OF TRANSPORTATION
IOWA DEPARTMENT OF TRANSPORTATION
OMAHA METROPOLITAN AREA PLANNING AGENCY (MAPA)
TRANSIT AUTHORITY OF THE CITY OF OMAHA (METRO TRANSIT)

THIS MEMORANDUM OF AGREEMENT (MOA) is between the Nebraska Department of Transportation (NDOT), Iowa Department of Transportation (Iowa DOT; collectively referred to as "States"), Omaha-Council Bluffs Metropolitan Area Planning Agency (MAPA), who is a Metropolitan Planning Organization ("MPO"), and Transit Authority of the City of Omaha ("Transit Agency"), collectively referred to as "Parties."

WITNESSETH:

WHEREAS, pursuant to various statutes, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have established regulations which call for each metropolitan area to have a continuing, cooperative, and comprehensive transportation planning process that considers all transportation modes and supports metropolitan community development as a requirement for obtaining federal transportation funds; and

WHEREAS, federal statutes and regulation require each state to have a statewide transportation planning process that is fully coordinated with the metropolitan transportation planning process; and

WHEREAS, the purpose of this Memorandum of Agreement is to fulfill the requirements related to Metropolitan Planning Agreements; and cooperatively outlines the responsibilities of the Parties in carrying out the Metropolitan Transportation Planning process.

WHEREAS, federal regulations establish a coordinated statewide and MPO transportation planning process that includes the development of a transportation plan addressing no less than a twenty-year planning horizon as of the effective date of the transportation plan for the metropolitan planning organization; and

WHEREAS, MPO is responsible for the Metropolitan Transportation Plan within the Metropolitan Planning Area (MPA) which includes Douglas and Sarpy Counties, Nebraska and portions of Cass County, Nebraska, and Pottawattamie County, Iowa; and

WHEREAS, the purpose of this MOA is to define the specific roles and responsibilities of MPO and States for metropolitan transportation planning and programming, to implement these

statutes and regulations, and to ensure that a cooperative transportation planning and programming process is established between MPO and States in the MPA; and

WHEREAS, MPO is empowered to make and adopt a Regional Plan for the physical development of the territory within its geographic area, including transportation and land use plans, and nothing contained in this MOA shall be construed to abrogate or delete the exercise of statutory powers and duties of local boards or commissions and limit their ability under state and federal law to review and take action on all matters within the scope of its statutory responsibilities; and

WHEREAS, States are responsible for formulating the general policy and planning the statewide transportation system including: the management, construction and maintenance of public highways within their respective states; for adopting a statewide transportation plan, Statewide Transportation Improvement Program and annual budgets for the construction, maintenance and operation of the state highway system; and nothing contained in this MOA shall be construed to abrogate or delete the exercise of States' statutory powers and duties as the appropriate state agency under state and federal law to review and take action on all matters within the scope of its statutory responsibilities; and

WHEREAS, the Nebraska state statutes and Iowa state statutes have authorized the States to implement policy and direction, enter into contracts and agreements with other government units, and to take other actions as may be necessary to comply with federal laws and regulations; and

WHEREAS, MPO is the designated Transportation Management Agency (TMA) pursuant to 23 USC 134 and 49 USC 5303 et seq. and continues to carry out its responsibilities in accordance with 23 CFR 450; and

WHEREAS, it is the desire and intent of the Parties to fulfill the pertinent federal requirements for MPO pursuant to this MOA, while recognizing, and preserving the policies and statutory responsibilities of States under their enabling legislation; and

WHEREAS, federal regulations require that the metropolitan transportation planning and programming process considers all modes of transportation and provides for consideration of projects, strategies and services consistent with metropolitan and local goals; and

WHEREAS, federal regulations require a performance-based approach for the Metropolitan Transportation Planning Process, and for transportation decision-making; and

WHEREAS, successful implementation of MPO's comprehensive plans and programs requires the continuing cooperative effort of local, regional, and state governments.

NOW THEREFORE, in consideration of these facts, the Parties agree as follows:

The agreement between the Parties of the MOA made March 11, 2014 is hereby terminated and superseded in its entirety by this MOA.

SECTION 1. DURATION OF THIS AGREEMENT

- 1.1 Effective Date – This Agreement is effective when executed by the Parties.
- 1.2 Identifying Date – For convenience, this Agreement's identifying date will be the date the final Party signed the Agreement.
- 1.3 Duration – The duration of this Agreement will be from the effective date until a new MOA between the Parties supersedes it, unless otherwise terminated by mutual consent of the Parties hereto, or as otherwise provided in this Agreement.

SECTION 2. PARTIES

The Parties hereby agree to carry out and actively participate in the continuing, cooperative and comprehensive metropolitan transportation planning and programming process in accordance with applicable federal and state law and regulations. Further, the Parties agree to cooperate to establish effective mechanisms to meet the needs of the metropolitan transportation planning and programming process, including providing for public involvement in regional and state transportation planning.

SECTION 3. PURPOSE

- 3.1 This MOA is established to define the specific roles and responsibilities of the Parties for metropolitan transportation planning and programming within the MPA boundaries of the MPO. This MOA is also established to provide for the development of financial plans that support the Metropolitan Transportation Plan and the Metropolitan TIP; and the development of the annual listing of obligated projects, pursuant to 23 CFR 450.
- 3.2 The Parties hereby agree to carry out and actively participate in the continuing, cooperative, and comprehensive metropolitan transportation planning and programming process in accordance with applicable federal and state law and regulations.
- 3.3 The Parties agree that metropolitan transportation planning and programming processes leading to the development and adoption of Metropolitan Transportation Plan and Transportation Improvement Programs (TIP) may change in order to respond to changes

in the law, restructuring within their respective organizations, or to reflect prior experience and local process.

SECTION 4. APPLICABILITY

This MOA applies to the continuing, cooperative, and comprehensive metropolitan transportation planning and programming process required for MPO by 23 U.S.C. Section 134, and 4 U.S.C. 5303, et seq. and as implemented by the applicable regulations in order for the region to qualify for federal transportation funds and meet regional transportation planning requirements.

SECTION 5. FEDERAL REGULATIONS

The Parties recognize that the work to be accomplished under this MOA must be in compliance with federal regulations, which requires a performance-based approach for the Metropolitan Transportation Planning Process, and for transportation decision-making. The metropolitan transportation planning and programming process considers all modes of transportation and provides for consideration of projects, strategies and services consistent with metropolitan and local goals that will:

1. Support the economic vitality of the metropolitan area; especially by enabling global competitiveness, productivity, and efficiency
2. Increase the safety of the transportation system for motorized and non-motorized users
3. Increase the security of the transportation system for motorized and non-motorized users
4. Increase accessibility and mobility of people and freight
5. Protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns
6. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight
7. Promote efficient system management and operation
8. Emphasize the preservation of the existing transportation system
9. Improve the resiliency and reliability of the transportation system and reduce or mitigate storm water impacts of surface transportation
10. Enhance travel and tourism

SECTION 6. PARTICIPANT RESPONSIBILITIES

- 6.1 MPO, in cooperation with States and the operators of publicly owned transit services, is responsible for operation and maintenance of the metropolitan transportation planning and programming process within the MPA boundaries of the MPO. This responsibility includes preparing and adopting, in a manner consistent with the MOA, all required transportation plans, transportation improvement programs and documents of the metropolitan transportation planning and programming process.
- 6.2 The Parties to this MOA agree to actively participate in the metropolitan transportation planning and programming process, to cooperate to establish effective mechanisms to meet the needs of the metropolitan transportation planning and programming process and to fulfill commitments established pursuant to this MOA. While it is recognized that the Parties are ultimately bound by the actions of their respective agencies, they commit to present within their organizations the recommendations resulting from the metropolitan transportation planning and programming process.
- 6.3 MPO is the agency responsible for comprehensive metropolitan planning and programming. In carrying out its duties and responsibilities within its boundaries, MPO and Transit Agency will cooperatively participate in carrying out the metropolitan transportation planning process. The Parties agree that the responsibilities will include:
1. Coordination of public involvement for local, regional and statewide transportation plans
 2. Communicate with each other of any new or revised federal policies, regulations, planning factors, and other guidance that may affect statewide and/or metropolitan transportation planning and programming.
 3. Transit Agency shall update the Transit Section of the Unified Planning Work Program and forward it to the MPO. Estimates of Transit Planning funds shall be developed in cooperation with States.
 4. Transit Agency shall annually review the Certification of Planning Process as presented by the MPO and make updates as necessary.
 5. Transit Agency will actively participate in the Metropolitan Transportation Plan.
 6. For purposes of developing the Transportation Improvement Program (TIP), Transit Agency and MPO will cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.
 7. For purposes of developing the Program of Projects Transit Agency shall utilize its own public process to publish these projects.

SECTION 7. PARTICIPATION IN THE PLANNING PROCESS

- 7.1 MPO has a technical advisory committee to address transportation and transportation-related issues. States will maintain membership on, and will cooperatively participate in, this committee. Any changes to the status of States' roles in MPO's technical advisory committees will be made in consultation with States. Cooperation, or cooperative participation, means that States will actively participate on MPO's technical advisory committee; will provide adequate opportunity for the other to review and comment on draft transportation plans, transportation improvement programs and related documents; and will provide constructive comments in a timely manner so they may be evaluated and acted upon.
- 7.2 To facilitate coordination in carrying out the metropolitan transportation planning and programming process, MPO and States will cooperatively develop mechanisms and procedures to carry out the tasks needed to develop the metropolitan transportation planning and programming products required of MPO. MPO and States will meet at least annually to discuss the metropolitan transportation planning and programming process carried out in MPO's transportation planning region, and will address:
1. The events of the past year, including any successes or failures between the participants in carrying out a continuing, cooperative, and comprehensive transportation planning and programming process and the terms of this MOA;
 2. Issues relating to the coming year's planning program; and
 3. Other relevant matters.
- 7.3 The Parties hereby agree to conduct the metropolitan transportation planning process in an open manner such that members of the public, local entities, other transportation providers, and other interested parties can fully participate. The Parties agree to take appropriate actions to ensure public participation through means identified in MPO's public involvement procedures.

SECTION 8. ORGANIZATION OF PLANNING PROCESS

The MPO Officials Committee and Technical Advisory Committee Structure

1. Officials Committee

The Officials Committee of the MPO, as prescribed in its Bylaws, is the policy body for the MPO transportation planning region. The Officials Committee maintains a staff to support its activities. The Officials Committee may, from time to time, by appropriate resolution, appoint such committees, task forces, study

groups, working groups, or other ad hoc or formal groups, as it deems expedient to provide advice, recommendations, or technical expertise to further the principles and purposes of MPO in its role as the Metropolitan Planning Organization and Transportation Management Agency. MPO retains at its discretion all rights to define, limit, or terminate the activities of such groups without necessitating a change to this MOA.

The MPO's Management Plan defines the purpose, composition, and operating characteristics of the Officials Committee and its advisory committees. The following advisory committees and staff structure currently provide advice and recommendations to the MPO Officials Committee regarding Metropolitan Planning Organization and Transportation Management Agency matters and responsibilities.

2. Technical Advisory Committee

The purpose of the MPO Technical Advisory Committee (TAC) is to provide technical advice and to recommend appropriate courses of action to the MPO Officials Committee and MPO staff on current and emerging transportation issues, goals, plans, and programs affecting MPO. The advice and recommendations address at least the:

- Unified Planning Work Program;
- Transportation Improvement Program;
- Metropolitan Transportation Plan;
- Policies and programs as may be directed by MPO.

SECTION 9. GENERAL RESPONSIBILITIES

- 9.1 The Parties recognize that States have a continuing duty of planning transportation systems of statewide significance, identifying potential transportation issues and concerns of statewide interest, and reconciling conflicts between MTPs and transportation improvement programs. In carrying out their duties, States will partner with MPO on activities within the MPA of the MPO.
- 9.2 Parties recognize that MPO is the agency responsible for comprehensive metropolitan transportation planning and programming for MPO pursuant to federal law. In carrying out its duties and responsibilities within its MPA, MPO will cooperatively participate in activities with States.
- 9.3 MPO and States will, as appropriate, coordinate public involvement for statewide transportation plans and transportation improvement programs.
- 9.4 MPO and States each will, in a timely manner, inform and seek comment from the other party on proposed new or revised policies, goals and strategies within their purview. Each party will also inform the other of new or revised federal policies, regulations; planning factors listed in 23 CFR 450, and other guidance that may affect statewide and/or metropolitan transportation planning and programming.
- 9.5 States will coordinate their project prioritization and programming process with MPO's MTP and TIP development processes to ensure that the state highway system projects States recommend or select for implementation in the MPO area are consistent with MPO priorities.

SECTION 10. UNIFIED PLANNING WORK PROGRAM (UPWP)

- 10.1 The primary purpose of the UPWP is to provide guidance in the management of work by the staff of MPO and serve as the basis for MPO's one-year transportation planning program. MPO's UPWP is developed in cooperation with local entities, States, and FHWA/FTA. Annually States will prepare agreements with MPO, defining terms and conditions for the use of federal planning funds, along with the latest estimates of planning funds available, which are based on funding levels provided by FHWA and FTA. Upon approval, the UPWP for MPO is submitted to States for review and to FHWA/FTA for approval. Upon States' and FHWA/FTA approval of MPO's UPWP and execution of annual agreements, the planning monies are available for MPO's use for the various planning activities enumerated in the UPWP. Amendments to the UPWP will be subject to review and approval by the funding agencies. As a basis for review of the

UPWP amendment requests, each party will submit reasons for changes, scope of work revisions, and funding information. MPO will require the same information from sub-grantees, if any.

- 10.2 States will review and comment upon draft UPWPs and UPWP amendments to determine eligibility of proposed expenditures. States will also review and comment upon UPWP progress, UPWP funding, status of expenditures, and reports as appropriate. MPO shall submit invoices on a quarterly basis at a minimum. However, payments will not be made more often than once each thirty days. The States upon receipt of the proper invoices will make every reasonable effort to provide payment to MPO within thirty calendar days.

SECTION 11. CERTIFICATION OF THE PLANNING PROCESS

Federal regulations require MPO and States to certify that the metropolitan and statewide transportation planning process conforms with all applicable requirements of federal laws. MPO and States will annually certify to FHWA and FTA that the metropolitan transportation planning and programming process is addressing the major issues facing MPO, and is being conducted in accordance with all applicable requirements.

SECTION 12. METROPOLITAN TRANSPORTATION PLAN(S)

- 12.1 MPO will review, update, and approve the Metropolitan Transportation Plan (MTP) at least every five years or as required by 23 CFR 450. MPO will develop the MTP in consultation with federal and state officials responsible for planning affected by transportation and it will serve as MPO's long-range transportation plan. MPO will develop the revenue projections for the MTP in cooperation with States consistent with resource allocation for federal and state transportation funds. MPO and States' staff participates in the development of a recommendation of resource allocation. Such recommendation is considered for adoption by States for federal and state transportation funds. For the purpose of developing the MTP, the Parties shall cooperatively develop estimates of funds that will be available to support MTP implementation.
- 12.2 States will participate in the development of the MTP and will provide initial long-range estimates of available federal and state transportation funds for all funding categories. MPO will use these initial long-range funding estimates during the cooperative development of the final MTP funding levels. States will review and provide written comments, addressing fiscal constraint on the draft MTP in time for the comments to be

evaluated and acted upon prior to the draft MTPs being released to the public for comment.

- 12.3 The Parties shall cooperatively develop all federal and state funded transportation projects on the States' highway systems in MPO's transportation management area for inclusion in MPO's long range transportation plan. The maintenance and operations program will be addressed in the MTP at the system level. Inclusion of the maintenance and operation program in the MTP will be considered a planning estimate, reasonably expected to be available, but not a guarantee or specific commitment of maintenance dollars to be spent in the MPO.
- 12.4 MPO will develop the process and timeline for project prioritization and selection for each MTP. States will participate in the development, review and approval of the project prioritization and selection process within their respective States. MPO will approve projects to be included in its MTP.
- 12.5 When amending a MTP, MPO will ensure fiscal constraint is maintained. States will review and comment on MTP amendments for fiscal constraint and transportation issues.
- 12.6 The Parties will report events that may significantly impact long range transportation plans as soon as they become known. These events or conditions include problems, delays, or adverse conditions that will materially affect the revenue, schedule or scope of a project. This disclosure will be accompanied by a statement of the action contemplated to resolve the situation.

SECTION 13. TRANSPORTATION IMPROVEMENT PROGRAMS

- 13.1 For the purpose of developing the Transportation Improvement Programs (TIP), the Parties will cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.
- 13.2 MPO will develop and approve its TIP as appropriate in coordination with the Statewide Transportation Improvement Programs (STIPs) and statewide long-range transportation plans. MPO will ensure its TIP is fiscally constrained and that projects in it are consistent with the MTP. MPO will develop the TIP financial plan in cooperation with States consistent with the approved resource allocation for processing federal aid projects.
- 13.3 MPO, in cooperation with States and the operators of publicly owned transit services, shall establish the TIP development schedule. States will participate in the development

of the TIP and will provide initial estimates of available federal and state transportation funds for all funding categories. MPO will use these initial funding estimates during the cooperative development of the final TIP funding levels. States will review and provide comments, addressing fiscal constraints on the draft TIP in time for the comments to be evaluated and acted upon prior to the draft TIP being released to the public for comment. After the TIP is approved by MPO and Governor, States will incorporate the TIP into their respective STIP without modification. States will submit their STIP to FHWA and FTA for approval and provide copies to the MPO.

- 13.4 MPO and States shall cooperatively develop all federal and state funded transportation projects on the States' highway systems in MPO's transportation management area for inclusion in MPO's TIP. The maintenance and operations program will be addressed in the TIP at a system level. The maintenance and operations program will be considered a planning estimate, reasonably expected to be available, but not a guarantee or specific commitment of maintenance dollars to be spent in MPO.
- 13.5 MPO will develop the process and timeline for project prioritization and selection for each TIP. States will participate in the development, review and approval of the project prioritization and selection process.
- 13.6 When amending a TIP, MPO will ensure that consistency with the current MTP and fiscal constraint are maintained. States will review and comment on draft TIP amendments for consistency with the STIP and fiscal constraint.
- 13.7 The Parties will report events that might have significant impact on the TIP as soon as they become known. These events or conditions include problems, delays, or adverse conditions that will materially affect the revenue, schedule or scope of a project. This disclosure will be accompanied by a statement of the action contemplated to resolve the situation.
- 13.8 States, in cooperation with MPO, will ensure all contract scopes for all projects using federal funds carried out within the MPA boundaries of MPO are consistent with MPO's TIP. States will provide budget reports on all open projects using federal funds carried out within the MPA boundaries of MPO upon request.

SECTION 14. ANNUAL LISTING OF OBLIGATED PROJECTS

In cooperation with States and operators of publicly operated transit services, MPO will develop an annual listing of obligated highway and transit projects requiring federal dollars from the preceding program year. The listing shall be consistent with information contained in the TIP.

SECTION 15. CORRIDOR OR OTHER MAJOR STUDIES

- 15.1 MPO may be the lead agency to conduct regional, multi-jurisdictional corridor or feasibility studies for roadways on the state highway system on behalf of States after discussion with, and agreement by, States.
- 15.2 MPO is responsible for maintaining and updating the regional transportation model for the arterial roadways within MPO's urbanized area. States will provide existing traffic count information in the form of annual average daily traffic (AADT) volume for all state highways within MPO's urbanized area. This information shall be taken into account by the MPO for model calibration and as data input for transportation planning products, such as traffic flow maps. The regional transportation model shall be updated to include new census information that is developed and published every ten years by the Census Bureau. States shall review MPO's model as it is being developed or updated to ensure model performance and consistency is achieved. MPO and States shall work cooperatively in the development and application of the regional transportation model.
- 15.3 MPO and States will share in the traffic counting responsibilities for roadways within MPO's urbanized area. Generally, MPO will perform traffic counts for roadways off the States' highway systems, and States will perform traffic counts for all roadways on the States' highway systems, including the interstate system. MPO and States agree that traffic counting services may be requested for roadways on the other entities' systems. This service may be requested due to an entity's current staffing and workload conditions or in cases where deadlines require this level of cooperation. MPO and States agree to perform traffic counts in accordance with current FHWA traffic data collection guidance.
- 15.4 As appropriate, MPO will participate in States' other transportation planning efforts within the MPO region. Additional transportation planning processes include but are not limited to:
 - States' Public Hearing and Project Approval Process
 - States' Corridor Study Process
 - Updates/revisions to the States' Highway Access Control Policy process

- Project environmental reviews (Environmental Assessments, Environmental Impact Statements, Categorical Exclusions, etc.)

SECTION 16. PERFORMANCE MEASURES

- 16.1 The Parties agree to consult with each other in the establishment of specific written provisions for developing and sharing information related to transportation and transit performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward obtainment of critical outcomes for the region of the MPO, and the collection of data for State asset management plans, pursuant to 23 C.F.R. 450.
- 16.2 The Parties agree that the technical provisions for Performance Measures will be cooperatively developed and specified through guidance provided by the States, such as the NDOT MPO Operating Manual and Iowa DOT UPWP development guidelines.

SECTION 17. DISPUTE RESOLUTION

The Parties will make every attempt to resolve differences at the appropriate staff level and in a timely manner. Differences not resolved at the staff level will be addressed by MPO's executive director and each States' Director. Policy issues not settled at the executive director and States' Director level will be taken to the FHWA/FTA level for resolution.

SECTION 18. AMENDMENT OR TERMINATION OF AGREEMENT

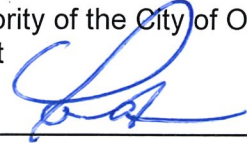
- 18.1 This MOA will be reviewed at least every four years. It may be amended, whenever deemed appropriate, by written agreement of all parties.
- 18.2 This MOA will be reviewed upon any revisions to applicable federal and state laws.
- 18.3 Parties to this MOA may terminate it by a 60-day written notice to the other parties. If this occurs, the Parties agree to consult further to determine whether the issues can be resolved and the agreement re-implemented in an amended form.

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IN WITNESS WHEREOF, the Parties hereby execute this Agreement pursuant to lawful authority as of the date signed by each party.

EXECUTED by Transit Authority this 18 day of OCTOBER, 2018.

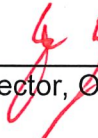
Transit Authority of the City of Omaha
Metro Transit



Executive Director

EXECUTED by Iowa Department of Transportation this 30TH day of NOV., 2018.

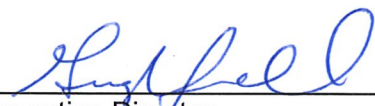
IOWA DEPARTMENT OF TRANSPORTATION
Craig Markley



Director, Office of Systems Planning

EXECUTED by MPO this 1st day of October, 2018.

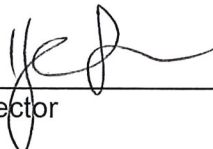
Omaha-Council Bluffs Metropolitan Area Planning
Agency (MAPA)
Greg Youell



Executive Director

EXECUTED by State this 11th day of Oct., 2018.

STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION
Kyle Schneweis, P.E.



Director