

**DRAFT MEMORANDUM OF UNDERSTANDING RELATING TO THE  
COMPREHENSIVE, CONTINUING, AND COOPERATIVE  
TRANSPORTATION PLANNING PROCESS FOR  
THE MERRIMACK VALLEY  
METROPOLITAN PLANNING ORGANIZATION**

By and Among the

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION  
MASSACHUSETTS DEPARTMENT OF TRANSPORTATION - HIGHWAY DIVISION  
MERRIMACK VALLEY PLANNING COMMISSION  
MERRIMACK VALLEY REGIONAL TRANSIT AUTHORITY  
CITY OF HAVERHILL  
CITY OF LAWRENCE  
REPRESENTATIVE FROM MVMPO SUBREGION 1  
REPRESENTATIVE FROM MVMPO SUBREGION 2  
REPRESENTATIVE FROM MVMPO SUBREGION 3  
REPRESENTATIVE FROM MVMPO SUBREGION 4

**WHEREAS**, the Massachusetts Department of Transportation (MassDOT) has the statutory responsibility, under Chapter 6C of the General Laws, to conduct comprehensive planning for and to coordinate the activities and programs of the state transportation agencies and the Office of Transportation Planning within MassDOT serves as the principal source of transportation planning in the Commonwealth and is responsible for the continual preparation of comprehensive and coordinated transportation plans and programs; and the MassDOT Highway Division has the statutory responsibility under Chapter 16 of the General Laws for the construction, maintenance and operation of state roads and bridges; and

**WHEREAS**, the 1962 Federal Highway Act, PL-87-146, established that the Secretary of Transportation and the States should cooperate in the development of long-range highway plans and programs of projects and that, in any urban area of more than 50,000 population, the program of projects developed must be based on a continuing, comprehensive transportation planning process that is carried on cooperatively by States and local communities, and in March 1975 Governor Dukakis designated that the Executive Office of Transportation, the Massachusetts Department of Public Works, the Merrimack Valley Planning Commission (MVPC) and the Merrimack Valley Regional Transit Authority (MVRTA) were the Council of Signatories for the Merrimack Valley Metropolitan Planning Organization (MVMPO); and

**WHEREAS**, the MVMPO region is comprised of the communities of Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, Newbury, Newburyport, North Andover, Rowley, Salisbury, and West Newbury; and

**WHEREAS**, the MVPC is recognized by the MVMPO as the officially designated regional planning agency for the Merrimack Valley region and as such has the official statutory responsibility for metropolitan planning and coordination including comprehensive planning and transportation planning, as provided for by Chapter 40B, of the General Laws. The MVPC is comprised of either a designee of the Mayor, Board of Selectmen, or Planning Board for each of the cities and towns that belong to the regional planning agency that covers the area of the MVMPO; and

**WHEREAS**, the Advisory Board of the MVRTA is comprised of the chief elected official or designee of the 16 cities and towns that have joined to form and manage a regional transit authority under the provisions of Chapter 161B of the Massachusetts General Laws. The MVRTA has the statutory responsibility for providing mass transportation on an exclusive basis in the area constituting the authority, to provide mass transportation service under contract in areas outside the authority, and to prepare a program for public mass transportation, which includes long- and short-range planning elements together with implementation schedules for mass transportation improvements; and

**WHEREAS**, the (then) Executive Office of Transportation and Construction (EOTC), and the (then) Massachusetts Department of Public Works (MDPW) and the MVPC signed a Memorandum of Understanding (MOU) on July 26, 1972, the EOTC, MDPW, MVPC and the MVRTA signed an MOU on June 19, 1976, the (then) Executive Office of Transportation and Public Works (EOTPW), the (then) MassHighway, the MVRTA and the MVPC signed an MOU on December 30, 1999, and another MOU on June 10, 2008 along with the Mayors of Lawrence, Haverhill and Amesbury and Selectmen from North Andover, Rowley and Salisbury, and the Massachusetts Department of Transportation (MassDOT), MVPC, the MVRTA, the Mayors of Lawrence, Haverhill and Selectmen from Georgetown, North Andover, Rowley and Salisbury approved an MOU on March 8, 2011 to agree to work together in undertaking the comprehensive, continuing, and cooperative transportation planning process (3C process), required by the United States Department of Transportation under the provisions of Section 134 of Title 23 of the United States Code, as amended, and those of Section 8 of Title 49 of the Federal Transit Act, as amended, and created the Merrimack Valley Transportation Committee (MVTC) to advise the MVMPO members on policy matters concerning transportation plans and programs, and to provide maximum public participation in the transportation planning and programming process; and

**WHEREAS**, the Governor of the Commonwealth of Massachusetts, **who originally designated the MVMPO in 1976**, in response to provisions of the Intermodal Surface Transportation Efficiency Act of 1991 (23 CFR Part 450 and 49 CFR Part 613) as amended, and its successors the Transportation Equity Act for the 21<sup>st</sup> Century of 1998 (TEA-21) signed into law as PL 105-178 on June 9, 1998, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) signed into law as PL 109-59 on August 10, 2005, the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) signed into law as PL 112-141 on July 12, 2012, the Fixing America's Surface Transportation Act (FAST Act) signed into law as PL 114-94 on December 4, 2015, and the Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law (BIL) signed into law as PL 117-58 on November 15, 2021 and rules and regulations related thereto, and in view **to his** responsibility for the transportation planning and programming process of the ten parties to this agreement **previously designated representatives from these Parties to be the MVMPO** and,

**WHEREAS**, Section 450.310(a) of Title 23 of the Code of Federal regulations provides that to the extent possible, there be one agreement containing the understanding required by this section with respect to cooperatively carrying out transportation and programming among the MPO, State, and publicly owned providers of public transportation services; and

**WHEREAS**, the members of the MPO recognize that transportation planning and programming must be conducted as an integral part of and consistent with the regional planning and development process, and that the process must involve the fullest possible participation by the state agencies, local governments, private institutions, other appropriate groups, and the general public;

**NOW THEREFORE**, the ten members of the MVMPO hereto jointly agree as follows:

#### **OBJECTIVES OF THE FEDERAL 3C TRANSPORTATION PLANNING PROCESS**

- The 3C process is *comprehensive*, including the effective integration of the various stages and levels of transportation planning and programming for the entire region and examining all modes to assure a balanced planning and programming effort;
- The 3C process is *continuing*, affirming the necessity to plan for the short and long range needs of the regional transportation system, emphasizing the interactive character of the progression from systems planning to project planning, programming, operations and implementation, and
- The 3C process is *cooperative*, requiring effective coordination among public officials at all levels of government, and inviting the wide participation of all parties, public or private, at all stages of the transportation planning process.
- This 3C process is multimodal and is intended to help provide the Region with the ability to maintain, manage and operate a multimodal transportation system that provides a high level of mobility and safety for people and freight, consistent with fiscal and environmental resources.

Nothing herein shall be deemed to prohibit the MVMPO from using, through contractual agreements, the staff resources of other local agencies to carry out selected elements of the planning process.

#### **MEMBERSHIP OF THE MERRIMACK VALLEY MPO**

The voting members of the MVMPO shall henceforth consist of the following **or their designees**:

- The Secretary of the Massachusetts Department of Transportation (MassDOT)
- The Administrator of the Highway Division of the Massachusetts Department of Transportation (MassDOT – Highway)
- The Chairperson of the MVPC
- The Chairperson of the MVRTA Advisory Board
- Mayor (or his/her designee) of the Cities of Lawrence and Haverhill
- One Designee of the Select Board and Mayors from each of the following subregions:
  - Subregion 1: Amesbury, Newburyport, and Salisbury
  - Subregion 2: Newbury, Rowley, and West Newbury
  - Subregion 3: Boxford, Georgetown, Groveland, and Merrimac
  - Subregion 4: Andover, Methuen, and North Andover

The process for selecting the four subregion representatives shall be initiated and implemented by the MVMPO Transportation Staff on behalf of the MVMPO. The Designees from the four MVMO Subregions will be selected through a cooperative process involving the chief elected officials in that Subregion. In choosing to designate a representative to act on their behalf, chief elected officials should consider individuals with an understanding of the transportation planning process.

Should two or more chief elected officials request a change in their Subregion's Designee, the current Designee for that Subregion will continue to serve in his/her position until a new Designee

can be selected and approved by the MVMPO. If no agreement can be reached on a new Designee, then the MVPC will select the Designee based on such factors as history of representation on the MVMPO, and/or proposed and programmed projects in the subregion.

The terms for the four Subregion members shall be two years and shall take effect on October 1<sup>st</sup>. Members shall serve until replacements are elected.

In addition to these voting members, the Chairperson of the MVTC, representatives of the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), Boston MPO, Northern Middlesex MPO, and in New Hampshire, the Rockingham Planning Commission MPO and Nashua MPO shall serve as ex-officio, nonvoting members of the MVMPO.

### **QUORUM**

Five MVMPO members must be present or represented for there to be a quorum and to vote on actions. Each MVMPO member may designate a person to represent such member at meetings of the MVMPO whenever the member is not present at a meeting.

### **VOTING**

For an MVMPO action to be approved, a simple majority of those members present must vote in the affirmative, provided that the MassDOT representative shall be included in the majority vote.

### **CHAIR AND VICE CHAIR**

The Chairperson of the MVMPO shall be the Secretary of MassDOT. The Vice-Chairperson of the MVMPO shall be elected from among the local and regional members of the Organization. The Vice-Chairperson shall be elected by all members of the MVMPO. The MVMPO may elect other officers as deemed necessary.

### **MEETINGS OF THE MVMPO**

The Chairperson is the official representative of the MVMPO. The Chairperson, or any three members of the MVMPO, is empowered to call meetings of the Organization.

The MVMPO may meet monthly to consider and endorse the Transportation Improvement Program, Long Range Metropolitan Transportation Plan, Unified Planning Work Program, Performance Management review of metrics and target setting, and other MPO documents.

MVMPO Meetings will be held virtually on the Fourth Wednesday of the monthly and will be publicly advertised. Robert's Rules of Order will be referenced to conduct the meetings and to resolve any procedural issues. Meetings may occur either in-person or can be accommodated in a virtual manner using an accessible software program such as Zoom or GoToMeeting, or in a combination of these two methods subject to the Open Meeting Laws of the Commonwealth. Further, if it is determined by the MVMPO Chair, in consultation with the MVMPO Transportation Staff, that the monthly meeting is not necessary, then the meeting can be cancelled.

### **FUNCTIONS OF THE MERRIMACK VALLEY METROPOLITAN PLANNING ORGANIZATION**

- The MVMPO shall perform all functions as required in federal or state laws and regulations including jointly developing, reviewing and adopting an annual Unified Planning Work Program for the region, as well as such documents as Modal Transportation Plans, the Metropolitan Transportation Plan, the Transportation Improvement Program and air quality conformity

determinations as may from time to time be required of the MVMPO by federal and state laws and regulations. In performing these tasks, the MVMPO will take the following actions:

### **Development of Financial Plans for MVMPO's Transportation Improvement Program and Metropolitan Transportation Plan**

At least once each federal fiscal year, MVMPO Transportation staff will meet with staff from MassDOT's Office of Transportation Planning and staff from the Massachusetts Offices of the Federal Highway Administration and Federal Transit Administration to review the financial assumptions that will be used in the development of the MVMPO's Transportation Improvement Program and, in every fourth year (or as otherwise required pursuant to state and federal requirements) its Metropolitan Transportation Plan.

Soon after that meeting, OTP and the MVRTA will provide the Transportation Planning Staff of the MVMPO with additional information that will allow staff to meet its requirements for developing a financial plan for the TIP that meets the requirements established in CFR 450.326(j) and for the Metropolitan Transportation Plan as outlined in CFR 450.324.(f)(11). These financial plans shall demonstrate how financial constraint is being met while being able to maintain and operate the existing highway and transit transportation networks.

### **Listing of Obligated Projects**

Pursuant to 23 CFR 450.314(a) and 23 CFR 450.334, early in each federal fiscal year (i.e., after October 1<sup>st</sup>), MassDOT's Office of Transportation Planning will provide MVMPO Transportation Planning Staff with a list of those roadway, bridge and other projects that received federal transportation funding obligations during the preceding federal fiscal year. This information will include the identification of the project, the amount of each obligation, the date that this obligation occurred, and any amounts remaining to be spent on the project.

For transit projects, early in each federal fiscal year the MVRTA will provide MVMPO Transportation Planning Staff with a list of those grants that were approved by the Federal Transit Administration in the preceding federal fiscal year **and the amount of funding that was obligated**. This information will include the name and number of the grant, the projects/activities that are included, and the date that the grant was approved by FTA.

MVMPO Planning Staff will then use the above information to prepare a report that briefly describes the projects that received federal funding obligations and includes a listing of these projects that contains the information described above as well as the amount of Federal funds requested in the TIP. This report will be posted to the MVPC Transportation Web Page by December 30<sup>th</sup>.

### **Performance Based Planning**

Under 23 CFR 450.314(h)(1), "...MPO(s), State(s), and 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...”

In Articles 1- 6 of the Performance-Based Planning and Programming Agreement between the MPOs in Massachusetts, the Regional Transit Authorities in Massachusetts, the MBTA and MassDOT concerning *The development of an agreement regarding mutual responsibilities in carrying out performance-based planning and programming among applicable metropolitan planning organizations, states, and public transportation operators* outlines the steps that each party must take to meet the performance-based planning and programming requirements in accordance with 23 CFT 450 and established federal guidance.

- The Merrimack Valley MVMPO shall be the forum for cooperative transportation decision making by officials of local government, regional transit authorities, regional commissions and state officials representing state transportation agencies. In this capacity, it will consider and recommend regionally significant studies, designs, permits and projects for the MVPC, MassDOT and MVRTA. Each MVMPO member may provide a list of significant projects it considers important and the MVMPO shall use this information as part of their consideration when developing recommendations for prioritizing significant planning and project programming activities in the region.
- In meeting the provisions of the federal 3C process, the MVMPO assumes the responsibility for the transportation planning process which may include; initiation of studies, evaluation and recommendation of transportation improvements and the programming of funds for transportation projects in the region for which funding is sought for implementation. While transportation studies may be conducted by other entities from time to time, the MVMPO shall monitor their progress and make the final decision for any regionally significant project to be included in the Regional Transportation Plan.
- The MVMPO shall appoint the committees it determines necessary to accomplish its business. Committees shall consist of MVMPO members, their designees, the MVTC, and transportation providers as appropriate. The MVMPO shall assign duties to the committees.

### **THE MERRIMACK VALLEY TRANSPORTATION COMMITTEE**

In order to provide for the accomplishment of the objectives of the 3C process, the MVMPO recognizes a special advisory committee known as the MVTC as the transportation policy advisory group for the Region.

The principal functions of the MVTC are:

- A. To advise the MVMPO on matters of policy affecting the conduct of the 3C transportation planning and programming process for the Region.
- B. To put forth recommendations on such regional transportation work activities, plans, studies, project priorities and financial constraints as may be required for the effective operation of the MVMPO.
- C. To provide maximum participation in the transportation planning and programming process by creating a forum and other opportunities to bring together officials of local government, public agencies, transportation providers, interest groups, and individuals experienced in economic

development, freight, commuter rail, smart growth, environmental issues, housing, regional planning and other interest groups and residents for open dialogue and the exchange of views on current transportation issues.

The membership of the Committee shall be selected in a manner that will provide for widely representative viewpoints and ensure a balanced consideration of transportation issues. Committee members from the MVMPO shall be appointed by the MVMPO; other members shall be appointed by an appropriate authority, Consistent with the provisions of this MOU, the Committee may adopt rules, bylaws and other procedures as necessary to facilitate its operation.

### **RESPONSIBLE AGENT FOR REGIONAL TRANSPORTATION PLANNING**

The MVPC shall be, by state designation and consistent with applicable federal transportation laws, the primary transportation planning staff for the MVMPO and serves as the principal source of transportation planning for local and regional transportation projects. The MVPC shall maintain a qualified staff of transportation professionals, subject to the availability of federal and state funds. It shall be responsible to the MVMPO for the maintenance of the 3C transportation planning process and shall conduct transportation planning on behalf of the MVMPO, including coordination of the sub-regional member selection process and staff support for the operation of the MVTC. The Executive Director of the MVPC is authorized to sign correspondences on behalf of and at the request of the MVMPO.

### **REVIEW OF THE MEMORANDUM**

This MOU supersedes the MOU of March 8, 2011, and shall become effective upon the date of the signatures of the Secretary of MassDOT, the Chairperson of the MVPC, the Chairperson of the MVRTA Advisory Board, the Mayors from Lawrence and Haverhill and the seated representative from each the four MVMPO Subregions.

The Signatories shall formally review the contents of this MOU every four years, with the advice of the MVTC, with the option to review it more often if needed, make appropriate changes as necessary and mutually agreeable. At the time of the review, the MOU and any proposed changes shall be circulated among all the mayors, Boards of Selectmen, and the city and town managers of the Region for their review.

### **AMENDMENT OF THIS MOU**

This MOU may be amended at any meeting of the MVMPO by a two-thirds majority, where at least a quorum of members is present and voting, and provided that a copy of the proposed amendment has been sent to all members at least 30 calendar days in advance of said meeting.

### **EXECUTION**

The undersigned recognize the complexity of the transportation planning and program process and will endeavor to ensure that all personnel involved in their jurisdiction will cooperate fully in carrying out the intent and provisions of this MOU, and any amendments or additions agreed to by the signatories. The MVMPO shall develop and adopt procedures, as necessary, to implement this MOU.

**CERTIFICATION OF THE MEMORANDUM OF UNDERSTANDING  
RELATING TO THE COMPREHENSIVE, CONTINUING, COOPERATIVE  
TRANSPORTATION PLANNING AND PROGRAMMING PROCESS FOR THE  
MERRIMACK VALLEY METROPOLITAN PLANNING ORGANIZATION**

This document certifies that the below signatories hereby endorse this MEMORANDUM OF UNDERSTANDING RELATING TO THE COMPREHENSIVE, CONTINUING, COOPERATIVE TRANSPORTATION PLANNING AND PROGRAMMING PROCESS FOR THE MERRIMACK VALLEY METROPOLITAN PLANNING ORGANIZATION

\_\_\_\_\_  
Jamey Tesler, Secretary  
Massachusetts Department of Transportation

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jonathan Gulliver, Administrator  
Massachusetts Department of Transportation Highway Division

\_\_\_\_\_  
Date

\_\_\_\_\_  
Allison Heartquist, Chairperson  
Merrimack Valley Regional Transit Authority Advisory Board

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Robert Snow, Chairman**  
Merrimack Valley Planning Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
Brian A. De Peña,  
Mayor of Lawrence

\_\_\_\_\_  
Date

\_\_\_\_\_  
James Fiorentini  
Mayor of Haverhill

\_\_\_\_\_  
Date

\_\_\_\_\_  
Neil Harrington, Town of Salisbury  
MPO Subregion 1 Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert Snow, Town of Rowley  
MPO Subregion 2 Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Cashell, Town of Georgetown  
MPO Subregion 3 Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Paul Materazzo, Town of Andover  
MPO Subregion 4 Representative

\_\_\_\_\_  
Date