

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

BY AND AMONG

**Denver Regional Council of Governments (DRCOG), Colorado Department of Transportation (CDOT) AND
the Regional Transportation District (RTD)**

Contents

RECITALS..... 1

A. PARTIES 3

B. APPLICABILITY 3

C. PURPOSE 3

D. PARTICIPANT RESPONSIBILITIES 3

E. GENERAL RESPONSIBILITIES AND PRODUCTS OF THE PLANNING PROCESS..... 3

 1. Unified Planning Work Program (UPWP) 4

 2. Regional Transportation Plan (RTP) 4

 3. Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) 4

 4. Annual Listing of Obligated Projects 5

 5. Air Quality Conformity Determinations 5

 6. Title VI, Public Involvement, and Limited English Proficiency (LEP) Plans 5

 7. Americans with Disabilities Act (ADA) 5

 8. Colorado Greenhouse Gas (GHG) Planning Standard 5

F. PERFORMANCE REGULATIONS..... 6

G. AMENDMENT, TERMINATION, AND SUPERSESSION OF AGREEMENT..... 6

H. DISPUTE RESOLUTION..... 6

ATTACHMENTS 6

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**Denver Regional Council of Governments (DRCOG), Colorado Department of Transportation (CDOT)
AND the Regional Transportation District (RTD)**

This Memorandum of Agreement (MOA) is made this 8th day of June 2023 by and among the Denver Regional Council of Governments (DRCOG), the Colorado Department of Transportation (CDOT) and the Regional Transportation District (RTD), and shall serve as the Metropolitan Planning Agreement (MPA) in accordance with 23 CFR Part 450.

RECITALS

WHEREAS, pursuant to federal statutes, and as a requirement for obtaining federal transportation funds, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have established regulations requiring each metropolitan area to utilize a continuing, cooperative, and comprehensive performance based multimodal transportation planning process; and

WHEREAS, federal statute and regulations require that the state and Metropolitan Planning Organization (MPO) have fully coordinated transportation planning processes with a minimum twenty-year planning horizon; and

WHEREAS, state statutes establish a coordinated statewide and regional transportation planning process that under CRS 43-1-1103(1) requires a minimum twenty-year transportation plan for each transportation planning region that includes the metropolitan area of an MPO; and

WHEREAS, DRCOG is the designated MPO for the Denver-Aurora Transportation Management Area (DRCOG TMA) pursuant to 23 USC 134 and 135 and 49 USC 5303 et seq. and continues to carry out its responsibilities in accordance with 23 CFR Parts 450, 420 and 490, CRS 43-1-1101-1105, 32-9-107.7, C.R.S.; and

WHEREAS, DRCOG is responsible for regional planning within a geographic area boundary that includes the entire geographic area of Adams, Arapahoe, Boulder, Clear Creek, Douglas, Gilpin and Jefferson Counties, the Cities and Counties of Broomfield and Denver, and a portion of southwest Weld County; and

WHEREAS, DRCOG conducts ozone conformity determinations for the Southern Subarea of the nine-county Denver Metro/North Front Range (DM/NFR) Nonattainment Area (NAA) that covers the full counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, and a portion of southern Weld County; and

WHEREAS, pursuant to Title 30, Article 28, Part 105, C.R.S., as amended, DRCOG is empowered to make and adopt regional plans for physical development 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 a regional planning commission and, as a council of general purpose local governments, limit DRCOG's ability under state and federal law to review and take action on all matters within the scope of its statutory responsibilities; and

WHEREAS, pursuant to Title 43-1-106, C.R.S., as amended, the powers and duties of the Colorado Transportation Commission include formulating general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state, advising and making recommendations to the Governor and the General Assembly relative to transportation policy, promulgating and adopting CDOT's budgets and programs, including construction priorities, and nothing contained in this MOA shall be construed to abrogate or delete the exercise of the statutory powers and duties of the Colorado Transportation Commission 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 Colorado Transportation Commission has authorized CDOT to implement Colorado Transportation Commission policy and direction and enter into all contracts and agreements with other units of government and to take such other actions as may be necessary to comply with federal laws and regulations; and

WHEREAS, the Board of Directors of RTD is empowered pursuant to Title 32, Article 9, C.R.S., as amended, to develop, maintain and operate a mass transportation system for the benefit of the inhabitants of the district, which powers include the adoption of a comprehensive plan for such system, and any amendments thereto, including the adoption of budgets for the development and operation of such mass transportation system and adherence to the requirements of 32-9-107.7, C.R.S. As specified by federal funding requirements, RTD holds public hearings to obtain input on planning, budgeting and scheduling. RTD is the Public Transit Operator within its geographical area, and is the designated recipient of federal mass transportation funds apportioned to the urbanized areas in the District, and nothing in this MOA shall be construed to abrogate the exercise of the statutory powers and duties of RTD as the appropriate entity under state and federal law to review and act on all matters within the scope of its statutory responsibilities; and

WHEREAS, pertinent federal regulations require an agreement between DRCOG, RTD, and CDOT that specifies the responsibilities for cooperatively carrying out transportation planning and programming, including activities related to transportation system performance; and

WHEREAS, it is the desire and intent of the parties to fulfill the pertinent federal requirements pursuant to this MOA, while recognizing and preserving the policies and statutory responsibilities of CDOT, RTD, and DRCOG.

NOW, THEREFORE, BE IT RESOLVED THAT the parties hereto do mutually agree as follows:

A. PARTIES

The parties to this agreement are DRCOG, governed by its Board of Directors, RTD, governed by its Board of Directors, and CDOT, governed by the Colorado Transportation Commission.

B. APPLICABILITY

This MOA applies to the continuing, cooperative and comprehensive performance based multimodal metropolitan transportation planning and programming process required for the DRCOG to be carried out in the Denver-Aurora Transportation Management Area (TMA) by 23 USC Section 134, 135, and 450 and 49 USC 5303, et seq., 43-1 Part 11, C.R.S., and 32-9-107.7, C.R.S., as implemented by the applicable regulations for the region to qualify for federal transportation funds and meet state regional transportation planning requirements.

C. PURPOSE

This MOA is established to define the specific roles and responsibilities of DRCOG, RTD, and CDOT for metropolitan transportation planning and programming within the boundaries of the TMA, to implement applicable statutes and regulations, and to ensure that a cooperative transportation planning and programming process is established among DRCOG, RTD and CDOT within DRCOG's metropolitan planning area.

The purpose of this document is to develop through a collaborative process a multimodal transportation system for the region that (1) supports the region's Metro Vision Plan and amendments thereto, (2) meets each party's planning needs, roles and responsibilities, and (3) addresses the needs of the public.

D. PARTICIPANT RESPONSIBILITIES

DRCOG, in cooperation with CDOT and RTD, is responsible for the metropolitan transportation planning and programming process within the boundaries of the DRCOG TMA. This responsibility includes preparing and adopting, in a manner consistent with this MOA, all required regional transportation plans (RTPs), transportation improvement programs (TIPs), and documents of the metropolitan transportation planning and programming process.

All parties agree to follow the policies, procedures, and responsibilities identified in this document. Further details are included in the *Framework for Transportation Planning in the Denver Region* document.

E. GENERAL RESPONSIBILITIES AND PRODUCTS OF THE PLANNING PROCESS

The Colorado Transportation Commission and CDOT have a continuing duty of performance based multimodal planning for the statewide transportation system, promulgating rules and regulations for the statewide transportation planning process, identifying potential transportation issues of statewide interest, reconciling conflicts between regional transportation plans and transportation improvement programs, and consolidating regional plans into a comprehensive statewide plan and statewide transportation improvement program. In carrying out its duties, CDOT will coordinate, cooperate, and partner with DRCOG and RTD on activities within the Denver planning region.

DRCOG is the agency responsible for performance based multimodal metropolitan transportation planning and programming for the Denver planning region pursuant to state and federal law and regulation. DRCOG will carry out its responsibilities with a process deemed appropriate by its Board of Directors and consistent with applicable laws and regulations. In carrying out its duties, DRCOG will coordinate and partner with RTD and CDOT on transportation planning and programming activities.

DRCOG, RTD and CDOT will coordinate on performance data, measures, targets and reporting mechanisms within the Denver planning region that are necessary to meet the requirements of federal statute and regulations as outlined in this MOA.

DRCOG, RTD and CDOT will coordinate, as appropriate, public involvement for regional and statewide transportation plans and TIPs. CDOT and RTD will coordinate their project prioritization and programming process with the DRCOG RTP and TIP development process to ensure CDOT and RTD projects identified for the TIP are consistent with the adopted RTP. Please see *Framework for Transportation Planning in the Denver Region, Fall 2022* for further details pertaining to all numbered elements under this section E General Responsibilities and Products of the Planning Process.

1. Unified Planning Work Program (UPWP)

The MPO in cooperation with the CDOT, and RTD shall develop UPWPs that meet the requirements of 23 CFR Part 420, subpart A. The UPWP documents the estimated expenditures and transportation planning activities to be performed within the metropolitan planning areas. The UPWP includes various tasks with descriptions, sources of funding, schedules, deliverables, identification of the lead agency, and the federal and matching funds. The UPWP is the basis for the consolidated planning grant (CPG) that provides the FHWA and FTA funds for planning activities and is implemented through a contract between the CDOT and the MPO.

2. Regional Transportation Plan (RTP)

DRCOG will develop and approve the fiscally constrained RTP at least as often as federally required and will establish a schedule and framework for its development in cooperation with CDOT and RTD. DRCOG will develop the RTP in consultation with federal and state officials responsible for planning affected by transportation. For the purpose of developing the RTP, DRCOG, CDOT and RTD shall cooperatively develop funding estimates that are reasonably expected to be available to support RTP implementation.

3. Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP)

DRCOG will develop and approve its TIP in cooperation with local members, RTD and CDOT. DRCOG will develop the TIP financial plan in cooperation with CDOT (consistent with Colorado Transportation Commission approved revenue projections and program distribution of federal and state funds) and RTD. DRCOG, in cooperation with CDOT and RTD, shall establish the TIP development schedule. CDOT and DRCOG will work cooperatively to synchronize the TIP, the STIP and the RTP to the extent possible.

4. Annual Listing of Obligated Projects

In cooperation with CDOT and RTD, DRCOG, no later than 90 calendar days following the end of the program year, shall develop an annual listing of obligated projects for which funds under 23 USC 23 CFR 450.334 or 49 USC Chapter 53 were obligated in the preceding program year, in accordance with 23 CFR 450.332. The listing shall be consistent with information contained in the TIP.

5. Air Quality Conformity Determinations

DRCOG is subject to the conformity determination procedures as outlined in the Colorado Air Quality Control Commission's (AQCC) Regulation No. 10 (Criteria for Analysis of Conformity, as amended); federal regulations 40 CFR Part 93 that set forth policy, criteria, and procedures for demonstration and assuring conformity of transportation related activities; and the most recent MOAs regarding air quality conformity determination procedures between DRCOG, Regional Air Quality Council (RAQC), Colorado Department of Public Health and Environment (CDPHE), and the North Front Range Metropolitan Planning Organization (NFRMPO).

6. Title VI, Public Involvement, and Limited English Proficiency (LEP) Plans

As a steward of federal funds, CDOT is required to monitor MPOs in Colorado for compliance with Title VI of the Civil Rights Act of 1964. DRCOG is subject to the FHWA and FTA Title VI program requirements, including the development of Title VI Plans, Public Involvement Plans, and LEP Plans, as described in Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, 23 CFR Part 200, FTA Circular 4702.1B and LEP Executive Order 13166.

7. Americans with Disabilities Act (ADA)

DRCOG, RTD and CDOT shall comply with their respective ADA requirements in both transit and highway planning programs, and with Section 504, 28 CFR Part 35, and other applicable ADA requirements. DRCOG, RTD and CDOT shall coordinate the ADA Transition Plan monitoring and identify the access and mobility needs of ADA populations in the planning process. DRCOG, CDOT, and RTD shall analyze the impacts to ADA populations when considering multimodal access and mobility performance improvements in regional and statewide transportation plans, TIPs and STIPs.

8. Colorado Greenhouse Gas (GHG) Planning Standard

As of January 30, 2022, the DRCOG became subject to the GHG Planning Standard and emissions modeling process pursuant to 2 CCR 601-22. The CDOT and DRCOG have entered into or will enter into a separate Intergovernmental Agreement regarding the execution of the DRCOG model and the Environmental Protection Agency Motor Vehicle Emission Simulator (MOVES) model as required pursuant to 2 CCR 601-22. Other DRCOG and CDOT obligations regarding modeling and GHG mitigations measures are contained in 2 CCR 601-22.

F. PERFORMANCE REGULATIONS

The performance-based planning process established in Moving Ahead for Progress in the 21st Century Act (MAP-21) and continued in Infrastructure Investment and Jobs Act (Bipartisan Infrastructure Act) (23 U.S.C 119) requires that DRCOG, CDOT, and RTD develop transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning. 23 USC 150(c) establishes requirements for performance measures and targets for safety, infrastructure condition, system performance, freight, transit asset management, and air quality. CDOT, DRCOG, and RTD shall jointly agree upon and develop specific targets related to transportation performance data. DRCOG and CDOT transportation plans shall include performance targets that address performance measures and standards and a system performance report. Plans requiring performance targets include:

- Long-Range Metropolitan transportation plans;
- Metropolitan Transportation Improvement Program (TIP);
- Statewide Transportation Improvement Program (STIP); and
- State asset management plans under the National Highway Performance Program (NHPP).

DRCOG, CDOT, and RTD will report to USDOT progress toward attainment of performance targets and critical outcomes, as established in 23 USC and requirements specified in 23 CFR 450 and 23 CFR 490. The parties will cooperatively develop and enter further Memorandums of Understanding (MOUs) to provide additional procedural details associated with each of the performance measures. These MOUs will be included in the Implementation Guidance as appendices to this MOA.

G. AMENDMENT, TERMINATION, AND SUPERSESSION OF AGREEMENT

This MOA will be reviewed at least every four years. It may be amended, whenever deemed appropriate, by written agreement of all parties.

Any party to this MOA may terminate it by providing 60-days' 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.

This agreement supersedes and replaces in its entirety the MOA between DRCOG, CDOT, and RTD dated May 28, 2018.

H. DISPUTE RESOLUTION

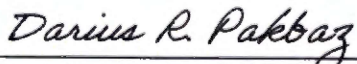
The parties to this MOA will make every attempt to resolve differences at the lowest staff level possible and in a timely manner. Differences not resolved at the staff level will be addressed at the executive director/general manager level. Policy issues not settled at the executive director/general manager level will be taken to the DRCOG Board of Directors, the Colorado Transportation Commission, and the RTD Board of Directors for resolution. It is good practice to share any resolution with FHWA and FTA staff.

ATTACHMENTS

- *Framework for Transportation Planning in the Denver Region, Fall 2022*

The undersigned parties hereby agree to the roles and responsibilities described in this document.

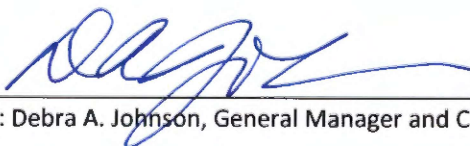
COLORADO DEPARTMENT OF TRANSPORTATION



By: Darius Pakbaz, Acting Division of Transportation (DTD) Director

Date: 07 May 2023

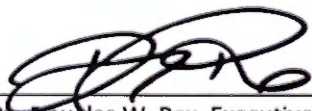
REGIONAL TRANSPORTATION DISTRICT



By: Debra A. Johnson, General Manager and CEO

Date: 06.08.2023

DENVER REGIONAL COUNCIL OF GOVERNMENTS



By: Douglas W. Rex, Executive Director

Date: April 20, 2023