

MEMORANDUM OF UNDERSTANDING  
FOR THE  
TRANSPORTATION SYSTEM PERFORMANCE-BASED  
PLANNING PROCESS

BY AND BETWEEN  
WEST VIRGINIA DEPARTMENT OF TRANSPORTATION,  
KYOVA INTERSTATE PLANNING COMMISSION (KYOVA)  
AND  
TRI-STATE TRANSIT AUTHORITY (TTA)

This Memorandum of Understanding (MOU) is made this 27<sup>th</sup> day of April by and between KYOVA, TTA and the West Virginia Department of Transportation (WVDOT) to document the institution of Performance-based Planning as required by the Moving Ahead for Progress in the 21st Century Act and the Fixing America's Surface Transportation (FAST) Act of 2015.

**WITNESS THAT**

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

**WHEREAS**, federal statute and regulations require that the State of West Virginia and the Metropolitan Planning Organizations (MPO) which is KYOVA have fully coordinated transportation planning processes with a minimum twenty-year planning horizon; and

**WHEREAS**, KYOVA is responsible for regional transportation and air quality (if applicable) planning on behalf of its member governments within a geographic area boundary that includes Cabell and Wayne Counties; and

**WHEREAS**, the pertinent federal regulations require an agreement between each MPO, the transit provider(s), and the State DOT that specifies the responsibilities for cooperatively carrying out transportation planning and programming, including activities related to transportation system performance;

**WHEREAS**, the federal regulations require that the MPO, public transit, and State DOT shall 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 attainment 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).

**WHEREAS**, it is the desire and intent of the parties to fulfill the pertinent federal requirements pursuant to this MOU, nothing in this MOU shall be construed as limiting or affecting the legal authorities of the parties or shall be construed as requiring the parties to perform beyond their respective authorities; and

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

**A. PARTIES**

The parties to this agreement are KYOVA, governed by the Policy Board, the TTA, and the WVDOT.

KYOVA has been designated the MPO policy body for the greater geographical area consisting of Cabell and Wayne Counties. The MPO is composed of representatives from cities, counties, citizens, public agencies, and public transportation agencies serving the area.

**B. APPLICABILITY**

This MOU applies to the continuing, cooperative, and comprehensive performance based multimodal metropolitan transportation planning and programming process required for KYOVA by current federal regulations, 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 MOU is established to define the specific roles and responsibilities of KYOVA, TTA, and the WVDOT for the Performance Measure process within the boundaries of the metropolitan planning area.

**D. PARTICIPANT RESPONSIBILITIES**

KYOVA, TTA, and the WVDOT hereby agree to carry out and actively participate in the continuing, cooperative, and comprehensive performance based multimodal metropolitan

transportation planning and programming process in accordance with applicable federal and state law and regulations.

## E. PERFORMANCE REGULATIONS

The Performance-based Planning process established in Moving Ahead for Progress in the 21st Century Act (MAP-21) and continued in Fixing America's Surface Transportation Act (FAST Act) requires that KYOVA, TTA, and the WVDOT develop transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning. Current and proposed federal regulations require the establishment of performance measures and targets for transit asset management, safety (both highway and proposed transit), infrastructure condition, system performance, freight, and air quality.

### 1. Developing and Coordinating Transportation Performance Data

- a. The MPO shall establish an agreement specifying that the MPO shall be a cooperating agency for Performance Measures with the transit agencies within its region. Each agency's responsibilities will be spelled out in the MPO's Prospectus as provided for in the May 2003 agreement establishing the MPO.
- b. The WVDOT, KYOVA, and TTA shall jointly coordinate to develop specific targets related to transportation performance data, and the respective agencies mutually agree to share all pertinent available data related to the development of required performance measures and plans among the parties. Examples of such data include but are not limited to crash data, traffic counts, travel times/speeds, socioeconomic data, transit ridership data, transit vehicle/equipment inventory, transit evaluation and identified hazards with the subsequent safety risk evaluation and mitigation, data inventories and infrastructure condition measures.
- c. WVDOT shall provide KYOVA with the statewide performance data (including the sharing and collection of data for the State asset management plan for the NHS) used in developing statewide targets (except for performance data for local transit safety plans; this information will be available from the transit organizations) and shall also provide KYOVA with subsets of the statewide data, based on their metropolitan planning area boundaries.
- d. If KYOVA chooses to develop their own target for any measure, the MPO shall provide the WVDOT with any supplemental data and analyses utilized in the target-setting process.

### 2. Selection of Transportation Performance Targets

- a. WVDOT shall develop draft statewide performance targets (except in the case of transit safety; transit safety performance targets will be developed by the transit organizations) in coordination with KYOVA when applicable. Coordination may

include in-person meetings, web meetings, conference calls, and/or email communication. KYOVA shall be given an opportunity to provide comments on statewide targets before final statewide targets are adopted.

- b. If KYOVA chooses to adopt targets for the MPO planning area for any performance measure, the MPO shall develop draft performance targets in coordination with the WVDOT. Coordination may include in-person meetings, web meetings, conference calls, and/or email communication. The WVDOT shall be provided an opportunity to provide comments on draft MPO performance targets prior to final approval by the respective Policy Board/Committee.

### 3. Reporting of Performance Targets

- a. WVDOT performance targets (including transit performance safety targets developed locally) shall be reported to FHWA and FTA, as applicable. KYOVA shall be notified via letter when WVDOT has reported the final highway statewide targets.
- b. KYOVA, in accord with the agreement documented in its Prospectus, shall work with the area's transit agencies and the WVDOT to establish transit asset management performance targets to be shared with interested parties.
- c. KYOVA performance targets shall be reported to the WVDOT.
  - i. For each target, KYOVA shall provide the following information no later than 180 days after the date the WVDOT or relevant provider of public transportation establishes performance targets, or the date specified by federal code, whichever comes first.
  - ii. A determination of whether KYOVA is 1) in agreement to plan and program projects to contribute toward the achievement of the WVDOT or relevant provider of public transportation performance target, or 2) setting a quantifiable target for that performance measure for the KYOVA planning area.
  - iii. If a quantifiable target is set for the KYOVA planning area, KYOVA shall provide any supplemental data and analyses used in the development of any such target.
  - iv. Documentation of the KYOVA target or support of the statewide or TTA target shall be provided in the form of a resolution.
- d. KYOVA and the WVDOT transportation plans amended or adopted after May 27, 2018 shall include performance measure targets that address the aforementioned areas of emphasis in current federal regulations. Reporting of targets and performance by the WVDOT and KYOVA shall conform to all current federal regulations. Plans requiring performance targets include but are not limited to:
  - Long-Range Metropolitan transportation plans;
  - Metropolitan Transportation Improvement Program (TIP);
  - Statewide Transportation Improvement Program (STIP);
  - State asset management plans under the National Highway Performance Program (NHPP);

- State Transit Asset management plans;
- Local transit agencies safety plans mandated by FTA; and
- System Performance Reports

4. Reporting of Performance to be Used in Tracking Toward Attainment of Critical Outcomes for the Region

- a. The WVDOT shall provide KYOVA with the highway statewide performance data used in developing statewide targets and shall also provide KYOVA with subsets of the statewide data, based on their planning area boundaries. Updates of this data shall include prior performance data. Transit statewide performance data used in developing the transit asset management are available to the MPOs from the WVDOT or from transit agencies. The transit safety data, developed locally for local transit safety plans, will be available from the local transit agency.
- b. KYOVA, TTA, and the WVDOT shall report to USDOT progress toward attainment of performance targets and critical outcomes, as established in and required by current federal regulations.

5. The Collection of Data for the State Asset Management Plan and Transit Asset Management Plan

- a. The WVDOT shall be responsible for collecting bridge and pavement condition data for the State asset management plan for the NHS.
- b. The WVDOT shall be responsible for collecting vehicle, equipment, and facility information for the Transit Asset Management Plan.

G. AMENDMENT, TERMINATION, AND SUPERSESSION OF AGREEMENT

This MOU shall be reviewed at least every four years, if needed. It may be amended, whenever deemed appropriate, by written agreement of all parties.

Any party to this MOU 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.

H. DISPUTE RESOLUTION

The parties to this MOU, along with FHWA and FTA staff, shall make every attempt to resolve differences at the lowest staff level possible and in a timely manner. Differences not resolved at the staff level shall be elevated to the executive director level. Policy issues not settled at the executive director level shall be taken to the KYOVA Policy Board and the West Virginia Department of Transportation for resolution.

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**AND**  
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*Note: Signatures appear on separate, multiple pages.*

**WEST VIRGINIA DEPARTMENT OF TRANSPORTATION (WVDOT)/WEST VIRGINIA DIVISION OF  
HIGHWAYS (WVDOH)**

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Tom Smith  
Secretary of Transportation/Highway Commissioner  
West Virginia Department of Transportation

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Date

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**KYOVA INTERSTATE PLANNING COMMISSION**

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Robert Pasley, Chairman  
KYOVA Interstate Planning Commission

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Date

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**TRI-STATE TRANSIT AUTHORITY**

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Paul E. Davis, CEO  
Tri-State Transit Authority

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Date