

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT, made as of the last day listed below, by and between the SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BUREAU OF AIR QUALITY (“SCDHEC BAQ”), the SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION (“SCDOT”), the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (“USEPA”), the FEDERAL HIGHWAY ADMINISTRATION (“FHWA”), the FEDERAL TRANSIT ADMINISTRATION (“FTA”), and the following Metropolitan Planning Organization(s) (“MPO(s)”):

ANDERSON AREA TRANSPORTATION STUDY (“ANATS”)
AUGUSTA REGIONAL TRANSPORTATION STUDY (“ARTS”)
CHARLESTON AREA TRANSPORTATION STUDY (“CHATS”)
COLUMBIA AREA TRANSPORTATION STUDY (“COATS”)
FLORENCE AREA TRANSPORTATION STUDY (“FLATS”)
GREENVILLE-PICKENS AREA TRANSPORTATION STUDY (“GPATS”)
GRAND STRAND AREA TRANSPORTATION STUDY (“GSATS”)
LOWCOUNTRY AREA TRANSPORTATION STUDY (“LATS”)
ROCK HILL – FORT MILL AREA TRANSPORTATION STUDY (“RFATS”)
SPARTANBURG AREA TRANSPORTATION STUDY (“SPATS”)
SUMTER AREA TRANSPORTATION STUDY (“SUATS”)

and collectively referred to hereinafter as the Parties.

RECITALS

WHEREAS, by entering into this Memorandum of Agreement (“Agreement” or “MOA”), the Parties intend to comply with Section 176(c) of the Clean Air Act (CAA), as amended (42 USC 7401 *et seq.*), and regulations under 40 CFR Part 93, Subpart A with respect to the conformity of transportation plans, programs, and projects that are funded, or approved by the United States Department of Transportation (USDOT) under 23 USC (Highways), or the Federal Transit Act, 49 USC 53; and

WHEREAS, 42 USC Section 7506(c), requires conformity determinations to ensure that transportation plans, programs, and projects funded or approved under 23 USC (Highways) or the Federal Transit Act, 49 USC 53 conform with State and Federal air quality implementation plans;

WHEREAS, EPA’s transportation conformity rule (40 CFR Parts 51 and 93) establishes the criteria and procedures for determining whether transportation plans, transportation improvement programs (TIPs), and federally funded or approved highway and transit projects conform to state air quality goals.

WHEREAS, 40 CFR parts 51 and 93 require that MPOs, State Departments of Transportation, the FHWA, and the FTA must make these conformity determinations on transportation plans and transportation improvement programs in nonattainment and maintenance areas for proposed projects in those areas before those projects are adopted, approved or accepted, and on projects before they are approved or funded; and

WHEREAS, EPA has stated it will “accept State conformity procedures in any form provided the State can demonstrate to EPA’s satisfaction that, as a matter of State law, the State has adequate authority to compel compliance with requirements of State conformity procedures.” 58 FR 62209, section V.C. ; and,

WHEREAS, EPA published the Transportation Conformity Rule Restructuring Amendments (“Conformity Restructuring” rule) on March 14, 2012 (77 FR 14979), which restructures two sections of the transportation conformity rule so that existing requirements apply for any NAAQS, including new or revised NAAQS promulgated in the future.” EPA July 2012 **Guidance for Transportation Conformity Implementation in Multi-Jurisdictional Nonattainment and Maintenance Areas**, p. 6

WHEREAS, all Parties to this MOA desire to comply with the aforementioned federal laws and regulations and comparable state and local laws and regulations intended to assure the conformity of activities to applicable implementation plans developed according to Part A, Section 110 and Part D of the CAA for the sections of the federal rule it covers (40 CFR 93.105, 93.122(a)(4)(ii), and 93.125(c)); and 40 CFR 93.

WHEREAS, the CAA, as amended (42 U.S.C. 7401, *et seq.*), requires the State of South Carolina to submit a revision to the *South Carolina Air Quality Implementation Plan*, also known as the State Implementation Plan (SIP) containing the interagency consultation procedures and enforceable commitments related to conformity of transportation plans, programs and projects in areas designated as air quality non-attainment or maintenance in order to conform to the purpose of the SIP to meet national ambient air quality standards; and,

WHEREAS, the CAA as amended (42 U.S.C. 7401, *et seq.*), specifically Sections 121, 174, and 176, 40 CFR, Part 93, Subpart A, Title 23 USC 134, and 23 CFR Part 450 Subpart C, require intergovernmental consultation (1) before findings of conformity for the plans, programs and projects are made, and (2) for the development and submittal of applicable implementation plan revisions; and,

WHEREAS, the CAA, as amended (42 U.S.C. 7401, *et seq.*) in Section 110(a)(2)(A) and (E) require SIP revisions to be enforceable under state law, and “in order for EPA to approve the implementation plan revision submitted to EPA under this Subpart, the plan revisions must address and give full legal effect to the following three requirements of Part 93, Subpart A: Sections 93.105, 93.122(a)(4)(ii) and 93.125(c)”; and,

WHEREAS, the MPOs were created by federal highway and transit statutes for the spending of federal highway or transit funds within the MPO boundaries and have the authority for planning, programming, and coordination of federal highway and transit investments,

NOW, THEREFORE, the parties intending to be legally bound agree as follows:

The Parties shall cooperatively support and implement the interagency consultation procedures contained herein in order to ensure that the plans, programs and projects adopted by the Parties conform to the purpose of the SIP to meet national ambient air quality standards for any applicable criteria pollutant.

It is further agreed and understood by each Party that:

1. The conformity of plans, programs, and projects funded under 23 U.S.C and the Federal Transit Act shall be determined pursuant to 42 U.S.C. Section 7401, *et seq.*); and as provided in 40 CFR Part 93 Subpart A, as amended; and pursuant to the “South Carolina Criteria and Interagency Consultation Procedures for the Determination of the Conformity of Transportation Plans, Programs, and Projects.”

2. This MOA will constitute a revision to the South Carolina SIP required by Section 176 of the CAA, and will govern interagency consultation requirements for transportation conformity determinations in the State of South Carolina.

3. This MOA addresses and gives full legal effect to the following three requirements of the Federal Transportation Conformity Rule, 40 CFR Part 93, Subpart A: (1) 40 CFR 93.105, which addresses consultation procedures; (2) 40 CFR 93.122(a)(4)(ii), which stipulates that written commitments to control measures that are not included in the transportation plan and TIP must be obtained prior to a conformity determination and that such commitments must be fulfilled; and (3) 40 CFR 93.125(c), which stipulates that written commitments to mitigation measures must be obtained prior to a positive conformity determination and that project sponsors must comply with such commitments.

4. Execution of this MOA by each Party shall be by signature of each Party's representative.

5. The provisions of this MOA shall be implemented through appropriate procedures, resolutions, or other means, in order to comply with the requirements of all Federal and State laws and regulations relating to the determination of conformity and the development of applicable implementation plan revisions. This MOA defines and delineates the roles, processes, and responsibilities of each signatory.

6. The following descriptions are intended to distinguish legal boundaries only. The MOA and associated exhibits are not valid for any portions outside of South Carolina. The term "MPO" refers to the policy board for the organization that is designated under 23 USC 134(d) and 49 USC 5303(d). Any change in the name, membership, or geographic distribution of these MPOs will not require a formal revision of the SC Transportation Conformity SIP. Documentation indicating a change in the name, membership, or geographic distribution will be submitted to each of the Parties, including EPA Region 4, for inclusion in the SC Transportation Conformity SIP. Description of Metropolitan Planning Organizations:

Columbia MPO - That portion of Kershaw, Lexington, Richland, and Calhoun counties distinctly defined and known as the Columbia Area Transportation Study (COATS).

Greenville MPO - That portion of Greenville, Laurens, Pickens, Anderson and Spartanburg counties distinctly defined and known as the Greenville-Pickens Area Transportation Study (GPATS).

Spartanburg MPO - That portion of Spartanburg County distinctly defined and known as the Spartanburg Area Transportation Study (SPATS).

Augusta-Aiken MPO - That portion of Richmond and Columbia counties in the State of Georgia and that portion of Aiken and Edgefield counties in the State of South Carolina distinctly defined and known as the Augusta Regional Transportation Study (ARTS).

Rock Hill-Fort Mill MPO - That portion of York and Lancaster counties distinctly defined and known as the Rock Hill-Fort Mill Area Transportation Study (RFATS).

Florence MPO - That portion of Florence and Darlington counties distinctly defined and known as the Florence Area Transportation Study (FLATS).

Anderson MPO - That portion of Anderson County distinctly defined and known as the Anderson Area Transportation Study (ANATS).

Charleston MPO - That portion of Berkeley, Charleston and Dorchester counties distinctly defined and known as the Charleston Area Transportation Study (CHATS).

Grand Strand MPO – That portion of Brunswick County in the State of North Carolina and that portion of Horry and Georgetown counties distinctly defined and known as the Grand Strand Area Transportation Study (GSATS).

Sumter MPO - That portion of Sumter County distinctly defined and known as the Sumter Area Transportation Study (SUATS).

Lowcountry MPO - That portion of Beaufort and Jasper Counties, including the Towns of Hilton Head Island and Bluffton distinctly defined and known as the Lowcountry Area Transportation Study (LATS).

South Carolina Criteria and Interagency Consultation Procedures for the Determination of the Conformity of Transportation Plans, Programs, and Projects

A. General Provisions

Pursuant to 40 CFR 93.105, this document provides for interagency consultation (federal, state, and local), resolution of conflicts and public consultation procedures. Consultation procedures shall be undertaken prior to making transportation conformity determinations and prior to adopting applicable *South Carolina Air Quality Implementation Plan*, also known as the State Implementation Plan (SIP) revisions.

B. Interagency Consultation Procedures: General Procedure

1. Representatives of the Metropolitan Planning Organizations (MPOs), the South Carolina Department of Health and Environmental Control (DHEC), the South Carolina Department of Transportation (SCDOT), and local publicly-owned transit agencies, not associated with the MPOs, shall collectively undertake an interagency consultation process in accordance with the procedures outlined herein with regional representatives of the United States Environmental Protection Agency (EPA), the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA) on the development of the applicable implementation plan, the list of transportation control measures (TCM) in the applicable implementation plan under 23 CFR 450.314, the transportation plan (TP), the Transportation Improvement Program (TIP), any revisions to the preceding documents, and associated conformity determinations.

2. For the purposes of regular consultation, the affected agencies shall include:

- a. MPOs (Metropolitan Planning Organizations) in non-attainment or maintenance areas;
- b. DHEC (South Carolina Department of Health and Environmental Control);
- c. SCDOT (South Carolina Department of Transportation);
- d. FHWA (Federal Highway Administration South Carolina Division Office);
- e. FTA (Federal Transit Administration);
- f. EPA Region 4 (Environmental Protection Agency); and,

g. Local publicly-owned transit agencies, not associated with the MPOs, in nonattainment or maintenance areas.

3. The MPO, as the lead transportation planning agency, shall have the primary responsibility in its designated non-attainment or maintenance area for developing the TP, the TIP, and for providing assistance for technical analyses by employing travel-demand modeling techniques, acquiring all necessary data, and coordinating these activities with agencies specified in Subsection B.2. The MPO shall work in consultation with SCDOT and local publicly-owned transit agencies, not associated with the MPOs, in developing these documents. The MPO shall be responsible for providing written notification of an initial meeting concerning transportation and related air quality issues to each of the affected agencies. Subsequent routine meetings will be agreed upon collectively by affected agencies. Scheduling changes shall be coordinated in a timely manner. The MPO or designee(s) shall be responsible for scheduling and coordinating meetings, preparing and transmitting agendas, and ensuring that meeting notes are taken and distributed. When the MPO is not the lead transportation planning agency, SCDOT shall have the same responsibilities as the MPO in fulfilling all applicable provisions of the consultative process and transportation conformity determinations.

4. The MPO shall notify each affected agency of all transportation planning activities for all federal and non-federal projects that are regionally significant and therefore need to be included in regional emissions analysis when estimating emissions from mobile sources in nonattainment and maintenance areas.

5. DHEC, as the state air quality lead agency, shall have primary responsibility for developing transportation-related SIPs, air quality modeling demonstrations, emissions inventories, and related activities. Transportation-related SIPs shall be prepared by DHEC with the assistance of the affected agencies. DHEC shall distribute documents to all affected agencies for review and comment. DHEC shall schedule public hearings to receive public comment on transportation-related SIPs. Comments and responses to comments shall be included in applicable SIP submittals to EPA.

6. For purposes of regular consultation, organizational representation shall be defined as follows:

- a. MPO, Executive Director or designee;
- b. DHEC, Environmental Quality Control Deputy Commissioner or designee;
- c. SCDOT, Secretary of Transportation or designee;
- d. FWHA, Division Administrator or designee;
- e. FTA, Regional Administrator or designee;
- f. EPA, Regional Administrator or designee; and,
- g. Local publicly-owned transit agencies.

7. Other specific roles and responsibilities of various participants in the interagency consultation process shall be as follows:

- a. The MPO, or SCDOT if there is no MPO for the area, shall be responsible for:
 - i. Developing transportation plans, projects, and TIPs;

- ii. The transportation impacts of TCMs;
- iii. Developing transportation and socioeconomic data and planning assumptions and providing such data and planning assumptions to DHEC for use in air quality analysis to determine conformity of transportation plans, TIPs, and projects;
- iv. Monitoring of regionally significant projects;
- v. Developing system- or facility- based or other programmatic (non-regulatory) TCMs;
- vi. Providing technical and policy input on motor vehicle emissions budgets;
- vii. Ensuring and coordinating the performance of transportation modeling for the purposes of generating the TIP or projects, regional emissions analyses and documentation of timely implementation of TCMs needed for conformity assessments;
- viii. Developing draft and final conformity determination documents for all transportation plans, programs, and projects; and,
- ix. Developing and maintaining a written plan specifying the timeframes for the submittal of projects to be considered for inclusion in the transportation plan, TIPs, and projects; ensuring the plan is readily accessible upon request by the public and interagency partners.

b. DHEC shall be responsible for:

- i. Developing emissions inventories;
- ii. Developing emissions budgets;
- iii. Conducting air quality and emissions modeling;
- iv. Composing attainment demonstrations;
- v. Revising control strategy implementation plan;
- vi. Implementing regulatory TCMs; and,
- vii. Compiling motor vehicle emissions factors.

c. The SCDOT shall be responsible for:

- i. Developing statewide transportation plans and Statewide Transportation Improvement Programs (STIPs);
- ii. Providing technical input on new and proposed revisions to motor vehicle emissions budgets;
- iii. Distributing draft and final project environmental documents to other agencies;
- iv. Convening air quality technical review meetings on specific projects when requested by other agencies, or as needed;
- v. Developing updated motor vehicle emissions estimates and projections; and,
- vi. Choosing and evaluating transportation models and associated methods and assumptions to be used in hot spot and regional emissions analyses.

d. The FHWA and FTA shall be responsible for:

- i. Ensuring timely action on final findings of conformity, after consultation with other agencies;
- ii. Providing guidance on conformity and the transportation planning process to agencies in interagency consultation; and,
- iii. Reviewing, commenting on, and approving conformity determinations.

e. The EPA shall be responsible for:

- i. Reviewing motor vehicle emissions budgets in submitted SIPs and finding them adequate or inadequate based on adequacy criteria and procedures;
- ii. Providing guidance on conformity criteria and procedures to agencies in interagency consultation;
- iii. Approving or disapproving submitted SIP revisions (including TCMs);

iv. Providing modeling and emission inventory development assistance to the SCDOT, DHEC, and MPO; and,

v. Providing comments on the regional emissions analyses and conformity determinations of transportation plans, TIPs, and projects.

f. The local publicly-owned transit agencies, not associated with the MPOs, in nonattainment or maintenance areas shall be responsible for:

i. Supporting and conducting, as necessary, the transportation planning activities for public transportation service including transit operations; and,

ii. Providing the MPO with the information necessary for annual endorsement of Federal Transit Administration programs.

8. Before adoption and approval of conformity analyses prepared for transportation plans, TIPs, and projects, the MPO and/or SCDOT, as the lead transportation planning agency, shall distribute a final draft of the documents, including supporting technical materials, to the affected agencies for review and comments. Affected agencies shall review and submit written comments to the lead agency within thirty (30) calendar days. The lead agency shall respond to written comments made by the affected agencies on transportation plans, TIPs, projects, or SIPs in writing within thirty (30) calendar days of receipt of such comments. Comments and responses to comments shall be distributed for review by all affected agencies. Following resolution of all significant issues, final documents shall be revised accordingly and submitted to the designated lead agency for formal adoption and approval.

9. Meetings of the group of affected agencies shall convene for the specific purpose of considering issues with regard to the conformity of transportation plans, TIPs, and projects with the transportation conformity SIP. The frequency of these meetings shall be determined jointly by the specified transportation and air quality lead agencies. Affected agencies shall meet on a regular basis, at least quarterly, unless the lead agencies determine there is a need for an earlier meeting or, alternatively, that there is no need for the regularly-scheduled meeting. Based upon comments received and in coordination with the MPO, the lead agency may schedule a meeting where consultation with all affected agencies concerned can be accomplished simultaneously for the resolution of comments and issues. All meeting agendas, notes and call logistics are the responsibility of the MPO or designee(s).

10. Where TCMs are to be included in applicable SIPs in urbanized non-attainment or maintenance areas, a list of TCMs shall be selected and developed by the MPO in cooperation with other affected agencies. This list of TCMs shall be maintained and distributed to all cooperating agencies by DHEC after its review and consultation with the MPO. The list of TCMs shall be made available for inspection or copying for all interested persons and agencies.

C. Interagency Consultation Procedures: Specific Processes

1. An interagency consultation process in accordance with Subsection B involving the MPO, DHEC, SCDOT, EPA, and FHWA or FTA shall be undertaken for the following:

a. Evaluating and choosing a model(s) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses;

b. For purposes of regional emissions analysis, the MPO shall actively consult with the affected agencies to determine which minor arterials and other transportation projects should be considered “regionally significant” projects (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway

travel as defined by 40 CFR 93) and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. Prior to initiating any final action on these issues, the MPO shall consider the views of each agency that comments or responds in writing prior to any final action on these issues. If the MPO receives no comments within thirty (30) calendar days, the MPO may assume consensus by the affected agencies;

c. The MPO shall submit a list of exempt projects to affected agencies to evaluate whether projects otherwise exempted from meeting the requirements of 40 CFR Part 93 Subpart A (see Sections 93.126 and 127) should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason. The MPO shall allow thirty (30) calendar days for comments;

d. The MPO and/or SCDOT, in consultation with the affected agencies shall make a determination, as required by 40 CFR 93, whether past obstacles to implementation of TCMs that are behind the schedule established in the applicable implementation plan have been identified and are being overcome and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

e. The MPO and/or SCDOT, in consultation with the affected agencies, shall identify projects located at sites in PM₁₀ and PM_{2.5} nonattainment and maintenance areas and require a hot-spot analysis (except where a categorical hotspot finding has been made);

f. The MPO shall notify the affected agencies of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR 93 and allow a thirty (30) day comment period; and,

g. The SCDOT, in consultation with the affected agencies, shall cooperatively choose the appropriate conformity test(s) and methodologies for use in isolated rural non-attainment and maintenance areas, as required by 40 CFR 93 and for any non-attainment or maintenance area for which an emissions budget has not been developed and approved.

2. In accordance with Subsection B, an interagency consultation process involving the MPO, DHEC and SCDOT shall be undertaken for the following:

a. The MPOs, SCDOT, and DHEC, in cooperation with the affected agencies, shall evaluate events that will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93; and,

b. The MPOs, SCDOT, and DHEC, in cooperation with the affected agencies, shall consult on regional emissions analysis for transportation activities that cross the borders of MPOs or nonattainment areas and define the respective responsibilities for each MPO.

3. For the purposes of determining the conformity of all projects outside the metropolitan planning area, but within the nonattainment or maintenance area, the MPO and SCDOT will work together to cooperatively plan and analyze projects so that transportation conformity requirements are met.

4. In accordance with Subsection B:

a. An interagency consultation process involving the MPO, DHEC, SCDOT, and recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws shall be undertaken to:

i. ensure that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including all those by recipients of funds designated under Title 23 U.S.C. or the Federal Transit Laws, are disclosed to the MPO on a regular basis (as defined by Subsection B.7.a.ix); and,

ii. ensure that any changes to those plans are immediately disclosed.

b. The sponsor of any such regionally significant project, and any agency that becomes aware of any such project through applications for approval, permitting or funding or otherwise, shall disclose such project to the MPO in a timely manner (as defined by Subsection B.7.a.ix). Such disclosure shall be made not later than the first occasion on which any of the following actions is sought:

i. Any policy board action necessary for the project to proceed;

ii. Issuance of administrative permits for the facility or for construction of the facility;

iii. Execution of a contract to design or construct the facility;

iv. Execution of any indebtedness for the facility;

v. Any final action of a board, commission or administrator authorizing or directing employees to proceed with design, permitting or construction of the project; or,

vi. The execution of any contract to design or construct or any approval needed for any facility that is dependent on the completion of the regionally significant project.

c. To help assure timely disclosure, the sponsor of any potential regionally significant project shall disclose to the MPO within thirty (30) calendar days of acknowledgment of each project for which alternatives have been identified through the National Environmental Policy Act (NEPA) process, and in particular, any preferred alternative that may be a regionally significant project.

d. In the case of any such regionally significant project that has not been disclosed to the MPO and other interested agencies participating in the consultation process in a timely manner, such regionally significant project shall be deemed:

i. Not to be included in the regional emissions analysis supporting the currently conforming plan and TIP's conformity determination; and,

ii. Not to be consistent with the motor vehicle emissions budget in the applicable implementation plan.

e. For the purposes of the procedures outlined herein "approve" of a regionally significant project means:

i. The first time any action necessary to authorizing a project occurs, such as any policy board action necessary for the project to proceed;

ii. Issuance of administrative permits for the facility or for construction of the facility;

iii. Execution of a contract to construct the facility;

iv. Any final action of a board, commission or administrator authorizing or directing employees to proceed with construction of the project; or,

v. Any written decision or authorization from the MPO that the project may be adopted.

5. In accordance with Subsections B and C.4, the MPO and other recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, shall cooperatively assume the location, design concept, and scope of projects that are disclosed to the MPO but whose sponsors have not yet decided these

features in sufficient detail to perform the regional emissions analysis according to the requirements of 40 CFR 93.

6. Prior to making a conformity determination on a transportation plan or TIP, the MPO shall not include emission reduction credits from any control measures that are not included in the transportation plan or TIP and that do not require a regulatory action in the regional emissions analysis used in the conformity analysis unless the MPO, FHWA or FTA obtains written commitments, as defined in 40 CFR 93.101, from the appropriate agencies to implement and fulfill those control measures, as required by 40 CFR 93.122(a)(4)(ii).

7. The MPO, in accordance with Subsection B, shall notify DHEC, SCDOT, and local transportation agencies not associated with the MPOs, and shall seek their input for the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys).

8. Prior to making a conformity determination on the transportation plan or TIP, the MPO shall ensure any project-level mitigation or control measures are included in the project design concept and scope and are appropriately identified in the regional emissions analysis used in the conformity analysis. Prior to making a project-level conformity determination, written commitments will be obtained before such mitigation or control measures are used in a project-level hot-spot conformity analysis, as required by 40 CFR 93.125(c).

9. In accordance with 40 CFR 93.125(c), prior to making a project-level conformity determination for a transportation project, FHWA/FTA shall obtain from the project sponsor and/or operator written commitments, as defined in 40 CFR 93.101, to implement any project-level mitigation or control measures in the construction or operation of the project identified as conditions for NEPA process completion. The written commitments to implement those project-level mitigation or control measures shall be fulfilled by the appropriate agencies.

10. Within fifteen (15) calendar days subsequent to approval and adoption of final documents, including transportation plans, TIPs, conformity approvals, applicable implementation plans and implementation plan revisions, the lead agency (that is, DHEC, the MPO, or SCDOT) shall provide copies of such documents and supporting information to all affected agencies.

D. Resolving Conflicts

1. Any conflicts among state agencies or between state agencies and an MPO shall be escalated to the Governor of South Carolina (Governor), or the Governor's designee, if the conflict cannot be resolved by the heads of the involved agencies.

2. In the event that the affected agencies and MPO determine that every effort has been made to address concerns and no further progress is possible, the dissenting party shall notify the representative of DHEC, as defined in Subsection B.6.; citing 40 CFR 93 in any notification of a conflict which may require action by the Governor.

3. Conflicts among State agencies or between State agencies and an MPO shall be escalated to the Governor, or the Governor's designee, if the conflict cannot be resolved by the heads of the involved agencies. DHEC has fourteen (14) calendar days within which to appeal a proposed determination of conformity (or other policy decision under this agreement) to the Governor after the MPO or SCDOT has notified DHEC of the resolution of all comments on such proposed determination of conformity or policy decision. Such fourteen (14) day period shall commence when the MPO or SCDOT has confirmed receipt

by DHEC of the resolution of DHEC's comments. If DHEC appeals to the Governor, the final conformity determination must have the concurrence of the Governor, or the Governor's designee. DHEC must provide notice of any appeal under this Subsection to the MPO and SCDOT. If DHEC does not appeal to the Governor within fourteen (14) calendar days, the MPO or SCDOT may proceed with the final conformity determination.

4. The Governor may delegate his or her role in this process, but not to the head or staff of DHEC, SCDOT, State transportation commission or board, or an MPO.

E. Public Consultation Procedures

1. MPOs and other agencies making conformity determinations, transportation plans, and TIPS shall ensure those plans are consistent with the requirements of 23 CFR 450.316(a) and 40 CFR 93.105(e). In particular, there shall be reasonable public access to technical and policy information considered by the Parties at the beginning of the public comment period and prior to taking formal action on a transportation plan or TIP conformity determination. The opportunity for public involvement provided under this Subsection shall include access to information, emissions data, analyses, models and modeling assumptions used to perform a conformity determination. Any charges imposed for public inspection and copying of conformity-related materials shall be consistent with the South Carolina Freedom of Information Act, S.C. Code Ann. section 30-4-10 *et seq.* (2007 & Supp. 2013).

2. After the completion of the public comment period, the comments received from the public on the conformity analysis, shall be addressed in the final report and may be raised in an additional meeting between the Parties. Comments may be addressed individually or in summary form at the discretion of the MPO. Parties must specifically address in writing all public comments that plans for regionally significant non-FHWA/FTA projects are not properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP.

3. If the Parties disagree about the conclusions of the analysis, the MPO may convene a meeting or consult with the Parties to consider and discuss the comments and determine whether further conformity-related analysis is needed.

4. No transportation plan, TIP, or project may be found to conform unless the determination of conformity has been subject to a public involvement process in accordance with this Subsection, without regard to whether the DOT has certified any process under 23 CFR 450.

F. General Provisions

1. The Recitals are incorporated herein and made part of this MOA.

2. Terms used but not defined in this MOA shall have the meaning given to them by the Clean Air Act, Title 23 and Title 49 United States Code, 40 CFR 93.101, other EPA regulations, or other USDOT regulations, in that order of priority.

3. This MOA does not vest or create rights in third persons who are not parties to the MOA and this MOA shall not serve as the basis for any third party challenge or appeal. Third persons do not have the right to enforce this MOA. The obligations of the Parties under this MOA are contingent on the availability of funding.

4. Modification of this MOA must be by written amendment signed by all Parties to the MOA.

5. Any Party seeking to withdraw from this MOA, must notify the other Parties in writing thirty (30) days before withdrawal.

6. This MOA may be executed in counterparts. A copy with all original executed signatures shall constitute the original MOA. The MOA will be effective once all Parties have signed.

IN WITNESS WHEREOF, the Parties to this MOA have executed this **AGREEMENT** intending to be bound by it.

Signatures to Follow

Anderson Area Transportation Study

By: *Mayor Terrance Roberts*

Title: *Chairman of ANATS Policy*

Date: *April 6, 2015*

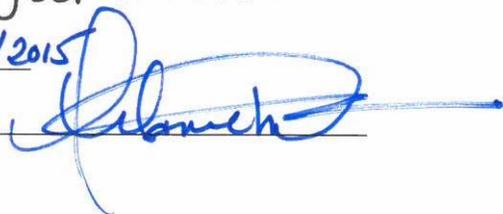
Signature: 

Augusta Regional Transportation Study

By: *Melanie Wilson*

Title: *Project Director*

Date: *3/9/2015*

Signature: 

Charleston Area Transportation Study

By: Michael J. Heitzler

Title: CHATS chairman

Date: 4/20/15

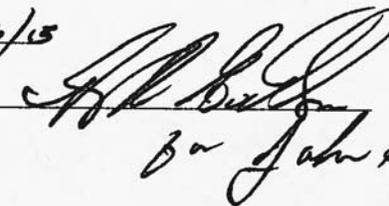
Signature: 

Columbia Area Transportation Study

By:

Title: Vice Chairman for Chairman

Date: 2/26/15

Signature:  vice chairman
for John Hood

Florence Area Transportation Study

By: HUGH K. LEATHERMAN, SR.

Title: CHAIRMAN

Date: 7/8/15

Signature: 

Grand Strand Area Transportation Study

By: Rep. Nelson L. Hardwick

Title: Policy Committee Chairman

Date: 1/30/15

Signature: 

Greenville-Pickens Area Transportation Study

By: Keith Brockington

Title: Executive Director, GPATS

Date: 3/16/2015

Signature: 

Lowcountry Area Transportation Study

By: Lisa Sulka

Title: Policy Committee Chair

Date: 6/26/15

Signature: 

Rock Hill-Fort Mill Area Transportation Study

By: DANNY FOWDERBUNK

Title: RFATS VICE CHAIRMAN

Date: 1-23-15

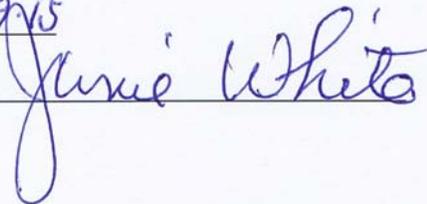
Signature: 

Spartanburg Area Transportation Study

By: Junie White

Title: Chair, SPATS MPO

Date: 2-9-15

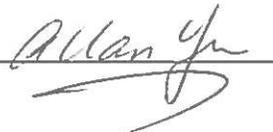
Signature: 

Sumter Area Transportation Study

By: Allan Yu

Title: Senior Transportation Planner

Date: 1/12/2015

Signature: 

**South Carolina Department of Health and
Environmental Control**

By: Elizabeth A. Dieck

Title: Dir. of Envi. Control

Date: 6/29/15

Signature: Elizabeth A. Dieck

South Carolina Department of Transportation

By: Janet P. Oakley

Title: Secretary of Transportation

Date: 5/22/2015

Signature: Janet P. Oakley

**Federal Highway Administration South Carolina
Division Office**

By: RICHARD E. BACKLUND

Title: ACTING DIVISION ADMINISTRATOR

Date: 3/5/15

Signature: Richard E. Backlund

Federal Transit Administration

By: Yvette G. Taylor

Title: Regional Administrator

Date: 3-13-15

Signature: Yvette G. Taylor

United States Environmental Protection Agency

By:

Title:

Date: SEP 7 1 2015

Signature: Heather McInerney