

## **A Memorandum of Understanding Among Public Transportation Providers in the Fayetteville, North Carolina Urbanized Area**

THE CITY OF FAYETTEVILLE, THE COUNTY OF CUMBERLAND, THE COUNTY OF HARNETT, THE COUNTY OF HOKE, AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION IN COOPERATION WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION

### **WITNESSETH:**

WHEREAS, the City of Fayetteville is recognized by the U.S. Department of Commerce ("USDOC") as an urbanized area; and

WHEREAS, the U.S. Department of Transportation, Federal Transit Administration ("FTA") provides federal financial assistance to provide public and specialized transportation to all areas of North Carolina; and

WHEREAS, the United States Congress authorizes public and specialized transportation funding based on urbanized and nonurbanized area status; and

WHEREAS, the urbanized area boundary extends into the surrounding Counties of Cumberland, Harnett, and Hoke Counties and allocation of federal financial assistance for the Fayetteville Urbanized Area is based, in part on the urbanized area residents of these Counties and these areas are parties to a Memorandum of Understanding for Cooperative, Comprehensive, and Continuing Transportation Planning with the Fayetteville Area Metropolitan Planning Organization ("FAMPO"); and

WHEREAS, the City of Fayetteville and the Fayetteville Area System of Transit ("FAST") is the designated recipient of funding for urbanized areas under 49 U.S.C. § 5307, Urbanized Area Formula Program, in accordance with the planning process under 49 U.S.C. §§ 5303 and 5304, by the governor of a state, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts federal transit financial assistance to urbanized areas of 200,000 or more in population; and

WHEREAS, the County of Cumberland, the County of Harnett, and the County of Hoke may receive federal financial assistance under 49 U.S.C. § 5307, Urbanized Area Formula Program, as a direct recipient or as a subrecipient to a designated recipient; and

WHEREAS, population growth and expansion of the urbanized area boundary will increase the urbanized population of all entities in the urbanized area as a result of the most recent decennial census; and

WHEREAS, the City of Fayetteville, as the designated recipient of Urbanized Formula Program funds, may at its discretion choose to pass its grant funds through to another entity (subrecipient) to carry out a project eligible under Section 5307;

NOW THEREFORE, in consideration of the mutual benefits afforded to each party, the parties agree as follows:

**1. Status of Recipients of Federal Transit Financial Assistance**

1.1. The City of Fayetteville is and shall remain as the designated recipient of FTA funds. After the consideration by the County of Cumberland, the County of Harnett, and the County of Hoke, these entities have opted not to become direct recipients of federal financial assistance administered by FTA under 49 U.S.C. § 5307 and 49 U.S.C. § 5339.

1.2. The County of Cumberland, the County of Harnett, and the County of Hoke agree to benefit from federal transit financial assistance as a subrecipient, as defined in 2 CFR § 200.93 and FTA Circular 9030.1E, Chapter II, § 8b, to the City of Fayetteville.

1.3. The City of Fayetteville will serve as the designated recipient of federal financial assistance and will enter into pass-through agreements, as defined in 2 CFR. § 200.74, with the subrecipients.

**2. Allocation of Funding**

2.1. Consistent with Section 5.7 of the Memorandum of Understanding for the Cooperative, Comprehensive, and Continuing Transportation Planning, dated 2021, FAMPO, in consultation with the parties to this Memorandum, shall be responsible for the approval and distribution of federal transit funds.

2.2. The City of Fayetteville, as designated recipient, and FAMPO shall jointly determine the sub-area allocation fairly and rationally through a process based on local needs and agreeable to the designated recipient.

2.3. FAMPO shall approve a methodology for the distribution of funding that may incorporate factors used by FTA to apportion 49 U.S.C. § Section 5307 funds and other factors necessary to ensure an equitable distribution of funds. The City of Fayetteville shall provide documentation to FTA showing how the 5307 allocation will be split among the grant recipients.

2.4. Nothing in this Memorandum of Understanding obligates either the County of Cumberland, the County of Harnett, or the County of Hoke to seek or receive funding under 49 U.S.C. § 5307 as a pass-through subrecipient to the City of Fayetteville. In the event a County opts not to seek funding, the County shall provide written notification to FAMPO and the City of Fayetteville of this decision. In these instances, funds allocated to the entity that does not seek funding shall revert to the City of Fayetteville.

2.5. If a County agrees to receive Section 5307 funding through a pass-through agreement with the City of Fayetteville, the County further agrees:

2.5.1. To comply with the terms and conditions of the Federal Transit Administration's Master Agreement Version 28, or any updates thereto, which applies to all projects financed with federal funds;

- 2.5.2. To maintain current plans or programs for all FTA civil rights requirements, including but not necessarily limited to:
  - 2.5.2.1. Title VI program; and
  - 2.5.2.2. EEO program (if the subrecipient employs more than 50 public transit employees and receives more than \$1 million in FTA financial assistance from all sources);
- 2.5.3. To submit a program of projects annually to the City of Fayetteville detailing how each County plans to expend the FTA grant funds distributed to that County in the coming fiscal year for purposes of preparing the annual grant application. If no program of projects is submitted by a County for two (2) consecutive years, the City of Fayetteville shall provide notice and may suspend FTA fund distribution to that County until an eligible program of projects is submitted and approved.
- 2.5.4. To provide all required funds to meet the local matching requirements in the subrecipient agreement.

### **3. Oversight**

- 3.1. The County of Cumberland, the County of Harnett, and the County of Hoke acknowledge as a subrecipient of funds, the entities will be subject to periodic oversight by the designated recipient to ensure compliance with applicable laws and regulations, consistent with the requirements of 2 CFR § 200.331 and FTA Circular 9030.1E.
- 3.2. The City of Fayetteville, or its designate, will conduct periodic oversight of any subrecipient. As the designated recipient, the City, upon discovery of an instance of non-compliance, shall develop a corrective action plan and schedule for the subrecipient to remedy the compliance deficiency.
- 3.3. In the event the subrecipient fails to correct the compliance deficiency within the required schedule, the City of Fayetteville shall notify the subrecipient and provide an opportunity to cure the deficiency. A minimum of 30 additional days from the date of notification shall be provided to the subrecipient to cure the deficiency.
- 3.4. If the subrecipient fails to cure the deficiency, the City of Fayetteville may temporarily suspend payments due to the subrecipient pursuant to the pass-through agreement until the subrecipient corrects the deficiency.

### **4. Access to Records**

- 4.1. The County of Cumberland, the County of Harnett, and the County of Hoke shall retain and shall provide access to records related in whole or in part to the pass-through award agreement, including, but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

4.2. The County of Cumberland, the County of Harnett, and the County of Hoke shall retain records described in Section 4.1 for three years after the City of Fayetteville has submitted its last or final expenditure report to FTA, and other pending matters are closed.

## **5. Funds Provided by the North Carolina Department of Transportation**

5.1. Nothing in this Memorandum shall be construed to limit the ability of the County of Cumberland, the County of Harnett, and the County of Hoke to seek and receive funding under 49 U.S.C. § 5311, 49 U.S.C. § 5310, or U.S.C. § 5339 apportioned to the North Carolina Department of Transportation for distribution to rural areas.

## **6. Option to Participate**

6.1. Participation in this Memorandum of Understanding is at the discretion of the individual parties to this agreement. A decision to opt-out of participation in this Memorandum shall not abridge the rights of other parties to carry out this Memorandum.

6.2. If a subrecipient opts not to participate in this Memorandum:

6.2.1. The subrecipient shall notify FAMPO and the City of Fayetteville in writing of the decision.

6.2.2. The subrecipient will not receive an allocation of funds nor will the City of Fayetteville agree with the entity to provide Section 5307 funds to support transportation in urbanized areas of the jurisdiction.

6.3. A non-participating subrecipient may opt to agree to this Memorandum at a later date.

6.3.1. The subrecipient must provide FAMPO and the City of Fayetteville written notice to participate and by providing by a signed copy the Memorandum acceptance page.

6.3.2. Upon receipt of written notice to engage in this Memorandum, FAMPO will include the party in the allocation of Section 5307 funds in the next fiscal year.

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the County of Cumberland by its Chairman, the County of Harnett by its Chairman, the County of Hoke by its Chairman,

(Seal)

_____	By	_____
Clerk		Mayor
		City of Fayetteville

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the County of Cumberland by its Chairman, the County of Harnett by its Chairman, the County of Hoke by its Chairman,

(Seal)

_____	By	_____
Clerk		Chairman, Board of Commissioners Cumberland County

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the County of Cumberland by its Chairman, the County of Harnett by its Chairman, the County of Hoke by its Chairman,

(Seal)

_____	By	_____
Clerk		Chairman, Board of Commissioners Harnett County

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the County of Cumberland by its Chairman, the County of Harnett by its Chairman, the County of Hoke by its Chairman,

(Seal)

_____	By	_____
Clerk		Chairman, Board of Commissioners Hoke County