

To: Board of Directors

Date: January 10, 2019

From: William Churchill, Assistant General Manager of Admn.

WC. Reviewed by: *PK*

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**SUBJECT: Contra Costa Transportation Authority's Accessible Transportation Strategic (ATS) Plan MOU**

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**Background:**

The Contra Costa Transit Authority (CCTA) has been awarded just over 400 thousand in a Caltrans Sustainable Communities Transportation Planning grant to study the potential for a coordinated transportation system for seniors and persons with disabilities. CCTA is calling the new study the Accessible Transportation Strategic (ATS) Plan.

At the September 19, 2018 Board meeting, CCTA took action to pursue the study. As a part of the study CCTA staff have reached out to all county public transit operators, the four Regional Transportation Planning Committees (RTPC's) as well as a number of other stakeholders to participate in the study. Additionally, CCTA staff has requested that each participant in the study sign a Memorandum of Understanding (MOU) prior to the commencement of the study. CCTA has requested each participant review the draft MOU and provide feedback prior to the end of January 2019. (Please see attached draft MOU)

**Staff Analyses of MOU:**

As currently drafted the MOU raises two separate but linked board policy issues. The first concern is the request to sign an MOU accepting the results a study prior to the study having been conducted. Secondly, any participant signing the MOU may be obligated to give up part of their authority to deliver paratransit services in the future.

**Discussion with CCTA Staff:**

Staff met with CCTA staff to discuss the study and the purpose of the MOU. CCTA staff indicated a strong interest in receiving feedback from us regarding the language and structure of the current draft MOU.

**Financial Implications:**

In the short term the only financial implication will be the investment of County Connection staff time to participate in the study. Long term financial implications are unknown since it is impossible to anticipate the results of the study.

**Action Requested:**

The A&F Committee recommends staff participate in the study and requests the board discuss how to respond to CCTA's requests for comments on the MOU prior to the end of January 2019.

**Options:**

1. Direct staff to provide comments to CCTA staff regarding the draft MOU
2. Decline to direct staff to provide CCTA staff with comments regarding the MOU
3. Other direction to be determined by the Board

**Attachments:**

Draft Memorandum of Understanding (MOU)

**DRAFT FOR REVIEW/COMMENT**

CCTA AGREEMENT ##.##.##

MEMORANDUM OF UNDERSTANDING

Between

THE CONTRA COSTA TRANSPORTATION AUTHORITY

AND

LOCAL AGENCIES & ORGANIZATIONS

FOR THE

ACCESSIBLE TRANSPORTATION STRATEGIC PLAN

(Funded by Caltrans: Sustainable Communities - Transportation Planning Grant)

**1. Introduction**

This MEMORANDUM OF UNDERSTANDING (hereafter “MOU”), effective as of \*\*\*\*\* ##, 2018, is meant to establish a common understanding of: 1) the need for Contra Costa Accessible Transportation Strategic (ATS) Plan (hereafter “ATS Plan”), 2) the procedures for the conduct of the ATS Plan, and 3) the collaborative intent of the ATS Plan and parties to this MOU.

Parties to this MOU include the Contra Costa Transportation Authority (hereafter “CCTA”), a local transportation authority, County of Contra Costa, a political subdivision of the State of California (hereafter “COUNTY”), and the following LOCAL AGENCY PARTNERS:...**[TBD]**

The ATS Plan: 1) is an assessment of transportation and transportation related services to seniors and persons with disabilities, 2) addresses a diverse array of impacted organizations, 3) implements local and regional plans and policies, 4) is necessary because services to this vulnerable population are being compromised by rising costs, demographic shifts/decreasing public health resulting in increased demand, 5) is intended to address a system that developed unsystematically over a long time frame, and 6) is an implementation action<sup>1</sup> in CCTA’s adopted 2017 Countywide Comprehensive Transportation Plan.

The need for the ATS Plan and this MOU is further magnified by the intersection of public transit, public health, social service, civil rights interests and philosophies held by the entities and persons using and providing accessible transportation services. It is this complex intersection that results in diffused leadership and authority that further confirms the need for this MOU.

The ATS Plan has three broad tasks: 1) Study of existing, individual programs with recommendations. 2) Study of alternative countywide system designs. 3) Development of a phased implementation plan. At every stage, the ATS Plan will include expansive outreach responsive to, and designed for, the subject population.

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<sup>1</sup> 2017 CCTA CTP: Table 5-1 “Initiate the Accessible Transportation Service Strategic Plan...To ensure that services are delivered in a coordinated system...”

## 2. Definitions

- A. **Accessible Transportation:** An umbrella term used to describe the broad range of transportation related services typically provided to seniors and persons with disabilities. For the purposes of this MOU and the ATS Plan, accessible transportation is defined as a range of transportation/transit and related supportive services such as; Americans with Disabilities Act (ADA) mandated public paratransit service, city/community transportation programs, transportation provided by private non-profits, mobility management programs, volunteer based transportation programs, travel training, as well as funding and governance mechanisms associated with the preceding activities.
- B. **Subject Population:** The ATS Plan addresses services to the most acutely disadvantaged and fragile communities, seniors and persons with disabilities. These populations are typically also low income.

## 3. MOU Purpose

- A. **Structure:** The system of accessible transportation in Contra Costa County has been described as “developed organically” with a “lack of a structural platform” being a “major impediment to action”<sup>2</sup>. Given these characteristics, this MOU (and Oversight Structure referenced herein) provides a temporary structure and forum to more effectively conduct the ATS Plan. The ATS Plan Scope of Work includes a task, “*Establishment or designation of an organization and/or structure to act as advocate and administrator for this transit transportation sector on an ongoing basis*” which is intended to address the “lack of a structural platform” issue once the ATS Plan is complete.
- B. **Understanding:** This MOU is intended to ensure consistent understanding of the need for, and the intent of, the ATS Plan. This understanding should be consistent across the range of impacted agencies and organizations as well as across responsible staff and elected decision makers.
- C. **Commitment:** In response to the three previous, similar efforts in the past<sup>3</sup>, this MOU establishes a commitment of the parties to take formal action relative to the final recommendations of the study as further described in the **Understanding** section below.

## 4. Recitals

- A. During the 2015-2016 development of the Measure X Transportation Expenditure Plan (TEP) CCTA conducted substantial outreach and convened the Expenditure Plan Advisory Committee (EPAC) which identified “*Transportation for Seniors and People with Disabilities*” as a high priority category<sup>4</sup> in the TEP.
- B. CCTA and all member agencies (nineteen Cities and the County) unanimously approved the Measure X Transportation Expenditure Plan in 2016. Recognizing the aforementioned EPAC prioritization and testimony from advocates, the TEP included a requirement to conduct an “*Accessible Transportation Service Strategic Plan*” to “...ensure services are delivered in a coordinated system that maximizes both service delivery and efficiency...”.
- C. In 2017, with Measure X failing to gain voter approval but recognizing the standing need to improve accessible transportation, CCTA approved the Countywide Comprehensive Transportation Plan which included the following actions, “*ensure that services are delivered in a coordinated system...*” and “*Initiate the Accessible Transportation Service Strategic Plan*” as an implementation activity.

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<sup>2</sup> 2013 Contra Costa County Mobility Management Plan

<sup>3</sup> 1990 Contra Costa County Paratransit Plan, 2004 Contra Costa County Paratransit Improvement Study, 2013 Contra Costa County Mobility Management Study

<sup>4</sup> <http://www.cccounty.us/DocumentCenter/View/46455/EPAC-Input-Exercise-Results>

- D. The 2018 *Coordinated Public Transit-Human Services Transportation Plan* from the Metropolitan Transportation Commission (MTC) supports (from a regional perspective) the need to address accessible transportation issues “*Current senior-oriented mobility services do not have the capacity to handle the increase in people over 65 years of age...the massive growth among the aging...points to a lack of fiscal and organizational readiness...will place heavy demands on an already deficient system...*”.
- E. MTC, on February 28, 2018, passed Resolution 4321 which established that Alameda, **Contra Costa**, San Francisco, San Mateo, and Santa Clara Counties “...*must establish or enhance mobility management programs to help provide equitable and effective access to transportation.*” The ATS Plan will inform CCTA’s response to this policy.
- F. Parties recognize that governance relative to accessible transportation services involves diverse industries, organizations, geographic responsibilities, regulatory requirements and varying organizational philosophies and goals. This diversity creates an environment characterized by diffused responsibility and authority. To address this situation, and building on lessons learned from previous, similar planning efforts, parties acknowledge they are taking steps to ensure progress in the accessible transportation sector. These steps include conducting the ATS Plan and authorizing this MOU.
- G. As described by the American Public Transportation Association<sup>5</sup>, the parties recognize that the largest number of providers operating this type of service are non-profit organizations. As such, representative organizations who receive Measure J (2004) funding are included in this agreement and in the ATS Plan.
- H. Parties acknowledge the significant and increasing fiscal exposure to the public transit districts and nongovernmental transportation service providers due to increasing demand for service to the subject population.
- I. In 2018 CCTA, with assistance from the COUNTY, submitted a grant application to Caltrans under the Sustainable Communities – Transportation Planning Grant Program to fund the “*Accessible Transportation Strategic Plan*”. The grant received “conditional award status” in May 2018. In July 2018 the CCTA Board adopted a resolution authorizing agreements with Caltrans. In September 2018 the CCTA Board approved, the ATS Plan Scope of Work, Release of a Request for Proposals, the ATS Plan Oversight Committee Structure, and the release of a DRAFT MOU for review and comment.
- J. Parties agree that, as a result of the ATS Plan, public transit operators shall not be encumbered with additional responsibilities without corresponding, concurrent increase in resources nor should revenue be reduced without corresponding, concurrent decrease in obligations.
- K. In the event that implementation activities proceed after the completion of the ATS Plan, Parties commit to insulate the paratransit client population from service degradation or disruption to the greatest extent possible.

## 5. Understanding

- A. Due to the acknowledged need for improvement in the accessible transportation sector in Contra Costa County, the extreme vulnerability of the subject population, and to mitigate the history of previous efforts, CCTA, COUNTY and LOCAL AGENCY PARTNERS hereby agree as follows:

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<sup>5</sup> 2015/2016 American Public Transportation Association *Fact Book*

- i. To collaboratively, expeditiously, and in good faith support and participate in the conduct of the ATS Plan at all organizational levels and in all forums.
- ii. To resolve technical, policy, operational and other matters considered by the ATS Plan at the lowest possible policy working level in the following order of hierarchy from low to high: lead staff<sup>6</sup>, ATS Plan Technical Advisory Committee, ATS Plan Policy Advisory Committee, CCTA Planning Committee, CCTA Board of Directors.
- iii. To consider the Final Recommendations of the study, once available, at a meeting of the Board of Directors (or equivalent body) and take action supported by a stated rationale.

B. Responsibilities of CCTA, County and LOCAL AGENCY PARTNERS.

- i. CCTA agrees:
  - a) To administer the ATS Plan using the established Oversight Structure and as described in the Scope of Work.
  - b) To expeditiously take formal Board action on the ATS Plan final recommendations **after** LOCAL AGENCY PARTNERS have acted, and **with consideration** of those actions.
  - c) Should the ATS Plan be approved, to expeditiously pursue any implementation steps assigned to CCTA.
  - d) To proactively pursue resources to support implementation of the ATS Plan.
- ii. COUNTY agrees:
  - a) To track and report staff hours consistent with Caltrans requirements for grant match funding.
  - b) To continue to support CCTA staff in the administration of the ATS Plan.
- iii. LOCAL AGENCY PARTNERS and COUNTY agree:
  - a) To participate in the ATS Plan by way of their respective roles in the established Oversight Structure.
  - b) To expeditiously take formal Board action, accompanied by stated, well-supported rationale addressing the ATS Plan final recommendations.
  - c) Should the ATS Plan be approved by CCTA, to expeditiously pursue any implementation steps assigned to the respective agencies/organizations.
  - d) To support CCTA in seeking and securing resources to implement the ATS Plan.

- 6. **MOU Modification.** This MOU may be modified only by the written approval of the legislative bodies of all parties.
- 7. **MOU Termination.** Unless terminated earlier, this MOU will terminate immediately after all parties take action on the ATS Plan final recommendations.
- 8. **Counterparts.** The parties hereto recognize and agree that separate counterpart signature pages may be used to execute this MOU, but that all such pages constitute one and the same MOU.
- 9. **Construction.** The section headings and captions of this MOU are, and the arrangement of this instrument is, for the sole convenience of the parties to this MOU. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this MOU. This MOU will not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this MOU and their respective counsel have read and reviewed this MOU and agree that any rule of construction to the effect that ambiguities are to be resolved against

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<sup>6</sup> Peter Engel, Director of Programs – Contra Costa Transportation Authority, [pengel@ccta.net](mailto:pengel@ccta.net), 925.256.4741  
 John Cunningham, Principal Planner – Contra Costa County: [john.cunningham@dcd.cccounty.us](mailto:john.cunningham@dcd.cccounty.us), 925-674-7833

the drafting party will not apply to the interpretation of this MOU. The recitals of this MOU are, and will be enforceable as, a part of this MOU.

Attachments: ATS Plan Scope of Work

Signatures appear on following pages

DRAFT

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

CONTRA COSTA  
TRANSPORTATION AUTHORITY

CONTRA COSTA COUNTY

By: \_\_\_\_\_

\_\_\_\_\_  
Federal D. Glover  
Chair

By: \_\_\_\_\_

\_\_\_\_\_  
Karen Mitchoff  
Chair

Attest:

Attest:

By: \_\_\_\_\_

\_\_\_\_\_  
Randell H. Iwasaki  
Executive Director

By: \_\_\_\_\_

\_\_\_\_\_  
David Twa  
County Administrator

Approved as to form:  
Best Best & Krieger LLP

Approved as to form:  
County Counsel

By: \_\_\_\_\_

\_\_\_\_\_  
Malathy Subramanian  
Authority Counsel

By: \_\_\_\_\_

\_\_\_\_\_  
Sharon L. Andersen  
County Counsel

*[insert Local Agency Partner Name]*

*[insert Local Agency Partner Name]*

By: \_\_\_\_\_

\_\_\_\_\_  
[name]  
Chair

By: \_\_\_\_\_

\_\_\_\_\_  
[name]  
Chair

Attest:

By: \_\_\_\_\_

\_\_\_\_\_  
[name]  
Executive Director

Attest:

By: \_\_\_\_\_

\_\_\_\_\_  
[name]  
Executive Director

Approved as to form:  
Agency Counsel

Approved as to form:  
Agency Counsel

By: \_\_\_\_\_

\_\_\_\_\_  
Malathy Subramanian  
Counsel

By: \_\_\_\_\_

\_\_\_\_\_  
[name]  
Counsel