MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING RELATING TO THE COMPREHENSIVE, CONTINUING, COOPERATIVE TRANSPORTATION PLANNING AND PROGRAMMING PROCESS FOR THE CAPE COD MASSACHUSETTS REGION

By and Between the

Massachusetts Department of Transportation

Barnstable County Commissioners

Cape Cod Commission

Cape Cod Regional Transit Authority

Town of Barnstable, Town Council President

Four Selectmen, each representing one of the Four Sub-Regions

The Mashpee Wampanoag Tribal Council

WHEREAS, the Massachusetts Department of Transportation (MassDOT) (formerly the Executive Office of Transportation), under Chapter 25 of the Acts of 2009, has the statutory responsibility for transportation planning and for coordinating activities and programs of the state transportation agencies with regional planning agencies that serve as the principal source of transportation planning for local and regional transportation projects; and, the Massachusetts Department of Transportation (MassDOT) Highway Division (formerly the Massachusetts Highway Department) has the statutory responsibility, under Chapter 25 of the Acts of 2009, for the construction, maintenance and operation of the state roads and bridges and serves as the principal source of transportation planning in the Commonwealth and is responsible for the continual preparation of comprehensive and coordinated transportation plans and programs; and,

WHEREAS, the Cape Cod Commission (CCC) is recognized by the Metropolitan Planning Organization (MPO) as the officially designated regional planning agency for the Cape Cod Massachusetts region and as such has statutory responsibility for the coordinated and orderly development of the region, including regional growth planning and transportation planning as provided for under the provisions of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989, as amended) and Chapter 40B of the Massachusetts General Laws. The CCC is comprised of nineteen (19) members, one member from each of its 15 towns on Cape Cod, a native American representative, a minority representative, a Barnstable County Commissioner, and a Governor's appointee; and,

WHEREAS, the Advisory Board of the Cape Cod Regional Transit Authority (CCRTA) is comprised of the chief elected officials or designee of 15 towns that have joined to form a regional transit authority under the provisions of Chapter 161B of the Massachusetts General Laws and the CCRTA has the statutory responsibility for over seeing public transportation on an exclusive basis in the area constituting the authority a Program of Projects (POP) that outlines the expenses of planned operations for the Federal Transit Administration (FTA) will be included in the Transportation Improvement Plan (TIP); the public discussions of the TIP at CCJTC, MPO, and transportation meetings satisfies the POP public hearing requirements of the FTA and are structured to comply with federal and state laws, regulations, executive orders, and related provisions requiring nondiscrimination in public engagement. This includes, but is not limited to Title VI of the Civil Rights Act of 1964 (Title VI), the Americans with Disabilities Act (ADA), and the MA Public Accommodation Law.; and,

WHEREAS, the Mashpee Wampanoag Tribe was granted status as an Indian tribe by the federal Bureau of Indian Affairs on or about February 16, 2007; and,

WHEREAS, The Executive Office of Transportation & Construction (now the Massachusetts Department of Transportation), the Massachusetts Department of Public Works (now the Massachusetts Department of Transportation, Highway Division), the Cape Cod Regional Transit Authority, and the Cape Cod Planning and Economic Development Commission (now the Cape Cod Commission) on May 19, 1982 signed a Memorandum of Understanding (MOU), (as amended on May 19, 2005 and February 25, 2009) agreeing to work together in undertaking the comprehensive, continuing, and cooperative transportation planning process (3C process), required by the United States Department of Transportation under the provisions of section 134 of Title 23 of the United States Code, as amended, and those of Section 8 of Title 49 of the Federal Transit Act, as amended, and designating the Cape Cod Joint Transportation Committee, formed in 1972, as a regional transportation planning advisory group; and,

WHEREAS, the Governor of the Commonwealth, in response to the provisions of the Intermodal Surface Transportation Efficiency Act of 1991 (23 CFR Part 450 and 49 CFR Part 613) as amended, as well as the successor Transportation Equity Act for the 21st Century (TEA 21) signed into law as PL 105-178 on June 9, 1998, the successor Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETY-LU) signed into law as PL 109-59 on August 10, 2005 and rules and regulations related thereto, and in view of the responsibility for the transportation planning and programming process of the nine parties to this agreement, hereinafter referred to as the MPO, previously designated representatives from these parties to be the MPO for the Cape Cod region; and,

WHEREAS, Section 450.108 of Title 23 of the Code of Federal Regulations provides that, to the extent possible, there be one agreement containing the understanding required by this section with respect to cooperatively carrying out transportation and programming among the MPO, State and publicly owned operators of public transportation services; and

WHEREAS, the members of the MPO recognize that transportation planning and programming must be conducted as an integral part of and consistent with the regional planning and development process, and that the process must involve the fullest possible participation by state agencies, local governments, private institutions, other appropriate groups, and the general public; and,

WHEREAS, there is a shared interest and desire on the part of the signatories to this MOU to expand the membership of the Cape Cod MPO in order to enhance the participation and perspective of the region's various towns comprising the Cape Cod area.

NOW, THEREFORE, the members of the Cape Cod Metropolitan Planning Organization do hereby jointly agree as follows:

OBJECTIVES OF THE FEDERAL 3C TRANSPORTATION PLANNING PROCESS

- The 3C process is comprehensive, including the effective integration of the various stages and levels of transportation planning and programming for the entire Cape Cod region and examining all modes so as to assure a balanced, equitable, and nondiscriminatory planning and programming effort.
- The 3C process is continuing, affirming the necessity to plan for the short and long range needs of the regional transportation system, emphasizing the interactive character of the progression from systems planning to project planning, programming, operations and implementation.
- The 3C process is cooperative, requiring effective coordination among public officials at all levels of government, and inviting the wide participation of all parties, public or private, across demographics, at all stages of the transportation planning process.

FUNCTIONS OF THE CAPE COD MPO

- The Cape Cod MPO shall perform all functions as required in federal or state law including jointly developing, reviewing and adopting the region's annual transportation planning work program, the Regional Transportation Plan, the transportation improvement program and conformity determinations as may from time to time be required of the Cape Cod MPO by federal and state laws and regulations.
- In meeting the provisions of the federal 3C process, the Cape Cod MPO assumes the responsibility for the transportation planning process which may include: initiation of studies, evaluation and

recommendation of transportation improvements and the programming of funds for transportation projects in the region for which funding is sought for implementation. While transportation studies may be conducted by other entities from time to time, the Cape Cod MPO shall monitor their progress and make the final decision for any regionally significant project to be included in the Regional Transportation Plan.

- The Cape Cod MPO shall be the forum for cooperative decision making by officials of local government, regional planning commission, regional transit authority and state officials representing state transportation agencies.

MEMBERSHIP OF THE CAPE COD MPO

The membership of the Cape Cod Metropolitan Planning Organization shall consist of the following eleven (11**)** federal, state, regional, local officials or their alternates or designees as described in this section:

- MassDOT Secretary/CEO
- MassDOT Highway Division Administrator
- Chair of the Cape Cod Commission
- Chair of the Cape Cod Regional Transit Authority Advisory Board
- Chair of the Barnstable County Commissioners
- President of the Barnstable Town Council
- Tribal Chairman of the Mashpee Wampanoag Tribal Council
- One selectmen from each of the following sub-regions:

Sub-region A:	Towns of Bourne, Falmouth, Mashpee and Sandwich
Sub-region B:	Towns of Yarmouth, and Dennis,
Sub-region C:	Towns of Brewster, Harwich, Chatham, and Orleans,
Sub-region D:	Towns of Eastham, Wellfleet, Truro and Provincetown

The Barnstable County Commissioner Chair, the Cape Cod Commission Chair, the Cape Cod Regional Transit Authority Chair, the President of the Barnstable Town Council, and the Tribal Chairman of the Mashpee Wampanoag Tribal Council may each choose a member of their respective Board, Commission, Authority, or Council to serve as an alternate. The Secretary/CEO of MassDOT and the MassDOT Highway Division Administrator may designate an official from within their respective agencies to regularly represent the agencies. The President of the Barnstable Town Council may designate an official from within the Town of Barnstable to regularly represent the Town of Barnstable. The Tribal Chairman of the Mashpee Wampanoag Tribal Council may designate an official from within the Mashpee Wampanoag Tribe to regularly represent the Mashpee Wampanoag Tribe.

The selectman representing each sub-region shall be elected for a three -year term by the selectmen from within their sub-region. Each selectman so elected may appoint another selectman or town official from within that sub-region as an alternate to serve in his/her absence. The election process shall be approved by the Cape Cod MPO and administered by the Cape Cod Commission.

One representative from each of the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Army Corps of Engineers and the National Park Service/Cape Cod National Seashore, the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, as well as the Chair of the Cape Cod Joint Transportation Committee shall be considered ex-officio, non-voting members of the Cape Cod MPO.

The names of members and alternates shall be submitted to the Cape Cod Commission, acting on behalf of the Cape Cod MPO, as necessary, upon the appointment or resignation of members or alternates.

CHAIR AND VICE CHAIR

The Chair of the Cape Cod MPO shall be the Secretary/CEO of MassDOT or his/her designee. In the absence of the Chair, the Vice Chair shall conduct the meeting. The Vice Chair shall be elected annually by the voting members of the Cape Cod MPO.

MEETINGS OF THE CAPE COD MPO

The Cape Cod MPO shall meet at least annually and shall generally meet within Barnstable County. Additional meetings may be called by the Chair, or by the Vice Chair if supported by at least four other members.

VOTING

A quorum of the Cape Cod MPO shall consist of a simple majority [six (6) voting members]. To fill a quorum, the chair may allow a voting member to join the meeting via telephone/video conferencing. Lack of a quorum shall not prevent an officially called meeting from coming to order, discussing agenda items and, if agreed to by a majority of the voting members in attendance, continuing at a later date.
When a quorum has been established, votes of the Cape Cod MPO shall require an affirmative vote of a majority of those present members (including the implementing agency, if any), voting in the affirmative on federal certification documents.

THE CAPE COD JOINT TRANSPORTATION COMMITTEE

In order to facilitate the implementation of the 3C process and the functions of the Cape Cod MPO, a standing committee, known as the Cape Cod Joint transportation Committee (CCJTC) has been established to advise the Cape Cod MPO. CCJTC membership is selected, through the Cape Cod MPO, in a manner

that provides for the involvement of local government officials, transportation professionals and other representatives of transportation providers or user groups ensuring a broad based transportation planning perspective of its participants. Its principal mission is as follows:

1. To advise the Cape Cod MPO on all matters of policy affecting the conduct of the region's 3C transportation planning and programming process.
2. To put forth recommendations on such regional transportation work activities, plans, studies, project priorities and financial constraints as may be required for the effective operation of the Cape Cod MPO.
3. To provide maximum participation in the transportation planning and programming process by creating a forum and other opportunities to bring together officials of local government, public agencies, transportation providers, interest groups and residents for open dialogue and the exchange of views on current transportation issues.

Each Board of Selectmen or Town Council shall select a representative from their Town to serve on the CCJTC. In addition, the CCJTC shall nominate representatives of other organizations to serve on the CCJTC to encourage participation among a broad range of transportation interests and transportation modes. Representation from business, environmental, historic, bicycle, transit, marine, airport, human service and other organizations shall be considered. These nominees, and others, will be considered by the MPO and may be appointed to the CCJTC from time to time. State and federal agencies shall be encouraged to participate on the CCJTC as ex-officio, non-voting members.

In addition, the CCJTC may, from time to time, develop and update organizational by-laws subject to approval of the Cape Cod MPO.

RESPONSIBLE AGENT FOR REGIONAL TRANSPORTATION PLANNING

The Cape Cod Commission shall be, by state designation and consistent with applicable federal transportation laws, the primary transportation planning staff for the Cape Cod MPO. The CCC shall maintain a qualified staff of transportation professionals, subject to the availability of federal and state funds. It shall be responsible to the MPO for the maintenance of the 3C transportation planning process and shall conduct transportation planning on behalf of the MPO, including coordination of the sub-region member selection process and staff support for the operation of the Cape Cod Joint Transportation Committee.

REVIEW OF MEMORANDUM

This Memorandum of Understanding supersedes all previous MOUs and shall become effective upon the date of the signatures of the Secretary/CEO of MassDOT, the Chair of the Cape Cod Commission and the

Chair of the Cape Cod Regional Transit Authority Advisory Board, Chair of the Barnstable County Commissioners, President of the Barnstable Town Council, and the Sub-region A Representative, Sub-region B Representative, Sub-region C Representative. The Signatories shall formally review the contents of this MOU every three years at a minimum, make appropriate changes as may be necessary and mutually agreeable, and record the results of the review in the minutes of the meeting at which the review is conducted. The MPO shall vote to release proposed changes to the MOU for public comment. At the time of the review, the MOU and any proposed changes shall be circulated among all the Boards of Selectmen and the Barnstable Town Council for their review. After a thirty (30) day review period, taking into consideration all public comments, the MPO shall vote to endorse, decline or further revise the document. Substantial revisions (as determined by a simple majority of the MPO members in attendance) may require additional public review.

EXECUTION

The undersigned recognize the complexity of the transportation planning and program process and will endeavor to ensure that all personnel involved in their jurisdiction will cooperate fully in carrying out the intent and provisions of this MOU, and any amendments or additions agreed to by the signatories.

Signatories Date: _____

_____
Stephanie Pollack, Secretary/CEO
Massachusetts Department of Transportation (MassDOT)

_____
Richard Roy, Chair
Cape Cod Commission

_____
Tom Guernio, Chairman
Cape Cod Regional Transit Authority (CCRTA)

_____
Leo Cakounes
Barnstable County Commissioners

_____
Jason Steiding
Mashpee Wampanoag Tribe

_____
Jessica Rapp Grassetti, President
Barnstable Town Council

_____
R. Patrick Ellis
Sub-region A: Bourne, Falmouth, Mashpee, Sandwich

_____
Sheryl McMahon
Sub-Region B: Dennis and Yarmouth

_____
Sims McGrath
Sub-region C: Brewster, Chatham, Harwich, Orleans

_____
Cheryl Andrews
Sub-region D: Eastham, Provincetown, Truro, Wellfleet