

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 Secretary/CEO

Massachusetts Department of Transportation Highway Division Administrator

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 overseeing 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, February 25, 2009 and April 27, 2015) 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 eleven 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 regulations¹.

¹ See <http://www.capecodcommission.org/index.php?id=164&maincatid=48-wwww.capecodcommission.org/mpo>

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

MEMBERSHIP OF THE CAPE COD METROPOLITAN PLANNING ORGANIZATION (CCMPO)

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
- Representative from the Barnstable County Commissioners
- Chair of the Cape Cod Commission
- Chair of the Cape Cod Regional Transit Authority Advisory Board
- 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 and the Cape Cod Commission Chair, ~~and the Cape Cod Regional Transit Authority Chair,~~ may each choose a member of their respective ~~Board,~~ Commission, ~~Authority, or Council~~ to serve as an alternate. The Cape Cod Regional Transit Authority Advisory Board Chair may either choose a member of their Board or designate an official from within their agency to serve as their alternate. The Secretary/CEO of MassDOT and the MassDOT Highway Division Administrator may each designate an official from within their agency to serve as its their alternates.

The President of the Barnstable Town Council may designate an official from within the Town of Barnstable to serve as his/her alternate. The Tribal Chairman of the Mashpee Wampanoag Tribal Council may designate an official from within the Mashpee Wampanoag Tribe to serve as his/her alternate. Alternates may serve and vote on the Board only in the absence of its original Board member.

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.

VOTING

A quorum of the Cape Cod MPO shall consist of a simple majority [six (6) voting members].

When a quorum has been established, votes of the Cape Cod MPO shall require an affirmative vote of a majority of those present members.

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 MassDOT Highway Division Administrator, Chair of the Barnstable County Commissioners, the Chair of the Cape Cod Commission, the Chair of the Cape Cod Regional Transit Authority Advisory Board, President of the Barnstable Town Council, and the Sub-Region A Representative, Sub-region B Representative, Sub-region C Representative, Sub-region D Representative and the President of the Mashpee Wampanoag Tribal Council. 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. After a twenty-one (21) 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.

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 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, residents and members of the public for open dialogue and the exchange of views on current transportation issues.

In accordance with the Cape Cod Joint Transportation Committee bylaws adopted on April 26, 2016:

The Cape Cod Joint Transportation Committee (CCJTC) shall be comprised of sixteen voting members.

The voting members of the CCJTC shall be derived as follows:

- (1) One member representative shall be from each of the fifteen towns in Barnstable County. This shall, by operation of these bylaws, be the Director of Public Works unless the Board of Selectmen/Town Council of the town appoint a different representative and file its vote with the Chair of the CCJTC. The member representative shall appoint a designee to serve in his/her absence as an alternate and notify the Chair of the CCJTC of this designation. An alternate may only vote if the member is absent.
- (2) A bicycle representative and his/her alternate shall be appointed annually by a majority vote of the CCJTC.
- (3) In the event a voting member is no longer serving the board in that capacity (i.e. has resigned his/her position in writing, is no longer the active Director of Public Works, or has failed to attend four or more consecutive meetings, that voting member may be replaced by that town's Board of Selectmen/Town Council or, in the case of the bicycle representative, by the CCJTC, as provided by clause (1) and (2) above.

These sixteen members (or in his/her absence, his/her alternate) shall each be eligible to vote at CCJTC meetings on business requiring such action provided the member (or his/her alternate) is present at the meeting, or has properly utilized remote participation in accordance with the Open Meeting law and its enabling regulations. Each member town has one vote; the bicycle representative has one vote.

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)

Jonathan Gulliver, Administrator

Massachusetts Highway Division Administrator

~~Leo Cakounes~~ Ronald Bergstrom, Representative

Barnstable County Commissioners

Harold Mitchell, Chairman

Cape Cod Commission

Tom Guerino, Chairman

Cape Cod Regional Transit Authority (CCRTA)

James Crocker, Jr. ~~Eric Steinhilber~~, President

Barnstable Town Council

Judith Froman ~~R. Patrick Ellis~~

Sub-region A: Bourne, Falmouth, Mashpee, Sandwich

Norman Holcomb ~~Sheryl McMahon~~

Sub-Region B: Dennis and Yarmouth

Alan McClennen ~~Sims McGrath~~

~~November 20, 2017~~ October 20, 2019

Sub-region C: Brewster, Chatham, Harwich, Orleans

Robert Weinstein

Sub-region D: Eastham, Provincetown, Truro, Wellfleet

Cedric Cromwell, Chairman

Mashpee Wampanoag Tribe

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