

access

BOARD OF DIRECTORS MEETING

MONDAY, NOVEMBER 17, 2014

Closed Session: 12:00

General Session: Immediately Following

The meeting is expected to end by or
before 3:00 p.m.

Los Angeles County MTA
One Gateway Plaza, 3rd Floor
729 Vignes Street, Los Angeles CA 90012

MISSION STATEMENT

Access Services promotes access to all modes of transportation and provides quality and safe ADA paratransit service on behalf of public transit agencies in Los Angeles County.

	<u>DISPOSITION</u>
1. CALL TO ORDER	ACTION
2. PUBLIC COMMENT WITH RESPECT TO CLOSED SESSION ITEMS	
3. CLOSED SESSION	DISCUSSION/ POSSIBLE ACTION
A) <i>CONFERENCE WITH LEGAL COUNSEL: CAL. GOV. CODE §54956.9</i>	
1. <u>Existing Litigation</u> : Gov. Code §54956.9(a) (i) <i>Minnis v. Access Services: LASC # BS145949</i> (ii) <i>Watkins v. Access Services: BC507841</i>	
2. <u>Anticipated Litigation</u> : Gov. Code §54956.9 (b) (i) <i>Significant exposure to litigation against the Agency</i>	
3. <u>Initiation of Litigation</u> : Gov. Code §54956.9 (c)	
4. SUPERIOR SERVICE AWARD	PRESENTATION

- | | |
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| <p>5. REVIEW & APPROVAL OF MINUTES FROM THE BOARD MEETING ON SEPTEMBER 22, 2014 (page 5)
 [Staff Recommendation: Approve minutes as written.]</p> | <p>ACTION
 [Vote Required: majority of quorum by voice vote]</p> |
| <p>6. REPORT FROM EX-OFFICIO BOARD MEMBERS</p> | <p>INFORMATION</p> |
| <p>7. GENERAL PUBLIC COMMENT</p> | <p>INFORMATION</p> |
| <p>8. CONSENT CALENDAR</p> <ul style="list-style-type: none"> a) Consideration to Extend Term and Add Funds to Information Technology Consulting Service Contract (AS-3202) (page 12) b) Consideration to Extend Local Vehicle Inspection Contract (AS-2985) (page 14) c) Consideration to Approve 2015 Board Meeting Calendar (page 16) d) Consideration to Amend Contract Scope and Add Funds For Eastern Region Service Contract (AS-3421) San Gabriel Transit, Inc. (page 19) e) Consideration to Add Funds to Contract With LPM Consulting Inc. (AS-2793) (page 21) f) Consideration to Approve Revised Procurement Policies (page 23) g) Consideration to Reappoint Community Advisory Committee (CAC) Members (page 25) <p>[Staff Recommendation: Approve Consent Calendar]</p> | <p>ACTION
 [Vote Required: majority of quorum by roll call]</p> |
| <p>9. CONSIDERATION TO APPROVE FINANCIAL SOFTWARE ERP MIGRATION (AS-3753) (page 27)
 [Staff Recommendation: 1) Authorize staff to execute a contract for Financial Reporting ERP software services beginning January 1, 2015 through December 31, 2021 with Oracle America, Inc. in an amount not to exceed \$318,780. 2) Authorize staff to execute a contract for Financial Reporting ERP software implementation costs beginning January 1, 2015 through December 31, 2021 with Intelenex, Inc. in an amount not to exceed \$149,320.]</p> | <p>PRESENTATION/
ACTION
 [Vote Required: majority of quorum by roll call]</p> |

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| <p>10. CONSIDERATION OF METRO LOGO INTEGRATION
(page 31)</p> <p>[Staff Recommendation: Review and provide guidance to staff on the Metro Logo integration proposal.]</p> | <p>PRESENTATION/
ACTION
[Vote Required:
majority of quorum
by roll call]</p> |
| <p>11. TRIENNIAL REVIEW DISCUSSION: NO
SHOW/CANCELLATION POLICY REVISIONS (page 45)</p> <p>[Staff Recommendation: Receive and File]</p> | <p>PRESENTATION/
POSSIBLE ACTION
[Vote Required:
majority of quorum
by roll call]</p> |
| <p>12. TRIENNIAL REVIEW DISCUSSION: ACCESS FARES
(page 47)</p> <p>[Staff Recommendation: Provide staff direction on resolving the fare finding with one of the following options (<i>see item for options</i>)]</p> | <p>PRESENTATION/
ACTION
[Vote Required:
majority of quorum
by roll call]</p> |
| <p>13. TRIENNIAL REVIEW DISCUSSION: ORIGIN TO
DESTINATION (page 53)</p> <p>[Staff Recommendation: Authorize staff to forward the following plan of action to the Access Services Member Agencies for discussion and concurrence (<i>see item for plan of action</i>)]</p> | <p>PRESENTATION/
ACTION
[Vote Required:
majority of quorum
by roll call]</p> |
| <p>14. PROPOSED METRO LONG RANGE STRATEGIC PLAN
FOR ADA PARATRANSIT IN LOS ANGELES COUNTY
(page 75)</p> <p>[Staff Recommendation: Direct staff to agendize this item at a proposed meeting of the membership in December for review and comment.]</p> | <p>PRESENTATION/
ACTION
[Vote Required:
majority of quorum
by roll call]</p> |
| <p>15. STATUS UPDATE ON METRO'S REVIEW OF ACCESS
SERVICES (page 77)</p> <p>[Staff Recommendation: Receive and file]</p> | <p>INFORMATION</p> |
| <p>16. EXECUTIVE DIRECTOR'S REPORT</p> | <p>INFORMATION</p> |
| <p>17. BOARD MEMBER COMMUNICATION</p> | <p>INFORMATION</p> |
| <p>18. NEW BUSINESS SUBSEQUENT TO THE POSTING
OF THE AGENDA</p> | <p>DISCUSSION/
POSSIBLE ACTION</p> |
| <p>19. ADJOURNMENT</p> | <p>ACTION</p> |

Access Services does not discriminate on the basis of disability. Accordingly, Access Services seeks to ensure that individuals with disabilities will have an equal opportunity to participate in the range of Access Services events and programs by providing appropriate auxiliary aids and services to facilitate communication. In determining the type of auxiliary aids and services for communication that will be provided, primary consideration is given to the request of the individual with disabilities. However, the final decision belongs to Access Services. To help ensure availability of those auxiliary aids and services you require, please make every effort to notify Access Services of your request at least three (3) business days (72 hours) prior to the meeting in which you wish to utilize those aids or services. You may do so by contacting (213) 270-6000.

Note: Access Services board meetings are held pursuant to the Ralph M. Brown Act [Cal. Gov. Code §54950] and are open to the public. The public may view and obtain all written information supporting this agenda provided to the board both initially and supplementally prior to the meeting at the agency's offices located at 3449 Santa Anita Avenue, El Monte, California and on its website at <http://accessla.org>. Documents, including Power Point handouts distributed to Board Members by staff or Board members at the meeting will simultaneously be made available to the public. Three opportunities are available for the public to address the board during a board meeting: (1) before closed session regarding matters to be discussed in closed session, (2) before a specific agenda item is debated and voted upon regarding that item and (3) general public comment. The exercise of the right to address the board is subject to restriction as to time and appropriate decorum. All persons wishing to make public comment must fill out a yellow Public Comment Form and submit it to the Secretary to the Board. Public comment is generally limited to three (3) minutes per speaker and the total time available for public comment may be limited at the discretion of the Chairperson. Persons whose speech is impaired such that they are unable to address the board at a normal rate of speed may request the accommodation of a limited amount of additional time from the Chair but only by checking the appropriate box on the Public Comment Form. Granting such an accommodation is in the discretion of the Chair.

The Board of Directors will not and cannot respond during the meeting to matters raised under general public comment. Pursuant to provisions of the Brown Act governing these proceedings, no discussion or action may be taken on these matters unless they are listed on the agenda, or unless certain emergency or special circumstances exist. However, the board may direct staff to investigate and/or schedule certain matters for consideration at a future Board of Directors Meeting and the staff will respond to all public comment in writing prior to the next board meeting.

["Alternative accessible formats available upon request."](#)



STATEMENT OF PROCEEDINGS FOR THE
REGULAR MEETING OF THE ACCESS
SERVICES BOARD OF DIRECTORS
Los Angeles County MTA
One Gateway Plaza, 3rd Floor
729 Vignes Street,
Los Angeles CA 90012

Monday, September 22, 2014
12:40 p.m.

1. CALL TO ORDER

The meeting was called to order by Chair Doran Barnes at 12:08 p.m.

BOARD MEMBERS PRESENT REPRESENTING A QUORUM

Present: Chair Doran Barnes, Vice Chair Dolores Nason, Directors Art Ida, John Troost, Angela Nwokike, Dan Levy. Ex-Officios: CAC Chair Michael Arrigo, TPAC Chair Linda Evans. Access Services Legal Counsel Substitute for Jim Jones, Matt Lavere.

BOARD MEMBERS EXCUSED FROM THE MEETING

Not Present: Treasurer Martin Gombert, Secretary Theresa DeVera, Director Kim Turner.

2. PUBLIC COMMENT WITH RESPECT TO CLOSED SESSION ITEMS

No public comments were heard regarding the closed session items.

3. CLOSED SESSION REPORT

No reportable action was taken with respect to the Minnis versus Access Services case. No reportable action was taken with respect to any pending or threatened litigation and potential initiation of litigation.

4. SUPERIOR SERVICE AWARDS

Access Services Manager of Eligibility, Kurt Hagen, introduced and recognized the following C.A.R.E. Evaluators, Transit Evaluator.

Jacky Maldonado, Superior Service Award recipient for the month of September 2014.

5. **REVIEW & APPROVAL OF THE BOARD MEETING MINUTES**

Approval of the minutes from the regular Board of Directors meeting held on Monday, August 25, 2014.

Motion made by Vice Chair Dolores Nason, Seconded by Director Angela Nwokike. Via Voice Vote all were in favor, motion passed.

6. **REPORT FROM EX-OFFICIO BOARD MEMBERS**

Michael Arrigo, Chair of the Community Advisory Committee (CAC), provided a brief report on the CAC meeting held on Tuesday, September 9, 2014.

Chair Doran Barnes presented Mr. Arrigo with a token of appreciation for his many years of service as the Chair of the CAC. Chair Doran Barnes also introduced the new Chair of the CAC Chaplin "Dov" Cohen.

Linda Evans, Chair of the Transportation Professional Advisory Committee (TPAC), reported that there was no meeting in September 2014 therefore there was nothing to report.

7. **GENERAL PUBLIC COMMENT**

No public comments were heard during the general session portion of the meeting.

8. **CONSENT CALENDAR**

Recommendation: Approval of all items on the consent calendar, (list of items provided below);

- 8-a Consideration to Renew Access Services Insurance Policies for Fiscal Year 2014/15
- 8-b Consideration to Reappoint the Transportation Professional Advisory Committee (TPAC) members
- 9-c Consideration to Appoint Community Advisory Committee (CAC) members

Motion made by Director Art Ida to approve all the item on the consent calendar, Seconded by Director John Troost. Via Voice Vote all were in favor, motion passed.

9. CONSIDERATION TO APPROVE ACCESS RIDER ID/TAP CARD REIMBURSEMENT AGREEMENT

Recommendation: Approve a reimbursement agreement between Access and Metro for the production and issuance of Access Rider ID/TAP cards for the period of 11/1/2014 - 10/31/2015 at a cost not to exceed \$484,800.

F Scott Jewell, Chief Operating Officer, Access Services, presented an overview of staff's recommendation regarding the reimbursement agreement between Access Services and Metro.

Director Dan Levy asked if the reader unit in the vehicle reads the magnetic strip and TAP smart chip. Also, did Access Services ever look into acquiring TAP card readers'? The reader unit only reads the mag stripe and TAP readers were too costly.

Motion made by Vice Chair Dolores Nason to approve the ID/TAP card reimbursement agreement between Access Services and Metro, Seconded by Director Angela Nwokike. Via Voice Vote all were in favor, motion passed.

10. CONSIDERATION TO APPROVE VEHICLE ALLOCATION FORMULA

Recommendation: Approve the use of the 'Trips per Vehicle' Fleet Formula as described in the Board Item as a guideline for the development of future capital plans.

Andre Colaiace, Deputy Executive Director of Planning and Governmental Affairs, Access Services, presented an overview of staff's recommendation to the full Board.

Director Dan Levy commented if staff looked into any peer systems and how did they compare to other agencies in terms of paratransit? He asked if there were a lot of variations between the regions.

After the fiscal year 2014/15 vehicle build, there will be very little variation by region when the formula is applied. Peer systems have different approaches so it is not an apples to apples comparison.

Director Dan Levy added that he asked this question a while ago if Access had a spare ratio and was informed that there were no spare ratios, so would the spare ratios be on top of this or factored into this.

Director Dan Levy commented that the 400 trips per vehicle, how it would compare on the graph.

Motion made by Director Dan Levy to approve the staff's recommendation on the vehicle allocation formula, Seconded by Director Art Ida. Via Voice Vote all were in favor, motion passed.

11. CONSIDERATION TO APPROVE THE TRIENNIAL REVIEW UPDATE

Recommendation: Authorize the Executive Director to send a letter to the CEO of the Los Angeles County Metropolitan Transportation Authority (Metro) that indicates Access Services' willingness to implement origin to destination service on behalf of the 44 Fixed Route Operators, if approved by the Metro Board of Directors as long as sufficient funding is provided. The letter would also encourage Metro to get an independent legal opinion about whether such service is required under the Americans with Disabilities Act and its regulations.

Andre Colaiace, Deputy Executive Director of Planning and Governmental Affairs, Access Services, presented an overview of staff's recommendation to the full Board.

Vice Chair Dolores Nason commented, what the rest of the country was doing regarding the Door-to-Door service.

Chair Doran Barnes commented, if the region was to move to a Door-to-Door modified approach what were the steps required to implement it in terms of changing the Paratransit Plan and conducting Public Hearings.

Vice Chair Dolores Nason commented that staff provided an estimate on what the cost would be to provide Door-to-Door service, she asked if staff would remind the Board what the cost would be.

Director Dan Levy commented that the cost would be \$5 to \$7 million for Door-to-Door service and Reasonable Modification. He also mentioned that on Friday, September 19, 2014 the FTA provided Metro's exit interview and the findings on Origin to Destination applied to Metro in the triennial review. The FTA also gave Metro until March 3, 2015 to resolve those issues.

Vice Chair Dolores Nason commented that staff was requesting Board approval to send a letter to Metro to cover the cost of the Door-to-Door service. Would the Board receive a breakdown of the cost before sending a letter to Metro?

Director Dan Levy commented that he did not see any problem with sending the letter but he felt it was not necessary to ask Metro to conduct an independent legal analysis, so he would not support this item on that basis.

First Motion

Motion made by Director Dan Levy to approve the staff's recommendation with the exception of the request for Metro to provide an independent legal analysis. Seconded by Director John Troost.

Vice Chair Dolores Nason commented that she would have liked to review the revised cost analysis before taking a vote on this item and she would like to know what was going to be in the letter.

Director Dan Levy commented that it would have been nice to review the financial analysis. He added that he could amend the motion.

Second Motion

Withdrawal of the first motion made by Director Dan Levy. Seconded by Director John Troost.

Third Motion

Revised Motion made by Director Dan Levy to table this item until the next Board of Directors meeting. Seconded by Director John Troost.

Chair Doran Barnes commented that it was important that staff organize and coordinate when the right time would be to schedule a meeting with the 44 Member Agencies to brief them on this item which would affect all of the members.

PRESENTATIONS

12. STATUS UPDATE ON METRO'S REVIEW OF ACCESS SERVICES

Recommendation: Receive and file Metro's review of Access Services.

Matthew Avancena, Manager of Planning and Coordination, Access Services was available to provide a status update on Metro's Review of Access Services and to answer any questions from the Board members.

Director Dan Levy commented if the scope of work would be distributed to the TPAC and CAC for their review. He added that the scope of work contained information that would have a big impact on the way the service would be provided, so he felt that it was important for the TPAC and CAC committees review it. Staff assured Director Levy that the scopes of work would be shared.

Chair Doran Barnes thanked Mr. Avancena for his presentation and reminded the Board that this was an information item only and no action was needed.

13. EXECUTIVE DIRECTOR'S REPORT

Shelly Verrinder, Executive Director Access Services, provided a brief report by updating the Board on Access Services operational statistics for the month of September. She also recognized Global Paratransit for completing a record day on September 3, 2014. She stated they booked 4,268 trips and completed 3,758 trips with an on-time performance of 90.1%.

Ms. Verrinder also congratulated Rogelio Gomez, Access Services Project Administrator for the Southern and Santa Clarita Regions for being honored by Mass Transit in the Top 40 under 40 list and he will be showcased in the September/October edition of the magazine.

Ms. Verrinder announced that Rene Arrieta, Access Services Accounting Supervisor, just completed the Eno Mid-Manager training in New York City. Faye Moseley, Access Services Deputy Executive Director of Administration, was currently attending the Eno Transit Executive training in Washington D.C. along with a member from Foothill Transits staff. Jack Garate, Access Services Operation Administrator will be attending the Eno Mid-Manager training being held in Orange County which she will be speaking at.

Ms. Verrinder informed the Board that by 2027 Access Services is predicted to double ridership and the budget. She also mentioned that she submitted a letter of intent to be considered for the APTA Access Committee Secretary position, the term was from 2014 thru 2016 and the responsibilities would include keeping APTA apprised of accessibility issues, regulations, Transit Best Practices, and to bring back information to the committee. So if anyone was attending the APTA Annual meeting, the Committee will meet on Sunday, October 12, 2014 and she would appreciate the support.

14. BOARD MEMBER COMMUNICATION

Michael Arrigo, thanked David Foster and Sherry Kelley for their guidance when he served as Chair of the CAC. He also thanked Araceli Barajas for all the support she provided and for keeping herself available every time he had questions.

Linda Evans stated that she was very happy to be present at these meetings. She was also attending the APTA Annual meeting and would be happy to vote for Ms. Verrinder.

Director Art Ida stated that when he started his term on the Access Services Board of Directors he attended his first CAC meeting as the Board representative and Michael Arrigo was chairing the committee and did a wonderful job. Director Art Ida thanked him for all his contributions to the CAC. He also congratulated staff and the contractors for the on-time performance of 90.7% which he felt was an amazing achievement with the increased ridership.

Vice Chair Dolores Nason stated that she would also be voting for Ms. Verrinder at the APTA Annual meeting in Houston.

Director Angela Nwokike stated that she would also be at the APTA Annual meeting in Houston and would be voting for Ms. Verrinder. As for the Door-to-Door services she felt that it was going to be a nightmare and cost a lot of money. Director Angela Nwokike briefly talked about her experience with Door-to-Door service in Cleveland, Ohio when she attended the APTA Conference in July, 2014.

Director John Troost also congratulated Michael Arrigo for his work with the CAC. He also stated that he was happy to hear about the great on-time statistics. Director John Troost invited the entire Board to the upcoming ADA25 Access

Reception taking place on Monday, October 20th on the 8th floor Kenneth Hahn Hall of Administration from 1:30 to 3:30 p.m.

Chair Doran Barnes commented that he distributed an invitation to Foothills Electronic Bus event on Saturday, September 27th beginning at 9:00 a.m. in Pomona. He provided a brief description of the event. Chair Doran Barnes asked that staff and the Board members keep moving forward with the recommendations from the triennial review and keep Access Services member agencies informed.

15. NEW BUSINESS SUBSEQUENT TO THE POSTING OF THE AGENDA

No new business was heard subsequent to the posting of the agenda.

16. ADJOURNMENT

Motion made by Director Angela Nwokike, Seconded by Vice Chair, Dolores Nason. Via Voice Vote all were in favor, motion passed. The meeting adjourned at 2:05 p.m.

Approval

Theresa DeVera, Secretary

Date

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS
FROM: BILL TSUEI, SENIOR MANAGER INFORMATION TECHNOLOGY
RE: CONSIDERATION TO EXTEND TERM AND ADD FUNDS TO
INFORMATION TECHNOLOGY CONSULTING SERVICE CONTRACT
(AS-3202)

ISSUE:

Board authorization is needed to extend the term and increase funds for contract AS-3202 with Computer Specialists, Inc. for information technology consulting services.

RECOMMENDATION:

Authorize \$60,000 in funds and an extension in the period of performance for one year, from December 3, 2014 through December 2, 2015.

IMPACT ON BUDGET:

These consulting services were budgeted for FY2014/15 and will also be allocated in FY2015/16. This action will result in an increase in the total contract amount, from \$132,000 to \$192,000, with no increase in the rate of compensation.

The funding for these services comes from the Prop C Discretionary Fund.

ALTERNATIVE CONSIDERED:

No alternatives were considered. Staff is confident that the contractor has met the terms of the Contract and thus merits consideration for an extension of its term.

EFFECT OF APPROVAL OF STAFF RECOMMENDATION:

If this staff recommendation is approved by the board, the staff would be authorized, but not required, to negotiate and enter into a written amendment of the existing contract upon terms and conditions no less favorable to Access than those proposed above. Access would not be legally bound to the amendment herein proposed unless and until it is incorporated into a formal written agreement executed by all parties thereto and approved as to form by this entity's legal counsel.

BACKGROUND:

Access uses a number of third-party vendors for computer and network related support. In November 2011 Access issued an RFP for on-going, as needed use of information technology consulting and services. Computer Specialists, Inc. was awarded the contract under an initial two year term. The requested amount represents approximately 600 hours of work over the next year. Staff anticipates that **these services will be competitively procured next year after the migration of Access' network to the hosted data and disaster recovery centers.**

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS
FROM: RICK STREIFF, MANAGER OF FLEET DESIGN AND MAINTENANCE
RE: CONSIDERATION TO EXTEND LOCAL VEHICLE INSPECTION
CONTRACT (AS-2985)

ISSUE:

Board action is required for the extension of the vehicle inspection services contract (AS-2985) with Transit Resource Center (TRC).

RECOMMENDATION:

Authorize an extension in the period of performance for one (1) year from March 1, 2015 through February 28, 2016.

IMPACT ON BUDGET:

The costs associated with this contract have been programmed in the FY2014/15 budget and will be allocated in the following fiscal year. There is sufficient funding under the current contract agreement to cover the one year extension. There are no changes to the inspection rates.

The funding for these services comes from the Prop C Discretionary Fund.

ALTERNATIVES CONSIDERED:

Staff could reissue the RFQ but the positive performance of the vendor and no increase in rate does not justify this action. The only other alternative that could be considered would be to have current Access fleet staff perform the required audits. However, staff has determined that having a qualified third party contractor perform these audits reduces the possibility of disagreements on discrepancies found between Access Services, the current contractor and the incoming contractor.

EFFECT OF APPROVAL OF STAFF RECOMMENDATION

If this staff recommendation is approved by the board, the staff would be authorized, but not required, to negotiate and enter into a written extension of the existing services agreement with TRC for the provision of vehicle inspection services upon

terms and conditions set forth and no less favorable to Access than those proposed above.

BACKGROUND:

In December 2010 a Request for Quotations (RFQ) for vehicle inspection services was sent out to eight (8) providers that specialize in this type of service. TRC was awarded the contract under an initial three year term. This is the second option year awarded to TRC for AS-2985.

TRC inspected a total of 127 vehicles in 2011, 59 vehicles in 2012, 113 vehicles in 2013 and 177 vehicles in 2014. Staff is pleased with the performance of the vendor and thus recommends the extension of the contract.

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: DONNA CISCO, ADMINISTRATIVE MANAGER/BOARD LIAISON

RE: CONSIDERATION TO APPROVE 2015 BOARD MEETING CALENDAR

ISSUE:

Staff is presenting to the Board for their review and approval the attached list of scheduled Board of Directors Meetings for calendar year 2015.

RECOMMENDATION:

Review and approve the Board Meeting calendar for 2015.

IMPACT ON BUDGET:

None.

DISCUSSION:

Staff has prepared the proposed 2015 Board meeting calendar. The meeting dates will remain on the fourth Monday of the month, with the exception of the following:

- Monday, January 12, 2015 moved up to the second Monday of the month since there was no Board meeting in December 2014.
- Thursday, March 26, 2015 Access Services Annual Membership Meeting, being held at the California Endowment Center.
- Monday, May 18, 2015 moved up to the third Monday of the month due to the Memorial Day Holiday.
- Monday, June 29, 2015 moved to the 5th Monday of the month.
- Monday, November 23, 2015 canceled due to the Thanksgiving Holiday.

All meetings are subject to change based upon the necessary business and operational transactions of Access Services. Notice of such schedule changes in the Board Meeting calendar will be brought to the Board's attention by the Executive Director.

All meetings with the exception of the Annual Membership meeting are scheduled to take place at a new location, staff is still working out the details.

access

Board of Directors 2015 Board Meeting Calendar

All meeting dates and locations are subject to change and must be approved by the Board in advance.

Please note that all the Board of Directors Meetings will convene at (still looking for a location for the meetings) (with the exception of the March 26, 2015, will be held at the California Endowment Center)

Monday, January 12, 2015

Monday, February 23, 2015

Thursday, March 26, 2015 *Annual Meeting*

Monday, April 27, 2015

Monday, May 18, 2015

(This meeting date was moved a week earlier due to the Memorial Day Holiday)

Monday, June 29, 2015

Monday, July 27, 2015

Monday, August 24, 2015

Monday, September 28, 2015

Monday, October 26, 2015

~~Monday, November 16, 2015~~
Canceled

Monday, December 14, 2015

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: KURT HAGEN, MANAGER OF ELIGIBILITY
ALFREDO TORALES, PROJECT ADMINISTRATOR

RE: CONSIDERATION TO AMEND CONTRACT SCOPE AND ADD FUNDS
FOR EASTERN REGION SERVICE CONTRACT (AS-3421) SAN GABRIEL
TRANSIT, INC.

ISSUE:

The number of phone calls for eligibility has significantly increased from that forecasted and the service contractor has requested additional personnel in order to maintain reasonable hold times. Board approval is necessary to authorize staff to negotiate and execute an amendment to the contract with San Gabriel Transit, Inc. (AS-3421) to accommodate this request.

RECOMMENDATION:

1. Authorize an amendment to the transportation service provider contract that adds the increases to the fixed monthly fee.
2. Authorize an additional \$396,876 in funds thereby increasing the maximum contract value from \$155,137,496 to \$155,534,372.

IMPACT ON BUDGET:

The proposed increase in the contract amount will be accommodated by the budget for FY 2014-2015 and will be programmed out in future fiscal years. The new maximum contract value has been calculated based upon the hourly cost of two full time FTEs. The revised fixed monthly rate will be modified as follows for the base term of the contract -

Contract Term	Current Rate	New Rate
12/1/2014 - 3/31/2015	\$567,940	\$573,445
4/1/2015 - 3/31/2016	\$582,580	\$588,604
4/1/2016 - 3/31/2017	\$598,999	\$605,576
4/1/2017 - 3/31/2018	\$615,968	\$623,136
4/1/2018 - 3/31/2019	\$633,508	\$641,307

The funding for these services comes from a combination of Federal Section 5310 Grant and Prop C Discretionary Funds.

ALTERNATIVES CONSIDERED:

No other alternatives were considered as Access has traditionally relied upon its contractors to provide the required services on its behalf and the increase in staffing levels is necessary to meet demand.

EFFECT OF APPROVAL OF STAFF RECOMMENDATION:

If this staff recommendation is approved by the Board, the staff would be authorized, but not required, to negotiate and amend the written contract with SGT on terms and conditions set forth in the existing contract and modified as in this item proposed. Access Services would not be legally bound to the revised terms or the extension period unless and until they are incorporated into a formal written amendment to the contract executed by all parties thereto and approved as to form by this entity's legal counsel.

BACKGROUND:

The Eastern Region Contract, AS-3421 was awarded to San Gabriel Transit, Inc. in January 2014. This contract included daily ADA paratransit operations as well as eligibility reservations and transportation services for the Los Angeles basin. In June 2014 the contract was modified by adding funds to process eligibility reservation calls for the Antelope Valley. However the forecasted number of calls has increased substantially from a low of 12,678 in April to a high of 19,622 per month. This translates into an almost 55% increase in call volume in a period of six months.

The high volume of calls has affected hold times and staff has determined that additional eligibility call takers are required in order to maintain reasonable hold times for our customers.

The higher volume in calls is reflective of the increase in appointments for eligibility interviews. The overall volume of in person interviews has risen 10% over budgeted amounts since the start of the fiscal year. More recently, the increase for the month of October alone is 26% (995) over the forecast and budgeted numbers.

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: MIKE GREENWOOD, DIRECTOR OF SAFETY AND RISK MANAGEMENT
ALVINA NARAYAN, GRANTS AND COMPLIANCE ANALYST

RE: CONSIDERATION TO ADD FUNDS TO CONTRACT WITH LPM
CONSULTING INC. (AS-2793)

ISSUE:

Board approval is necessary to add funds to contract AS-2793 with LPM Consulting Inc. (LPM), Access' drug and alcohol monitoring and compliance consultant.

RECOMMENDATION:

Authorize an additional \$30,000 in funds. This action will result in an increase in the total contract amount from \$118,036 to \$148,036.

IMPACT ON BUDGET:

The funds necessary to accommodate these changes are included in the fiscal year 2014-2015 Access Services budget. There is no change to the current rates of compensation.

The funding for these services comes from the Prop C Discretionary Fund.

ALTERNATIVES CONSIDERED:

The requested funding will allow the contract to continue to June 2015. Before completion of this contract, Access will initiate a competitive bid process for the period starting July 2015.

EFFECT OF APPROVAL OF STAFF RECOMMENDATION:

If this staff recommendation is approved by the board, the staff will be authorized, but not required, to negotiate and enter into an amendment to AS-2793 with LPM under terms that are no less favorable to Access Services than those proposed above. Access Services would not be legally bound to this amendment unless it is incorporated into a formal written amendment executed by all parties thereto and approved as to form by this entity's legal counsel.

BACKGROUND:

Under Federal Transit Administration (FTA) 49 CFR Part 655 ("Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations") contractors that perform any safety-sensitive function on behalf of Access Services, Inc. (grantee) are required to comply with the provisions of Part 655 and follow the procedures prescribed for drug and alcohol testing under DOT 49 CFR Part 40 ("Procedures for Transportation Workplace Drug and Alcohol Testing Programs"). The rule specifically requires the grantee to provide monitoring and oversight to its covered contractors and service agents to ensure that the program they are implementing on behalf of Access Services is consistent with the DOT and FTA rules. Access Services is required to annually certify compliance to the applicable FTA Office.

Access Services has been utilizing the services of a qualified consultant to meet the monitoring and oversight responsibility over its contractors and their service agents to ensure compliance with the drug and alcohol testing rules. LPM has been the Access Services Alcohol and Substance Abuse Prevention Program consultant since June 2003. The services provided under the previous contracts with LPM have been timely and critical to the success of Access' compliance program.

This contract was competitively bid in February 2010 and will expire June 30, 2015. Staff is projecting that the current not-to-exceed contract amount is insufficient to cover the term through June 30, 2015. This is due to additional drug and alcohol program related training classes and consulting service hours to orientate new Access staff with stipulated federal regulations and updates. These additional training classes and staffing changes were unanticipated when this contract originally went into effect.

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: F SCOTT JEWELL, CHIEF OPERATING OFFICER

RE: CONSIDERATION TO APPROVE REVISED PROCUREMENT POLICIES

ISSUE:

Access' existing procurement policies have been updated to reflect changes relative to its internal reporting structure. Board action is requested to approve these changes.

RECOMMENDATION:

Approve the revised procurement policies as presented.

IMPACT ON BUDGET:

None.

BACKGROUND:

The Executive Director is responsible for ensuring that the Access procurement process functions in accordance with various legal and regulatory requirements, as interpreted by Corporate Counsel, Access Policy and Board directives. Access must follow sound business and policy principles in the procurement and distribution of goods and services so that procurement functions foster full and open competition, while obtaining the best products and services available, at fair and reasonable prices, in the best interest of Access customers and stakeholders.

Access' existing procurement policies have been developed based on applicable Federal, State, and/or Local guidelines. These policies are occasionally reviewed for relevance either internally or through an audit such as the State Management Review.

The revisions reflect the addition of the Controller position to Access' organizational structure as well as the realignment of the Procurements and Contracts Department to fall under the Controller's sphere of responsibility.

This revision amends the following sections -

- Updated Access' Procurement Policy - Procurement System Integrity and Control, Section B, Definitions - defined the position of Controller and its responsibilities; modified the responsibilities of the Deputy Executive Director, Administration.
- Updated Access' Procurement Policy - Procurement System Integrity and Control, Section C, 3.0, b - Changed the responsibility to the Controller position.
- Updated Access' Procurement Policy - Procurement System Integrity and Control, Section C, 20.0 - Changed the responsibility to the Controller position for the Program Review and Certification section.

Board ratification of these changes will continue to provide the appropriate policy guidance to staff. The entire procurement policy document is available for review on Access' website at http://accessla.org/about_us/publications.html under "Other Publications".

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: SHERRY KELLEY, SENIOR MANAGER OF CUSTOMER SERVICE

RE: CONSIDERATION TO REAPPOINT COMMUNITY ADVISORY COMMITTEE (CAC) MEMBERS

ISSUE:

The two year term of the Group B slate of CAC members expires on January 26, 2015 and therefore requires Board action for reappointment.

RECOMMENDATION:

Staff is requesting the Board; re-appoint the following members of Group B to a two year term, which would be effective, January 26, 2015 - January 23, 2017.

Group B			
Last Name	First Name	Access User	Affiliation
Aroch	Maria	Yes	Southern California Rehabilitation Services
Cohen	David	Yes	Chaplain, Veterans Administration
Conrad	Michael	Yes	Metro Accessibility Advisory Committee
Coto	Phyllis	Yes	Los Angeles County Client Coalition - Department of Mental Health
Francois	Marie	No	Director of Programs - Foothill Aids Project/child with Autism
Garcia	Dina	Yes	Communities Actively Living Independent & Free (CALIF)
Payne	Howard	Yes	V.A./Braille Institute/Whittier Accessibility Commission

ALTERNATIVES CONSIDERED:

None as the process conducted was in accordance with guidelines in revised CAC bylaws.

IMPACT ON BUDGET:

No impact.

BACKGROUND:

The Access Services Community Advisory Committee (CAC) was formed to provide input and advice to Access Services staff and Board of Director concerning operational and policy issues for the Access Services transportation program. The CAC meets the second Tuesday of each month.

As prescribed in the bylaws, there shall be eight (8) representatives appointed to a two-year term (known as Group A) and seven (7) representatives appointed to a two year term (known as Group B). Group A terms will expire on January 25, 2016 and every two years thereafter on the date of the Board of Directors meeting; Group B terms will expire on January 26, 2015 and every two years thereafter on the date of the Board of Directors meeting.

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: HECTOR RODRIGUEZ, CONTROLLER

RE: CONSIDERATION TO APPROVE FINANCIAL SOFTWARE ERP
MIGRATION (AS-3753)

ISSUE:

Board approval is required for the selection of a vendor to provide Financial Reporting Enterprise Resource Planning (ERP) software and implementation services. This will migrate Access' financial tracking and reporting systems from a small business software platform. The recommended vendor consists of a partnership that will require two separate contracts.

RECOMMENDATION:

1. Authorize staff to execute a contract for Financial Reporting ERP software services beginning January 1, 2015 through December 31, 2021 with Oracle America, Inc. in an amount not to exceed \$318,780.
2. Authorize staff to execute a contract for Financial Reporting ERP software implementation costs beginning January 1, 2015 through December 31, 2021 with Intelenex, Inc. in an amount not to exceed \$149,320.

IMPACT ON BUDGET:

The funds needed for the software subscription and implementation are as follows:

Period	Subscription Rate	Implementation Cost
1/1/15-6/30/15	\$0	\$100,000
7/1/15-6/30/16	\$0	\$49,320
7/1/16-6/30/17	\$57,960	n/a
7/1/17-6/30/18	\$57,960	n/a
7/1/18-6/30/19	\$57,960	n/a
7/1/19-6/30/20	\$57,960	n/a
7/1/20-6/30/21	\$57,960	n/a
7/1/21-12/31/21	\$28,980	n/a

The total commitment for this item is \$468,100.

This action is consistent with the budget estimates for the proposed contract's impact for FY2014/15 and will be programmed out in future fiscal years.

The funding for the software and implementation services comes from the Prop C Discretionary Fund.

EFFECT OF APPROVAL OF STAFF RECOMMENDATION:

If this staff recommendation is approved by the board, the staff will be authorized, but not required, to negotiate and enter into contracts with Oracle America, Inc. and telenex, Inc. under terms that are no less favorable to Access than those proposed herein. Access would not be legally bound to these contracts unless it is incorporated into a formal written agreement executed by all parties thereto and approved as to form by this entity's legal counsel.

ALTERNATIVES CONSIDERED:

The existing financial management software is not considered to be a viable option to address Access' current and future financial and procurement needs. Accordingly staff opted to competitively procure a system in a hosted network environment that would provide enterprise class resources.

BACKGROUND:

Financial Reporting ERP is a suite of integrated business applications that an agency can use to collect, store, manage, and interpret data from many business activities including cost, planning, purchasing, and service delivery. The core of an ERP system are the financial and procurement modules. Access Services is seeking the Board's approval to acquire the subscription of these two modules as well as the implementation, customization, and training services. Other modules such as Enterprise Business Intelligence Dashboard, Human Capital Management, and Customer Relationship Management etc. are optional and will be considered in the future.

Access Services is currently using Sage 50 Complete Accounting to meet its financial record keeping requirements. Access Services acquired the software twenty years ago when it started operations with less than one tenth of its current operating budget. The accounting software, when it was called Peachtree at the time, was aimed to serve small businesses. Twenty years later, Access Services' team of accountants is using the software and almost five-hundred spreadsheets to maintain their books because Sage 50 lacks features that are critical to Access Services' financial operation. This creates inefficiency and room for error. Additionally Access' procurement department uses manual processes such as forms, spreadsheets and databases to record, track, and manage procurement records. This process is also inefficient and can be problematic to manage.

In order to improve the efficiency of the Finance and Procurement departments, Access Services issued a Request for Proposals (RFP) for a replacement of the existing accounting system and a new procurement system on July 24th 2014. A total of six proposals were received on August 25th, 2014. The seven year costs proposed by the six proposers are listed below:

Amzur Technologies	\$541,220
Denovo Ventures	\$1,427,276
NFP Accounting Technology	\$389,301
Oracle/Intelenex	\$468,100
Serenic Software	\$503,999
Tyler Technologies	\$1,178,622

The proposals were reviewed by an evaluation team with members from Finance, Information Technology, and Business Analytics. The criteria considered in evaluating the proposals and the weight attached to each criteria were:

RFP response contents	30 points
Cost	25 points
Qualifications of the software vendor/developer	15 points
Data center robustness	10 points
Ability to provide the following modules: Enterprise Dashboard, Human Capital Management, and Customer Relationship Management in future phases of the ERP Project	10 points
Client references	5 points
Service level agreement	<u>5 points</u>
Total:	100 points

Based on the evaluation criteria, the evaluation team scored the proposals as follows.

Proposer Name	Amzur	Denovo	NFP	Oracle	Serenic	Tyler
RFP Response Contents	19.9	28.1	21.8	28.1	24.8	23.3
Costs	16.7	6.6	25	20.8	21.6	8.8
Qualifications of the software vendor/developer	9.4	13.5	11.4	14.1	12.8	11.4
Data center robustness	8.3	4.5	3	9.5	8.3	2.9
Ability to provide the following modules: Enterprise Dashboard, Human Capital Management, & Customer Relationship Management in future phases of the ERP Project	8.5	9.4	3.8	9.5	7.0	9.4
Client references	4.5	4.5	4.4	4.5	4.5	4.6
Service level agreement	4.5	3.2	1.8	4.3	4.5	1.9
Total Score	71.8	69.8	71.2	90.8	83.5	62.3

The highest rated proposers were invited to interviews to present their proposals to the evaluation team. Follow up questions, including a request for a Best and Final Offer (BAFO), were forwarded to the proposers. Scoring based on the interviews and BAFO led to the final ranking of the proposers.

Oracle is the second largest software maker by revenue and has an ERP market share of 13%. Fusion ERP will be delivered to Access Services staff via a secure Internet connection similar to online banking systems. There will be no initial hardware investment or upgrade needs now or in future years. The Fusion applications and Access Services' financial data are stored and backed up in Oracle's North American data centers. The required infrastructure will be managed by Oracle's United States based employees.

Oracle's proposed implementation partner is Intelenex, Inc. which has successfully deployed Oracle solutions for over nine years. Intelenex is a platinum Oracle partner and currently has over 300 clients.

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: ANDRE COLAIACE, DEPUTY EXECUTIVE DIRECTOR OF PLANNING
AND GOVERNMENT AFFAIRS

RE: CONSIDERATION OF METRO LOGO INTEGRATION

ISSUE:

The FY 14/15 Memorandum of Understanding (MOU) between Access Services and Metro called on Access to “place a notice in its vehicle design and marketing materials for the purpose of communicating that the Grantee receives financial support through Los Angeles County sales taxes approved by voters.”

Metro has forwarded Access a proposal (attached) to integrate the Metro logo into Access’ marketing materials and vehicles. This proposal is subject to approval by the Access Services Board of Directors.

RECOMMENDATION:

Review and provide guidance to staff on the Metro Logo integration proposal.

IMPACT ON BUDGET:

Metro has agreed to provide the vehicle decals at no cost to Access.

ALTERNATIVES CONSIDERED:

No alternatives were considered.

BACKGROUND:

For the reference of the Board, the full text of the relevant section in the MOU is excerpted here:

In conjunction with LACMTA's Communications - Marketing Department, Grantee shall place a notice in its vehicle design and marketing materials for the purposes of communicating that the Grantee receives financial support through Los Angeles County sales taxes approved by voters. The vehicle design shall display LACMTA's "Metro" logo on all Grantee-owned vehicles and service vehicles owned/operated by

the Grantee's contractors. LACMT A shall approve final logo size and location. The final vehicle design is subject to approval by the Access Services Board of Directors.

This proposal was also presented to the Community Advisory Committee (CAC) and the Transportation Professionals Advisory Committee (TPAC) for review and comment.

CAC Comments

Much of the discussion at the CAC centered on ensuring that whatever design was approved was clear and readable for Access customers. Specifically, some of the CAC members opposed the vehicle design because they felt that the logo integration concept provided by Metro would end up confusing customers, particularly those with developmental disabilities.

TPAC Comments

The discussion at TPAC centered on how Access is funded and how that should influence the vehicle design. Representatives from the municipal operators opposed the concept as presented and said that Access was funded with regional monies and that should be taken into account in any Access designs. Some municipal operators also asked whether Access intended also to put their logos on its vehicles. The Metro representative said that Metro provides 90 percent of Access' funding and that should be reflected on the Access vehicle and Access materials. He also stated that the goal was to link Metro and Access to help raise awareness about Metro's programs in advance of the next sales tax effort.

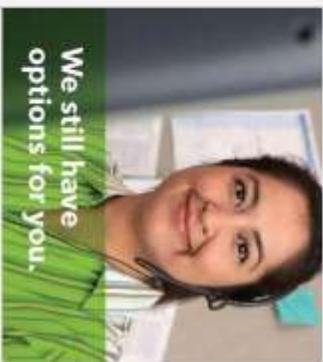
Access Services "Funded by Metro" Lockup Concepts: Single-Panel Take-Ones

Job #15-0885Camp v3
30 September 2014

Page 1 of 8

artwork shown at 100%
English side only

Mobility Management Take-One



We still have options for you.

Even though you may not be eligible for our full services, we understand you still need to get around. And we can help. As part of the Access Mobility Management Program, a Mobility Counselor will be calling you to discuss:

- ▶ Learning how to use bus and rail
- ▶ Bus and rail routes near you
- ▶ Discounted senior/disabled ID cards
- ▶ Cuyfobs, Dial-A-Ride and other services

If you have questions about these options and have not received a call from a Mobility Counselor, please feel free to call us at **213.270.6066**. Your questions are important to us, so if we don't pick up, please leave us a message and we will return your call.

access

Access Services
PO Box 6732
El Monte, CA 91734
access@metro.net
M Metro

11.280.0007 Access Services

Free Fare Take-One



Free Fare means freedom to go.

As an Access customer, you are eligible for the Free Fare program, so you can ride most bus and rail systems within Los Angeles County, including Metrolink, for free. Just present your Access Rider ID Card at fare when you board. You don't have to register, and using the Free Fare program does not affect your eligibility for Access paratransit.

For a list of Free Fare participants, please see our website at access.org/freefare. For help planning your trip, call **323.GO.METRO (323.466.3876)** or visit metro.net.

Please note that some systems charge personal care assistants (PCA) a fee when traveling with an Access customer.

access

Access Services
PO Box 5728
El Monte, CA 91734
access@metro.net
M Metro

11.280.0007 Access Services

Safety Take-One



Access Rider's Rules of Conduct

- Help us make Access a safe and enjoyable experience for everyone.
- ▶ Abusive behavior, including sexual harassment, will not be permitted
 - ▶ Do not remove or refuse to properly wear your seatbelt
 - ▶ No eating, drinking or smoking in vehicles
 - ▶ Anyone under the influence of alcohol or illegal drugs will not be allowed to ride
 - ▶ Do not operate or tamper with any Access Services equipment on board a vehicle

The mission of Access Services is to promote access to all modes of transportation and provide quality and safe ADA paratransit service on behalf of public transit agencies in Los Angeles County. **Your safety is a priority for Access.**

For more information, visit access.org/riding_access.

access

Access Services
PO Box 5728
El Monte, CA 91734
access@metro.net
M Metro

11.280.0007 Access Services

Smaller version to be used only when space is extremely limited

Access Services "Funded by Metro" Lockup Concepts: Community Meeting Postcard

Job #152033/Comp 03
30 September 2014
Page 2 of 2

Quantity: 100%

Sheet 1

Access Services
2014 Community Meeting Schedule

<p>Santa Clarita Region</p> <p>Saturday, February 1 12pm - 2pm Newhall Library 24500 Main St Santa Clarita, CA 91321</p> <p>Antelope Valley Region Wednesday, February 5 12pm - 2pm Lancaster Library 601 W Lancaster Bl Lancaster, CA 93534</p>	<p>Southern Region</p> <p>Saturday, February 8 11am - 1pm (English) 3pm - 5pm (Spanish) Barbara J. Riley Con Center 7810 Quill Dr Downey, CA 90242</p> <p>Northern Region</p> <p>Saturday, February 10am - 12pm (Engl 2pm - 4pm (Spanis Encino Community 4935 Balboa Bl Encino, CA 91316</p>	<p>Eastern Region</p> <p>Saturday, February 22 11am - 1pm (English) 3:30pm - 5:30pm (Spanish)</p>
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Sheet 2 (meeting)

Access Services
2014 Community Meetings

Come to a Community Meeting in your area.
Meet the Access Team.

These meetings are not mandatory and free rides will be provided. To request special accommodations including Braille, Sign Language or Spanish translation, call Access Customer Support at **1.800.827.0829, TDD 1.800.827.1359** at least three (3) business days in advance of your meeting.

Information is also online at accessla.org.





Access Services
497 Box 5728
El Monte, CA 91734-1728

Non-Profit Org
U.S. Postage
PAID
El Monte, CA
Permit No. 34

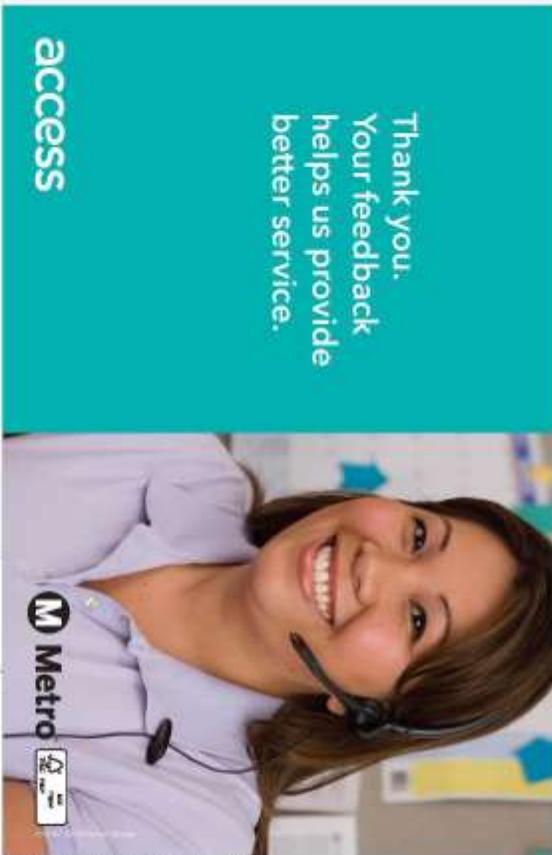
Access Services "Funded by Metro" Lockup Concepts: Customer Complaint Postcard

July #1E-0382/Comp-v2
30 September 2014

Page 3 of 8

Shown at 100%

SIDE 1



Thank you.
Your feedback
helps us provide
better service.

access



SIDE 2 (final)

At
experiences
Access
ive as
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and used
ality,
ss or

Access Services
PO Box 5728
El Monte, CA 91734

your complaint was resolved, feel free to contact Access Customer Support at **1.800.827.0829, TDD 1.800.827.1359**, Monday-Friday, 9am-5pm. Be sure to mention your complaint number and data shown on the label.

**Thank you for contacting
Access Services.**

Access Services "Funded by Metro" Lockup Concepts: Multi-Panel Take-One

Job #1114312/June 13
30 September 2014

Page 4 of 8

Mechanical shown at 50%

Access gives me the freedom to go

What is Access Service?
Access Service is a free, confidential, and confidential service that provides information and assistance to people with disabilities who are seeking employment. We are currently seeking individuals who are interested in providing information and assistance to people with disabilities who are seeking employment.

Why is it important to use Access?
Employers are required to provide reasonable accommodations for people with disabilities. Access Service can help you understand your rights and responsibilities as an employer. We can also help you understand your rights and responsibilities as an employee. We can also help you understand your rights and responsibilities as a person with a disability.

How do I apply to use Access?
To apply to use Access, you need to be a resident of the San Francisco Bay Area. You also need to be a person with a disability. You can apply online at accessla.org or call Access Customer Service at 800.827.0829 or 800.827.1359 (TDD).

Questions?
Please call Access Customer Service at 800.827.0829 or 800.827.1359 (TDD).

access
ACCESS SERVICES
A Metro Company

Mechanical shown at 100%

How do I apply to use Access?
To apply, download an application online at accessla.org or call Access Customer Service at 800.827.0829 or 800.827.1359 (TDD).

Questions?
Please call Access Customer Service at 800.827.0829 or 800.827.1359 (TDD).

access
ACCESS SERVICES
A Metro Company

Access Services "Funded by Metro" Lockup Concepts: Flyer with Stacked ID

Job #150382Comp 43
30 September 2014

Page 11 of 8

Sheet # 5295

FRONT



BACK



Lockups shown at 100%

access Access Services
P.O. Box 7744
Los Angeles, CA 90071-0744

Sally Wheeler
Executive Director
711.276.6000
sally@metro.net

M Metro

Access Services "Funded by Metro" Lockup Concepts: Access Rider's Guide

206-615-1130/CA@metro.net
28 September 2018

Page 7 of 8

Media/external view of file

BACK COVER

FRONT COVER

INSIDE FRONT AND TIE-ON



Lockup shown at 100%



Access Services "Funded by Metro" Fleet Decal Concepts: Back Design A
15-0304/0401T.3
20 September 2014



SHOWN AT 50%
ACTUAL DECAL SIZE IS 13.75' x 8'



Access Services "Funded by Metro" Fleet Decal Concepts: Back Design B
15-0304/0401T.3
20 September 2014

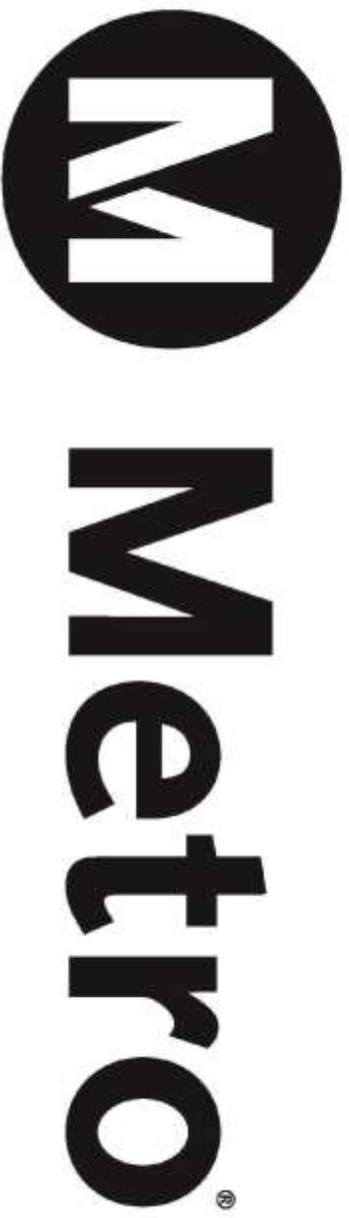


SHOWN AT 50%
ACTUAL DECAL SIZE IS 13.75' x 8'



SHOWING AT 100%

access



Access Services "Funded by Metro" Fleet Decal Concepts: Side Design

13.0394/DRAFT 3
20 September 2014

ARTWORK FOR SIDE PANEL
WOULD BE DIE-CUT



SHOWN AT 50%
ACTUAL DECAL SIZE IS 24" x 7.25"



NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: ANDRE COLAIACE, DEPUTY EXECUTIVE DIRECTOR PLANNING AND GOVERNMENT AFFIARS

RE: TRIENNIAL REVIEW DISCUSSION: NO-SHOW CANCELLATION POLICY REVISIONS

ISSUE:

During the 2014 Federal Transit Administration (FTA) review process, seven Los Angeles County transit agencies (Torrance Transit, Santa Monica Big Blue Bus, Antelope Valley Transit Authority, Santa Clarita, Culver City Bus, Foothill Transit and Los Angeles Metro) received a finding regarding Access Services' no show and cancellation policies.

Staff is updating the Board on Access' progress in resolving the issues raised by FTA.

RECOMMENDATION:

Receive and file.

IMPACT ON BUDGET:

None at this time.

BACKGROUND:

For the reference of the Board, the full text of the FTA finding is as follows:

Insufficient no-show policy (316)

Access Services' written no-show policy does not take into account frequency of travel prior to suspension. Further, the written policy, which calls for suspending passengers for 10 days after the first occurrence, 30 days for a second occurrence, 60 days for a third occurrence and 90 days for a fourth occurrence of no-shows, does not meet the reasonableness requirement of 49 CFR 37.125(h). Additionally, Access Services treats subscription trips canceled after 10:00 p.m. the night before as no-shows; FTA permits cancellations to be regarded as no-shows only if they are made within one to two hours of the pickup time provided to the passenger.

The corrective actions and schedule is as follows:

For the deficiency, insufficient no-show policy (316), by March 3, 2015, submit to the FTA Region IX Civil Rights Officer revised policies and public information materials for no-shows and suspensions, including templates for no-show notification, suspension and appeal letters relating to no-shows, late cancellations, and suspensions.

No Show revisions schedule

Staff believes that the FTA's deadline to revise this policy can be met.

The current schedule is as follows:

- Take the issue and options to our advisory committees in November and December.
- Take the issue and options to our Member Agencies at a proposed meeting in December.
- Based on this feedback, staff will present a proposed policy to the Access Services Board of Directors for approval at the February Board meeting.
- From there we would submit the No Show policy for FTA approval and implement accordingly after receiving approval.

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: SHELLY VERRINDER, EXECUTIVE DIRECTOR
ANDRE COLAIACE, DEPUTY EXECUTIVE DIRECTOR PLANNING AND
GOVERNMENT AFFIARS

RE: TRIENNIAL REVIEW DISCUSSION: ACCESS FARES

ISSUE:

Every year, the Federal Transit Administration (FTA) conducts Triennial Reviews of certain transit agencies who receive federal funds to ensure they are complying with various federal laws and regulations. During the 2014 Triennial Review cycle, some Access member agencies received an FTA finding that Access Services charges more than twice the fixed route fare for comparable trips on their system.

RECOMMENDATION:

Provide staff direction on resolving the fare finding with one of the following options:

- Move to a dynamic fare system in which fares for each trip will be calculated using the trip planner on www.metro.net or www.go511.com. The Access fare may be double the lowest fare quoted. Trips that cannot be provided by fixed route services may be denied.
- Given that the Americans with Disabilities Act (ADA) regulations encourage a coordinated paratransit plan but do not address a coordinated paratransit fare, direct staff to seek legislative or regulatory changes to allow for a coordinated fare when operating under a coordinated plan.
- Require all member agencies to have a minimum base fare or adopt a unified fare structure in order to set a compliant regional fare for ADA paratransit service.

In addition, direct staff to bring these options to the Access Membership at a Special Meeting in order to receive additional feedback on how to proceed.

IMPACT ON BUDGET:

There is a direct correlation between transit fares and ridership (and the Access budget) which is often called "fare elasticity." According to Access Services consulting

firm, HDR Engineering, the fare elasticity for the overall Access system is -.26 which means a 1 percent increase in real fare (i.e. fare excluding inflation) is expected to result in a 0.26% decrease in ridership. Conversely, it could be expected that a decrease in the real fare would lead to an increase in ridership. HDR has also found that other variables, such as unemployment and gasoline prices, also affect ridership.

BACKGROUND:

Access Services’ coordinated fare, which has been in place for nearly 20 years, is widely supported by both our customers and those who operate our system because it is simple to understand and easy to implement. On August 1, 2006, Access staff sent a letter to the FTA in response to a similar 2005 Triennial Review finding. Since that time, Access’ fare methodology, which uses a statistical analysis of comparable fixed-route fares, has been reviewed numerous times and no deficiencies have been found.

It should be noted that even after Access’ most recent fare adjustment (which was implemented on July 1, 2014) that Access has some of the lowest paratransit fares in the country, particularly for trips under 20 miles. The fares result in a cost recovery of approximately 6.2%.

AGENCY	MIN. FARE	MAX. FARE
New York City	\$2.50	\$2.50
ACCESS (Los Angeles)	\$2.75	\$3.50
Dallas	\$3.00	\$3.00
Chicago CTA	\$3.00	\$3.00
Boston	\$3.00	\$5.00
Washington, DC	\$3.50	\$6.50
OCTA (Orange County)	\$3.60	\$3.60
Philadelphia	\$4.00	\$4.00
Denver	\$4.50	\$4.50

Despite these facts, in a follow-up to the respective Triennial Review Final Reports in 2014, FTA’s Region IX office informed five Access Services member agencies (Torrance Transit, Santa Monica’s Big Blue Bus, Culver City Bus, Foothill Transit, and Metro) that the Federal Transit Administration’s (FTA) Office of Civil Rights determined that the fare structure for Access Services did not meet regulatory requirements. The Access base fare of \$2.75 was found to be more than twice the member agency’s fixed route base fare and therefore resulted in a deficiency finding for the ADA review area. The finding for Metro related to fares charged by sub-recipients and was due to their role as the transportation-funding agency for Los Angeles County. As the funding

agency, Metro has responsibilities to ensure that programs funded by Metro are compliant with ADA requirements.

Current Fare Methodology

Since 2005, in order to determine what the regional base fare is for Los Angeles County, Access staff has conducted a periodic statistical analysis of fares paid on fixed route service for comparable ADA complementary trips.

For example, in August, 2005, Access conducted a statistically-valid study of 675 randomly selected trips representing the four basin service regions from Access's trip database. The sample data represents trips originating from the Eastern, Northern, Southern, and West-Central portions of the county. The sampled trips contained date, pick-up time, pick-up and drop-off address. Each sample Access trip was compared to the fixed route using Metro's Trip Planner to determine the following:

- The number of transfers required on a fixed route trip
- Total fare amount paid on fixed route
- Total travel time
- Total distance (miles)

The results were as follows:

	Sample Size (Total Trips)	% of Sample Size	Reg. Total Fare (Fixed Route)	2x Reg. Trip Cost	Avg. Travel Time (min)	Avg. Total Distance (miles)
0 - 19.9 miles	557	82.5%	\$1.80	\$3.60	42.62	8.0
Over 20 miles	118	17.5%	\$2.84	\$5.68	116.93	28.39

Using this methodology, with an average fixed route fare of \$1.80, the maximum Access fare could be \$3.60 for trips up to 19.9 miles. For trips over 20 miles the average fixed route fare was \$2.84 making the Access fare no greater than \$5.68.

Since then, before staff considered any fare adjustment, a similar study was conducted to see what the regional fare was. In 2012, the study found that the regional fare should be no more than \$4.94 for a trip under 19.9 miles and \$8.31 for a trip over 20 miles. In November 2012, the following fare structure was approved and implemented:

LA Basin	Current	January 1, 2013	July 1, 2014
0 - 19.9 miles	\$2.25	\$2.50	\$2.75
Over 20 miles	\$3.00	\$3.25	\$3.50

Staff is currently conducting another study in light of Metro's recent fare change.

Discussion of proposed options

Dynamic Fare System

- *Move to a dynamic fare system in which fares for each trip will be calculated using the trip planner on www.metro.net or www.go511.com. The Access fare may be double the lowest fare quoted. Trips that cannot be provided by fixed route services may be denied.*

During the demonstration phase of Access in the mid-1990s, the Agency attempted to charge the exact fare for a comparable trip. This procedure was discarded because our customers disliked being charged different fares for different trips. In addition, it proved almost impossible to maintain in practice. A simple one-way trip required an additional three to five minutes to schedule, and over half the time the trip planning computer could not find the address, which required manually making a determination that required ten to fifteen additional minutes.

Staff believes that, even with advances in technology, implementing a "dynamic fare process" would slow down the reservations process. Nevertheless, staff has been talking to various software vendors to see what their current capabilities are.

Other issues include:

- If Access decided to charge twice the fixed-route fare for each route booked based on the Metro trip planner, most customers, particularly those that booked longer, regional trips, could pay substantially more than the current fares.
- Access customers would be charged different fares even for an identical trip that occurs at a different time.
- Some regional trips cannot even be done on the fixed-route system. Would Access continue to perform these trips? How would the fare be determined?
- If there are no set fares, would Access customers still be able to use coupons or any other alternative means of payment?

Legislative/Regulatory Change

- *Given that the Americans with Disabilities Act (ADA) regulations encourage a coordinated paratransit plan but do not address a coordinated paratransit fare, direct staff to seek legislative or regulatory changes to allow for a coordinated fare when operating under a coordinated plan.*

The current regulations regarding a coordinated paratransit plan read as follows:

49 CFR 37.139 [Plan Contents] (for all plans the applicant must show:)

"(g) Efforts to coordinate service with other entities subject to the complementary paratransit requirements of this part which have overlapping or contiguous service areas or jurisdictions." (see also 49 CFR 139(h)(4)(iii))

49 CFR 37.141 Requirements for Joint paratransit plan

"(a) Two or more entities with over-lapping or contiguous service areas or jurisdictions may develop a joint plan providing for coordinated paratransit service. Joint plans shall identify participating entities and indicate their commitment to participate in the plan."

49 CFR 37.147 Considerations during FTA review

"In reviewing each plan, at a minimum FTA will consider the following:

....

(f) the extent to which efforts were made to coordinate with other public entities with overlapping or contiguous services areas or jurisdictions."

49 CFR Part 37, Appendix D Section 37.141

"The Department believes that, particularly in large, multi-provider regions, a coordinated regional paratransit plan and system are extremely important. Such coordination can do much to ensure that the most comprehensive transportation can be provided with the most efficient use of available resources. We recognize that the effort of putting together such a coordinated system can be a lengthy one. This section is intended to facilitate the process of forming such a coordinated system."

It is apparent, particularly in Appendix D, that the Department wanted to encourage a coordinated system like Access. However, while the regulations are very specific about the maximum fare that can be charged in an ADA paratransit system, they are silent on how such a fare should be determined in a coordinated system.

Given the negative effects on our customers under a dynamic fare system, staff believes it is worth having discussions with the Federal Transit Administration and potentially Congressional representatives about working cooperatively on a legislative or regulatory change that would speak to how a fare should be determined in a coordinated paratransit system.

Member Agency Fare Changes

- Require all member agencies to have a minimum base fare or adopt a unified fare structure in order to set a compliant regional fare for ADA paratransit service.

Currently, the fares at our member agencies are set by their respective governing boards. In theory, Access could require, as a condition of membership, that our member agencies meet minimum fare standards. This change would require a change to the Access by-laws that is approved by our Member Agencies. Agencies could then elect to raise fares or subsidize/buy up to the minimum Access fare.

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: SHELLY VERRINDER, EXECUTIVE DIRECTOR
ANDRE COLAIACE, DEPUTY EXECUTIVE DIRECTOR PLANNING AND
GOVERNMENT AFFIARS

RE: TRIENNIAL REVIEW DISCUSSION: ORIGIN TO DESTINATION

ISSUE:

Every year, the Federal Transit Administration (FTA) conducts Triennial Reviews of certain transit agencies who receive federal funds to ensure they are complying with various federal laws and regulations. During the 2013 and 2014 Triennial Review cycles and, in the case of Access, the 2013 State Management Review cycle, the FTA found that Access did not provide "Origin to Destination" service to its customers. While Access has always operated a curb-to-curb, paratransit system, the FTA maintains that service must be provided beyond the curb for passengers whose disabilities may require such assistance in order to reach their destination or leave their point of origin.

Currently, Access Services and 10 Access Services member agencies (Gardena Bus Lines, Long Beach Transit, Beach Cities Transit, Torrance Transit, Santa Monica's Big Blue Bus, Antelope Valley Transit Authority, Santa Clarita Transit, Culver City Bus, Foothill Transit, and Metro) have received a FTA finding that Access is not providing Origin to Destination service.

RECOMMENDATION:

Authorize staff to forward the following plan of action to the Access Services Member Agencies for discussion and concurrence:

- Create an Ad Hoc Regional Paratransit Working Group comprised of riders, transportation service providers, member agencies, interested stakeholders, and Access staff. The Access Chairperson will make the final determination on the appointment of members to the ad hoc group.
- Direct the ad hoc group to develop policies and procedures on how origin to destination will be implemented throughout Los Angeles County. The results shall be presented to the Access Services Board of Direction for concurrence.

- Once the policies and procedures have been approved, Access will retain HDR Engineering, Inc. to develop cost projections. The cost estimates will be developed by using the proposed policy and by studying the experiences of other agencies who have implemented origin to destination service. The cost projections will be presented to the Access Board of Directors for approval.
- Submit a request for funding to the Los Angeles County Metropolitan Transportation Authority (Metro) in their role as the regional planning and funding authority for full funding of the implementation of origin to destination service.
- Conduct a thorough public participation process as required by the ADA regulations on the proposed change of adding origin-to-destination service to the existing service model.
- Present an amendment to the Los Angeles County Coordinated Paratransit Plan to the membership of Access Services. If approved, submit to the Federal Transit Administration and begin the process of implementing origin to destination service.

IMPACT ON BUDGET:

Unknown at this time. After consulting with other transit agencies around the country, staff believes that previous cost projections as developed by HDR are too speculative and the region would benefit from a more in-depth study of the costs of this service. Given that other transit agencies have made the transition from a pure curb-to-curb system to an “origin to destination” system, there is now enough data to come to a reasonably accurate cost estimate.

BACKGROUND:

The Federal Department of Transportation (DOT) in promulgating paratransit regulations pursuant to the requirements of 42 USC § 12143 intentionally and specifically elected not to define whether a compliant service could be door-to-door or curb-to-curb. (49 CFR Part 37, Appendix D §37.129.) That choice was intentionally left to be determined by the local transit property with the input of the local disability community when their paratransit plans were adopted and submitted to FTA. Some transit properties adopted door-to-door systems and some, like Access Services, adopted a curb-to-curb system as the most comparable to the fixed route.

The fact that a compliant paratransit system did not have to go door-to-door was confirmed by the 2004 5th Circuit in the case of *Melton v DART*. The DOT sought to non acquiesce in *Melton* by, September, 2005, issuing it's "Origin to Destination Guidance" and later in an NPRM for which a final rule was never adopted seeking to superimpose “reasonable modification” on complementary ADA paratransit. In its origin to destination guidance, the DOT opined that those terms had been used in the

regulations to “emphasize the obligation of transit providers to ensure that eligible passengers are actually able to use the paratransit service to get from their point of origin to their point of destination” and that, accordingly, they may have to modify their policies (such as curb-to-curb) in order to do so. Staff believes that the problem with that interpretation is that it is diametrically contrary to the DOT interpretation of the regulations issued concurrently with them and embodied in Appendix D which “is intended to be used as definitive guidance concerning the meaning and implementation of these provisions.” Further the premise of the origin-to-destination guidance appears to be diametrically opposite to the intent of the regulation in general as expressed in their preamble.

With regard to “origin to destination” Appendix D specifically provides that: “[t]he local planning process should decide whether or in what circumstances, this service is to be provided as door-to-door or curb-to-curb” (Appendix D §37.129, emphasis added). The Preamble to the DOT ADA regulations with regard to origin-to-destination services states: “This is exactly the sort of detailed operational decision best left to the development of paratransit plans at the local level.” Pursuant to that local planning process which included community meetings and public hearings, many paratransit plans adopting curb-to-curb service were submitted to and approved by the FTA under the provisions of 49 C.F.R. § 37.147 as providing “...for paratransit service comparable to the entity’s fixed route service.”

Since 2005, Metro staff has been in general agreement with Access staff that Origin to Destination Service and other so-called “reasonable modifications” are not required under the ADA and its regulations. (See April 28, 2006 letter to the docket on reasonable modification signed by former Metro CEO Roger Snoble.) This agreement continued up until late last year when Access was informed that Metro’s thinking on this issue had changed and that staff was recommending that Access provide Origin to Destination service.

Given this, it is necessary for the region to once again have a dialogue regarding curb-to-curb versus origin-to-destination (or door-to-door) and then follow the public participation process if any changes are to be made. The last time the region discussed significant changes to Access’ service model was in 2002 and 2003 when it was decided to move from a same day service model to a next day service model. At that time, an ad hoc group, similar to the one proposed above, was created and staff believes it was a constructive way for all the stakeholders to come to an agreement on how to make major changes to the Los Angeles County paratransit system.

April 28, 2006

Docket Management Facility
U.S. Department of Transportation
400 Seventh Street, S.W.
Nassif Building, PL-401
Washington, DC 200590-0001

Re: NPRM: Docket No. OST-2006-23985, RIN 2105-AD54
49 C.F.R. Parts 27, 37 and 38, 71 FR No. 38, 9761 *et seq.* (Feb. 27,
2006) Transportation for Individuals with Disabilities

Dear Docket Clerk:

We are a coalition of public transit agencies that provide accessible fixed route transportation and paratransit pursuant to the requirements of the Americans with Disabilities Act of 1990 ("ADA"). We submit these comments in response to the referenced Notice of Proposed Rulemaking ("NPRM"). The NPRM proposes to further expand ADA obligations on public transportation providers through amendments to the regulations which implement the ADA, currently codified at 49 C.F.R. Parts 37 and Part 38, and §504 of the Rehabilitation Act, currently codified at 49 C.F.R. Part 27. These comments are addressed to the proposals to add a "reasonable modification" requirement to Title II, Subtitle B, of ADA ("Title II.B."), particularly with respect to paratransit service, to add a "direct threat" definition and exception to the proposed "reasonable modification" rule, and to establish a Disability Law Coordinating Council through a formal rule. We have joined together in submitting these comments because we are convinced that this NPRM's proposals, if adopted, will have a significant adverse impact on our agencies' transportation services. We also support the comments prepared by the American Public Transportation Association, of which many of us are members. Many of us intend to submit separate comments addressing additional issues relevant to our particular circumstances.

We support the concept of accessibility of public transit and voluntarily modify our practices and procedures when it is safe and practical to do so. However, we oppose the NPRM's "reasonable modification" rule because it would impose a legal obligation to modify service on passenger demand without regard to passenger safety, potential costs, effects on reliability, operational and administrative complexities and local community needs. The "reasonable modification" rule, if adopted as proposed would produce severe adverse impacts on our fixed route transit and paratransit systems, is not redeemed by a proposed "direct threat" exception, and its promulgation would exceed the scope of the powers delegated to the Department of Transportation ("DOT") in the ADA statute.

DOT does not explain the purpose of its rulemaking proposal relating to the Disability Law Coordinating Council ("DLCC"). Further, establishment of such a Council is a wholly internal administrative process that is not subject to the Administrative Procedures Act's rulemaking requirements. Our concern is that the Council not be used to insulate decision makers from the industry they regulate or the constituent agencies of the DOT from the Administrative Procedures Act and SAFETEA-LU obligations when issuing "binding obligation" pronouncements.

We urge DOT to rescind these proposals in their entirety.

A. THE COALITION

The coalition submitting this comment consists of 40 transit agencies and other interested parties, identified at the end of these comments. Together we deliver more than 3.5 billion fixed route and more than 13.5 million paratransit rides per year and expend a combined amount in excess of \$6.8 billion in doing so.

B. COMPLEMENTARY ADA PARATRANSIT AND ITS COSTS

The purpose of Title II.B of the ADA (Public Transportation Provided by Public Entities) was to assure that persons with disabilities would have the same right to public transportation as the general public. The principal means the statute adopted of assuring transportation access for the disabled was to require that public entities make their fixed route systems accessible to persons with disabilities.

For those individuals with disabilities who are prevented from using accessible fixed route transportation, public entities were required to create and maintain paratransit at service levels "comparable" (or in the case of response time, "comparable to the extent practicable") to the transit operator's fixed route system. 42 U.S.C.12143(a).

As DOT noted in the Preamble to its ADA regulations when issued in 1991 (56 FR 45584, 45601):

The ADA is a civil rights statute, not a transportation or social service program statute.Under the ADA, complementary paratransit is not intended to be a comprehensive system of transportation for individuals with disabilities.

The Secretary of Transportation explained that it was DOT's intent, in adopting the regulations, to exercise its discretion "...conservatively, to minimize the

addition of costs to public and private entities beyond what the statute itself imposes." 56 FR 45620.

Despite the Secretary's conservative intent in developing the initial ADA transportation regulations (49 C.F.R. Parts 37 and 38), the annual cost of complementary ADA paratransit in the United States now exceeds \$1.9 billion dollars¹ - a number many times more than the official estimates made at the time the regulations were adopted. This is due to two factors: first, the inherent differences in paratransit and fixed route make paratransit preferable to more disabled riders than had been anticipated by federal estimates (and claims by disability advocates). Experience shows that many persons with disabilities, given a choice (i.e., able to ride accessible fixed route transit), will elect to ride complementary ADA paratransit despite the fact that it can cost the rider up to four times as much to do so.² Many agencies even offer riders free fare not only for the disabled passenger but also for his or her personal care attendant as an incentive to use fixed route service. Yet, any positive effects of those policies, in terms of reduced paratransit demand, have been negligible at best. The second is that the studies on which the original government estimates were based assumed a substantial denial rate. However, beginning in 1998, DOT through the Federal Transit Administration ("FTA") began to interpret the ADA as requiring a zero denial rate.

The ADA emphasized the obligation to make fixed route transit accessible to persons with disabilities as the primary method of achieving its accessible transportation goals, not only as a means to give persons with disabilities the most independence in travel and the most integrated mode of transportation, but also to promote the most efficient means of achieving the access goal. Public transit in general is a highly subsidized system utilizing some combination of local, state and federal funding. The fare revenue does not cover the actual cost of the ride and the difference is funded by taxpayer dollars. However, on fixed route transit (bus and non-commuter rail), the fare subsidy is far less. For example, a 10-mile bus ride might cost \$2.00, of which the rider pays \$1.25, for a subsidized cost of \$.75, a 38% subsidy. Moreover, as ridership on the bus system increases, the amount of subsidy needed, all other things being equal, diminishes. In comparison, paratransit, utilizing ADA-required service parameters, is a highly inefficient means of public transit. The same 10-mile ride on paratransit will cost \$30.00. The rider cannot be charged more than \$2.50, thus requiring a subsidy of \$27.50, or a 92% subsidy that must be provided by taxpayers. Thus, for the same ride, the subsidy for paratransit is more than 36 times that of the bus ride. In addition, increased paratransit ridership does not diminish costs per trip but in many circumstances will increase it.

¹ Summary of Nationwide Demand Response Service: 640 Transit Agencies Reporting to NTD CY, 2004.

² The individual is likely eligible for half-fare on fixed route transit and may be charged up to double the full fixed route transit fare for paratransit.

C. PROPOSED REGULATION: REASONABLE MODIFICATION OF POLICIES, PRACTICES AND PROCEDURES

DOT proposes to amend its ADA and 504 regulations to impose a requirement of "reasonable modification" of policies, practices and procedures on public transportation under Title II B. It asserts that this is a mere clarification of existing law and that it is supported by prior regulatory interpretations and case law. It contends that for this reason the proposal does not represent a significant departure from existing regulations and policy and is not expected to have "noteworthy cost impacts". All of these contentions are unsupported. If DOT intends to pursue this proposal, it must comply with the "significant" rulemaking requirements of Executive Order 12866, and its own Regulatory Policies and Procedures applicable to significant rulemakings, as well as with Executive Order 13132 ("Federalism"), requiring consultation with state and local governments.

We demonstrate below that this proposed regulation is contrary to existing case law and 15 years of operating experience. Neither DOT nor FTA had, prior to last year, indicated that transit properties had any transportation obligations beyond those incorporated in the regulations, and, for paratransit, what was incorporated in their FTA-approved paratransit plans. If adopted, this regulation will have a powerful negative impact on the already-low productivity rate of this inefficient means of public transportation and significantly increase the cost of meeting ADA regulations. Moreover, as we also show, it is beyond the statutory mandate and therefore if adopted would exceed DOT's authority to promulgate ADA regulations.

1. Analysis of the "Reasonable Modification" Rule and Title II Shows that the Proposed Rule is Outside the Scope of Title II.B.

Title II.A precludes public entities from discriminating against persons with disabilities by excluding them "by reason of such disability" from participating in public services. 42 U.S.C. §12132. Regulations by the Department of Justice ("DOJ") (28 C.F.R. Part 35) flesh out what discrimination means in the context of general public services provided by a public entity. Historically, government programs and activities intended for the general public had been designed without regard to whether those programs and activities were accessible to disabled persons. DOJ regulations therefore necessarily established a "reasonable modification" requirement because there are such a wide variety of general public services that developing specific non-discrimination regulations with respect to each of them would be impossible. However, DOJ regulations, 28 CFR 35.102(b), specifically exempt public transit because it is the one public service singled out for specific statutory treatment in Title II.B (42 U.S.C. §12141 *et seq.*) and regulations promulgated thereunder by the DOT at 49 C.F.R. Parts

37 and 38. DOT regulations as originally promulgated did not have a "reasonable modification" requirement for public entities and logically so.

Public transit is the only public service specifically and separately addressed by the ADA (under Title II.B). The goal of Title II.B is to assure equal access to public transit by persons with disabilities. For those who cannot ride an agency's accessible fixed route service, complementary ADA paratransit comparable to it is required to be offered.

The eligibility, design and the "comparable" operating parameters for paratransit are specified in the original and detailed DOT regulations. Fixed route operators designed their paratransit systems accordingly and, as required by the ADA statute and the DOT regulations, submitted a plan as to how this specialized service would be provided. 42 U.S.C. §12143(c)(7). FTA approved the plan when "...viewed in its entirety" it provides for service "comparable to the entity's fixed route service" and is therefore compliant with the antidiscrimination provisions of 42 U.S.C. §12143. 49 C.F.R. 37.147(d).

The Department's proposed rule would superimpose on the modifications of the fixed route system imposed by Title II.B, including complementary ADA paratransit, a requirement to further modify in response to rider demand on a case-by-case basis. We believe that this proposal is unnecessary, unworkable and contrary to the intent of the ADA.

2. The Proposed Rule Is Not A Clarification Of an Existing Rule.

There are no "reasonable modification" requirements in the original DOT regulations. Further, DOJ regulations that do have such a provision are inapplicable to public transportation. 28 CFR 35.102(b). The only appellate court to directly address the issue determined that "reasonable modification" was not required for activities covered under Title II.B. *Melton v. Dart*, 391 F.3d 669 (5th Cir. 2004); *cert. denied*, 125 S.Ct. 2273 (2005). *Melton* involved a plaintiff who sought to compel the paratransit agency to modify its curb-to-curb policy and pick up the plaintiff in an alleyway as opposed to the curb in front of his house. The court determined that the concept of "reasonable modification" did not apply to paratransit:

Because paratransit service is meant to act as the disability complement to established fixed route transportation services, this comprehensive regulatory scheme signals that no interim extra-plan modification is statutorily or otherwise required by a public entity when the public entity is properly operating under a FTA-approved plan. The FTA-approved plan is itself the accommodation to the disabled by the public transportation entity. It is the violation of the plan itself that

constitutes the prohibited discrimination under title II, not the failure to modify the plan to address particularized complaints. (391 F.3d at 675.)

In *Disabled in Action of Pennsylvania, et. al. v. National Passenger Railroad Corporation* ("Amtrak"), WL 1459338 (E.D.Pa. 2005), 16 A.D. Cases 1596, the setting was fixed route transportation and the court, persuaded by the reasoning in *Melton*, determined that "reasonable modification" was not required for matters covered under Title II.B.

DOT's assertion that *Burkhart v. Washington Area Metropolitan Transit Authority*, 112 F.3d 1207 (1997), appeared "to share the Department's assumption about the relationship between the DOT and the DOJ requirements" (71 Fed. Reg. 9762) is misplaced. As pointed out in *Melton*, the *Burkhart* court did not decide whether or not the transit authority was exempt from the DOJ regulations on "reasonable modification" because that issue had not been raised in the court below (*Melton*, at 674 n.6; *Burkhart*, 112 F.3d at 1210 n. 1).

For more than 15 years prior to the issuance in September of 2005 of its unusual guidance regarding origin-to-destination paratransit service DOT's own actions demonstrated that "reasonable modification" was not a concept applicable to Title II.B. Since FTA approved our paratransit plans, none of which contained a policy to provide modifications of service on rider request, there has been no indication that anything beyond complying with the paratransit service criteria was required.

Nor can DOT bolster its argument that "reasonable modification" is a mere "clarification" of an existing rule by pointing to its own unprecedented act of issuing in 2005 its first written guidance on paratransit (interpreting the "origin-to-destination" requirement. In that interpretation DOT, for the first time, contended that the "origin-to-destination" language of the regulations meant that the transit operator had to "reasonably modify" its service model of curb-to-curb service on request of any rider.³ Such an interpretation is contradicted by years of contrary interpretation by FTA officials relied upon by transit agencies. For example, on June 14, 2003 at the Community Transportation Association of America annual conference in Seattle, Michael Winter, Chief of FTA's Office of Civil Rights, sought to persuade transit operators to address mobility needs of the disabled by providing service beyond that required by ADA. He conceded that the paratransit regulations require no better than curb-to-curb service and that whether to go beyond that and provide door-to-door service for ADA eligible riders is left to local decision-making processes.⁴ This was consistent with other FTA written pronouncements indicating that the origin-to-destination language of 49 C.F.R.

³ See http://www.fta.dot.gov/14531_17514_ENG_HTML.htm.

⁴ 2004 PaceCom Incorporated, *Transit Access Report*, May 10, 2004, pp. 1,6.

§37.129 means that, "[t]he exact location of pick-up and drop-off sites are an operational issue not governed by the regulations."⁵

DOT's view of the requirements of §504 of the Rehabilitation Act has changed as well. Before the ADA was passed, the author of the current NPRM expressly stated that "special accommodations" (the equivalent of "reasonable modification") for persons with mental, visual or hearing impairments were not required under 504 as interpreted by DOT regulations and concluded that to impose such a requirement would require an amendment to the regulations. 52 FR 30803 (DOT Docket 45162) (1987). We are unaware of any such amendment ever being made.

3. The Proposed Rule is Unnecessary.

Specific regulations already establish requirements for accessible fixed route and paratransit service. 49 C.F.R. Parts 37 and 38. These regulations provide the accommodation or "reasonable modification" of the fixed route transportation (a general public service) for persons with disabilities and have been the basis for the design and operation of accessible fixed route and paratransit systems for more than 15 years.

On a practical level, the rule is unnecessary because transit agencies do make best efforts to provide modifications requested by their riders. It is essential, however, for the good and safety of all of the passengers, (as well as to contain the costs of this service, which was intended to be a limited service for a limited group of people), that these decisions remain within the discretion of the accountable parties, the transit operators. There are no data in the NPRM to indicate that there is a problem needing correction. A few complaints or lawsuits, given the number of paratransit trips given each year (83,000,000 in 2004⁶) and the billions of bus and subway rides annually, suggests overwhelmingly, that riders' needs in this regard are being met. Under these circumstances, it is inexplicable why the DOT would promulgate a regulation on this subject at all, and especially one that imposes a burdensome administrative process not only to make each such determination but also to document compliance.

4. The Proposed Rule is Improper.

The ADA, at 42 U.S.C. §12143(c) (3), authorizes DOT to set forth the levels of service necessary for ADA paratransit systems to be deemed comparable to the applicable fixed route and therefore nondiscriminatory. Similarly, the ADA, at 42 U.S.C. §§12142, 12147 and 12148 specify the requirements for accessible fixed route transportation vehicles and facilities.

⁵ FTA January 1, 2001 Response to Complaint No. 00-0263; FTA April 3, 2001 Response to Complaint No. 00-0269.

⁶ Note 1, *supra*.

DOT's proposal to superimpose on these requirements a condition that will be defined only by rider request on a trip-by-trip basis exceeds its statutory authority because it fails to define or otherwise exceeds what is comparable to the applicable fixed route.

The proposed regulation also is procedurally improper because, as previously stated, the DOT has not complied with the conditions imposed by Executive Orders 12866 and 13132.

5. As to Complementary ADA Paratransit, the Proposed Rule Makes

No Sense.

Complementary ADA paratransit is not a service for the general public that needs to be adapted or modified to meet the special needs of persons with disabilities. It is designed from the ground up as a modification of and alternative to fixed route service to accommodate a subset of persons with disabilities who cannot use accessible fixed route service. There is no rationale for superimposing on the specific regulations regarding eligibility, design and operations of a compliant system the obligation to customize each ride upon request.

There is no discussion in the NPRM of what consideration, if any, was given to the effect on paratransit riders if the service were no longer to be clearly defined by regulations that are universally applicable and consistent. Currently, wherever the rider may be when traveling around the country, or even if living in one paratransit jurisdiction while working in another and using both systems on a regular basis, the rider knows what the service must provide.

By going to a "modification-by-demand" standard, DOT will force transit agencies to change aspects of service across-the-board when enough riders request the same or similar modification, because the rule as proposed leaves the agencies with no clear basis for denying specific types of requests. This is so because the logistics involved in responding on a person-by-person, day-to-day basis, as suggested by DOT, would have an adverse impact on service reliability, as explained below at ¶C.6, and could add even greater costs and productivity losses than by changing the service across-the-board. However, this means that in any given jurisdiction, paratransit service is going to mean something different. When riders need to use more than one paratransit system (not unusual for those working or attending school in metropolitan areas but living in suburban areas, or the reverse), they will not have the certainty of knowing what to expect with regard to each of the service parameters set out in 49 CFR §37.131.

Moreover, if agencies change the service to attempt to contain the exorbitant costs of this proposed mandate, they will simply have set themselves

up for demands by some riders to change the system back to the way it was, on a case-by-case basis, to meet their asserted needs.

ADA mandated accessible *mass transit* and *mass paratransit*, albeit in a *necessarily* modified way, for the disabled. DOT, by expanding service requirements enunciated in the original regulations through its 2005 formal "interpretations" and this proposed rule, will effectively mandate individualized transportation service for each disabled person. If such a radical departure from ADA's intent is necessary and appropriate, it clearly requires legislative, not regulatory, action.

6. The Proposed Rule Will Add Substantial Uncertainty, Operational Complexity, Costs and Decreased Reliability.

If a transit agency must modify each trip as requested to do so by the rider, it is easy to envision a service in which many or most trips are customized. It is not possible to predict all of the circumstances in which modifications might be sought and therefore accurately forecast its total potential cost. However, DOT's positions on at least three such instances are either discussed in the NPRM or in other Department pronouncements. These are door-to-door paratransit service (71 FR 9763), allowing wheelchair users to ride sideways (November 8, 2005 FTA Letter to Santa Cruz MTD) and the case-by-case abandonment of designated bus stops on fixed route service (71 FR 9764). In suggesting that these examples are "reasonable modifications," DOT makes it clear that it does not consider them to be "fundamental alterations" of service. We disagree.

(a) Modification of Paratransit Service. The safety and productivity costs of on-demand door-to-door service are well known by transit agencies. For those systems currently using a curb-to-curb service model, these costs include increased dwell time, risk to other passengers and the vehicle when left unattended, and decreased system capacity because of lower efficiency, resulting in increased operating costs and the necessity of renegotiating many millions of dollars in third party provider contracts.⁷

Dwell time is increased because the driver is helping the rider to the door and returning to the vehicle. Assuming that an additional four minutes is needed at each end of the trip (pick-up and drop-off) to provide door-to-door service, and that one-half of all rides will eventually request door-to-door service, we estimate that paratransit variable costs will increase by 10.29% (employee compensation and maintenance running costs would actually increase by more than 10%) and

⁷ When drivers have voluntarily assisted riders to their doors, there have been incidents of the vehicle being stolen with another rider in it. In one case, the driver was shot by a relative of the rider believing him to be a burglar. Thus, among the operating costs that will increase with this proposal are the costs of workers' compensation and liability insurance. Recruitment of drivers may also become increasingly difficult.

fixed costs would increase by 5.44%. We estimate that just a single requirement to provide door-to-door service on demand will increase the costs of transit agencies currently providing curb-to-curb by at least 8.18%. Given current predominance of curb-to-curb service models, this translates to an estimated nationwide cost in excess of \$100,000,000.⁸

Despite the extraordinary cost that could be incurred nationally (and for each agency that does not currently offer door-to-door service) by just this one service modification, the proposed regulation would not stop there, but would mandate a host of other customized ride requests, each of which have a similar propensity for escalating the cost and reducing the reliability of a paratransit ride while reducing the capacity of the system. Moreover, there is no meaningful procedure through which an agency could verify that any modification requests are in fact compelled by the person's disability rather than mere preferences for convenience (of the individual or his/her family).

The following are examples of other than door-to-door modification requests that this coalition's members have received, and, except for a very few in which riders *may* not be able to identify a disability-related need, it is readily apparent that a claim can be made that the request is disability-related, whether true or not:

(1) Demands that preclude shared ride or reduce capacity:

- Claustrophobia combined with other disabilities
- Desire to transport bulky packages/equipment as part of tools of the trade of the rider
- Service animal allergies and phobias
- Allergies to perfumes, other common chemicals
- Refusal to ride with others based on race or gender, physical attributes, such as odors, behavior of others, such as use of obscenities, racist remarks
- Intermediate stops where driver would be required to wait
- Demand for non-stop ride due to physical debilitation before/after medical treatment (dialysis, chemotherapy, etc.)
- Ride with wheelchair or scooter facing sideways
- Space for additional mobility aide to be transported with rider using a different mobility aide
- Space for cart carrying six oxygen tanks
- Specific route (smoother roads, less bumpy ride)

⁸ We estimate that approximately 62% of paratransit rides are currently provided under a curb-to-curb service model. See, Transit Research Board, "Practices in No-Show and Late Cancellation Policies for ADA Paratransit" (2005). It bears repeating that the cost estimate is based on dwell time alone. As demand for door-to-door grows, paratransit operators may have to provide more non-shared rides where unusual pick-ups or drop-offs would be required, or hire vehicle attendants for passengers (such as those with severe cognitive impairments) who could not be left unattended, even briefly, on the vehicle.

- Specified vehicle temperature
- Will not ride with a specific other passenger; must ride with a specific other passenger

(2) Demands for Specific Equipment or Seating Location:

- Must have van
- Must have sedan
- Must have front seat of sedan
- Must have specific seating location in van or sedan
- Must have reclining front seat
- Must have unmarked sedan ("stigmatized" by name of service on vehicle)
- Must have mini-van
- Must have vehicle with "less-stiff" suspension
- Must have vehicle with no boarding lights or alarms, because they cause seizures
- Vehicle too small or enclosed
- Vehicle must be equipped with outside handles to aid sight-impaired but ambulatory rider to board the vehicle
- Combined weight of rider and mobility device exceeds 600 lbs.
- Oversized mobility device
- Transport rider with fully-reclined wheelchair
- Must have two seats due to size

(3) Demands for specific driver or specific gender of driver:

- Fear of minorities due to racial/ethnic bias of rider
- Fear of molestation
- Non-smoking driver (even though driver doesn't smoke on bus, he/she "smells of smoke")
- Drivers with specific second language skills
- Drivers with security clearances for specific pick-ups/drop-offs in security area

(4) Demands for unsafe travel:

- Refusal to allow mobility device to be secured
- Refusal of ambulatory passengers to buckle seatbelts or unbuckling them during travel
- Refusal of passenger who uses wheelchair to buckle seat/shoulder harnesses at wheelchair locations
- Unsafe pick-up or drop-off points
- Drop off at different location than scheduled

- Driver to leave vehicle unattended and out of sight due to rider need for escort to door or through-door
- Refusal to travel with PCA where individual cannot travel alone, requiring extraordinary assistance of driver or resulting in danger to individual, driver or other passengers

(5) Demands that exceed paratransit service parameters:

- Pick-up or drop-off times to accommodate intermodal transportation connection outside hours of paratransit service
- Cannot arrive not earlier than a certain time outside hours of paratransit service
- Provide final destination transportation where intermodal transportation connection is missed
- Provide at-door pick-up which is outside ¼ mile service corridor
- "Rescue" trips to pick-up passenger within or outside service hours because person's disability precluded his/her keeping proper track of time and he/she was a "no show" at scheduled pick-up time
- Driver to wait excessive periods of time with rider because no caregiver is at the location and rider needs PCA but does not travel with one
- On-board requests to drop off guest or PCA at different location than rider's scheduled destination
- Paratransit service to provide an escort for a rider
- Drivers to call rider on telephone upon arrival or as approaching arrival
- Failure/refusal to pay full paratransit fare
- Needs more no-show allowances
- Point of service requests: add guest, change destination, make intermediate stop, wait for return trip, etc.
- Day of service request for vehicle with available wheelchair space (or the reverse), that had not been reserved when the trip was reserved (due to changing physical condition, weather)
- Pick-up/drop-off at door requires carrying passenger using mobility device up or down steps
- Fixed pick-up or fixed drop-off time(s)
- At point of service, passenger arrives with a guest for which no reservation had been made
- Service available during weekdays but passenger also wants the service on weekends where reduced fixed route service have concomitant reduced paratransit service area
- Real time request for earlier pick-up because less time was needed than planned and passenger cannot wait for scheduled pick-up

- Request that vehicle wait beyond established waiting time for passenger to arrive for pick-up

In short, the effects on paratransit of legally compelled *ad hoc* service modifications would be to create a system far removed from that **complementary with and comparable to the fixed route as** envisioned by the ADA. On a practical level, to require a system that was never designed or intended to meet all of the transportation needs of disabled persons to customize each ride to meet the rider's claimed needs would result in substantial reduction in capacity due to increased inefficiency (i.e. fewer passenger miles per vehicle due to increased dwell times and increase in non-shared rides) thereby substantially increasing both operating and capital costs

(b) Fixed Route Transportation. It is patently unacceptable to leave pick up and drop off locations to individual bus operator's discretion based on passenger requests when the decision may result in a civil rights violation. Further, there is an inherent risk of increased vehicle accidents, passenger injuries and deaths, together with the degradation of on-time performance⁹. In any event, any individual with a disability who cannot use accessible fixed route service as it is operated by the transit agency is by statutory definition eligible for paratransit. 42 U.S.C. §12143(c)(1)(A)(i); 49 C.F.R. §37.123. This alone demonstrates that "reasonable modifications" are not required by current regulations and cannot be required through new regulations. The statute clearly leaves to transit agency discretion a decision whether to modify its fixed route service beyond ADA requirements to make it available to a larger class of people with disabilities or to provide those persons with paratransit service.

The following are examples of fixed route modification requests that this coalition's members have received and, like the requests on paratransit, a claim can easily be made that these requests are disability-related:

- Pick-ups/drop-offs at other than designated bus stops
- Specific bus type to be dispatched because of securement type/location
- Specific bus type to be dispatched because of lift/ramp types, ride quality or other amenities on the bus.
- Assistance with packages or luggage on boarding
- Operator to assist rider across nearby intersection
- Operator or crew member to take charge of a service animal during boarding or exiting
- Operator or crew member to act as a PCA for the rider who needs one but insists on riding without one.

⁹ The driver cannot reasonably be expected to be able to limit boarding and alighting at non-designated stops to only those stops requested by people with disabilities, even if s/he could determine whether a particular person requesting that modification had a "ADA disability".

(c) Administrative Problems. The Department envisions that the local

transit agency will make the individual case-by-case determinations as to whether a request for modification is related to the rider's disability and if so involves a "direct threat", "fundamental alteration" or "undue burden." If not, the request must be granted. If the request is denied, there is the further obligation to seek another means of achieving the goal of the requested modification. All this is further subject to the Department's right of review (71 FR 9762-63). This time-consuming process cannot work in the real world of mass transit. Most requests will occur at the point of reservation or in the field, at the point of travel. DOT's proposed rule seems to expect public agencies to entrust to their drivers or reservationists the task of making complex decisions that could expose an agency to civil rights violations and tort liability for injuries, deaths and vehicle damage. Because such determinations will, under the proposed rule, carry potentially significant legal and operational consequences to the transit agency, it is unlikely that any agency would entrust such determinations to anyone below an executive level. Accordingly, responsible implementation of the proposed rule is operationally impractical. Assume an average paratransit service that books more than 1000 rides per day and assuming only 10% of those request a service modification, an executive of the agency could not possibly have time to consider and rule on the propriety of 100 requests daily or to complete the paperwork to support each denial and devise an alternative as required by the proposed rule.

Finally, this proposal is likely to result in unreliable service. A service that changes daily to meet the specialized needs of that particular day's constellation of passengers will decrease the reliability of the service. It simply cannot be expected that drivers can reliably master and keep track of the different services to be made available to each customer. Consequently, entirely understandable human failures in this regard by the drivers will result in failed pick-ups, or longer dwell times and consequent late drop-offs.

7. The Proposed "Direct Threat" Exception¹⁰ Definition Ignores Rider Safety and Will Not, in Any Event, Ameliorate the Defects in this Proposed Rule

DOT proposes to incorporate in Title II.B the same definition of "direct threat" that exists in Title II.A as a basis (in addition to "undue burden" and "fundamental service alteration") upon which transit agencies can deny a disabled rider's service modification request relating to fixed route or paratransit service. 71 FR at 9763-64. However, when the service at issue is transportation, rather than all of the other types of government services afforded under and in accordance with Title II.A, the definition is inappropriate because it does not

¹⁰ Although the Commentary indicates that "direct threat" would be an exception to a "reasonable modification" obligation, 71 FR 9763-64, and a definition is proposed, 71 FR 9768, the availability of the exception does not appear in the proposed rules.

permit a decision to deny the modification request based on one of the very likely reasons why it should be denied; namely, that if granted it would be a danger to the disabled person making the request.

By common law, common carriers have an enhanced duty of care to provide safe transportation to their passengers. Nothing in the legislative history of the ADA suggests an intention by Congress to abrogate this duty, especially where it involves the safety of persons with disabilities, a group the statute seeks to specifically benefit. Under DOT's proposed approach, a transportation agency would be considered to be discriminating against a disabled person by refusing to engage in conduct that was unsafe for that disabled person. This would certainly be a unique application of civil rights law. Moreover, nondisabled persons do not have a right to demand and receive unsafe transportation for themselves. It cannot be seriously argued that ADA created such a right for disabled persons.

Transportation agencies must continue to provide safe passage for their passengers. If a disabled person believes that a request has been denied on a pretextual basis, then he or she can file a complaint with FTA or litigate directly whether the request was denied for discriminatory reasons, rather than on the basis of safety or other non-discriminatory reasons. This is in keeping with traditional civil rights law; disabled persons do not need a new ADA regulation to press such a claim. Under DOT's proposal, the regulation presumes that a denial of a modification request because it would constitute a direct threat to the safety of the disabled person is discriminatory *per se*. A transportation agency should not be forced to intentionally engage in conduct known to it to be unsafe for its passengers or face litigation. This Hobson's Choice is untenable.

However, even if the safety of the requesting rider were included in the definition of "direct threat", its addition to the "undue burden" and "fundamental service alteration" limitations of the proposed rule could not and will not resolve the fundamental flaws in the "reasonable modification" proposal which we have brought to DOT's attention in these Comments.

D. PROPOSED RULE: DISABILITY LAW COORDINATING COUNCIL

The DOT does not explain why it seeks to promulgate by regulation an internal administrative process that the Administrative Procedure Act ("APA") clearly exempts because it is a rule of "agency organization, procedure or practice." 5 U.S.C. §553(b)(3)(A). Moreover, DOT states that the Council "is in place and functioning effectively." 71 FR at 9765. If a regulation were required, it would have to have been promulgated in advance of the Council issuing binding guidances, thus raising the question whether those issued to date are valid. A stated need to have all of DOT's's constituent administrations issue consistent interpretations is an inappropriate goal given that the statutory provisions and

regulations for the different transportation modes under the jurisdiction of FRA, FTA and FAA are different. Proper interpretations would reflect those differences not eliminate them.

While DOT can continue this process with or without a regulation, we do not agree that the Council is functioning effectively with respect to agencies subject to FTA. To date, the Council's actions seem to be focused on overturning all of the settled expectations concerning the ADA, which had been based, appropriately, on guidance provided over all these years by FTA and FTA-approved paratransit plans.

Moreover, the process by which prior interpretations are "overruled" by the Council is poorly designed. Up to now, there has been no attempt to determine if the complaints received by DOT are true; no survey of how widespread the issue may be; no request made for information from public transit in order to fully understand the issue or the potential ramifications of imposing a new "guidance"; no survey of riders done to determine whether what the complainant seeks is reasonable (and whether if granted would interfere with other riders' service quality).

Consequently, if the Council is to continue, its legitimacy will depend not on how it was established but by the integrity of its process. Council processes should require sufficient and objective fact-finding and comment from all stakeholders before interpretations are issued, and the Council should limit its pronouncements to reasonable interpretations of promulgated regulations and not attempt to create new rules without rulemaking (such as the origin-to-destination and Segway guidance issued by the Council in September 2005).

Given no express or apparent *necessary* basis for the creation of the Council by regulation, we are concerned that its establishment by this process not result in circumventing the APA and the recent amendment to §5334 of the Federal Transit Act in §3032(l) of SAFETEA-LU enacted in August 2005. Section 3032(1) requires that the rulemaking procedures under the APA be followed before any FTA statement or guidance is issued that imposes a "binding obligation" on transit properties and those similarly situated. The purpose is to require transparency and obtain input from all effected parties before these determinations are made. The establishment of the Council by regulation should not be used to insulate DOT or FTA from this requirement. Because the Council already exists and it is apparently unnecessary to validate it by rulemaking, the proposed rule should be withdrawn.

For 15 years under the ADA the DOT delegated to FTA the duty to monitor compliance by transit properties with Title II B including the approval of paratransit plans, conducting capacity assessments, engaging in complaint review and providing guidance to transit agencies.¹¹ This choice was appropriate as FTA funds many such agencies and has a greater specific experience with

¹¹ See, e.g. 49 C.F.R. §37.147

respect to the practical aspects of public mass transit delivery. We are concerned that the new regimen of using the interagency Council will, by minimizing the role of the FTA in this process, result in determinations that are ill conceived or impractical to implement.¹²

E. CONCLUSION

The thrust of our comments should not be misunderstood. They do not address the propriety of modifications made every day by transit agencies as a matter of voluntary customer service, which currently take into account available resources, safety, practicality and service impacts. What is here addressed is the notion that the law should require individualized, customized modifications of rides on a public transit system where the law already defines what is required for such a system not to be discriminatory. To superimpose such a requirement would create a system that is not comparable to the service provided to passengers on fixed route transportation and thus is beyond the mandate of the ADA. Imposition of legally compelled modifications will likely result in a public transit system that provides poorer, not better service to the vast majority of persons with disabilities.

Respectfully submitted,

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¹² We would argue that the Council's 2005 guidances on Segways and "Origin-to-Destination" service are examples of such a result.

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NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: ANDRE COLAIACE, DEPUTY EXECUTIVE DIRECTOR
PLANNING AND GOVERNMENT AFFAIRS

RE: PROPOSED METRO LONG RANGE STRATEGIC PLAN FOR ADA
PARATRANSIT IN LOS ANGELES COUNTY

ISSUE:

Access staff has been notified that Metro staff will be proposing to the Metro Board of Directors a recommendation that Metro conduct a long range strategic plan that looks at various aspects of how ADA paratransit is provided in Los Angeles County.

RECOMMENDATION:

- Direct staff to agendize this item at a proposed meeting of the membership in December for review and comment.

IMPACT ON BUDGET:

None at this time.

BACKGROUND:

Access staff was provided with a draft copy of the Metro Board item for review and comment before the Metro November Board meeting cycle. Access staff asked that the item be delayed so staff could consult with the Board and other stakeholders. The item is tentatively scheduled for the January Metro Board of Directors Meeting.

Given the increasing financial obligations and changing regulatory environment, Metro staff is recommending the development of a strategic plan to focus on how the service should be provided and funded in the future. Metro staff proposes to work in coordination with Access Services, the municipal operators, and other stakeholders to develop a long range strategic plan for delivering paratransit services to persons with disabilities. Areas identified in the draft plan include:

- Regulatory Challenges
 - Origin to Destination
 - Oversight of Sub-recipients

- No Show Policy
- Funding Challenges
 - Metro Budget
 - Services Above and Beyond ADA
 - Governance
 - Service Model
 - Identification of Vehicles
 - Survey of Peer Paratransit Systems

NOVEMBER 12, 2014

TO: BOARD OF DIRECTORS

FROM: MATHEW AVANCENA, MANAGER OF PLANNING AND
COORDINATION

RE: STATUS UPDATE ON METRO'S REVIEW OF ACCESS SERVICES

ISSUE:

In June 2013, the Metro Board of Directors authorized an independent review of Access Services. The final report contained 13 findings which resulted in 12 recommendations including Access' Management Response to the recommendations. To date, nine of the recommendations have been closed.

Recommendations # 7, 10 and 11 which address recommendations related to 1) industry best practices, 2) the feasibility of centralized reservation and; 3) alternatives to the current service delivery model will be studied in series of upcoming comprehensive operational reviews (COR) of Access Services. These reviews will be performed by outside consulting firms. The RFPs for Customer Service and Eligibility will be issued in November 2014 and the consulting contract(s) will be brought back for approval at the January or February 2015 Board of Directors meeting. The review of the Operational Policies and Procedures is still being developed and expected to be completed in the near future.

The findings and associated recommendations are detailed in the Metro Staff Report and Final Review located on www.accessla.org.

Access staff will be updating the Board on a monthly basis on progress on implementing the remaining recommendations that are still open.

RECOMMENDATION:

Receive and File.

STATUS REPORT ON THE IMPLEMENTATION OF THE AUDIT RECOMMENDATIONS

Recommendation #1 - CLOSED in August 2014

Access Services staff should present its future customer service survey to Access Services' Advisory Committees and Metro's Civil Rights for review and input, make additional improvements to the survey procurement and sampling plan, and establish a more formal follow-up process.

Jan - 14	The report was discussed and placed under Receive and File by the Metro Subcommittees with the understanding that an independent survey and a series of Town Hall meeting with Access customers will be conducted over the next few months. Access received a letter from the audit firm conducting the outreach on March 5, 2014.
April - 14	The consulting firm retained by Metro MASD (Bazilio Cobb and Associates) started conducting phone customer surveys the week of April 14 th . The town hall meetings are scheduled to take place on May 5 th , 6 th and 7 th . Access will close this recommendation at the conclusion of the town hall meetings.
May -14	The phone customer surveys have been completed and results are being tabulated. The Town Hall meetings were completed as scheduled. A final report of the survey responses will be shared with the Board in June/July 2014.
June -14	The final report on the phone survey responses and town hall meetings is scheduled to be presented at the June 2014 Metro Board of Directors meeting. A presentation to the Access Board of Directors is scheduled for August 2014.
August-14	Staff is scheduled to present the phone survey results at the August 2014 Board meeting along with an action plan to address issues identified in the survey. Staff would like to close this recommendation at the end of August.
	CLOSED in August 2014

Recommendation #2 - CLOSED in February 2014:

Access Services should refine their ridership demand projections to provide more accurate estimates of demand by service area.

Jan - 14	Access has already implemented this recommendation. The consulting firm that conducts Access' ADA paratransit demand forecasting (HDR Engineering, Inc.) already incorporates a multi-regional forecasting model to provide more accurate ridership projections.
	CLOSED

Recommendation #3 – CLOSED in August 2014

Access Services should consider screening potential travel training clients to recruit high-use Access Services riders and/or riders who may be best able to utilize fixed route services.

Jan - 14	Access has already begun contacting customers who take frequent, short trips to see if they would be interested in Travel Training.																																	
April - 14	Access' Travel Training contractor Mobility Management Partners (MMP) has already contacted high use riders to offer them travel training. To date over 202 customers were called and offered training. As this effort is on-going, Access will close this recommendation at the end of April.																																	
May - 14	CLOSED																																	
June -14	<p>Director Levy asked to re-open this recommendation pending additional data on high use riders who have been contacted and offered Travel Training. Access Services provided MMP with a list of the highest volume of "short trip" users during the month of September 2013. A short trip was defined as less than two miles one-way. The list contained a total of 2,894 users. Out of the riders on this list, the number of short trips taken per month ranged as follows:</p> <table border="1"> <thead> <tr> <th>Number of Short Trips</th> <th>Count</th> <th>Percent</th> </tr> </thead> <tbody> <tr> <td>12 or more trips</td> <td>202</td> <td>7%</td> </tr> <tr> <td>7 - 11 trips</td> <td>235</td> <td>8%</td> </tr> <tr> <td>6 trips or less</td> <td>2,457</td> <td>85%</td> </tr> </tbody> </table> <p>Between November 2013 and February 2014 MMP attempted to contact the 202 highest users of short trips to present the travel training program. The results were as follows:</p> <table border="1"> <thead> <tr> <th>Contact Results</th> <th>Count</th> <th>Percent</th> </tr> </thead> <tbody> <tr> <td>No response</td> <td>107</td> <td>53%</td> </tr> <tr> <td>Not interested - medical concerns</td> <td>53</td> <td>26%</td> </tr> <tr> <td>Not interested - no reason given</td> <td>26</td> <td>13%</td> </tr> <tr> <td>Interested</td> <td>8</td> <td>4%</td> </tr> <tr> <td>Maybe later</td> <td>6</td> <td>3%</td> </tr> <tr> <td>Have already been trained</td> <td>2</td> <td>1%</td> </tr> </tbody> </table>	Number of Short Trips	Count	Percent	12 or more trips	202	7%	7 - 11 trips	235	8%	6 trips or less	2,457	85%	Contact Results	Count	Percent	No response	107	53%	Not interested - medical concerns	53	26%	Not interested - no reason given	26	13%	Interested	8	4%	Maybe later	6	3%	Have already been trained	2	1%
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	<p>Note: "No response" results include cases of a wrong number, or where two attempts were made by leaving messages and no return call was received.</p> <p>Applications were provided for the 8 riders showing interest in the program, and to date none have resulted in assessments and/or trainings. Access will ask MMP to further evaluate the list and continue to make calls to the 8% of riders who have taken between 7-11 trips.</p>
August-14	As time allows, Access and MMP staff will call the remaining high use riders from the original list and offer them travel training. Since staff would like to make this a continuous component of the Travel Training program, staff would like to close this recommendation going forward.
	CLOSED in August 2014

Recommendation #4 – CLOSED in August 2014:

Access Services should consider using the Transit Evaluation Center to offer more cost effective trainings to a larger group of participants.

Jan - 14	Access will be undertaking a review of this recommendation in the near future.
April - 14	Access will be discussing group travel training sessions with its contractor and will include funding in the FY 2015 budget.
May - 14	Staff has contacted its travel training contractor to discuss cost options for group travel training. Staff has included funding in the FY 2015 budget.
June-14	Staff has budgeted funds in the proposed FY 2015 budget for group travel training.
August-14	Staff has budgeted funds in the FY 2015 budget for group travel training. Staff will work with the contractor to start group travel training sessions no later than Fall 2014. Therefore, staff would like to close this recommendation going forward.
	CLOSED in August 2014

Recommendation #5 – CLOSED in August 2014:

Access Services should require a more accurate and reliable evaluation of the Travel Training Program.

Jan - 14	Access will be undertaking a review of this recommendation in the near future.
April - 14	Access will be working with its travel training contractor to develop a methodology to demonstrate the overall effectiveness of the travel training program in diverting riders from Access to fixed route transportation.
May - 14	The travel training contractor has developed and presented a proposed methodology to demonstrate the cost savings of the travel training program. Staff will review the proposed methodology and other cost/benefit models utilized in the industry.
June-14	<p>Since there is no universally accepted formula to determine cost savings, it is common for other agencies that offer travel training programs to adopt different approaches to determine cost savings. Access Services has approached Easter Seals Project Action for assistance on best practices on evaluating Travel Training Programs.</p> <p>The methodology is based on a number of assumptions:</p> <p>MMP performs follow-up interviews with clients at one week, one month, two months and six months after the training program is completed. During these interviews, participants are asked how many one-way trips they have taken on public transit instead of using Access Services during the time since they completed their training.</p> <p>Based on follow-up with participants who have recently completed the program, riders who have been trained are using fixed route transit for an average of 7 one-way trips per month. These are believed to be conservative numbers.</p> <p>Had these same riders not been trained, they would have used Access Services to take the same seven (7) one-way trips.</p> <p>The average cost savings per trip diverted to fixed route is \$31.33 (the difference between the average cost per trip on fixed route and the average cost per trip on Access).</p> <p>Based on these assumptions, the Access Travel Training Program provides training to 250 individuals per year, or 21 trainings per month on the average. The cost per training is approximately \$2,000, resulting in a monthly cost of roughly \$42,000 to maintain the program. It is important to note that savings are cumulative, in that as more individuals are trained, the number of trips</p>

	<p>diverted monthly continues to grow. For example, after one month of training, 21 individuals have been trained and 147 trips are being diverted to fixed route on a monthly basis. After 12 months of training, 250 individuals have been trained and 1,750 trips monthly are being diverted to fixed route, and so on.</p> <p>After one full year, the ongoing monthly savings resulting from the program has increased to \$54,828 (\$31.33 x 1,750). Offset by the monthly cost of \$42,000, this now shows a net savings of \$12,828 per month moving forward. These savings continue to grow as more individuals are trained, resulting in over \$5.6 million in cumulative savings by the completion of the 5th year of the project, or an average savings of \$1.1 million per year. These are net savings after accounting for the cost of the program.</p>
August-14	<p>Staff has approached Easter Seals Project Action (ESPA) for assistance on best practices on evaluating Travel Training Programs. ESPA staff indicated that MMP's methodology to project cost-benefit is common among agencies that offer these programs. ESPA staff also suggests reviewing actual fixed route trip data to validate customer travel usage. Based on ESPA and Director Levy's suggestion, Access has reviewed TAP data on customers who have been through the travel training program. Based on an analysis of customer TAP data from July 2013 through May 2014, customers' fixed route usage confirms MMP's methodology to demonstrate the cost savings of the travel training program. A summary of this effort is contained in the August 2014 Board Box.</p> <p>Moving forward, Access will continue to compare MMP's survey results with actual TAP data. Access will provide this information on an annual basis in the Board Box. Therefore, staff would like to close this recommendation.</p>
	CLOSED in August 2014

Recommendation #6 - CLOSED in September 2014:

Access Services should evaluate whether the current fleet mix for contract providers is optimal to balance the need for Access Services vehicles with the desire to maximize fuel efficiency.

Jan - 14	Access Services is continuously reviewing its fleet mix and will continue to do so. The Access fleet is comprised of Access owned vehicles, contractor owned vehicles and taxicabs. Staff presented a vehicle formula for Access owned vehicles to the CAC and TPAC in March. The formula is expected to be presented to the Board for consideration in April 2014.
April - 14	Staff is working with the transportation service providers on the base assumptions used to drive the vehicle allocation formula. A revised formula

	and vehicle service plan will be presented to TPAC and CAC in May 2014.
May - 14	The vehicle allocation formula has been presented to CAC and TPAC. Staff is still in the process of finalizing the formula. Depending upon modifications the formula may need to go back to the CAC and TPAC. Currently, the formula is expected to be presented to the Board for consideration in June 2014.
June-14	Access staff has met with each transportation service contractor to review their fleet needs and inventory. The results of these meetings generated the vehicle acquisitions proposed for FY 14/15 and the distribution of vehicles from the fleet build for FY 13/14. Staff will now work with the transportation service providers to refine the vehicle allocation formula. The formula will then be presented to CAC and TPAC for additional input. After CAC and TPAC's review staff will present the formula to the Board for consideration.
August-14	The revised formula was presented at the August CAC and TPAC meeting. If there is Board approval at the August Board meeting staff will close this recommendation going forward.
September-14	The revised formula was scheduled to be presented at the August CAC meeting but the meeting ran over time. Staff will present the item at the September CAC meeting. If there is Board approval at the September Board meeting staff will close this recommendation going forward.
	CLOSED in September 2014

Recommendation #7:

Access Services should review industry best practices for controlling and containing costs strategies identified from the literature, research and best practices survey responses and determine the feasibility of implementing them for Access Services.

Jan - 14	Access Services believes that there is no perfect or ideal way to deliver service to a region as large as L.A. County. Each operating model has its pros and cons. While it is apparent in terms of service quality and overall cost (in a national context) that our service model functions well, it is also important to look at other options. Access Services will look at including funds in its FY 14-15 budget to further study the issues brought up in Recommendations 10 and 11.
May - 14	Hold for FY 14/15 Budget Approval
August-14	Staff has budgeted funds in the proposed FY 2015 budget for a consultant to further study the issue. The RFP/RFO will be released this month and

	anticipate work to begin in October 2014.
September-14	The RFP/RFQ is scheduled to be released in October 2014.
November -14	The RFP for the Comprehensive Operational Review was presented at the October CAC and TPAC meeting for review and comment. It was determined that the RFP should be broken down into specialized areas. The RFPs for Customer Service and Eligibility will be issued in November 2014 and the consulting contract will be brought back for consideration at the January or February 2015 Board of Directors meeting.

Recommendation #8: CLOSED in February 2014:

Access Services should conduct a process review of its call center functions with a focus on ensuring that hold times are brought within the established standards. Additionally, Access Services should report quarterly to their Board on OMC and CSC call hold time improvements until it is able to meet its internal standard.

Jan - 14	The Access Board of Directors approved revised call standards on December 2, 2013. The call standards will ensure that calls to OMC and CSC are served promptly. Call center performance will be published monthly in our Board Box report.
	CLOSED

Recommendation #9 – CLOSED in August 2014:

Access Services should review current ADA services provided beyond the minimum required levels and services provided that are not required by the ADA and assess the costs and benefits of continuing these services.

Jan - 14	Staff will be presenting a list of ADA services provided beyond the minimums to QSS, CAC, and TPAC for review. Any recommendations will be forwarded to the Access Board for consideration.
April - 14	Staff is developing a list of services provided beyond the minimum ADA and plans to present to CAC and TPAC in May/June.
May - 14	Staff will present this item to the CAC and TPAC in June.
June-14	Staff presented a list of ADA services and the associated costs and benefits for discussion at the June 2014 CAC and TPAC meeting. Both Committees are supportive of the services that are currently provided and are not in favor of any changes or modifications.
August-14	Staff already presented a list of ADA services at the June 2014 CAC and TPAC

	meeting. Therefore, staff would like to close this recommendation.
	CLOSED in August 2014

Recommendation #10:

Access Services should evaluate whether centralizing the reservations and/or routing function would lead to greater system efficiency.

Jan - 14	Access Services believes that there is no perfect or ideal way to deliver service to a region as large as L.A. County. Each operating model has its pros and cons. While it is apparent in terms of service quality and overall cost (in a national context) that our service model functions well, it is also important to look at other options. Access Services will look at including funds in its FY 14-15 budget to further study the issues brought up in Recommendation 7, 10 and 11.
April - 14	Hold for FY 14/15 Budget Approval.
May - 14	Hold for FY 14/15 Budget Approval.
June-14	Staff has budgeted funds in the proposed FY 2015 budget for a consultant to further study the issue.
August-14	The RFP/RFO will be released this month and anticipate work to begin in October 2014.
September-14	The RFP/RFO is scheduled to be released in October 2014.
November -14	The RFP for the Comprehensive Operational Review related to Operations is still in development. Staff expects to issue the RFP in the near future.

Recommendation #11:

Access Services should develop a long-term service strategy that considers alternatives to the current model including a County-wide model that utilizes a larger bench of contractors.

Jan - 14	Access Services believes that there is no perfect or ideal way to deliver service to a region as large as L.A. County. Each operating model has its pros and cons. While it is apparent in terms of service quality and overall cost (in a national context) that our service model functions well, it is also important to look at other options. Access Services will include funds in its FY 14-15 budget to further study the issues brought up in Recommendation 7, 10 and 11.
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April - 14	Hold for FY 14/15 Budget Approval.
May - 14	Hold for FY 14/15 Budget Approval.
June-14	Staff has budgeted funds in the proposed FY 2015 budget for a consultant to further study the issue.
August-14	The RFP/RFQ will be released this month and anticipate work to begin in October 2014.
September-14	The RFP/RFQ is scheduled to be released in October 2014.
November -14	The RFP for the Comprehensive Operational Review related to Operations is still in development. The RFP is expected to be released in the near future.

Recommendation #12: CLOSED in February 2014:

Access Services should consider working with Metro Geographic Information Systems (GIS) services to acquire the necessary software and to revise the current service area maps to reflect actual walking distance from the fixed route service. Service changes should be implemented over time to minimize impact on current clients.

Jan - 14	Access Services disagrees with this recommendation as it has no legal basis. Access Service believes that the service area requirement makes it all but clear that the distance is measured as the crow flies by use of diagrams that literally draw a ¼ mile line on either side of the fixed route and a circle with a ¼ mile radius at the terminus of a fixed route.
	CLOSED BY METRO