

DATE: July 5, 2019

FILE: 6120-01

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

RE: MOU between MOTI and the CVRD Regarding Active Transportation Infrastructure

Purpose

The purpose of this report is to seek support for a Memorandum of Understanding (MOU) between the Ministry of Transportation and Infrastructure (MOTI) and the Comox Valley Regional District (CVRD) that outlines general processes in regards to the planning and implementation of active transportation (AT) infrastructure within MOTI road dedication in unincorporated areas.

Recommendations from the Chief Administrative Officer:

THAT the draft Memorandum of Understanding attached to the staff report dated July 5, 2019 between the Ministry of Transportation and the Comox Valley Regional District in regards to the general processes for planning and implementing active transportation infrastructure within provincial road dedication in unincorporated areas be approved;

AND FURTHER THAT this Memorandum of Understanding be sent to the local municipalities and the Integrated Regional Select Committee for receipt;

AND FURTHER THAT the final Memorandum of Understanding be signed by staff.

AND FINALLY THAT staff be directed to explore regional greenway planning in support of this Memorandum of Understanding.

Executive Summary

A MOU has been drafted between the CVRD and MOTI to make the planning and development of active transportation within the MOTI road dedication more consistent and standardized.

- MOTI has worked in collaboration with the regional districts (RD's) on Vancouver Island and the Sunshine Coast to develop this MOU to ensure consistency amongst all the coastal RD's when working on AT initiatives.
- This MOU is a non-binding agreement between MOTI and the CVRD that promotes collaborative efforts to help deliver safe and effective AT to the Comox Valley.
- This MOU will work in conjunction with the 'Active Transportation Infrastructure Planning and Approvals Guidelines Document' which is currently being developed between the RD's on Vancouver Island and the Sunshine Coast and MOTI.
- The province has recently issued an Active Transportation Strategy and Active Transportation Design Guideline. This work is separate from this MOU and the Active Transportation Infrastructure Planning Document. Both the MOU and the planning document are specific to our regional district and will provide a higher level of detail for the permitting and approvals process.

Prepared by:

Concurrence:

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D. DeMarzo

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Stakeholder Distribution (Upon Agenda Publication)

Ministry of Transportation and Infrastructure	✓
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Background/Current Situation

In late 2017 an initiative began to unfold between the RD’s on Vancouver Island and the Sunshine Coast and MOTI in regards to the creation of clear and consistent practices, guidelines and standards for AT planning, design and construction within the MOTI road dedication.

Active transportation as defined by the province is ‘any form of human-powered transportation including walking, cycling, or rolling using a skateboard, in-line skates, wheelchair or other wheel-based forms of human-powered transportation. It also includes winter-based active modes, water-based active modes, and horse-back riding.’

Within the Comox Valley, land on which AT can be created is fairly limited because of the lack of available Crown land. This makes the MOTI road dedications important for the establishment of AT infrastructure. As such, the CVRD desires increased use and occupation of the MOTI road dedication for AT.

When considering AT within a MOTI road dedication, MOTI would often refer to the recommendations and guidelines as outlined in TAC (Transportation Association of Canada), which is a technical document that focusses on road and highway infrastructure. Increasingly, RD’s have expressed interest in the ability to plan for and provide AT infrastructure within MOTI road dedication either through the issuance of a MOTI permit or MOTI licence of occupation. A consistent approach to address AT infrastructure in terms of processing of requests and implementation of such infrastructure was deemed essential to the RD’s.

MOTI along with their consultant, Urban Systems, worked in collaboration with the RDs to develop a strategy to make the planning and development of AT within the MOTI road dedication more consistent and standardized. The result of this collaboration is the MOU as presented (see Appendix A) and the ongoing development of regionally specific guidelines for the approval and implementation of AT infrastructure (this will be forthcoming). A chronological timeline of engagement can be found in Appendix B.

The MOU sets out in clear language the general understandings and processes of the CVRD and MOTI regarding the implementation of AT infrastructure within the MOTI road dedication. This is a non-binding agreement that acknowledges that the CVRD and MOTI need to work collaboratively in order to deliver safe and effective AT to the Comox Valley.

Key elements of the MOU are as follows:

- The intent of the MOU is to establish a cooperative set of principles to be used to develop AT infrastructure through project specific agreements;

- The CVRD and MOTI have shared values relating to active transportation and linking communities;
- CVRD recognizes the integrity of the public highways is to be maintained;
- MOTI recognizes it can expedite permitting of AT within the road dedication;
- CVRD wants a framework in place to support consistency in regards to planning, design, approval and construction of AT within the MOTI road dedication;
- CVRD is responsible for the planning, design, construction, operation and maintenance of AT infrastructure;
- Increased communication between the CVRD and MOTI in regards to AT priorities and MOTI capital projects (minimum annually);
- AT planning and design are to be consistent with the ‘Active Transportation Infrastructure Planning and Approvals Guidelines Document’ which is currently being developed between the RD’s and MOTI. This document will be specific to the needs of RD’s on Vancouver Island and the Sunshine Coast.

In June of 2019 the province introduced the Active Transportation Strategy document titled ‘Move Commute Connect’ as part of the CleanBC initiative. This strategy is meant to help BC deliver and promote AT within the province. On top of this strategy, MOTI also introduced an Active Transportation Design Guide which is a detailed planning and design ‘best practices’ reference for jurisdictions of all sizes and contexts including rural and urban communities. This new provincial strategy and design guidelines document will complement this regional MOU work.

Policy Analysis

The Comox Valley Regional District Transportation Road Network Plan 2014 (Transportation Plan) identifies active transportation strategies to improve transportation infrastructure and enhance travel options for residents. It also supports improved coordination with collaborating agencies such as MOTI.

Objective six of the Transportation Plan calls for the provision of coordinated transportation infrastructure and services within the Electoral Areas and between adjacent jurisdictions.

The Rural Comox Valley Parks and Greenways Strategic Plan 2011 identifies a number of active and reserve priorities for AT networks including the One Spot Trail, the Royston to Cumberland Trail and E&N rail with trail corridor.

Options

The following options are available:

1. Support and recommend Board adoption of the MOU.
2. Direct staff to request changes to the MOU.
3. Reject the MOU.

Staff are recommending Option 1 at this time. Working collaboratively and developing implementation agreements with MOTI for AT is supported in the Regional Growth Strategy.

Financial Factors

This MOU does not have any direct financial obligations associated with it that extend beyond current practices.

Legal Factors

MOTI must work within legislative acts when delivering AT infrastructure. This includes the Motor Vehicle Act which has been identified for review by the province to address the definition of road user to include active transportation modes.

The MOU is a non-binding agreement and has not been reviewed by CVRD legal representatives.

Regional Growth Strategy Implications

This MOU is supported by the following goals and objectives of the Regional Growth Strategy:

Transportation: Develop accessible, efficient, affordable and connected multi-modal transportation network.

- *Objective 4-B:* Improve bicycle and pedestrian infrastructure to increase the use of active transportation options.
- *Objective 4-C:* Develop and maintain an inter-regional transportation system that efficiently and safely facilitates the movement of people and goods.

Public Health and Safety: Support a high quality of life through the protection and enhancement of community health, safety and well-being;

- *Objective 7-A:* Increase the number of pedestrians and cyclists in the Comox Valley.

Climate Change: Minimize regional greenhouse gas emissions (GHG) and plan for adaptation.

- *Objective 8-B:* Reduce GHG emissions created by the on-road transportation sector.

Intergovernmental Factors

This MOU is likely of some interest to local municipalities which also have MOTI public highways within their jurisdictions and are likely interested in addressing community AT needs within these road corridors.

Interdepartmental Involvement

Implementation of the MOU will require the support of CVRD legislative services.

Citizen/Public Relations

Not relevant.

Attachments: Appendix A – “Memorandum of Understanding”
Appendix B – “Timeline of Engagement”

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding made the _____ day of _____, 2019.

AMONG:

Comox Valley Regional District
600 Comox Road, Courtenay, BC
V9N 3P6 (“CVRD”)

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA

As represented by the Ministry of Transportation and Infrastructure,
PO Box 9850, Stn. Prov. Govt.
Victoria, BC VAW 9T5
(the “MoTI”)

WHEREAS:

- a. The Parties value active transportation, the health and wellness of the community and linking communities;
- b. The Parties recognize that the Ministry is vested with the administration and operation of the highways;
- c. MoTI recognizes and acknowledges that the CVRD is a public body with an interest in providing for public uses of lands comprising provincial public highway provided that such uses comply with applicable policies respecting the operation of provincial public highways including that such uses do not interfere with the integrity of the provincial public highway infrastructure and the primary operation of the provincial public highways as safe and efficiently functioning public highways;
- d. MoTI acknowledges that it can stream line and expedite its permitting process for use of highways under its jurisdiction when dealing with a public body such as the CVRD;
- e. The CVRD has requested the ability to place ATI adjacent to the roadway and within the provincial public highway; and Parties recognize the need to work cooperatively to achieve safe active transportation but that the intent of this MOU is establish a cooperative set of principles to allow for placement of ATI by the CVRD to be permitted under future specific agreements in a manner that is consistent with the shared values and desire to cooperate, that is set out herein;

NOW THEREFORE,

DEFINITIONS:

1. In this MOU:

“ATI” – means Active Transportation Infrastructure as described in this MOU.

“provincial public highway” – means the lands and infrastructure administered by the MoTI and comprising a “highway” as defined in the *Transportation Act*, including rural highway, arterial highways or highways referred to in section 35(2)(f) of the Community Charter, and for greater certainty includes without limitation lands whether or not improved in part or at all for public passage.

“roadway” – means the parts of the provincial public highway that are comprised of constructed road infrastructure including without limitation, those parts of the provincial public highway required for purposes of maintaining and facilitating the integrity of and the safe and efficient functioning of the road infrastructure whether or not used for vehicular traffic.

PURPOSE:

2. This Memorandum of Understanding (“**MOU**”) sets out the general understandings and processes of the CVRD and the MoTI as of the date of this MOU, regarding the implementation of ATI, which generally includes:
 - (a) Gravel Pathways/Trails adjacent to the roadway
 - (b) Multi Use Pathways adjacent to the roadway
 - (c) Sidewalks adjacent to the roadway
 - (d) Widened shoulders in support of ATI connections
3. This MOU is non – binding and is subject to any and all applicable laws. Nothing in this MOU is intended to or does fetter the exercise of statutory discretions or statutory authorities applicable to the matters contemplated in this MOU.

KEY PRINCIPLES:

4. The MoTI and the CVRD have been working collaboratively in unincorporated areas to consider and where reasonably appropriate permit and construct regional trails, pathways and other ATI within provincial public highway with the intent being that this will be implemented through project specific agreements for ATI projects under the guidelines described herein, which are to be developed in a mutually cooperative manner.

5. The CVRD wishes to develop a framework to support where reasonably appropriate, the implementation of consistent processes to guide the planning, design, approval, construction and ongoing responsibility for ATI adjacent to roadways.
6. The CVRD will work with other Regional Districts that comprise Vancouver Island Coastal Communities to promote consistency in liaising with the MoTI in its consideration of ATI proposals and administration and implementation of provincial review processes.
7. The MoTI will work, subject to and in conformance with applicable laws, with the CVRD and other Regional Districts to review proposed ATI within provincial public highway.

ROLES:

8. The MoTI is vested with the administration and operation of provincial public highways and as part of this mandate reviews and may approve proposed ATIs within provincial public highways.
9. The CVRD is representative, of rural areas of the Comox Valley, outside of the municipalities of the City of Courtenay, the Town of Comox, and the Village of Cumberland and as part of its mandate wishes to develop ATI for the benefits of its residents.
10. CVRD desires increased use and occupation of provincial public highway for ATI's and acknowledges that any such proposed use and occupation of provincial public highway must take into consideration and reflect provincial interests and requirements including interests and requirements relating to the preservation of the highway infrastructure and the safe and efficient functioning of the provincial public highway for ATIs.
11. CVRD are prepared to be responsible for the planning, design, construction, operation, maintenance and repair of ATIs and the CVRD shall contribute staff time, background studies and mapping to work cooperatively on same. The intention of the parties when dealing with future ATI projects proposed by CVRD is to act reasonably and cooperatively to achieve an efficient and effective process, in accordance with the principles in this MOU.
12. CVRD are prepared to have and maintain an ATI priority projects program that will be shared with and reviewed annually with MoTI.
13. MoTI will share and annually discuss the district rehabilitation, safety and minor betterments program with the CVRD.

14. The MoTI is mindful of the public interest in ensuring the provincial investments, financial and otherwise, in preserving the safe and efficient functioning of provincial public highways while acknowledging the interest of the CVRD to promote the location of ATIs within provincial public highways.

REGIONAL TRAIL PLANNING AND DESIGN:

15. MoTI and CVRD acknowledge that ATI proposals must be consistent, among other things, with the applicable laws, policies and requirements including interests and requirements relating to the preservation of the highway infrastructure and the safe and efficient functioning of the provincial public highway.
16. CVRD and MoTI acknowledge that among other factors that are to be taken into account in considering ATIs, there is a shared view that ATIs are generally to be located in locations sufficiently separated from roadways as to enable and where feasible maximize the integrity and the efficient functioning of the provincial public highway and the safety of person on and in the vicinity of provincial public highway and the ATI.
17. CVRD acknowledge that ATI planning and design are to be consistent with and align with, amongst other things, Provincial highway corridor planning studies and goals and with the ATI Planning and Approvals Guidelines Document and are to be carried out in a manner and by adopting timelines that reasonably enable the meaningful involvement of MoTI staff.
18. MoTI and CVRD acknowledge that numerous and varied factors including, without limitation, site specific circumstances and constraints, will apply to considering appropriate locations for ATIs and that as a result there may be an approach in considering and, if approved, approving proposed ATI`s that is phased to allow for, amongst other things, incremental identification and resolution of issues including without limitation issues relating to the elaborate nature of ATI`s and the distancing of ATI`s from roadways. Without limiting MoTI`s discretion, the parties agree that future guidelines will be developed by MoTI in consultation with the CVRD, which may then be used in the design, operation and maintenance of ATI.
19. The MoTI retains the right to reject or refuse approval for any ATI proposal at its discretion.

PROCESS:

20. CVRD and MoTI acknowledge that existing review and approval processes including without limitation, MoTI process for considering applications for permit and licence of occupation proposals, will apply and should be followed for ATI proposals, including submission of ATI proposals to the appropriate local MoTI Office Development Services department.
21. MoTI, at its discretion, and taking into account the relevant factors relating to each ATI proposal, may determine whether, if approved, a permit or licence of occupation is to apply to implementation of the ATI proposal.

MEETING:

22. CVRD and MoTI intend that they will meet whenever a meeting is reasonably necessary or requested by the other party to deal with specific ATI projects and at least on an annual basis to discuss general matters and any upcoming highway and ATI plans, review operations on existing ATI on provincial public highway and review the terms of this MOU.
23. CVRD and the MoTI intend to meet as may be reasonably required to discuss ATI and to cooperate in scheduling such meetings to achieve positive progress towards the objectives in this MOU.

CONTACTS:

24. The provincial lead contact with the CVRD is the MoTI District Manager, [Lower Mainland District]
25. The provincial lead contact for CVRD Regional District members is the local MoTI office
26. The CVRD Regional District lead contact is Doug DeMarzo, Manager of Parks.

[Execution Page Follows]

This Memorandum of Understanding is signed on behalf of CVRD and MoTI as follows.

Comox Valley Regional District (CVRD)

_____, 2019
Signature Date

Name

Title

Witness Signature

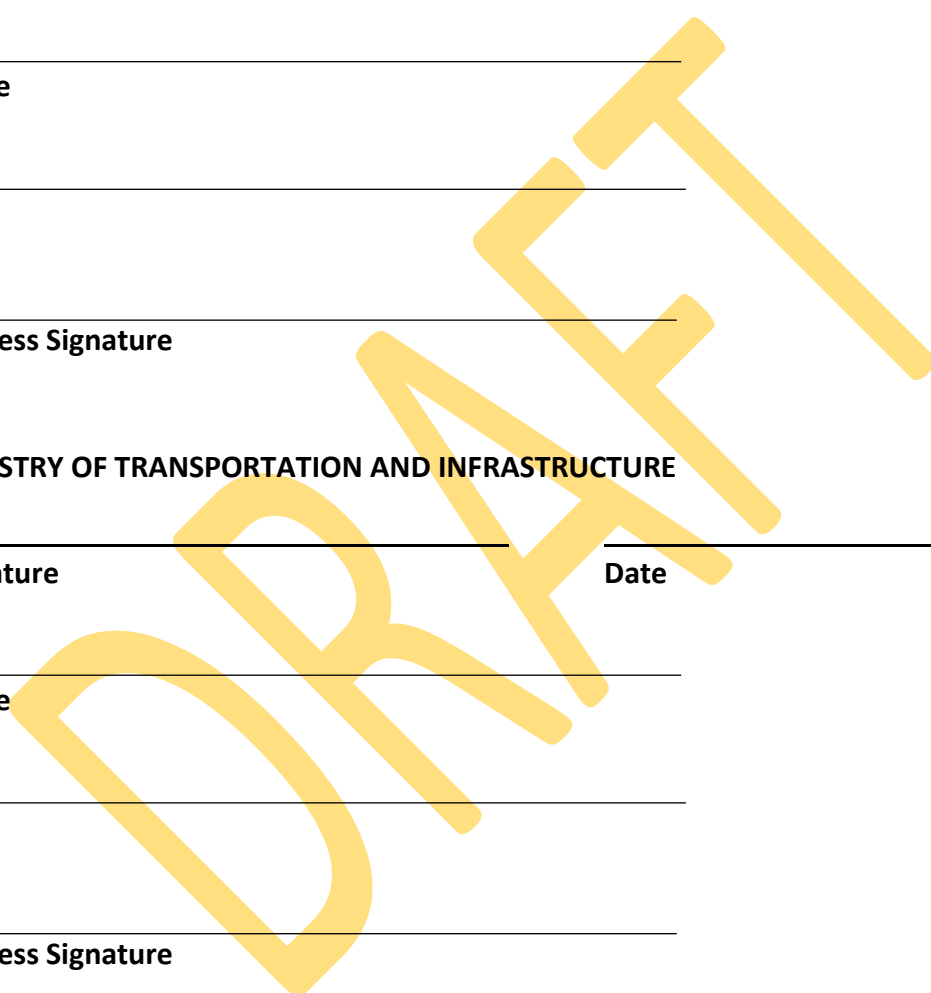
MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE

_____, 2019
Signature Date

Name

Title

Witness Signature



Appendix B - Timeline of engagement

January 2018

- MOTI hired Urban Systems to work with the Comox Valley Regional District (CVRD), the Cowichan Valley Regional District (CVRD), the Regional District of Nanaimo (RDN) and the Sunshine Coast Regional District (SCRD) to review the current practices and policies in place for AT within each of the respective unincorporated areas. This review was meant to compare the practices and guidelines within the RDs to the practices and standards in place at MOTI in regards to AT infrastructure. Urban Systems was then meant to develop a strategy and guidelines document to be used by the participating RDs and MOTI when planning and developing AT within the MOTI road dedication. This strategy could then be used by other RDs throughout the province as a guiding document.

March 15, 2018

- The RDs, MOTI and Urban Systems held a joint start-up meeting to clarify the initiative. These discussions focused on current challenges and issues when developing AT within the road dedication; and general discussions on community expectations in terms of AT infrastructure. The RDs provided clear messaging to MOTI that there was a need for consistency across the RDs in terms of approvals and development of AT infrastructure within MOTI road dedications. Primary points raised by the RDs included:
 - lack of MOTI standards for AT infrastructure;
 - excessive design cost incurred by RDs prior to approval;
 - inconsistent MOTI approvals process when it comes to AT infrastructure;
 - inconsistent approvals mechanisms for AT (permit versus licence of occupation);
 - need for clear AT development guidelines;
 - need for better leveraging of AT at both the zoning and subdivision approval stages;
 - RDs willingness to fund AT that may be beyond MOTI funding abilities;
 - MIA verification that RDs have insurance coverage for works within the MOTI road dedication but recommends guidelines and maintenance standards are in place to mitigate risk; and
 - RDs have and use standards and guidelines to develop and maintain AT infrastructure.

May 8, 2018

- The RDs met with the Honourable Claire Trevena, Minister of Transportation and Infrastructure, to discuss MOTI AT standards so that safe and efficient AT can be planned and developed.

August 27, 2018

- The RDs met with MOTI and Urban Systems to review the work plan and to narrow down the scope of work. Urban Systems clarified that a significant gap existed between AT needs and existing infrastructure. They also mentioned that the province was beginning to move forward with updating AT guidelines for the province.

February 4, 2019

- MOTI informs the RD working group that the province will be embarking on a provincial Active Transportation Strategy and Active Transportation Design Guidelines. This strategy and design guidelines were to have a more provincial lens and would look more broadly at all forms of AT including in the urban setting. This provincial work will complement the work the RDs are doing with MOTI.

March 14, 2019

- MOTI issues a draft of the ‘ATI Planning and Design Guide on BC Provincial Highways’ for review by the RDs. The RDs responded with specific points to help further refine the document. Key RD response points include:
 - Document puts too heavy an onus on the RDs in terms of extra work requirements and cost than what is currently the norm;
 - Approvals process needs to be further streamlined;
 - Need greater clarity/certainty for MOTI approvals;
 - AT within the ALR needs to be addressed;
 - Requirement for LIDAR is cost prohibitive;
 - Desire for longer terms for LOO’s – desire 20 to 25 year to offset capital costs;

Pilot project on Gabriola by RDN. This project will help develop expectations around Licence of Occupation (LOO) applications.

June 17th, 2019

- The province introduces the Active Transportation Strategy document title ‘Move Commute Connect’ as part of the CleanBC initiative. This strategy is meant to help BC deliver and promote AT within the province. On top of this strategy, MOTI also introduced an Active Transportation Design Guide.