

## MEMORANDUM OF UNDERSTANDING

*Brooklyn Center for Independence of the Disabled v. City of New York 11-cv-6690*

### Accessible Transportation

This Memorandum of Understanding (MOU) is an interim document intended to memorialize the agreement in principle of the parties regarding a remedial plan to provide accessible transportation during evacuations. The parties intend to submit this MOU with the negotiated Stipulation of Settlement that will be so-ordered by the Court and over which the Court will retain jurisdiction. The parties executed this MOU on August 8, 2014 and all dates that run from “execution of this agreement” shall run from the August 8 date. The parties have finalized and re-executed this MOU for purposes of submission to the Court.

Once specific implementation timetables have been developed with the City Agencies responsible for the various elements of the plan, they will be provided to Plaintiffs’ counsel.

#### **I. IDENTIFY RESOURCES AND NEED**

Prior to further developing its plans for accessible transportation, the City will develop an inventory of accessible vehicles and conduct a needs analysis.

##### **A. Inventory of Accessible Vehicles For Use in Emergencies**

1. The City will develop an inventory of vehicles with accessible features that may be available for use in an emergency through various agencies. Information will include the number of vehicles, the capacity of the vehicles for individuals using wheel chairs, and the number of appropriately licensed drivers. Information will also include whether the vehicles are owned by the agencies or are available through existing contracts. The provisions of this Section will be completed by August 1, 2015 (i.e., the 2015 hurricane season).

- a. By November 30, 2014, the City shall compile a complete list of agencies and transportation providers to contact in order to develop the inventory. The list will include mayoral agencies, Department of Citywide Administrative Services (DCAS), the Department of Education (DOE), Metropolitan Transportation Authority (MTA), MTA Access-a-Ride, and Taxi and Limousine Commission (TLC). The City will provide this list to Plaintiffs within 5 days of completion.
- b. By January 31, 2015, the City will create a list of defined terms to be used in compiling the information gathered from the various agencies and transportation providers. The City will provide this list to Plaintiffs within 5 days of completion and agrees to consider the input of Plaintiffs in the creation of the defined terms. Plaintiffs will provide such input within 5 days of receipt. The City agrees to meaningfully consider Plaintiffs’ input, incorporate those suggestions where practical and

consistent with the goals of this MOU, and report back to Plaintiffs regarding which comments were accepted or rejected, and the reasons why.

2. The City will update the Citywide Asset Logistics Management system with the number of vehicles with accessible features that could support evacuation for people with disabilities once the inventory is complete. Thereafter, the City will annually update this database.

## **B. Needs Analysis**

1. The City will conduct a needs analysis that includes estimating the demand for Cityprovided accessible evacuation services. This needs analysis includes collecting aggregate information on the numbers of people with disabilities that affect their ability to use public transportation and areas where they live, in order to assess the potential need so transportation resources can be effectively allocated during the evacuation phase of the emergency event. An aggregation and review of data reflecting paratransit ridership will be one of the bases, among others, for the analysis. The City agrees to consult with Plaintiffs regarding the process and form of the needs analysis on or before January 31, 2015, including sources of existing information that might be useful in assessing the transportation needs of people with disabilities. The City agrees to meaningfully consider Plaintiffs' comments, incorporate those suggestions where practical and consistent with the goals of this MOU, and report back to Plaintiffs regarding which comments were accepted or rejected, and the reasons why.

a. If the City determines that the hiring of a vendor to complete the needs analysis is necessary, by August 1, 2015, the City will submit Requests of Proposals for vendors to complete this needs analysis. The City will continue to update the Plaintiffs on the status of the bidding process and the vendor that is ultimately selected.

2. The City agrees to work with City agencies and community based organizations to identify pockets of individuals likely to have functional needs in areas of the City that may be harder to identify.

3. The City agrees to share the results of the needs analysis on or before August 1, 2016, and to consider Plaintiffs' suggestions and comments. Within 14 days of receiving the results of the needs analysis, Plaintiffs will provide such input and the City agrees to meaningfully consider Plaintiffs' comments, incorporate those suggestions where practical and consistent with the goals of this MOU, and report back to Plaintiffs regarding which comments were accepted or rejected, and the reasons why.

4. Consistent with the results of the needs analysis, and to the extent that need exists, the City will work to solicit bids or RFPs to establish additional contracts with private companies, including private ambulette companies, livery, and other transportation companies, and/or establish intergovernmental agreements to support the plans and needs that have been identified for accessible emergency transport. The revised accessible transportation plan will include provisions for qualified operators of the vehicles and wheelchair lifts.

5. Existing federal and state legislated resource request processes, including the interstate Emergency Management Assistance Compact (“EMAC”) and the New York State Intrastate Mutual Aid Program (“IMAP”), provides the City with access to additional accessible transportation resources and trained responders when necessary.

## **II. TRAINING OF CITY PERSONNEL IN TRANSPORTING PEOPLE WITH DISABILITIES**

City personnel directly involved in accessible transportation during pre-storm or forewarned evacuations will be trained on disability literacy, communicating with individuals with sensory and cognitive disabilities, the proper operation of wheelchair lifts, and the proper handling of durable medical equipment. The training will be conducted consistent with and within the parameters of existing civil service (and other applicable) laws and rules. *See also* High-Rise Evacuation MOU for additional guidance with respect to training relevant to evacuations. The City agrees to provide the training materials to Plaintiffs for input. Plaintiffs agree to provide such input within 14 days. The City agrees to meaningfully consider Plaintiffs’ comments, incorporate those suggestions where practical and consistent with the goals of this MOU, and report back to Plaintiffs regarding which comments were accepted or rejected, and the reasons why.

## **III. COMMUNICATION REGARDING ACCESSIBLE TRANSPORTATION**

A. The City will develop clear and accurate messaging to the disability community about accessible transportation options available during pre-storm or forewarned evacuations, and how and where to access them. These options may include paratransit, MTA, buses, accessible taxis, and ambulettes (depending on the degree of cooperation and the feasibility of working with private entities that provide ambulette service). The City will work with the MTA to reinforce MTA’s messaging concerning prioritization of accessible seats for people with disabilities on MTA buses. After an emergency, the City will work with the MTA to clearly communicate what transportation systems are resumed and extent to which each is accessible.

B. The City will make best efforts to ensure that information conveyed by 311 is accurate and contains information regarding evacuation for persons with disabilities, including where and how to access accessible transportation options during pre-storm or forewarned evacuations. Plaintiffs will have an opportunity to review and comment on the content that 311 caller representatives utilize to provide the above information. Comments will be provided to a yet-to-be designated City contact person within 5 days of receipt. The comment period will occur on or around January 15, 2015.

1. The City will train 311 operators to identify calls relating to emergency requests for evacuation for people with disabilities, including evaluating call takers on call handling procedures with regard to such calls, and will reinforce such training in emergencies to ensure that 311 operators will collaborate with 911 operators to evaluate the caller's needs in accordance with criteria established by OEM, NYPD, and FDNY in determining the appropriate transfer of the call.

#### **IV. PARTNER AGENCIES AND PLANNING PARTNERS**

A. The City agrees to work with planning partners, such as MTA and TLC, to collaboratively develop the City's accessible transportation plans for pre-storm or forewarned evacuations. The City agrees to share any plans with Plaintiffs and to consider Plaintiffs' comments. The City agrees to meaningfully consider Plaintiffs' comments, incorporate those suggestions where practical and consistent with the goals of this MOU, and report back to Plaintiffs regarding which comments were accepted or rejected, and the reasons why. The accessible transportation plans will define roles and responsibilities when the plans are activated. If the planning partners deem it necessary for the effective and efficient deployment of accessible transportation, the partner agencies will enter into contracts.

B. The City agrees to work with MTA to develop standardized triggers for modifying Access-A-Ride (AAR) services during pre-storm or forewarned evacuations. Depending on the scope and location of the evacuation, this may include suspending the reservation system to permit subscribers in an evacuation zone to order AAR vehicles in order to evacuate or diverting AAR vehicles to specific locations to support evacuation efforts. This may also include establishing specific plans for public communication regarding time-frames for service modifications so as to make clear when AAR service will be available to subscribers to use for personalized trips and when AAR will focus only on transport to evacuation centers. The parties will discuss additional policies and procedures relating to the provision of paratransit services during an emergency, including training for dispatchers. Once the City develops such plans, the City will request MTA's approval to share these plans with Plaintiffs, who will have an opportunity to comment within 14 days should that request be granted by MTA.

1. The City agrees to make plans to train City personnel to be able to operate accessible transportation vehicles.
2. The City will request MTA to increase staffing for paratransit dispatching during emergencies.
3. City-contracted paratransit dispatchers will be given accurate information about the incident or emergency.

C. The City agrees to work with TLC to determine the number, type, and ownership of accessible taxis that are registered with them. The City will work with TLC with respect to outreach to the fleet owners and potential partnerships with fleet owners.

D. The City agrees to work with the New York City Housing Authority (NYCHA) to collaboratively develop transportation and evacuation plans that address the needs of NYCHA residents. These plans will be aligned with the City's other emergency plans, such as high-rise evacuation. The City agrees to share any plans developed with NYCHA with Plaintiffs and to consider Plaintiffs' comments. Plaintiffs will provide any comments within 14 days. The City agrees to meaningfully consider Plaintiffs' comments, incorporate those suggestions where

practical and consistent with the goals of this MOU, and report back to Plaintiffs regarding which comments were accepted or rejected, and the reasons why.

E. City agencies tasked with evacuating individuals will work with the Disability and Access and Functional Needs Coordinator and/or other appropriate City personnel to identify the appropriate form of transportation or vehicle to be used to evacuate durable medical equipment and service animals when the pre-storm or forewarned evacuation of a person with a disability is necessary. The individuals at the above City agencies tasked with such duties will have disability literacy training as detailed in Section II. In a situation where it is not practicable to evacuate durable medical equipment, the City agrees to stock and supply certain appropriate durable equipment such as various types of wheelchairs and other mobility aids, or request certain other durable equipment that support daily living activities through the logistical request process or through existing contracts.

## **V. PLANS RELATING TO TRANSPORTATION DURING EVACUATIONS**

A. Using the resources and needs analysis described above, the City will develop plans for the effective deployment of accessible vehicles during notice and no-notice events, which shall be completed on or before August 1, 2017.

B. In notice events, in addition to the planning steps described above, the City and its planning partners will consider and develop various strategies for deployment of accessible vehicles. As with all of the City's emergency plans, the planning documents will define roles and responsibilities and include strategies for decision-making and criteria for implementation, including identifying areas of high need and which agencies will supply accessible vehicles. The plans will be flexible and scalable so that they can be quickly adapted to the scope and location of the emergency. These strategies may include:

1. Whether, and under what circumstances, accessible vehicles may be deployed to pre-determined locations to support evacuation efforts.
2. Specific strategies for the effective use of paratransit vehicles as noted above.
3. Strategies for deployment of accessible vehicles during a no-notice event. Such strategies may include staging of accessible transportation at meeting locations, diversion of paratransit and accessible taxis to support evacuation, and institution of shuttle routes.
4. To the extent practicable, staging areas for accessible transportation will be in accessible locations. Note these locations are likely to be outdoor gathering places and are not expected to have restroom facilities or other amenities.
5. Communicating in advance of an evacuation notice to people with disabilities and access and functional needs certain emergency-related information in order to accommodate their needs.

C. Working with partner agencies to allow for accessible transportation services, such as MTA Access-A-Ride, to be resumed as soon as possible after an emergency.

D. To the extent there are frozen zones after a disaster and it is safe to do so, the City will develop plans to relocate people with disabilities who have not evacuated. Such a plan will

include a mechanism for accessible vehicles to reach the individuals in the frozen zone. *See also* the PECO/Canvassing plan.

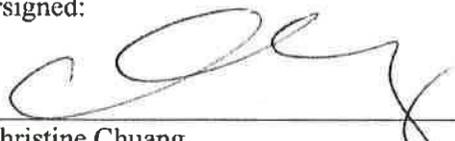
E. To the extent possible during a pre-event evacuation, the City will use best efforts:

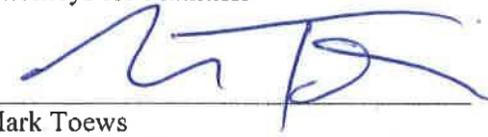
1. not to separate people with disabilities from their caregivers, mobility devices, other durable medical equipment and/or service animals during an evacuation; and
2. to reunite people with disabilities with their durable medical equipment, mobility devices, and service animals should they become separated during an emergency.

F. The City will review and revise the Homebound Evacuation Operation ("HEO") to integrate all steps and provisions set forth and agreed upon by the parties in this and other plans discussed in settlement. All changes to HEO or any similar program will be shared with Plaintiffs, who will provide comments within 14 days. The City agrees to meaningfully consider Plaintiffs' comments, incorporate those suggestions where practical and consistent with the goals of this MOU, and report back to Plaintiffs regarding which comments were accepted or rejected, and the reasons why.

DATE: September 24 2014

Undersigned:

By:   
Christine Chuang  
DISABILITY RIGHTS ADVOCATES  
Attorneys for Plaintiffs

By:   
Mark Toews  
Senior Counsel  
Attorney for Defendants

On behalf of:  
ZACHARY W. CARTER  
Corporation Counsel of the City of New York  
Attorney for Defendants  
100 Church Street, Room 2-106  
New York, New York 10007  
(212) 356-0871