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Title:	CONSIDER APPROVAL OF THE TRANSIT ACCESS PASS (TAP) PARTICIPATION AGREEMENT WITH LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (LACMTA) (CITY COUNCIL)				
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Report to Mayor and City Council

Wednesday, June 08, 2016

Discussion

SUBJECT:

CONSIDER APPROVAL OF THE TRANSIT ACCESS PASS (TAP) PARTICIPATION AGREEMENT WITH LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (LACMTA) (CITY COUNCIL)

I. SUMMARY

LA County Metropolitan Transportation Authority ("LACMTA") operates the TAP Program for riders of Los Angeles County's vast network of public transportation systems. The program operates by allowing riders to pre-load a plastic card with funds. The rider "taps" the card on a machine found at the entrance of a bus or at a turnstile at a train station. The fare is electronically withdrawn from the rider's TAP Program account, and the rider is permitted to board the bus or train. Staff sought to bring this program to Carson, as it would provide passengers the convenience of not having to carry cash or have exact change in order to use the City's public transportation. The TAP Program is currently operating within the City; however, LACMTA has indicated that, in order to continue the program, the proposed agreements must be approved.

The proposed agreements are not drafted using the City's standard form contract. LACMTA has requested that its standard form contract be used, and has only accepted minor changes requested by City Attorney's Office to LACTMA's standard form contract. LACTMA

will not agree to indemnify the City, whereas the City is being asked to indemnify LACTMA. The reasoning offered by LACTMA for its position is that the City is essentially asking for permission to participate in a LACTMA program, and that the City is only being asked to sign the same standard contract executed by other participating cities in the region.

Because of the substantial advantages offered by the TAP Program for riders and because of the TAP Program already operating within the City, Staff recommends that the City Council approve LACMTA's proposed agreements.

II. RECOMMENDATION

APPROVE both the 'Cooperative TAP Participation Agreement' and the 'TAP Mobile Validator License Agreement' with LACMTA.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

A. The Program

The TAP Program was established to provide passengers of LACMTA's extensive network of public transportation systems a cashless means of paying fares. A plastic card similar to a credit card is pre-loaded with funds that are electronically withdrawn from the cardholder's account when he or she "taps" the card at a machine located at the entrance of a bus or at the turnstile of a train station. Money can be "loaded" onto the card in person, at a local vendor, at Metro rail stations, online or telephonically.

Viewing this program as a convenient means for residents to pay their bus fares, Staff agreed to bring this program to Carson.

In order to continue participating in TAP the City must approve agreements with LACMTA to both fully join the program (Exhibit No. 1, Cooperative TAP Participant Agreement), and to utilize the software and hardware associated with using the card (Exhibit No. 2, TAP Mobile Validator License Agreement). If the agreements are not executed then LACMTA will withdraw the City's ability to participate in the TAP program.

B. Terms of Contract

Both TAP Agreements are not in the City's standard form agreements and, therefore, do not contain standard contract language recommended by the City Attorney's Office.

LACMTA instead requires that any participants in the TAP Program must use the TAP Program's standard form agreements. The City Attorney's Office sought changes to the TAP Program standard form agreements such that it would more closely align with the City's form agreement templates; however, LACMTA will not substantially modify the TAP Program's standard form agreements. The City Council is asked to particularly consider the

issues of indemnification and insurance.

1) Indemnification

The City's standard form contract requires indemnification of the City by the other contracting party. However, the only indemnification in both of the attached agreements is from the City to LACMTA. Staff and the City Attorney's Office attempted to seek mutual indemnification from LACMTA; however, LACMTA will not provide any indemnification. They state that the TAP Program is participatory in nature and that the City is asking for permission to participate.

LACMTA requires indemnification from the City, because they do not want to be held liable for any claim related to the City's operation of its buses since they are only providing the TAP Program software and hardware (*i.e.*, the TAP Program only processes payments). However, because it is a payment processing system, the City might, in turn, be affected by LACMTA's operation thereof. If the TAP Program's electronic payment processing system is breached, then the disclosure of customer's confidential information could result in liability for the City, without an agreed ability for the City to pass such costs through indemnification to LACTMA.

2) Insurance

These agreements also similarly lack insurance requirements. While indemnification is the "promise to pay," insurance operates as evidence of the "ability to pay" if LACTMA is liable for some reason to the City. However, LACMTA is a public transportation authority and is likely able to pay should the need arise.

C. Staff Recommendation

There are substantial advantages offered by the TAP Program. Of significance to consider is that the TAP Program has already been implemented within the City and Staff is recommending the City Council approve the proposed TAP Agreements with LACMTA, a California public transportation authority, to continue providing these services.

Moreover, the services provided allow riders of the City's bus system to have easy access to one centralized system of paying bus fare when using the City's buses or that of any other bus system that is participating in the TAP Program.

Based upon the forgoing, Staff requests that the City Council approve the attached proposed agreements so that the TAP Program may continue operating within the City.

V. FISCAL IMPACT

All fares collected from the TAP card are received by LACMTA. Carson's portion of these fares are calculated, and that amount is transmitted back to the City as per the 'TAP Regional Operating Rules'.

Future cost associated with this program is the purchase of a machine and the installation of a dedicated phone line in the Transportation office that would allow passengers to load their card. The cost of the machine and phone line is minimal and can be purchased within

the current budget. TAP machines are currently installed in the City's buses.

Without the availability of the TAP card program, ridership in the City's bus system could suffer which would then result in a decrease in the fares collected.

VI. EXHIBITS

1. Cooperative TAP Participate Agreement. (pgs. 5-13)
2. TAP Mobile Validator License Agreement. (pgs. 14-21)

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