

MODOC TRANSPORTATION AGENCY

JOINT POWERS AGREEMENT

This Agreement is made and entered into this 13th day of August, 1997, by and among the COUNTY OF MODOC, herein referred to as "MEMBER", and the CITY OF ALTURAS herein referred to as "MEMBER."

RECITALS

WHEREAS, pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the California Government Code Section 6500 et seq., two or more public agencies may, by agreement, form a Joint Powers Agency to exercise those powers and functions that are common to the contracting parties; and

WHEREAS, under California law, each MEMBER is responsible for providing transportation in compliance with the Transportation Development Act; and

WHEREAS, it is the desire of the MEMBERS to create a public agency that will perform the functions set forth in the Transportation Development Act,

NOW, THEREFORE, the MEMBERS agree as follows:

ARTICLE 1 DEFINITIONS

- 1.1. "Agreement" shall mean this Joint Exercise of Powers Agreement, as the name now exists or as it may from time to time be amended by any supplemental agreement entered into pursuant to the provisions hereof.
- 1.2. "Agency" shall mean the Modoc Transportation Agency, a Joint Powers Agency hereby established and created by the Agreement.
- 1.3. "Board of Directors" or "Board" shall mean the governing body of the Agency.
- 1.4. "Fiscal Year" shall mean that period of twelve months commencing on July first of any year.
- 1.5. "Government Code" shall mean the California Government Code.
- 1.6. "Joint Powers Law" or "Act" shall mean Article 1, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code.
- 1.7. "MEMBER" or "MEMBERS" shall mean any entity which has executed this Agreement and become a member of the Agency.

ARTICLE 2
CREATION AND PURPOSE OF THE AGENCY

- 2.1. Creation of Public Agency. Pursuant to this act, there is hereby created a public agency to be known as the "Modoc Transportation Agency" hereinafter referred to as the "Agency." The Agency is formed by this Agreement pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code; two or more public agencies may, by agreement, form a Joint Powers Agency to exercise those powers and functions that are common to the contracting parties. It is the intent of the MEMBERS that the Agency shall be a public agency separate and apart from any MEMBER.
- 2.2. Purpose. The purpose of the Agreement is to create a public agency to exercise the common power of directing and coordinating actions relating to transportation in Modoc County and the City of Alturas.

ARTICLE 3
LIMITATION AND LIABILITY

- 3.1. To the extent permitted under State law, and specifically pursuant to the provisions of Government Code Section 6508.1, the debts, liabilities and obligations of the Agency shall be its own and shall not constitute debts, liabilities, and obligations of any of the MEMBERS.

ARTICLE 4
POWERS OF THE AGENCY

- 4.1. The Agency shall have all of the powers common to the MEMBERS and all additional powers set forth in the joint powers of law of the State of California and is hereby expressly authorized to perform all acts necessary for the exercise of said powers. Such powers include, but are not limited to, the following:
- a) To supervise and oversee the performance of transportation service operations;
 - b) To make and enter into contracts and expend revenues, leases and other agreements, including contracts with federal, state, and other governmental agencies;
 - c) To act on behalf of the MEMBERS to specify the level of service to be provided, the operating plan to implement the service, how the service is to be coordinated with the public transportation within the respective areas, and to act as claimant as defined in the Transportation Development Act;
 - d) To acquire, accept, and utilize sufficient revenues to retire debt and to fulfill the financial obligations of the Agency from any source including Transportation Development Act funds, State Transit Assistance Funds, and Federal Transportation Act funds;
 - e) To incur debts, liabilities, and obligations, which do not constitute a debt, liability, or obligation of the MEMBERS;

- f) To employ agents, employees, consultants, advisors, independent contractors, and other staff;
- g) To acquire, hold, or dispose of property by eminent domain, lease, lease purchase, or sale;
- h) To acquire, construct, manage, maintain, and operate any buildings, works, or improvements;
- i) To sue and be sued in its own name, except that the Agency shall not sue its own Board of Directors;
- j) To invest, in accordance with the provisions of Section 6509.5 of the Government Code, money in the treasury of the Agency that is not required for immediate necessities of the Agency;
- k) To raise transportation fare revenues for transit services;
- l) To pay expenses reasonably and necessarily incurred in the conduct of business, including travel expenses to attend meetings and conferences relating to the business of the Board to the extent budgeted; and
- m) All other services which are necessary for the Agency to provide public transportation services.

ARTICLE 5

MEMBERS, OFFICERS, AND TERMS OF THE BOARD OF DIRECTORS

- 5.1. Members. The Agency shall be administered by a Board of Directors, initially consisting of six members. Each MEMBER to this Agreement shall appoint three individuals to the Board which shall be the same individuals as each entity appoints to serve on the Modoc County Local Transportation Commission. The Board shall be named the "Modoc Transportation Agency Board of Directors."
- 5.2. Alternate Members. Each MEMBER may appoint an alternate individual to the Board of Directors that may serve in the place of any respective MEMBER's appointed persons. Alternates shall be the same individuals as each entity appoints to serve on the Modoc County Local Transportation Commission. Any alternate must have the same qualification as the individual originally appointed.
- 5.3. Officers. At the first regular meeting of each calendar year, the Board of Directors shall elect from its membership a Chair and Vice Chair of the Board, to serve for one year terms. In absence of the Chair, the Vice Chair shall preside at and conduct all meetings of the Board.
- 5.4. Terms of Office. Each member of the Board of Directors shall serve at the pleasure of the appointing party hereto; provided, however, Board members of the respective governmental MEMBERS, shall cease to serve upon termination of that public office, unless so otherwise re-appointed by that governmental MEMBER. Vacancies shall be filled by the respective appointing MEMBER.

ARTICLE 6
POWERS OF THE BOARD OF DIRECTORS

- 6.1. The Board of Directors shall have the following powers and functions:
- a) The Board shall exercise all powers and conduct all business of the Agency, whether directly or by delegation to the Executive Director or other committees as may be established by the Board and subject to such restrictions and limitations as are set forth herein.
 - b) The Board shall have the authority to appoint or employ necessary staff in accordance with Article 9.
 - c) The Board shall cause to be prepared, and shall review, modify as necessary, and adopt the annual operating budget of the Agency. The budget, at a minimum, shall include staff administration costs, capital costs, apportionments, and operating costs for transportation services. Adoption of the budget may not be delegated.
 - d) The Board shall approve the execution of each contract or agreement to be entered into by the name of the Agency.
 - e) The Board shall negotiate, prepare, and contract for transportation services and the claims for funds to be submitted to the Modoc County Local Transportation Commission in accordance with the Transportation Development Act and its regulations.
 - f) Within 120 days after the close of the fiscal year, the Agency will prepare and submit to the MEMBERS an annual report of its operation of the transportation services for the fiscal year.
 - g) The Board shall receive and act upon periodic reports and audits of the funds of the Agency, as required by Articles 10 and 11 of this Agreement.
 - h) The Board shall have such other powers and duties reasonably necessary to carry out the purposes of the Agency.

ARTICLE 7
MEETINGS OF THE BOARD OF DIRECTORS

- 7.1. Initial Meeting: No later than Sixty (60) days following the effective date of this Agreement and the establishment of the Agency, the initial meeting of the Board of Directors shall be called and convened. For the purpose of calling such meeting, the Executive Director shall prepare the initial agenda for the Board of Directors and shall call and post such notices as are required by the Brown Act. Any MEMBER requesting an item on the agenda for the initial meeting shall provide the request no later than Twenty (20) days following the effective date of this Agreement.
- 7.2. Meetings. At a minimum the Board shall meet annually.
- 7.3. Brown Act. All meetings of the Board shall be called, noticed, held, and conducted in accordance with the provisions of Government Code Section 54950, et seq.

- 7.4. Minutes and Records. The Executive Director of the Agency shall provide for the keeping of minutes of regular and special meetings of the Board and shall provide a copy of the minutes to each member of the Board at the next scheduled meeting.
- 7.5. Quorum. A majority of the Members of the Board shall constitute a quorum for the transaction of business.

ARTICLE 8 COMMITTEES

- 8.1. The Board of Directors may establish committees, as it deems appropriate, to conduct the business of the Agency. Members of the committees shall be appointed by the Board, to serve one year terms, subject to reappointment by the Board. Each committee shall be composed of at least three members and shall have those duties as determined by the Board or as otherwise set forth in the Bylaws. The members of each committee shall annually select one of their members to chair the Committee. Each committee shall annually prepare and submit a report to the Board of Directors as to the activities and programs provided by or overseen by the committee.
- 8.2. All committee meetings shall be called, noticed, held, and conducted in accordance with the provision of Government Code Section 54950, et seq., the Brown Act.

ARTICLE 9 STAFF

- 9.1. Executive Director. The Road Commissioner of the County of Modoc, or his or her designee, shall be the Executive Director of the Agency.
- 9.2. Legal Counsel. The County of Modoc shall provide legal services to the Agency.
- 9.3. Treasurer. The Treasurer of the County of Modoc shall be the treasurer of the Agency
- 9.4. Auditor. The Auditor of the County of Modoc shall be the auditor of the Agency.
- 9.5. Administrative Support. The Modoc County Local Transportation Commission/Road Department shall provide administrative support to the Agency through the Transportation Manager.
- 9.6. Clerk. The Clerk of the County of Modoc shall be the designated officer for the acceptance service of process in civil proceedings and filing of Agreement termination notices.

ARTICLE 10 ACCOUNTS AND RECORDS

- 10.1. Annual Budget. The Agency shall annually adopt an operating budget pursuant to Article 6 of this Agreement, which shall include a separate budget for each transit service under development or adopted and implemented by the Agency.

- 10.2. Funds and Accounts. The Auditor shall establish and maintain such funds and accounts in compliance with Government Code 29534. Accounting records of the Agency shall be available for inspection by each MEMBER at all reasonable times. Support staff shall prepare fund and account balances in conjunction with the Auditor's accounting records for the Agency. The Agency shall adhere to the standard of strict accountability for funds as set forth in Government Code Section 6505.
- 10.3. Auditor's Report. The Auditor shall provide a complete written report, to each MEMBER and Agency, of all financial activities for the fiscal year within twelve months after the close of each fiscal year pursuant to Government Code Section 6505.
- 10.4. Annual Audit. Pursuant to Government Code Section 6505, the Agency shall either make or contract with a certified public accountant to perform an annual fiscal audit of all accounts and records of the Agency, conforming in all respects with the requirements of that section. The annual audit may be performed in conjunction with the annual audit requirements of the Modoc County Local Transportation Commission. A report of the audit shall be filed as a public record with the Auditor within twelve months of the end of the fiscal year under examination pursuant to Government Code 6505. Costs of the audit shall be considered an administrative cost of the Agency.

ARTICLE 11 RESPONSIBILITIES FOR FUNDS AND PROPERTY

- 11.1. Auditor. The Auditor shall be responsible for disbursement of the Agency's funds in compliance with Government Code Section 6505.5. The Auditor shall draw warrants to pay demands against the Agency, making such payments from Agency funds, as approved by the Board of Directors or their designated representative.
- 11.2. Treasurer's Duties. Pursuant to Government Code 6505.5, the Treasurer shall receive and acknowledge receipt for all funds of the Agency and place them in the Treasury to the credit of the Agency.
- 11.3. Reports to the Agency. Pursuant to Government Code 6505.5 (e), the Auditor and Treasurer shall verify and report in writing on the first day of July, October, January, and April of each year, to the agency and to the contracting MEMBERS to the Agreement, the amount of money that is held for the Agency, the amount of receipts since the last report, and the amount paid out since the last report.
- 11.4. Property. Pursuant to Government Code Section 6505.1, the Executive Director, and such other persons as the Board of Directors may designate, shall have charge of, handle, and have access to the property of the Agency. Rolling stock as identified in Attachment A, attached hereto as part of the Agreement, shall be transferred to the Agency within 90 days of execution of the

Agreement. It is recognized by each MEMBER that said rolling stock was purchased by County from Proposition 116 Bond funds for transit services.

- 11.5. Bonds. Pursuant to Government Code 6505.1, the Agency shall secure and pay for a fidelity bond or bonds in an amount or amounts and in the form specified by the Board covering all officers and staff of the Agency and all officers and staff that are authorized to have charge of, handle, and have access to property of the Agency.

ARTICLE 12
WITHDRAWAL, DISSOLUTION, OR TERMINATION
AND DISTRIBUTION OF ASSETS

- 12.1. Withdrawal from the Agency. It is anticipated that each MEMBER hereto shall participate in the Agency until purposes set forth in this Agreement are accomplished. The withdrawal of either MEMBER, either voluntary or involuntary, shall cause the Agreement to be terminated according to the following conditions::
- a) In the case of voluntary withdrawal following a properly noticed public hearing, written notice shall be given to the Agency, one hundred twenty (120) days prior to the effective date of withdrawal.;
 - b) Termination of the Agency shall not relieve the Agency of its debts or other liabilities prior to the effective date of the MEMBER's notice of withdrawal. All debts, liabilities, and obligations incurred by the Agency shall be honored prior to apportionment and or distribution of remaining funds, including but not limited to contracts for transit services;
- 12.2. Dissolution of Agency. Upon dissolution of the Agency, there shall be a partial or complete distribution of assets and liabilities as follows:
- a) Upon termination of the Agency, all funds including the proceeds of the sale of property, in the possession of the Agency after payment of all costs, expenses, and charges validly incurred under this Agreement, shall be returned to the MEMBERS in proportion to their contribution as shall be determined by the Board.
- 12.3. Distribution of Assets. The assets as listed in Attachment A shall be returned to each MEMBER. Additional assets acquired by the Agency shall be distributed to the MEMBERS in proportion to their contribution as shall be determined by the Board in compliance with the Transportation Development Act. The distribution of assets may be made in kind or assets may be sold and the proceeds thereof distributed to the MEMBERS at the time of dissolution after the discharge of all enforceable liabilities.
- 12.4. Surplus Revenues. Upon termination of the Agency, , all funds including the proceeds of the sale of property, in the possession of the Agency after payment of all costs, expenses, and charges

validly incurred under this Agreement, shall be returned to the MEMBERS in proportion to their contribution as shall be determined by the Board.

**ARTICLE 13
INSURANCE AND LIABILITY OF THE BOARD OF DIRECTORS,
OFFICERS, AND EMPLOYEES**

- 13.1. Insurance. The Board of Directors shall maintain Commercial General Liability insurance in the amount of five million dollars (\$5,000,000) that includes personal injury, property damage, property liability, owned and non-owned auto liability, and public officials error and omissions insurance.
- 13.2. The members of the Board of Directors, all officers, employees, committee members, and legal advisors of the Agency shall not be liable for any error in the exercise of their judgment and or discretion or for any action or omission of their part, if in the performance of their duties and function on behalf of the Agency they use ordinary care and diligence.
- 13.3. Pursuant to the provisions of the California Tort Claims Act (Government Code Section 810 et seq.) the Agency shall be required to indemnify, defend and hold harmless each and every director, officer, and employee of the Agency from all claims, demands, and lawsuits that may be filed against any such person stemming from the activities of the person in the course and scope of their employment and or service on behalf of the Agency.

**ARTICLE 14
BYLAWS**

- 14.1. Bylaws The Board of Directors is hereby authorized to adopt, and from time to time amend, such bylaws as they deem appropriate to govern the transaction of the business of the Agency and the conduct of the officers and employees of the Agency.

**ARTICLE 15
AMENDMENTS**

- 15.1. Amendments. This Agreement may only be amended by the adoption of a Resolution by each MEMBER. Within thirty (30) days of the effective date of said amendment, the amendment shall be filed with the office of the Secretary of State. The notice shall contain the following:
- a) The name of each MEMBER to the Agreement;
 - b) The date upon which the amendment to the Agreement is effective; and
 - c) A description of the amendment made to the agreement.

ARTICLE 16
MISCELLANEOUS

- 16.1. Section Headings. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.
- 16.2. Consent or Approval. Wherever any consent or approval is required within this Agreement, the same shall not be unreasonably withheld.
- 16.3. This Agreement is made in the State of California, under the Constitution and laws of such State and is to be so construed.
- 16.4. If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable, for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
- 16.5. The MEMBERS shall not assign any rights or obligations under this Agreement without the written consent of all other MEMBERS.

ARTICLE 17
TERM

- 17.1. This Agreement shall become effective upon adoption of the MEMBERS and shall remain in full force and effect until it is terminated by the unanimous consent of the MEMBERS hereto and upon the proper discharge of all legal obligations incurred or undertaken by the Agency.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed and attested by the proper officers, who are duly authorized, as of the day and year first above written.

COUNTY OF MODOC.

By: Ben Zandstra
Ben Zandstra, Chairman

Date: 8/19/97



ATTEST:

By: Maxine Madison
Maxine Madison, County Clerk
and Ex-Officio Clerk

Date: 8/19/97

APPROVED AS TO FORM AND LEGAL CONTENT:

By: Hugh Comisky, Jr.
Hugh Comisky, Jr. County Counsel

Date: 8/13/97

CITY OF ALTURAS

By: Kerry Merwin
Kerry Merwin, Mayor Pro-Tem

Date: 8/13/97

ATTEST:

By: Cary L. Baker
Cary L. Baker, City Clerk

Date: 8/13/97

APPROVED AS TO FORM AND LEGAL CONTENT:

By: Francis W. Barclay
Francis W. Barclay, Attorney City of Alturas

Date: 8/13/97

Attachment "A"

Modoc County Assets

Year	Make	Serial Number	Cost
1995	Ford Candidate	1FDJE30G1SHC08652	\$ 38,824.94
1995	Ford Candidate	1FDJE30G3SHC08653	\$ 38,824.94
1995	Ford Candidate	1FDJE30G3SHC08654	\$ 38,824.94
1995	Ford Pioneer	1FDJE30G2SHB99010	\$ 38,081.65
TOTAL COUNTY ASSETS			\$ 154,556.47

City of Alturas Assets

None

End of Attachment "A"

The Board of Supervisors of the County of Modoc met in regular session this 5th day of August, 1997. The following Supervisors were present: Ben Zandstra, Joe Colt, Ron McIntyre, Patricia Cantrall and Nancy J. Huffman. County Clerk Maxine Madison, Auditor Judi Stevens and Director of Administrative Services Michael Maxwell also present.

Meeting called to order pursuant to law by Chairman Zandstra. Following the flag salute the invocation was offered by Chairman Zandstra. Chairman notes that the agenda was posted July 30, 1997.

3) EXECUTE JOINT POWERS AGREEMENT WITH THE CITY OF ALTURAS CREATING THE MODOC TRANSPORTATION AGENCY WHICH WILL CARRY OUT THE COUNTY'S RESPONSIBILITIES OF THE TRANSPORTATION DEVELOPMENT ACT.

John Pedersen, Executive Director of Modoc County Local Transportation Commission advises members that the reason for creating the Modoc Transportation Agency with the City of Alturas and County of Modoc is that the Local Transportation Commission has no authority to go into business of operating a transit system. Under Government Code the city and county have the authority to form a partnership for operation of the transit system. By forming a JPA the liability and obligations become the responsibility of the JPA and the vehicles for the transit system will be owned by Modoc transportation Agency.

Auditor Stevens and Treasurer Monroe request the JPA be modified by stating that the current monthly reports that they do are sufficient and satisfy the provisions of the Government Code. The LPC agrees that the reports are sufficient. County Counsel Comisky advises them that they do not need to modify the JPA agreement with what is in the Government Code if the Commission deems what they are doing is adequate.

Auditor Stevens and Treasurer Monroe question page 6, Section 11.1, commencing with Auditor and that portion of a sentence "have custody of and be responsible for disbursement of the Agency's funds in compliance with Government Code Section 6505.5". They are concerned that "have custody of and" is not a part of the Government Code Section and request that this be removed from the JPA.

Motion by Supervisor Cantrall, seconded by Supervisor McIntyre and unanimously carried, to amend the JPA to remove the words on page 6, Section 11.1, "have custody of and".

Motion by Supervisor McIntyre, seconded by Supervisor Cantrall and unanimously carried, to approve the Joint Powers Agreement Creating the Modoc Transportation Agency between the County of Modoc and City of Alturas.

**MODOC COUNTY LOCAL TRANSPORTATION COMMISSION
RESOLUTION NO. 97-04**

**RESOLUTION RECOMMENDING THE FORMATION OF A JOINT POWERS AGREEMENT TO
CREATE THE MODOC TRANSPORTATION AGENCY**

WHEREAS, pursuant to the California Government Code Article 11, Chapter 2, Division 1, Section 29535, the Modoc County Local Transportation Commission (MCLTC) is the Regional Transportation Planning Agency responsible for transportation planning in the Modoc region; and

WHEREAS, under California law, the City of Alturas and County of Modoc are responsible for providing transportation in compliance with the Transportation Development Act; and

WHEREAS, pursuant to Article 1, Chapter 5, Division 7, Title 1 of the Government Code two or more public agencies may, by agreement, form a Joint Powers Agency to exercise those powers and functions that are common to the contracting parties; and

WHEREAS, creation of a Joint Powers Agreement would provide more efficient operation of the transit services, expedite operator contracts, carry out the City and County functions of the Transportation Development Act, and lessen the obligations and liability of the City of Alturas and County of Modoc.

NOW, THEREFORE, BE IT RESOLVED that the Modoc County Local Transportation Commission hereby approves and adopts this Resolution recommending that the City of Alturas and County of Modoc form a Joint Powers Agreement creating the Modoc Transportation Agency.

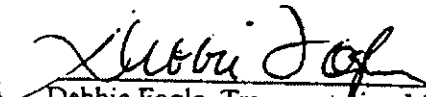
PASSED AND ADOPTED this 15th day of July 1997, by the following vote:

AYES: Commissioners Colt, Greene, Hagerman, McIntyre, Madison and Porter

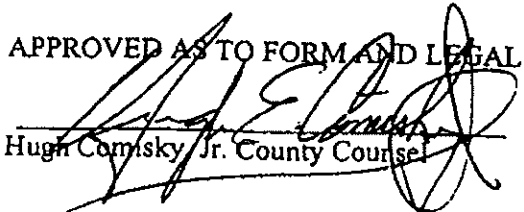
NOES: None

ABSENT: Commissioners Cantrall and Pickett.


JOE COLT Ron McIntyre, Chairman
Modoc County Local Transportation Commission


Debbie Fogle, Transportation Manager
Modoc County Local Transportation Commission

APPROVED AS TO FORM AND LEGAL CONTENT


Hugh Comisky Jr. County Counsel