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OFFICE OF THE CITY CLERK
OAKLAND

REVISED EXHIBIT A:
PROPOSED CONDITIONS OF APPROVAL FOR THE DOSL BRT PROJECT

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DOSL BRT PROJECT CONDITIONS OF APPROVAL

REVISED per Public Works Committee meeting July 10, 2012

The following Conditions of Approval (COAs) are proposed to be accepted by AC Transit as a requirement of the City of Oakland's approval the Downtown Oakland-San Leandro (DOSL) Bus Rapid Transit Project (BRT Project). These conditions are not meant to be a comprehensive or detailed list, but represent both general and specific aspects of the project identified to date and are the types of major issues the City needs to see resolved prior to continued stages of work on the project. For this reason, many of these Conditions of Approval are written as principles of agreement.

Should the DOSL BRT Project be approved, the proposed COAs include provisions that AC Transit will work with City staff to develop agreements that will serve to not only reimburse the City for costs, but ensure the City's proper role in continued public outreach with the residents and merchants, preliminary engineering and final design, and construction oversight. Each of the funding agreements will be prepared and presented to City Council for adoption.

Compliance with these and other conditions or agreements that are developed during DOSL BRT Project stages must be reviewed and approved by the Director of Public Works or designee prior to completion of the indicated phase of the DOSL BRT Project. All approvals for design, acquisition of permits, monitoring, inspection, and compliance authority will rest with the Director of the Public Works Agency or designee. All work will be completed to City requirements and standards.

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AC Transit understands that a legal agreement with the City of Oakland will be required to formalize these COAs before the 35% design stage documents are complete.

I. Directly Addressing Business Impacts

The City has supported economic development along the DOSL BRT Project Line through many methods, one of which is the establishment of parking spaces to support automobile access to business. The DOSL BRT Project will need to remove some parking spaces where fixed stations will be built and the roadway width is too narrow to accommodate both parking and travel lanes. At this stage of the conceptual design process, it is not possible to tell with certainty how some existing businesses' parking needs will be impacted by this Project.

[Section I A. below added by Councilmember Kernighan]

A. Parking and Business Operation Impacts

Requirement: AC Transit will continue to identify and resolve business owner issues related to the impact of the BRT on parking and business operations. Where possible, AC Transit will physically configure parking spaces in ways that are mutually agreeable to business owners, AC Transit and the City of Oakland. Where that is not possible, AC Transit will work with business owners to identify appropriate ways to compensate business owners for the financial impacts on their businesses caused by the loss of parking, up to and including possible relocation to comparable sites, within the financial constraints of the project.

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When Required: Prior to finalizing the 35% stage of preliminary design

[Section I B. below added by Councilmember Kaplan]

B. Parking, Construction and Other Impacts: Mitigation Fund

During the course of the construction and implementation of the BRT project, it is possible that there may be impacts to businesses or other organizations along the corridor, including that there could be impacts that do not yet have a specifically-identified mitigation plan in the existing BRT documents. It is important that, should there be a disruption of business or organizational functioning due to either the construction phase, or in an ongoing manner, that action be taken to mitigate or eliminate the disruption, or to compensate the person/business/organization involved for that disruption. Mitigation may be short-term (e.g.if needed, for example, only during construction), or may be permanent to accommodate a long-term need. Such mitigations may include:

- Substitute parking
- Entranceway realignment or other changes to layout or facade to improve interaction between the site and the BRT system
- Compensation for lost business and/or lost functionality
- Relocation
- Transportation Demand Management

In order to assure that business impacts are addressed, prior to completion of the Preliminary Engineering Phase, details shall be agreed to between the City of Oakland and AC Transit to create an

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impact mitigation fund and disbursement procedures, which may be used for such needed mitigations as are identified during the upcoming phases of the project.

When Required: Prior to finalizing the 35% stage of preliminary design

IL Parking Mitigation

Three commercial areas were identified where the DOSL BRT Project displaces significant parking, demand exceeds 85 percent, existing off-street parking is limited, opportunities to park on nearby cross-streets is limited, and opportunities to provide parking by improving the use of nearby existing parking is limited. For these reasons, provision of parking lots that fully offset parking loss will be required, and the City will collect any revenue from meters or parking lot control systems in the following areas:

A. San Antonio District

Requirement: AC Transit shall coordinate acquisition, design, construction, operations and maintenance efforts necessary to provide off-street parking in the vicinity of International Boulevard and 20th Avenue to mitigate the removal of on-street parking in the San Antonio District. This may occur by locating or creating new parking spaces, or acquiring a parking lot, whichever best meets the business owner's needs. AC Transit shall also assure that pedestrian safety lighting, according to City standards, is provided at any parking lot and along the path of travel to E. 12th Street and to International Boulevard.

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When Required: Parking solutions shall be acquired/resolved prior to construction award and available for parking prior to construction on International Boulevard in the vicinity of the 20th Avenue.

B. *Fruitvale District*

Requirement: AC Transit shall coordinate acquisition, design, construction, operations and maintenance efforts necessary to provide off-street parking in the Fruitvale District to mitigate the removal of on-street parking along International Boulevard due to construction of the DOSL BRT project. AC Transit shall also assure that pedestrian safety lighting is provided at the subject parking lot and along the path of travel to International Boulevard according to City requirements.

When Required: Lot shall be acquired prior to construction award and available for parking prior to construction in the Fruitvale district

C. *Elmhurst District*

Requirement: AC Transit shall coordinate acquisition, design, construction, operations and maintenance efforts necessary to provide off-street parking in the vicinity of International Boulevard and 87th Avenue to mitigate the removal of on-street parking in the Elmhurst District due to construction of the BRT project. AC Transit shall also assure that pedestrian safety lighting is provided at the subject parking lot and along the path of travel to International Boulevard according to Oakland's published lighting standards and City requirements.

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When Required: Lot shall be acquired prior to construction award and available for parking prior to construction in the Elmhurst district.

III. Relocated and Additional BRT Project Station Locations

In response to concerns raised by the community, several stations shall be moved and two additional stations shall be added to the DOSL BRT Project. In total, these small adjustments are intended to better serve senior centers, schools, and residential areas, and will result in shorter walking distances to reach the stations for these populations. If these station relocations have a negative affect on other constituents, AC Transit will hold additional meetings with those businesses or residents impacted by the DOSL BRT Project and work with the City to resolve these issues to the City's satisfaction.

A. International at 63rd Avenue

Requirement: AC Transit shall coordinate design and construction of a new BRT Project station in the vicinity of 63rd Avenue, in order to achieve better station spacing.

B. International at 67th Avenue

Requirement: AC Transit shall coordinate design and construction of a relocated BRT Project station at 67th Avenue, replacing the planned BRT Project station at 65th Avenue, in order to better serve nearby schools.

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C. International at 86th Avenue

Requirement: AC Transit shall coordinate design and construction of a relocated BRT Project station at 86th Avenue, replacing the planned BRT Project station at 87th Avenue, in order to achieve better station spacing.

D. International at 90th Avenue

Requirement: AC Transit shall coordinate design and construction of a new BRT Project station in the vicinity of 90th Avenue, in order to achieve better station spacing.

E. International at 103rd Avenue

Requirement: AC Transit shall coordinate design and construction of a relocated BRT Project station at 103rd Avenue, replacing the planned BRT Project station at 104th Avenue, in order to better serve nearby senior facilities

When Required: All feasible solutions will be incorporated into the DOSL BRT Project before finalizing the 35% stage of preliminary design.

IV. Pedestrian Safety

Pedestrian and patron safety needs to be specifically addressed as a part of this project. (See also Section X, Maintenance and Operations.)

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A. Pedestrian Lighting at Stations

Requirement: AC Transit shall provide pedestrian-scale safety lighting in the vicinity of all DOSL BRT Project stations, including the stations themselves and adjacent sidewalks. This lighting will be replaced by AC Transit as needed and will also be the responsibility of AC Transit for energy supply and maintenance.

When Required: During Preliminary Engineering and Final Design

B. Pedestrian Lighting at All New and Upgraded Signalized Intersections

Requirement: AC Transit shall provide safety lighting at all signalized intersections being upgraded or implemented by the DOSL BRT Project. This lighting will be replaced or repaired by AC Transit as needed. The lighting will be the responsibility of the City for energy supply and maintenance.

When Required: During Preliminary Engineering and Final Design

C. Pedestrian Lighting at All New and Upgraded Pedestrian Crossings

Requirement: AC Transit shall provide safety lighting at all pedestrian crossings with pedestrian detection being upgraded or implemented by the DOSL BRT Project. This lighting will be replaced or repaired by AC Transit as needed. The lighting will be the responsibility of the City for energy supply and maintenance.

When Required: During Preliminary Engineering and Final Design

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D. Security Provisions at All Stations

Requirement: AC Transit shall provide security, to include cameras and safety personnel as necessary to ensure the security of the patrons at the stations and in nearby areas. The security systems will be replaced or repaired by AC Transit as needed. The security system will be the responsibility of AC Transit for energy supply and maintenance.

When Required: During Preliminary Engineering and Final Design

V. Functional Needs Access

A. Staff Review

Requirement: Sign-off by the City Americans with Disabilities Act (ADA) Title II Coordinator is required for all improvements to the public right-of-way under city's control, at regular intervals as part of the established Oakland Public Works (PW) review process.

When Required: During Preliminary Engineering and Final Design

B. Community Review

Requirement: A joint AC Transit / City of Oakland Access Advisory Committee will review and provide comment on all aspects of the project design and delivery.

1. The existing AC Transit Access Advisory Committee and City of Oakland Mayor's Commission on Persons with Disabilities/Commission on Aging Access Compliance Advisory

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Committee shall jointly review the BRT in Oakland prior to the finalization of the 35% preliminary design, prior to the 65% design, prior to the 100% design, and prior to finalization of service and operating plans.

2. This joint body shall function as the official ADA / Rehabilitation Act of 1973 [Section 504] review committee for the BRT Project in Oakland. This joint body shall ensure that the BRT Project is meeting the local priorities of persons with disabilities in Oakland and shall be afforded the opportunity to provide comment on all aspects of the design and delivery of BRT Project, such as:

- a. Infrastructure (street improvements)
- b. Stations
- c. Vehicles
- d. Fare Collection
- e. Intelligent Transportation Systems
- f. Service and Operating Plans

When Required: During Preliminary Engineering and Final Design

C. ADA Compliance Standards

Requirement: The BRT Project in Oakland shall comply with Federal ADA Guidelines and Standards, as well as all applicable State and Local accessibility requirements, such as:

U.S. DOJ 2010 ADA Standards [link];

http://www.ada.gov/2010ADAstandards_index.htm

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U.S. Access Board ADA Guidelines for Transportation Vehicles

[link]; <http://www.access-board.gov/transit/>

U.S. Access Board ADA Standards for Transportation Facilities

[link]; <http://www.access-board.gov/ada-aba/ada-standards-dot.cfm;>

When Required: During Preliminary Engineering and Final Design

D. International Best Practices

Requirement: AC Transit shall apply international best practices and universal design principles in the design and delivery of bus rapid transit in Oakland. This applies to infrastructure, vehicle, and service delivery system design, construction, and operation. International best practices include, but are not limited to “Technical and operational challenges to inclusive Bus Rapid Transit” (2010), “Transit Access Training Toolkit” (2009), and, “Bus Rapid Transit Accessibility Guidelines” (2006); all compiled by T. Rickert for the World Bank.

When Required: During Preliminary Engineering and Final Design

VI. Paving

The BRT Project will remove parking lanes and restrict autos and trucks to one lane in each direction, increasing total wear and tear of these roadways. In order to accommodate this increased level of use, and to minimize future repairs that would force temporary suspension of dedicated bus lanes or detours to adjacent facilities, these lanes must be reconstructed and paved as part of the seamless whole of the paving project.

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A. Paving for the Downtown Oakland to San Leandro component of the BRT Project

Requirement: AC Transit shall rehabilitate (not spot pave) all lanes, including the BRT-dedicated travel lanes, general purpose lanes, and any remaining parking lanes on International Boulevard, 11th Street, 12th Street, and E. 12th Street from curb to curb, wherever needed, to provide a 12-year useful life for these facilities. Rehabilitation method will be determined based on the existing condition and anticipated traffic index.

When Required: Pavement design is required as part the design of the project, and delivered during construction of the BRT Project.

VII. Bicyclist Safety

Where compatible bike lanes exist along the corridor, the DOSL BRT Project shall fill gaps in the system and provide bike parking.

A. Class II bike lanes

Requirement: AC Transit shall design and construct Class II bike lanes on East 12th Street from 2nd Avenue to 3rd Avenue to close the bike lane gap between the current 12th Street Measure DD Project and the East Bay BRT Project as proposed.

When Required: Design completed prior to advertisement of the construction contract.

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B. Bicyclist Safety Provisions Near Each BRT Station

Requirement: AC Transit will install bike racks in the near vicinity of stations, to meet demand, based on availability of space. These will allow bicyclists to have safe, lighted, and easy access to the BRT system. These racks shall be designed and located in conjunction with the City's Bicycle and Pedestrian Program, and maintained by AC Transit.

When Required: Design completed prior to advertisement of the construction contract.

VIII Oakland Streetscape Project Coordination

A. 14th Avenue Streetscape Project

Requirement: AC Transit shall coordinate design and construction efforts on East 12th Street/International Boulevard and 14th Avenue with the 14th Avenue Streetscape Project, which is currently in design development under a design/build contract by the City of Oakland. If the City's 14th Avenue project does not go through, AC Transit will work with the City to ensure that 14th Avenue design components related to the BRT Project are incorporated into the design and construction of the BRT Project.

When Required: During Preliminary Engineering phase

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IX. Coordination with International Blvd Transit-Oriented Development (TOD) Plan

The BRT project should coordinate with and help meet the public access goals of the International Boulevard Transit Oriented Development Plan completed in 2011 by the City of Oakland.

A. Implement Category 1 pedestrian improvements

Requirement: AC Transit shall install pedestrian signals or other pedestrian improvements at named locations along International, or, if infeasible, at alternate locations that provide a minimum of 800-foot spacing between adjacent signalized crossings.

When Required: During Preliminary and Final Engineering phases

X. Maintenance and Operations

AC Transit agrees that the City of Oakland should not incur additional maintenance costs due to implementation of the DOSL BRT Project, and that AC Transit will assume responsibility for any City maintenance cost resulting from the project.

A. BRT Stations:

Requirement: AC Transit is responsible for all operation and maintenance of stations, including all capital replacement.

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B. BRT Transit-way, pavement and bus pads

Requirement: AC Transit is responsible for all operation and maintenance of the transit way, pavement, and bus pads, including all capital replacement.

C. BRT Transit-way and medians

Requirement: AC Transit is responsible for operation and maintenance of any new or upgraded facilities constructed for or needed as a result of the BRT Project.

D. BRT Transit-way - Other (Signs, Markings, etc)

Requirement: AC Transit is responsible for all operation and maintenance of all BRT Project facilities.

E. Traffic Signal Systems

Requirement: The City will continue to operate and maintain signal timing and Transit Signal Priority (TSP) through the city's Traffic Management Center after AC Transit pays for installation of new equipment. AC Transit will reimburse the City for any AC Transit-requested signal timing changes or TSP-related costs.

F. Corridor Communication Systems

Requirement: Each agency pays to operate and maintain their respective systems such as power and utility for cameras, payments, security, etc.

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G. Parking Meters

Requirements: City assumes ownership, operations and maintenance of on-street meters, after capital investment by AC to remove, replace, or install new meters as required for the DOSL BRT Project.

H. Litter and Graffiti, etc.

Requirements: AC Transit is responsible for picking up litter; erasing graffiti and performing other clean up as needed for the maintenance of the station areas, transit way, signs, poles, and other DOSL BRT Project-related facilities.

I. During Construction

Requirement: AC Transit will be responsible for clean up of the site during construction, including litter and graffiti. All necessary measures shall be taken to ensure that materials from the job site identified in the project Waste Reduction and Recycling Plan (WRRP) are recycled.

When Required: A signed MOU inclusive of details regarding the principles outlined above is required prior to advertisement of the construction contract.

XL Reimbursement of City Costs

Resolution of community concerns, and the design, construction, and operation of the DOSL BRT Project in City-owned right of way creates an on-going requirement for City review and approval at all levels of project development. Prior to the start of each phase of development, as follows, AC Transit and the

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City will complete an agreement specifying compensation for City staff in the development of the project.

A. Ongoing Community Engagement

Requirement: AC Transit shall compensate City staff for participation in and support of ongoing or additional community meetings or meetings with those businesses or residents impacted by the DOSL BRT Project.

When Required: From City Council approval of the project through completion of construction.

B. Design and Engineering

Requirement: AC Transit shall compensate City staff for their review of the design of the DOSL BRT Project through completion of the final design and preparation of a bid package for construction. In lieu of standard fees, a funding agreement may be developed specifying the scope and costs of this review.

When Required: Prior to commencement of Preliminary Engineering Phase

C. Construction Management

Requirement: AC Transit shall compensate City staff for their costs during the DOSL BRT Project construction phase, which includes but is not limited to permitting, review and inspection of construction. In lieu of standard fees, a funding agreement may be developed specifying the scope and costs of this review.

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When Required: Prior to advertisement of construction contract

XII. Abandonment of Project

Required: If, for any reason, the DOSL BRT Project is abandoned during the construction period, or fails to remain in operation by AC Transit or another transit agency, the constructed improvements will be removed by AC Transit at the request of the City. Traffic lanes, signals and other roadway infrastructure will be reconstructed to an acceptable condition and configuration as directed by the City.

XII Abandonment of Project

Required: If, for any reason, the DOSL BRT Project is abandoned during the construction period, or fails to remain in operation by AC Transit or another transit agency, the constructed improvements will be removed by AC Transit at the request of the City. Traffic lanes, signals and other roadway infrastructure will be reconstructed to an acceptable condition and configuration as directed by the City.

[SECTION XIII below added by City Attorney per letter to Council dated July 11, 2012]

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XIIL Hold Harmless Obligation

Required: A. To the maximum extent permitted by law, AC Transit shall defend (with counsel reasonably acceptable to the City) indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively call City) from any liability, damages, claim, judgement, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and AC Transit shall reimburse the City for its reasonable legal costs and attorneys' fees.

B. Within ten (10) calendar days of the filing of any Action as specified in subsection A above, AC Transit shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of Agreement does not relieve AC Transit of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City.