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2019 AUG 29 AM 4:22

## AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Ryan Russo  
Director, OakDOT

**SUBJECT:** BRT Cost Sharing with AC Transit

**DATE:** September 10, 2019

City Administrator Approval

Date:

8/29/19

### RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator Or Designee To: (1) Negotiate And Execute Agreements With The Alameda - Contra Costa County Transit District For Cost Sharing Of Joint Benefit East Bay Bus Rapid Transit, BRT, Project Related Transportation Improvements, (2) To Establish Respective Roles And Responsibilities Between AC Transit And The City As To Grant Funding, (3) To Pay AC Transit For Work Requested By The City That Is Outside The Base BRT Project Scope, And (4) To Accept And Appropriate Funds From AC Transit For BRT Related Transportation Improvements**

### EXECUTIVE SUMMARY

Approval of this resolution will enable the City Administrator or designee, the Director or Assistant Director of the Department of Transportation, to negotiate and execute funding agreements with the Alameda - Contra Costa County Transit, District for cost sharing of joint benefit transportation improvement projects along the East Bay Bus Rapid Transit, (BRT), Project corridor in Oakland. The resolution will allow the two agencies to readily collaborate on mutually beneficial transportation grant programs and implement BRT project change orders in accordance with City Council adopted BRT parking and business impact mitigation plans or with other Council authorized transportation programs. This 2-way resolution allows the City Administrator or designee to pay AC Transit for work that is outside the base BRT project scope and to accept and appropriate funds from AC Transit for BRT project related activities to be completed by the City without returning to Council.

### BACKGROUND / LEGISLATIVE HISTORY

The BRT project corridor will extend approximately 9.5 miles from uptown Oakland to the San Leandro transit center and is designed to provide superior public transit through one of Oakland's busiest corridors. In Oakland, the 8.5 mile BRT corridor includes 18 sidewalk stations (9 pairs) on Broadway, East 11<sup>th</sup> Street and East 12<sup>th</sup> Streets, and 20 center median stations serving the dedicated bus transit way along International Boulevard from 14<sup>th</sup> Avenue to the San Leandro border.

Item: \_\_\_\_\_  
Public Works Committee  
September 10, 2019

On June 7, 2016, City Council Resolutions No. 86223 and No. 86224 C.M.S. constituted its approval of the Final Design package for the BRT project. The base BRT project scope of work was governed by the federal environmental impact study and report, as well as local conditions of approval, and included many transportation infrastructure improvements. Nevertheless, there remained many other unmet access, safety and infrastructure needs along the BRT project corridor.

### **ANALYSIS AND POLICY ALTERNATIVES**

Since the start of the Final Design phase, AC Transit and the City have endeavored to supplement the base BRT project scope of work to address areas between stations and to increase access and safety for all modes along the corridor. Three key projects include: 1) The International Boulevard Pedestrian Lighting project that would install pedestrian lights and repair sidewalks in areas between BRT stations; 2) The BRT Corridor High Visibility Crosswalk project that would upgrade all pedestrian crossings from standard to continental type; and 3) The Broadway Transit Lanes project that would repave and install dedicated transit lanes. Certain project activities will be completed by the AC Transit BRT contractor and will require funding agreements and fund transfers between the two agencies.

The approved project plans, specifications and estimates, as well as the Council-adopted business and parking impact mitigation programs, for the BRT project anticipated that a set of activities would be funded by the City and completed by the AC Transit construction contractor, and that other tasks would be completed by the City and funded by the AC Transit BRT project. For example, Council Resolution C.M.S. 86224 approved the Oakland Parking Analysis and recommendations therein, which includes improving approximately 324 on-street parking meter locations in high-use commercial districts, and reconstruct approximately 35 abandoned driveways at the City's expense in coordination with AC Transit's BRT Project. A funding agreement(s) and fund transfers are needed to facilitate these scheduled activities.

The requested action (namely, to authorize the execution of agreements to flexibly transfer funds for activities to complement and supplement the completion of the BRT Project and supportive improvements along the BRT corridor) gives AC Transit and the City a mechanism to efficiently perform their respective tasks in the name of coordination and timely completion of the Project, saving time and money and reducing delays and disruption to the public. Without the requested action, staff from both agencies would individually need to get approvals from their respective board/council on a one-off basis, which would be inefficient and lead to delays on actions needing approvals, such as contracts and fund transfers between the agencies.

### **FISCAL IMPACT**

Approval of this resolution will enable the City Administrator or designee to accept and appropriate funds from AC Transit per the executed agreement(s) for scheduled BRT project activities and or for cost-sharing of joint benefit transportation improvement projects along the BRT route in Oakland. Funds requested to be accepted and appropriated will be placed in:

- Miscellaneous Grants Fund (2999); Complete Streets Design Organization (35213); Project No. To be determined.

Funds for the City's portion of funding agreements is budgeted and available in the Department of Transportation as it is intended to use existing appropriation through individual projects as opportunities arise.

### **PUBLIC OUTREACH / INTEREST**

Local businesses and residences for each project will be notified of the planned transportation improvements.

### **COORDINATION**

The following offices have reviewed this report and resolution:

- Office of the City Attorney
- Budget Bureau
- AC Transit

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The cost-sharing of joint-benefit BRT related transportation improvements increases the opportunities and efficiencies for the City to enhance and protect the City's infrastructure, and offers cost benefits for the City.

**Environmental:** AC Transit is purchasing twenty-seven 60-foot, articulated, low-floor, diesel-electric hybrid motor coaches with doors on both the right (three doors) and the left (two doors) sides to enable boarding from side or center platforms. These BRT buses will include interior bike racks, capable of storing a minimum of three bicycles. Extensive roadway improvements under the base BRT and supplemental corridor transportation projects include repaving streets, extending or constructing bicycle lanes, and installing pedestrian lighting. These transportation improvements promote public transit use and help meet the public access goals of the City's International Boulevard Transit-Oriented Development Plan (2011).

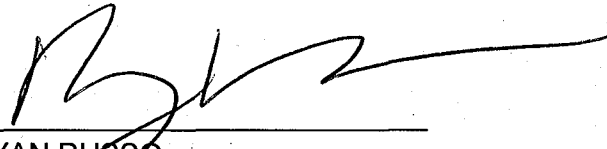
**Social Equity:** The cost-sharing of joint-benefit transportation projects helps preserve the City's infrastructure and enhances public access for all.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator Or Designee To: (1) Negotiate And Execute Agreements With The Alameda - Contra Costa County Transit District For Cost Sharing Of Joint Benefit East Bay Bus Rapid Transit, BRT, Project Related Transportation Improvements, (2) To Establish Respective Roles And Responsibilities Between AC Transit And The City As To Grant Funding, (3) To Pay AC Transit For Work Requested By The City That Is Outside The Base BRT Project Scope, And (4) To Accept And Appropriate Funds From AC Transit For BRT - Related Transportation Improvements

For questions regarding this report, please contact Christine Calabrese, BRT Program Manager in the Department of Transportation, 510-238-3532.

Respectfully submitted,

  
\_\_\_\_\_  
RYAN RUSSO  
Director  
Oakland Department of Transportation

Reviewed by:  
Wladimir Wlassowsky, P.E., Assistant Director  
Oakland Department of Transportation

Bruce Williams, Senior Transportation Planner  
Oakland Department of Transportation

Prepared by:  
Christine Calabrese, BRT Program Manager  
Oakland Department of Transportation

Attachments:

A. Sample Funding Agreement

**ATTACHMENT A  
SAMPLE  
FUNDING AGREEMENT BETWEEN  
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT  
AND CITY OF OAKLAND**

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_ 2019, by and between the Alameda-Contra Costa Transit District ("DISTRICT"), a public transit operator, and the City of Oakland ("CITY"), a municipality located in the State of California.

**RECITALS**

**WHEREAS**, the CITY is a partner with the DISTRICT in the East Bay Bus Rapid Transit Project (the "PROJECT"); and

**WHEREAS**, the CITY and the DISTRICT have entered a Cooperative Agreement regarding the PROJECT shown in Attachment 2; and

**WHEREAS**, the CITY has approved funding from XXX to implement the transportation improvement projects listed in Attachment 1; and

**WHEREAS**, the CITY may to make payment to the DISTRICT for implementation of the PROJECT and or for supplemental transportation improvement activities related to the PROJECT pursuant to CITY Council resolution C.M.S. XXX; and

**WHEREAS**, the PROJECT is an eligible use of the CITY funding under the controlling grant agreements; and

**WHEREAS**, it is advantageous for the CITY to provide funding to the DISTRICT, which will incorporate the CITY's requested improvements as part of the PROJECT; and;

**WHEREAS**, the DISTRICT agrees to incorporate the improvements requested by the CITY within the PROJECT as they will support BRT and other bus operations, first and last leg travel from transit stops, and access and safety for all modes of transportation.

**NOW, THEREFORE**, in consideration of the faithful performance of the terms and conditions set forth below, the DISTRICT and the CITY agree that the undertaking described in this Agreement shall be implemented in accordance with the following:

**I. CITY OF OAKLAND RESPONSIBILITIES:**

- A. For PROJECT related costs, the CITY will process invoices submitted by the DISTRICT for cost reimbursement within 60 days of receipt of invoice if submitted in the proper format and accompanied by acceptable supporting

documentation of expenditures. The total payment will not exceed \$xxx in total under this agreement and for individual projects as shown in Attachment 1.

- B. The CITY when transferring grant funds to the District will be wholly responsible for any local match requirement.
- C. The CITY shall indemnify, defend, and hold harmless the DISTRICT, its officers, directors, employees, agents, and volunteers from and against any and all liability, loss, expense (including attorneys' fees), or claims for injury or damages arising out of its performance under this Agreement, or the implementation of the PROJECT, or its failure to comply with any of its obligations contained herein, except such loss or damage which was caused by the negligence or willful misconduct of the DISTRICT.

## **2. AC TRANSIT RESPONSIBILITIES:**

- A. The DISTRICT shall comply with all XXX program requirements, stipulations, and terms and conditions in order to receive the PROJECT funds.
- B. The DISTRICT will provide copies of all procurement solicitations, procurement documents, including documentation of procurement procedures undertaken in connection with any contract award for review by the CITY prior to issuing solicitations or entering into any contracts.
- C. The DISTRICT will submit XXX activity reports to the CITY detailing PROJECT activities and costs for the duration of the project.
- D. The DISTRICT may submit invoices to the CITY as frequently as monthly for reimbursement of eligible project costs in a form acceptable to the CITY, along with a description of project activities. Invoices should include time period for the invoice; itemized staff charges to the PROJECT; itemized payments to vendors, consultants or contractors, and total funds being requested for the invoice period. Each invoice will also include documentation of claimed expenditures as a condition of cost reimbursement.
- E. The DISTRICT shall indemnify, defend, and hold harmless the CITY, its officers, directors, employees, agents, and volunteers from and against any and all liability, loss, expense (including attorneys' fees), or claims for injury or damages arising out of its performance under this Agreement, or the implementation of the PROJECT, or its failure to comply with any of its obligations contained herein, except such loss or damage which was caused by the negligence or willful misconduct of CITY.

3. The parties may extend, terminate or otherwise modify this Agreement by mutual consent. Any extension or modification shall be confirmed in writing. Either party may terminate this Agreement upon sixty (60) days prior written notice.
4. Any notices which may be required under this Agreement shall be in writing, effective when received and given electronically, or by personal service, or by certified or registered mail to the following:

AC Transit:

Chris Andrichak, Director of Management and Budget  
1600 Franklin Street, Oakland, CA 94612

City of Oakland:

Bruce Williams, Senior Transportation Planner  
250 Frank H. Ogawa Plaza, 4<sup>th</sup> Floor, Oakland, CA 94612

5. Any disputes arising under this Agreement between the parties shall be resolved by XXX for the CITY, and the Director of Management and Budget for the DISTRICT, or their designees. If the CITY and the DISTRICT are unsuccessful in informally resolving any dispute, the parties shall attempt to mediate the dispute by a mediator jointly selected by the parties before initiating any litigation. Such mediation may be requested by either party and shall be performed within 60 days of the request, unless extended by mutual agreement. The obligation to mediate shall be terminated if the parties are unable to mutually agree upon a mediator. The parties shall equally bear the costs of any third party alternative dispute resolution process.
6. The terms and conditions of this Agreement represent the entire understanding of the parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement shall be valid or binding except by a written amendment to this Agreement.
7. This Agreement shall be governed by California law.
8. This Agreement shall not be assigned to any third party.
9. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
10. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the dates set forth below.

**City of Alameda**

**Alameda-Contra Costa Transit  
District**

XXX  
City Manager

Michael Hursh  
General Manager

X \_\_\_\_\_

X \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**Approved as to content and form:**

XXX  
City Attorney

Denise C. Standridge  
General Counsel

X \_\_\_\_\_

X \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_



**Attachment 1**  
**Agreement Project Scope and Funding Amounts**

<b>Project Scope</b>	<b>Funding Source</b>	<b>Funding Amount</b>
Construct curb, gutter and sidewalk at abandoned driveways	XXX	\$XXX
Other parking improvements assigned as City responsibilities under the approved Oakland Parking Analysis	XXX	\$XXX
<b>Total Funds</b>		<b>\$XXX</b>

## **Attachment 2**

**Operations and Maintenance Agreement between the Alameda-Contra Costa Transit District and the City of Oakland for the East Bay Bus Rapid Transit Project**

2019 AUG 29 AM 4:23

Approved as to Form and  
Legality

**DRAFT**

## OAKLAND CITY COUNCIL

City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO: (1) NEGOTIATE AND EXECUTE AGREEMENTS WITH THE ALAMEDA - CONTRA COSTA COUNTY TRANSIT DISTRICT FOR COST SHARING OF JOINT BENEFIT EAST BAY BUS RAPID TRANSIT, BRT, PROJECT RELATED TRANSPORTATION IMPROVEMENTS, (2) TO ESTABLISH RESPECTIVE ROLES AND RESPONSIBILITIES BETWEEN AC TRANSIT AND THE CITY AS TO GRANT FUNDING, (3) TO PAY AC TRANSIT FOR WORK REQUESTED BY THE CITY THAT IS OUTSIDE THE BASE BRT PROJECT SCOPE, AND (4) TO ACCEPT AND APPROPRIATE FUNDS FROM AC TRANSIT FOR BRT RELATED TRANSPORTATION IMPROVEMENTS**

**WHEREAS**, AC Transit's mission to connect our communities with safe, reliable, sustainable transit services is aligned with the Oakland Department of Transportation mission (insert)

**WHEREAS**, the City is a partner with the AC Transit in the East Bay Bus Rapid Transit Project (BRT project); and

**WHEREAS**, City Council Resolution No. 84570 C.M.S. authorized the City Administrator to enter a Master Cooperative Agreement with AC Transit for Final Design and Construction of the BRT project, and that agreement was executed on August 30, 2013; and

**WHEREAS**, on June 7, 2016, City Council Resolutions No. 86223 and No. 86224 C.M.S. constituted its approval of the Final Design package for the BRT project; and

**WHEREAS**, the BRT project corridor will ultimately extend approximately 9.52 miles from Downtown Oakland to the San Leandro transit center and is designed to provide superior public transit through one of Oakland's busiest corridors. In Oakland, project features include 18 sidewalk stations (9 pairs) on Broadway, East 11<sup>th</sup> Street and East 12<sup>th</sup> Streets, and 20 center median stations serving the dedicated bus transit way along International Boulevard from 14<sup>th</sup> Avenue to the San Leandro border.

**WHEREAS**, while the BRT project scope of work was governed by the federal environmental impact study and report, as well as local conditions of approval, and included many transportation infrastructure improvements, and while AC Transit and the City have endeavored to supplement the base BRT project scope of work, there remain additional needs for transportation infrastructure improvements along the BRT project corridor.

**WHEREAS**, as part of the City transportation program(s) and AC Transit's BRT project, there are potential opportunities for the City and AC Transit to collaborate on mutually beneficial transportation improvement projects that support BRT and other bus operations, first and last leg travel from transit stops, and access and safety for all modes of transportation; and

**WHEREAS**, approval of this resolution allows the City Administrator, or designee, to collaborate on external grant opportunities and to negotiate cost-sharing agreements with AC Transit, on a case-by-case basis, for BRT related transportation improvements as each opportunity may involve either the City or AC Transit to perform the work; and

**WHEREAS**, approval of this resolution does not, however, obligate the City or AC Transit to cooperate on BRT project – related transportation improvements, however, having a mechanism to share costs between the two agencies creates new opportunities and is a direct benefit to the public; and

**WHEREAS**, the priorities for selecting these shared transportation improvement activities will follow the City's transportation policies previously adopted or adopted by City Council in the future; and

**WHEREAS**, approval of this resolution will enable the City Administrator, or designee, to pay AC Transit for work that is outside the approved BRT project scope; and

**WHEREAS**, funds for the City's portion of these shared transportation improvement activities is budgeted and available in the Department of Transportation as it is intended to use existing appropriation through individual projects as opportunities arise, be it; and

**WHEREAS**, approval of this resolution will enable the City Administrator, or designee, to accept and appropriate funds from AC Transit on a case-by-case basis for BRT project -related transportation improvement activities without returning to Council; and

**RESOLVED:** That the City Administrator, or designee, is authorized to collaborate with AC Transit on external grant opportunities and to negotiate cost-sharing agreements with AC Transit, on a case-by-case basis, for BRT project related transportation improvements as each opportunity may involve either the City or AC Transit to perform the work; and

**FURTHER RESOLVED:** Approval of this resolution will enable the City Administrator, or designee, is authorized to pay AC Transit for work requested by the City on a case-by-case basis that is outside the approved BRT project scope; and be it

**FURTHER RESOLVED:** Approval of this resolution will enable the City Administrator or designee to accept and appropriate funds for cost sharing of joint-benefit BRT – related transportation improvement projects from AC Transit on a case-by-case basis per the executed agreement without returning to Council; and be it

**FURTHER RESOLVED:** Funds will be accepted and appropriated based on actual revenues received from AC Transit and will be placed in:

- Miscellaneous Grants Fund (2999); Complete Streets Design Organization (35213); Project No. To be determined.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES – FORTUNATO-BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO,  
and PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California