



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: AMENDMENT TO US-101/OAKLAND/ DATE: September 24, 2009
**MABURY TRANSPORTATION
DEVELOPMENT POLICY (TDP)**

COUNCIL DISTRICT: 3 and 4
SNI AREA: Thirteenth Street

RECOMMENDATION

The Planning Commission voted 6-0-1 (Commissioner Platen absent) forward a recommendation to the City Council to adopt a resolution for the amendment to the US-101/Oakland/Mabury Transportation Development Policy (TDP).

OUTCOME

The amendment of the US-101/Oakland/Mabury Transportation Development Policy allows for participation of the Flea Market site in the Policy, and to facilitate near term retail and residential development at the Flea Market site and establish a phasing plan for construction of the interchange improvements concurrent with development.

BACKGROUND

On September 23, 2009, the Planning Commission held a public hearing to consider the amendment to the US-101/Oakland/Mabury Transportation Development Policy. The project was on the evening's public hearing calendar. No one from the public appeared to speak on this item. There was no discussion by the Planning Commission.

The Planning Commission voted 6-0-1 (Commissioner Platten absent) to recommend that the City Council adopt a resolution to adopt the US-101/Oakland/Mabury Transportation Development Policy amendment.

ANALYSIS

A complete analysis of the issues regarding this project, including is contained in the attached memorandum.

POLICY ALTERNATIVES

Alternative #1: Do not approve the Policy modification and require the Flea Market Development to conform to its current condition of approvals.

Pros: Would not allow any development on the Flea Market site until the partial reconstruction of US-101/Oakland is underway.

Cons: Near term retail development could not occur, the Flea Market Development would not advance the US-101/Mabury project, and the City would not have flexibility to prioritize interchange funding as part of the development requirements.

Reason for not recommending: Does not support near term retail development and construction of the US-101/Mabury interchange.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

A community meeting was held on July 7, 2009. The meeting was noticed on the City's website and a mailer was sent to approximately 3,500 properties in the area. The mailer/email was also distributed to and neighborhood organizations in Berryessa and Japantown, the 13th Street SNI NAC, District 3 and 4 Council offices, and the sign-up lists for the Flea Market and Dobbin Drive development projects.

HONORABLE MAYOR AND CITY COUNCIL

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COORDINATION

The recommended policy amendment has been coordinated with the City Attorneys Office, the Department of Planning, Building, and Code Enforcement, the Office of Economic Development, and the Department of Public Works

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

Reuse of the King and Dobbin Transit Village FEIR.


JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact
Manuel Pineda, Transportation Planning Division Manager at 975-3295.





Memorandum

TO: PLANNING COMMISSION

FROM: James R. Helmer

SUBJECT: AMENDMENT TO US-101/OAKLAND/ DATE: 09-11-2009
**MABURY TRANSPORTATION
DEVELOPMENT POLICY (TDP)**

Approved

Date

COUNCIL DISTRICT: 3 and 4
SNI AREA: Thirteenth St

RECOMMENDATION

The Department of Transportation recommends that the Planning Commission forward a recommendation to the City Council to amend the US-101/Oakland/Mabury Transportation Development Policy (TDP) to include the Flea Market Development as part of the TDP.

OUTCOME

Inclusion of the Flea Market Development into the TDP will facilitate near term retail and residential development at the Flea Market site and establish a phasing plan for construction of the interchange improvements concurrent with development.

BACKGROUND

Policy Need

The Jackson/Taylor and Berryessa areas of San Jose are planned for future development growth consistent with the General Plan. However, near term development is constrained due to a lack of traffic capacity for access at US-101 and is expected to have Level-of-Service (LOS) impacts at key intersections. The following two major transportation improvement projects are planned to improve capacity in the area:

1. Reconstruction of the US-101/Oakland interchange.
2. Construction of the new US-101/Mabury interchange.

The required interchange improvements are expensive and require years to build which is not feasible for most projects. To address this issue, on December 18, 2007, the City Council approved the US-101/Oakland/Mabury TDP and Traffic Impact Fee. The key outcomes of the new policy are to:

1. Support near-term "smart growth" development projects in the 101/Oakland/Mabury area. Key projects include: Transit Oriented Development near Berryessa BART Station; Dobbin Family Shelter and Affordable Housing; Japantown Neighborhood Business District; Jackson Taylor Specific Plan; and Luna Park/13th Street Neighborhood Business District.
2. Create "fair share" traffic impact fee structure to finance US-101/Oakland and US-101/Mabury improvements.
3. Support timely implementation of US-101/Mabury and US-101/Oakland projects to meet development triggers associated with Downtown, North San José, and BART.
4. Provide streamlined traffic analysis and development review for development projects.
5. Encourage industrial development.

Funding and Traffic Impact Fee

This TDP identifies various sources of funding to support the construction of the planned improvements. A total of \$69 million is required for full construction. The City and Valley Transportation Authority (VTA), as part of the Valley Transportation Plan 2035 (VTP2035), is expected to contribute \$30 million dollars. In addition, the City and/or the San Jose Redevelopment Agency, as described in (1) the North San Jose Area Development Policy and (2) The Downtown Strategy 2000 EIR, is expected to contribute \$8 million.

The TDP also established a Traffic Impact Fee (TIF) program to fund the balance of the cost, which is \$31 million. The TIF requires all new development that generates capacity demand to make a fair share contribution, as determined by the Nexus Study Report. The City administers the traffic impact fees it collects to conduct appropriate studies, complete design work, secure environmental clearance, and construct the proposed improvements.

ANALYSIS

Flea Market

In August 2007, developers of the Flea Market site received approval for a Planned Development zoning which allows for 2,818 housing units and 365,622 square feet for commercial and industrial uses. Implementation of any portion of this project will impact the US-101/Oakland Road interchange and as described in the current zoning, partial reconstruction of the interchange

is required as mitigation. In August of 2008, the developer requested inclusion of the Flea Market site into the TDP. If approved, this modification would allow the developer to construct near term development, require contributions to the US-101/Oakland and US-101/Mabury interchanges in lieu of immediate work, and phase additional roadway improvements with future development.

TDP Modification and Phasing

The proposed modification to the TDP would establish the phasing of development and TDP improvements for the Flea Market site. As described in the current zoning for the Flea Market, the project requires a partial reconstruction of US-101/Oakland interchange as part of any initial development. As an alternative to that condition, the developers propose to modify the TDP and accommodate the phasing of development with phasing of the interchange improvements including pre-construction activities, design, and final construction. While the developer would still be required to complete a number of improvements equivalent in cost to their current requirements, inclusion in the policy would provide them with flexibility in phasing the interchange improvements while giving the City flexibility in determining how best to prioritize transportation related work in the area.

Under the proposed modification, Phase 1 of the project (110,000 s.f. of retail and up to 242 housing units) will be required to fund transportation improvements in the area as follows:

- Build out Berryessa Road to its 6-lane configuration
- Modify Commercial Street to provide 2 northbound lanes
- Modify the signal at Commercial /Oakland to provide additional capacity
- Modify the signal and on-ramp at US 101/Oakland to provide interim capacity improvements or provide equivalent funding towards the completion of the Project Study Report (PSR) and Environmental Impact Report (EIR) for the US-101/Mabury Interchange

Phase 2 (243 to 474 housing units) and Phase 3 (475+ housing units) would require the Flea Market Site to provide additional improvements as follows:

- Complete the PSR and EIR for US-101/Oakland and US-101/Mabury interchanges, and
 - a) Design and construct the US-101/Oakland interchange; or
 - b) Design of the US-101/Mabury interchange and a \$7.9 million lump sum payment towards its construction.

The City will determine the appropriate choice at the time of development.

Inclusion of the Flea Market site into the TDP allows immediate near term retail and housing development. It defers the partial US-101/Oakland improvements based on the phasing plan

identified in the TDP, however it also advances currently unfunded work and provides flexibility for future interchange construction.

POLICY ALTERNATIVES

Alternative #1: Do not approve the Policy modification and require the Flea Market Development to conform to its current condition of approvals.

Pros: Would not allow any development until the partial reconstruction of US-101/Oakland is underway.

Cons: Near term retail development could not occur, the Flea Market Development would not advance the US-101/Mabury project, and the City would not have flexibility to prioritize interchange funding as part of the development requirements.

Reason for not recommending: Does not support near term retail development and construction of the US-101/Mabury interchange.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

A community meeting was held on July 7, 2009. The meeting was noticed on the City's website and a mailer was sent to approximately 3,500 properties in the area. The mailer/email was also distributed to and neighborhood organizations in Berryessa and Japantown, the 13th Street SNI NAC, District 3 and 4 Council offices, and the sign-up lists for the Flea Market and Dobbin Drive development projects.

PLANNING COMMISSION

09-11-09

Subject: Amendment to the US-101/Oakland/Mabury TDP

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COORDINATION

The recommended policy amendment has been coordinated with the City Attorneys Office, the Department of Planning, Building, and Code Enforcement, the Office of Economic Development, and the Department of Public Works.

CEQA

Temporary and permanent effects of the US-101/Oakland/Mabury Transportation Development Policy are analyzed and disclosed in the Final Environmental Impact Report for the King and Dobbin Transit Village certified by the Council in Resolution No. 74195.1 adopted on December 18, 2007.


for JAMES R. HELMER
Director of Transportation

For questions please contact Manuel Pineda, Transportation Planning Division Manager at 975-3295.

US-101/Oakland/Mabury Transportation Development Policy

The following Transportation Development Policy supersedes the policy adopted in December 2007.

1. Purpose

This Transportation Development Policy ("TDP") serves as the Area Development Policy for the US-101/Oakland/Mabury area in conformance with and in furtherance of the provisions of the San José 2020 General Plan ("General Plan") Level of Service ("LOS") Policy #5 for Traffic, which states that the minimum overall performance of City Streets during peak travel periods should be LOS "D". This TDP is intended to achieve all of the following: (1) management of traffic congestion generated by near-term new development in the vicinity of the US-101/Oakland interchange; (2) promotion of General Plan goals for economic development and housing; and (3) improvement of the US-101/Oakland Road interchange and construction of the new US-101/Mabury Road interchange to accommodate new development.

This TDP recognizes and allows for interim traffic congestion levels resulting from ongoing development, but provides for opportunities for and encourages new mixed-use, commercial and residential development, and also provides incentives for new industrial development in the area. Key elements of this TDP are to:

- Define the interchange capacity available to accommodate the projected development in the area.
- Identify existing operations and the required improvements for future development in the US-101/Oakland Road and US-101/Mabury Road corridor; and explain the funding and steps needed to complete those required improvements.
- Ensure the improvement and construction of the required transportation infrastructure for new development by establishing a traffic impact fee program on new development in that area to fund that infrastructure.
- Promote new industrial land use or intensification of existing industrial land use in the US-101/Oakland Road and US-101/Mabury Road corridor by exempting a certain amount of new industrial development from the traffic impact fee program where other sources of funding for that development's proportionate share of the required traffic improvements have been identified.
- Allow the LOS of signalized intersections covered by the TDP to temporarily exceed City's LOS standards until the required improvements are constructed.

2. Existing Operations

Due to limited access points for the US-101 freeway in the US-101/Oakland Road and US-101/Mabury Road corridor, future LOS impacts caused by new development are expected to occur at: (1) the US-101/Oakland (N) intersection; (2) the US-101/Oakland Road (S) intersection; and (3) the Oakland Road/Commercial Road intersection.

Studies of traffic flow and field observations at these intersections indicate that two primary causes for the future operational deficiencies are: (1) US-101 freeway-bound traffic, and (2) Oakland Road local through traffic, because the two traffic streams compete for limited intersection capacity. Table 1 provides a summary of the existing Level of Service at these intersections in fall, 2006. [Ref. 1]

Table 1: Existing LOS

INTERSECTION	AM		PM	
	Delay*	LOS	Delay*	LOS
US-101/Oakland Road (N)	62	E	23	C
US-101/Oakland Road (S)	22	C	34	C
Oakland Road/Commercial Street	38	D	45	D
US-101/Mabury Road (E) **	35	E	400	F
US-101/Mabury Road (W) **	16	C	22	C
* Average Control Delay in seconds per vehicle (Sec/Veh)				
** Two-way stop controlled, LOS and delay are for the worst movement				

3. Planned Improvements

This TDP recognizes and identifies that two major regional transportation projects noted below are necessary in this area to provide adequate access to the US-101 freeway for new development and the planned BART station. [Ref. 1] The locations of the regional transportation projects along with the BART station are illustrated in Figure 1 on page 16, and the two regional transportation projects are as follows:

- Modification of the US-101/Oakland Road interchange - Upgrade of the facility to maximize capacity.
- Construction of the US-101/Mabury Road interchange - The US-101/Mabury Road interchange has long been identified in the City's General Plan as a needed freeway gateway to alleviate congestion at the US-101/Oakland Road interchange.

The improvements summaries and the cost estimates for the completion of both of these interchanges are as follows: [Ref. 2]

US-101/Oakland Road Interchange

- Widening of Oakland Road between Commercial Street and US-101 freeway, including the US-101 over-crossing to 8 lanes across, including dual left turn lanes for both northbound and southbound directions.
- Widening of US-101 on-ramps and off-ramps to accommodate additional turning lanes.
- Widening of eastbound Commercial Street to provide additional lanes.
- Signal modifications at intersections of the US-101/Oakland Road (N), the US-101/Oakland Road (S), and the Oakland Road/Commercial Street.

- Intersection improvement at Berryessa Road and Commercial Street intersection for an additional westbound to northbound right turn lane.
- Total Improvement cost of the US-101/Oakland Road modifications are estimated at \$20 million (in 2007 dollars)

US-101/Mabury Road Interchange

- Construction of a new northbound US-101 diagonal off-ramp and a new US-101 loop on-ramp on the southeast quadrant of the US-101/Mabury Road interchange.
- Construction of a new southbound US-101 diagonal off ramp and a new US-101 loop on-ramp on the southwest quadrant of the US-101/Mabury Road interchange.
- Installation of new traffic signals at the Mabury Road intersections with the northbound ramps and southbound ramps.
- Total improvement cost of the US-101/Mabury Road interchange construction projects are estimated at \$49 million (in 2007 dollars).

The two interchanges are referred to in this TDP as the "Policy Interchanges" that are illustrated in Figure 1 on page 16. The five signalized intersections located within the sphere of influence of the Policy Interchanges are collectively referred to as the "Policy Interchange Intersections". These five intersections are: (1) US-101/Oakland (N); (2) US-101/Oakland (S); (3) Oakland/Commercial; (4) US-101/Mabury (E); and (5) US-101/Mabury (W); that are illustrated in Figure 1 on page 16. The Policy Interchange Intersections are considered within the sphere of influence of the Policy Interchanges from the perspective of traffic capacity analysis. The improvements described above in this section at and around the Policy Intersections are referred to as the "Planned Improvements."

4. Interchange Capacity

This TDP establishes PM peak hour vehicle trips as the measurement for interchange capacity at the Policy Interchanges because the capacity constraints at the Policy Interchanges are projected to be more severe in the PM peak hour than in the AM peak hour. [Ref. 1] For the purpose of this TDP, any trip traversing through one or more Policy Interchange Intersections during the PM peak hour is regarded as one interchange trip. A through trip is not counted more than once if traversing through more than one Policy Interchange Intersection. All trips using the Policy Interchange Intersections are treated as one interchange trip whether they access the US-101 freeway or not.

Construction of the Planned Improvements will increase the interchange capacity at all five Policy Interchange Intersections. Table 2 below provides a summary of the interchange capacities: [Ref. 1, 3]

Table 2: Available Interchange Capacity

IMPROVEMENT	CAPACITY (PM TRIPS)		
	Total	Allocated to BART Station	Allocated to development
US-101/Oakland only	785	0	785
US-101/Mabury only	677	309	368
US-101/Oakland & US-101/Mabury	1462	309	1153

By constructing the Planned Improvements to the Policy Interchange Intersections, a total of 1462 PM peak trips will be available to accommodate traffic from future growth. A portion (309 trips) of the acquired capacity at the US-101/Mabury Road interchange is allocated to accommodate BART station access traffic. The remaining 1153 trips will be available to accommodate new development.

5. Funding

This TDP identifies various sources of funding to support the construction of the Planned Improvements. A total of \$69 million is required to fund the construction of the Planned Improvements with two funding sources already identified to contribute a total of \$38 million. One source is the regional funds pursued by the City and the Valley Transportation Authority (VTA) as part of the Valley Transportation Plan 2030 (VTP 2030) toward the construction of the US-101/Mabury Road interchange. This regional contribution is expected to be a \$30 million allocation. The other source is the contribution toward the Planned Improvements by the City and/or its Redevelopment Agency as described in (1) the North San José Area Development Policy EIR; and (2) the Downtown Strategy 2000 EIR, which is expected to be an \$8 million contribution.

Along with the adoption of this TDP, the City Council established a Traffic Impact Fee program to fund the balance of the \$31 million cost for the Planned Improvements. The Traffic Impact Fee Program requires new development that generates demands for the Policy Interchange Intersections to make fair share financial contributions as determined by the Nexus Study [Ref. 3] prepared as a part of this Traffic Impact Fee program. The City will administer the traffic impact fees it collects and conduct appropriate studies, design, environmental clearance, and construction of the Planned Improvements as funds become available from payment of the impact fee by new development and other funding sources identified above.

According to the fee studies performed, an equitable share for every interchange trip would be \$47,000, which amount is achieved at by dividing the total improvement cost of \$69 million by the total acquired PM peak hour capacity of 1462 trips [Ref. 3]. However, with the expected \$8 million and \$30 million contributions from the City and regional funding sources, respectively, only the balance of \$31 million will be funded through the Traffic Impact Fee Program.

The breakdown of funding is shown in Table 3 below.

Table 3: Proposed Finance Plan

FUNDING SOURCE	AMOUNT
Traffic Impact Fee	\$31 million
Regional Funding	\$30 million
Downtown/NSJ	\$8 million
TOTAL	\$69 million

6. Traffic Impact Fee

This TDP requires new residential and commercial development to make a fair-share contribution toward the construction cost of \$31 million based on the development capacity and the related trips generated by the development. The maximum available capacity at the Policy Interchange Intersections for all future development projects is 1153 PM peak hour trips. Of the 1153 trips, 10% or 115 trips, are allocated to the trips generated by future industrial growth that are exempt from the Traffic Impact Fee Program. [Ref. 1, 3] The remaining 1038 trips are allocated to new residential and commercial development and are subjected to the Traffic Impact Fee. The fair share Traffic Impact Fee for each interchange trip is \$30,000, calculated by apportioning \$31 million of un-committed funding needs across the 1038 trips. Further, to ensure the amount remains at a consistent value over time, the amount of the Traffic Impact Fee will be increased annually on January 1 per the Engineering News-Record (ENR) Construction Cost Index for San Francisco published by the McGraw Hill. [Ref. 5]

7. The Flea Market Site

The site commonly referred to as "The Flea Market site" is situated on approximately 120 gross acres on both sides of Berryessa Road, between the Union Pacific Railroad Right-of-Way to the East and Coyote Creek to the West, North of Mabury Road (1590 Berryessa Road), as depicted in Figure 1 of this TDP ("The Flea Market Site"). The Flea Market Site was rezoned to an A-PD zoning district by the City Council in accordance with the General Development Plan for the Flea Market Site entitled, "A Mixed Use Transit Village on the San Jose Flea Market," dated December 23, 2005 and last revised on August 14, 2007 by Ordinance No. 28101. The Final Environmental Impact Report for the rezoning and development of the Flea Market Site was certified by the Council in Resolution No. 73956 adopted on August 14, 2007, under File No. PDC03-108 ("Flea Market EIR"). The Flea Market EIR and the Planned Development Zoning for the Flea Market Site require the developer to complete specified improvements related to the US-101/Oakland Road Interchange.

However, as an alternative to the required construction of the US-101/Oakland Road Interchange improvements at the time of approval of the first building permit for the project, the developer desires instead to phase interchange improvement pre-construction activities and construction. The City will only authorize such a change in the timing of funding of interchange improvements

if the developer agrees to develop the Flea Market Site in phases and provide interchange construction and funding in the manner provided by this Section 7 of the TDP. The phasing of development on the Flea Market Site and the phasing of Policy Interchange improvements and Policy Interchange Intersections were contemplated, and the temporary and permanent effects on transportation were evaluated, in the Final Environmental Impact Report for the King and Dobbin Transit Village certified by the Council in Resolution No. 74195.1 adopted on December 18, 2007, under File No. PP07-172 ("TDP EIR"). As a result of the developer's desire to phase construction of its project and the required US-101/Oakland Road interchange improvements, the TDP required amendment to include phased contribution to the Policy Interchanges and Policy Interchange Intersections by the developer of the Flea Market site. Additionally, because the developer of the Flea Market Site is required to cause improvements to the US-101/Oakland Road Interchange as a condition of its project approval, and because the City may provide separate funding, including funding from other agencies, for construction of all Policy Interchanges and Policy Interchange Intersections pursuant to this TDP, the Flea Market Site developer shall contribute the same amount of funding that would otherwise have been required of it for its project which may be utilized by the City towards the funding of other Policy Interchanges and Policy Interchange Intersections in exchange for the City's use of other funding sources for the US-101/Oakland Road Interchange improvements.

The transportation mitigation required of the developer of the Flea Market Site pursuant to this TDP is limited to those Policy Interchanges and Policy Interchange Intersections addressed in the TDP. The Developer shall construct all transportation measures that are not addressed in this TDP as required by the related Planned Development Zoning, Flea Market EIR, and any other related land use approval.

In order to participate in the TDP, the Flea Market Site developer shall submit to the City an application for a master planned development permit for phased development of the entire Flea Market Site that is consistent with Section 7 of this TDP, including but not limited to the phasing of commercial and residential development (excluding industrial development) on the Flea Market Site and contribution to public infrastructure financing, pre-construction activity and construction as required by this Section 7. The master planned development permit shall be recorded against the entire Flea Market Site.

In the event that a master planned development permit for the entire Flea Market Site that is consistent with this Section 7 is not approved by December 31, 2010, this Section 7 of the TDP shall have no further force and effect and the development of the Flea Market Site shall remain subject to all of the transportation-related conditions in the approved Planned Development Zoning, Flea Market EIR, and other related land use approvals.

Nothing in this Section shall require the City to approve any application for master planned development permit, tentative subdivision map, or any other land use approvals regarding the Flea Market site.

Development Phases

Phase I:

Phase I includes the complete commercial and limited residential development of the Flea Market site and the required Policy Intersection related funding and improvements specified herein. Upon submission and approval of the final subdivision map for Phase I, including all 110,000 square feet of commercial development and no more than 242 residential units, the developer shall enter into an agreement to provide for the construction of the Required Improvements specified below, to City and CalTrans standards and pursuant to City-approved Improvement Plans, and provide required security for the completion of all Required Improvements in Development Phase I, as follows:

Phase I Required Improvements:

- (1) Interim Oakland Road/Commercial Street intersection improvements, including:
 - (a) Construction of a second left turn lane from Westbound Commercial Street to Southbound Oakland Road; and
 - (b) Construction of a second right turn lane from Southbound Oakland Road to the Northbound US 101 on-ramp

The developer shall complete the Phase I Required Improvements within 18 calendar months of the approval of the final subdivision map for Phase I. If the City or Caltrans determine that the Phase I improvement specified as 1(b) above (Construction of a second right turn lane from Southbound Oakland Road to the Northbound US 101 on-ramp) is not feasible or desirable as an interim improvement prior to the construction of the US-101/Oakland Road Interchange, the Developer shall pay to the City an in lieu lump sum payment of the value of the interim improvement of \$1.1 million, which shall be used for construction of the improvement at the time of construction of the interchange. No more than 110,000 square feet of commercial development and 242 residential units shall be constructed upon the Flea Market site prior to completion of the Phase I Required Improvements as specified herein.

Table 4: Phase I

PHASE	COMMERCIAL (SF)	RESIDENTIAL (UNITS)	DEVELOPER REQUIREMENTS	DEADLINE TO COMPLETE
I	110,000 (Buildout)	1-242	Execution of improvement agreement and provision of security for completion of all Required Improvements for Phase I as specified above.	Prior to approval of final subdivision map for Phase I.
I	110,000 (Buildout)	1-242	Completion of all Required Improvements for Phase I as specified above.	18 calendar months after approval of final subdivision map for Phase I.

Phases II and III

Because the Policy Intersection improvements will be funded by various sources, it may be desirable or required that the City cause construction of Policy Intersection improvements for one Policy Intersection in advance of improvement of the other Policy Intersection. Therefore, the City shall in its sole discretion determine which of the two options specified herein to implement in relation to the development of the Flea Market Site after completion of the Phase I Required Improvements. In the event that the City selects Option A below, City shall contribute no more than \$1.6 Million total towards the construction of the US-101/Oakland Road Interchange.

OPTION A - Required Improvements:

Phase II:

- (1) Developer shall at its sole cost, excepting any financial contribution from the City in an amount not to exceed the total amount specified hereinabove for the US-101/Oakland Road Interchange, and to the satisfaction of the City and CalTrans, study and prepare the Combined Project Study Report (PSR), Project Report (PR), and the Environmental Impact Report for both Policy Interchanges (US-101/Oakland Road and US-101/Mabury Road); If any elements of the PSR/PR/EIR for US-101/Oakland Road or US-101/Mabury have already been completed at the time of development of Phase II, the developer shall pay an in lieu lump sum payment equal to the actual cost of all of those completed elements of the PSR/EIR.
- (2) Developer shall at its sole cost, excepting any financial contribution from the City in an amount not to exceed the total amount specified hereinabove for the US-101/Oakland Road Interchange, and to the satisfaction of the City and CalTrans, complete the final

design and right-of-way acquisition for the US-101/Oakland Road Interchange improvements.

Phase III:

- (3) Developer shall at its sole cost, excepting any financial contribution from the City in an amount not to exceed the total amount specified hereinabove for the US-101/Oakland Road Interchange, construct the US-101/Oakland Road Interchange improvements pursuant to City and CalTrans approved improvement plans.

Table 5: Option A - Phases II and III

PHASE	RESIDENTIAL (UNITS)	DEVELOPER REQUIREMENTS	DEADLINE TO COMPLETE
II	243-474	Execution of improvement agreement and provision of security for completion of all Required Improvements for Option A – Phase II as specified above.	Prior to approval of final subdivision map for Phase II.
II	243-474	Completion of all Required Improvements for Option A – Phase II as specified above.	No later than 18 calendar months after approval of final subdivision map for Phase II.
III	475-buildout	Execution of improvement agreement and provision of security for completion of all Required Improvements for Option A – Phase II as specified above.	Prior to approval of final subdivision map for Phase III.
III	475-buildout	Construction of all Required Improvements for Option A – Phase III as specified above.	No later than 30 calendar months following approval of the final subdivision map for Phase III.

The developer shall complete the Option A – Phase II Required Improvements within 18 calendar months of the approval of the final subdivision map for Phase II. No more than 474 residential units shall be constructed upon the Flea Market site prior to completion of the Option A – Phase II Required Improvements.

OPTION B - Required Improvements:

Phase II:

- (1) Developer shall at its sole cost, and to the satisfaction of the City and CalTrans, study and prepare the Combined Project Study Report (PSR), Project Report (PR), and the Environmental Impact Report for both Policy Interchanges (US-101/Oakland Road and US-101/Mabury Road); If any elements of the PSR/PR/EIR for US-101/Oakland Road or

US-101/Mabury have already been completed at the time of development of Phase II, the developer shall pay an in lieu lump sum payment equal to the actual cost of all of those completed elements of the PSR/EIR.

- (2) Developer shall at its sole cost, and to the satisfaction of the City and CalTrans, complete the final design for the US-101/Mabury Road Interchange improvements.

Phase III:

- (3) Developer shall pay to the City \$7.9 Million towards the construction of the US-101/Mabury Road Interchange improvements. Until such time as full construction funding for the US-101/Mabury Interchange has been indentified by the City, the Flea Market Site developer shall pay to the City the US-101/Oakland/Mabury Traffic Impact Fee pursuant to San Jose Municipal Code Chapter 14.30. Within 20 calendar days of receipt of written notice from the City or, in the event that no written notice is provided by the City, no later than 180 calendar days prior to the award of the construction contract for the US-101/Mabury Interchange, the Flea Market Site developer shall pay to the City the balance of the total amount of \$7.9 Million that remains owing to the City after deduction for any amount paid for the US-101/Oakland/Mabury Traffic Impact Fee.

Table 6: Option B - Phases II and III

PHASE	RESIDENTIAL (UNITS)	DEVELOPER REQUIREMENTS	DEADLINE TO COMPLETE
II	243-474	Execution of improvement agreement and provision of security for completion of all Required Improvements for Option B – Phase II as specified above.	Prior to approval of final subdivision map for Phase II.
II	243-474	Completion of all Required Improvements for Option B – Phase II as specified above.	No later than 18 calendar months after approval of final subdivision map for Phase II.
III	475-buildout	Payment for the Required Improvements for Option B – Phase III as specified above.	Prior to approval of final subdivision map for Phase III.

The developer shall complete the Option B – Phase II Required Improvements within 18 calendar months of the approval of the final subdivision map for Phase II. No more than 474 residential units shall be constructed upon the Flea Market site prior to completion of the Option B – Phase II Required Improvements.

Costs of Required Improvements

City may, at its sole discretion, accept adjustment of Required Improvements when the implementation of Required Improvements is not feasible because of unforeseen causes. The Flea Market Site Developer shall make payments to the City that are equal to the cost estimates (in 2008 Dollars) shown in Table 7 in accordance with the Development Phases specified hereinabove in this Section 7.

Table 7: Cost Estimates of Required Improvements

DEVELOPMENT PHASE	REQUIRED IMPROVEMENTS	COST (IN 2008 \$)
I	Interim Oakland Road and Commercial Street intersection improvements	\$1.1 M
Phases II & III Option A		
II	Combined PSR/PR and EIR for US-101/Oakland and US-101/Mabury interchanges	\$2.7 M
II	Final Design of US-101/Oakland interchange	\$2.0 M
III	Construction of US-101/Oakland interchange	\$10.2 M
Phases II & III Option B		
II	Combined PSR/PR and EIR for US-101/Oakland and US-101/Mabury interchanges	\$2.7 M
II	Final Design of US-101/Mabury interchange	\$4.3 M
III	Traffic Impact Fee	\$7.9 M

Escalation of Costs

To ensure the cost of all of the improvements and related work required pursuant to this Section 7 remains at a consistent value over time, all of the dollar amounts and costs due as specified herein will be increased annually on January 1 per the Engineering News-Record (ENR) Construction Cost Index for San Francisco published by the McGraw Hill.

8. Applicability and Implementation

This TDP and its Traffic Impact Fee program apply to all new residential and commercial development that generates vehicular trips at either of the Policy Interchanges, except the Flea Market Site. Future developments are required to prepare and submit Traffic Impact Analysis (TIA) reports following all relevant City's Policies and guidelines. The Traffic Impact Fees shall be determined as part of the TIA report and collected prior to issuance of Building Permit. Upon collection of the Traffic Impact Fee, the TDP considers a development to have addressed the transportation impact mitigation requirements of the project at the Policy Interchanges. Each new development project, however, will still be required to mitigate any impacts at other

transportation facilities, if any, following relevant City's Policies and guidelines.

The TDP exempts future industrial development activities from the Traffic Impact Fee program.

The \$30,000 per trip impact fee reflects a beneficial \$17,000 offset compared to the equitable share of \$47,000 per trip when all trips are considered. [Ref. 3] The beneficial offset is the result of larger than equitable share financial contributions by the City and regional funding pursued by the City. Industrial developments create or preserve desirable Driving Industry employments, therefore, the TDP exempts up to 115 trips related to future industrial developments from the Traffic Impact Fee requirement to promote the General Plan Economic Development Major Strategy, the Industrial Land Use goal and policies, and to help improve the jobs/housing balance in the City. In the situation when the exempt trip allowance for industrial development is exhausted, new trips from industrial development will be required to pay the Traffic Impact Fee for the trips in excess of the allowance.

9. Interim Congestion

This TDP allows interim congestion at the following three Policy Interchange Intersections and 4 additional City intersections to temporarily exceed the LOS standards of the Citywide LOS Policy. However, the conditions of the transportation system will be restored ultimately to a level that is consistent with the General Plan Level of Service Policy Standard for Traffic, once the Planned Improvements are constructed. The intersections that will experience temporary congestion are:

- US-101/Oakland Road (N) intersection
- US-101/Oakland Road (S) intersection
- Oakland Road/Commercial Road intersection
- Commercial Street/Berryessa Road intersection
- Lundy Avenue/Berryessa Road intersection
- King Road/McKee Road intersection
- I-880/Old Bayshore Highway (E) intersection

Traffic LOS is expected to degrade at the existing US-101/Oakland Road interchange, as approved and anticipated developments are constructed in the future. In the absence of the Planned Improvements, the three Policy Interchange Intersections within the US-101/Oakland Road interchange are expected to operate at LOS F in one or both peak hours. [Ref. 1] The detailed LOS is provided in Table 8 below.

Table 8: Future LOS Without Improvements

INTERSECTION	AM		PM	
	Delay*	LOS	Delay*	LOS
US-101/Oakland Road (N)	291	F	98	F
US-101/Oakland Road (S)	35	C	141	F
Oakland Road/Commercial Street	189	F	75	E
* Average Control Delay in seconds per vehicle (Sec/Veh)				

The LOS shown in Table 8 represents the theoretical worst case condition, in that all future development traffic is assumed to use the US-101/Oakland Road interchange without any Planned Improvements. With such high predicted delays, in reality some traffic that would otherwise use those intersections is anticipated to redistribute to alternative routes to access US-101 freeway. A total of 7 intersections are expected to experience interim traffic congestion with the redistribution [Ref. 4] as summarized in Table 9.

Table 9: Interim LOS Without Improvements

INTERSECTION	AM		PM	
	Delay*	LOS	Delay*	LOS
US-101/Oakland Road (N)	147	F	47	D
US-101/Oakland Road (S)	24	C	85	F
Oakland Road/Commercial Street	77	E	55	D
Commercial St./Berryessa Road	71	E	27	C
Lundy Ave./Berryessa Road	52	D	70	E
King Road/McKee Road	72	E	76	E
I-880/Old Bayshore (E)	76	E	27	C
* Average Control Delay in seconds per vehicle (Sec/Veh)				

The Policy Interchange Intersections are expected to operate within or right on Citywide LOS standard once the Planned Improvements are completed along with the construction of all new development under this TDP. The expected LOS of the Policy Interchange Intersections are summarized in Table 10 below. Additional intersection modifications beyond the Policy Interchange are required at the Commercial Street/Berryessa Road and the Lundy Avenue/Berryessa Road intersections to conform to Citywide LOS standard. These modifications are therefore to be funded by this TDP.

Table 10: Future LOS With Planned Improvements

INTERSECTION	AM		PM	
	Delay*	LOS	Delay*	LOS
US-101/Oakland Road (N)	43	D	20	B
US-101/Oakland Road (S)	29	C	30	C
Oakland Road/Commercial Street	55	D	55	D
US-101/Mabury Road (E)	55	D	55	D
US-101/Mabury Road (W)	36	D	50	D
* Average Control Delay in seconds per vehicle (Sec/Veh)				

10. Schedule for Implementation

Timing of funding availability is the key for the implementation of the Planned Improvements in the long term to achieve the General Plan Level of Service Policy Standard for Traffic. The TDP allows the Level of Service of seven intersections to deteriorate to levels in excess of the City's Traffic Level of Service Policy for a temporary period of time. The duration of time traffic will operate below the City's standard Traffic LOS of "D" depends on funding availability and time needed for the Planned Improvements to be designed and constructed. Timing of funding availability is driven by different factors. For example, the financial contribution by the City and/or its Redevelopment Agency for North San José and Downtown development is connected to the timing of new development in those areas, while the Traffic Impact Fees required by this TDP that are collected as individual development projects are approved and constructed. In order to provide traffic operation benefits sooner, the City may accelerate construction of the Planned Improvements with public funds. The advanced public funds shall be reimbursed by the Traffic Impact Fees collected from new development.

As of June 30, 2007, work for a Project Study Report & Project Report (PSR/PR) is already underway with City funding for the Planned Improvements. To ensure the ultimate construction of the required infrastructure set forth in this TDP, the City should apply funding promptly in the sequence of (1) environmental review conducted jointly by the City, VTA, and Caltrans; (2) design (PS&E); (3) property acquisition (ROW); and (4) construction; as additional funding becomes available.

Traffic Impact Fee requirement of this TDP expires when all Planned Improvements are fully funded and constructed. In the event that public funds are advanced to accelerate the construction of the Planned Improvements, the Traffic Impact Fee requirement expires when advanced public funds are fully reimbursed.

References:

1. "US-101/Oakland Road & US-101/Mabury Road Interchange Capacity Analysis, Final Report", June 2007, by the Department of Transportation, City of San José
2. "U.S. Route 101 North Corridor Study, Final Report", May 2005, prepared for the Valley Transportation Authority by Nolte and DKS
3. "US-101/Oakland Road & US-101/Mabury Road Interchanges Traffic Impact Fee Analysis", July 2007, by the Department of Transportation, City of San José
4. "Dobbin Drive Residential Development Traffic Impact Analysis", September 10, 2007, prepared for David J. Powers and Associates by Hexagon Transportation Consultants
5. <<http://enr.construction.com/features/conEco/default-city.asp>>, Engineering News-Record, McGraw Hill

