

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE AMENDING THE US-101/OAKLAND/MABURY
TRANSPORTATION DEVELOPMENT POLICY TO PROVIDE
A CREDIT FOR THE SAN JOSE FLEA MARKET'S
INTERCHANGE IMPROVEMENT MITIGATION PAYMENTS
TO BE APPLIED TO THE TRAFFIC IMPACT FEES DUE FOR
THE FLEA MARKET SOUTH PROJECT**

WHEREAS, the property commonly known as “the Flea Market Site” is situated within the Policy area on approximately 120 gross acres and comprises property located on the north side (“Flea Market North”) and south side (“Flea Market South”) 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) (collectively, “Flea Market Site”); and

WHEREAS, on August 14, 2007, the City Council certified the Final Environmental Impact Report for the General Plan Amendment, rezoning, and development of the Flea Market Site in Resolution No. 73956 under File No. PDC03-108 (“Flea Market EIR”), and adopted a General Plan Amendment and Planned Development Rezoning to allow up to 2,818 residential units, 365,622 square feet of retail commercial, office, or industrial use, and approximately 36 acres of public park/open space on the Flea Market Site (“Flea Market Site Approvals”); and

WHEREAS, the Flea Market EIR and Flea Market Site Approvals required the developer, as mitigation for the development’s traffic impacts, to complete at its sole cost specified improvements related to the US-101/Oakland Road Interchange at the time of approval of the fiftieth (50th) building permit for the Flea Market Site (“Traffic Mitigation Improvements”); and

WHEREAS, on December 18, 2007, the City Council adopted the US-101/Oakland/Mabury Transportation Development Policy as Resolution No. 74195 (“Policy”) in order to: (1) address future development related traffic congestion at the US-101/Oakland Road interchange due to insufficient freeway interchange capacity in the proximity of the US-101/Oakland Road and US-101/Mabury Road corridor; (2) increase the freeway interchange capacity for the US-101 freeway to accommodate future smart growth development in the general area of the Oakland/13th and Mabury/Taylor corridors by identifying necessary capital improvement projects, including the modification of the US-101/Oakland Road Interchange and the construction of the US-101/Mabury Road Interchange; and (3) ensure the financial viability for the construction of the identified capital improvement projects that increase freeway access capacity; and

WHEREAS, the potential environmental impacts related to the Policy were contemplated, and the temporary and permanent effects on the environment, including the transportation system, were evaluated and analyzed, in the Final Environmental Impact Report/Environmental Assessment (PDC07-015, NR07-002, and PP07-172) entitled “King and Dobbin Transit Village and US-101/Oakland/Mabury Transportation Development Policy” for which findings were adopted by the City Council in Resolution No. 74195.1 on December 18, 2007, and addenda thereto (“Policy EIR”); and

WHEREAS, on October 20, 2009, the Council adopted an amendment to the Policy to include the Flea Market Site’s traffic mitigation measures in the Policy, by requiring the Flea Market Site developer to make incremental payments to the City in an amount equal to the future construction cost of the Traffic Mitigation Improvements instead of constructing the improvements (“Traffic Mitigation Payments”); and

WHEREAS, on June 2, 2015, the Policy was amended to align the Traffic Mitigation Payments with the phased development of the Flea Market Site and to address the

City's need to align the Flea Market Site transportation improvement payment schedule with the US-101/Mabury Interchange projects schedule; and

WHEREAS, pursuant to the Policy, the developer has paid approximately \$11.4 million (in 2008 dollars) of the \$16 million (in 2008 dollars) required Traffic Mitigation Payments, which payments satisfy the Flea Market Site's Traffic Mitigation Payment obligation for Flea Market North; and

WHEREAS, on January 18, 2018, the Flea Market developer filed an application with the City for the rezoning of the Flea Market South site requesting approval for up to 3,450 residential units and up to 3.4 million square feet for commercial uses; and

WHEREAS, on April 27, 2021, the City Council certified the Final Environmental Impact Report for the General Plan Amendment, rezoning, and development of the Flea Market South Site in Resolution No. _____ under File No. PDC17-051 ("Flea Market South EIR"), and adopted a General Plan Amendment and Planned Development Rezoning to allow up to 3,450 residential units, 3,400,000 square feet of commercial use, and approximately 13.1 acres of public park/open space on the 61.5 acre Flea Market South site ("Flea Market South Approvals"); and

WHEREAS, the Flea Market South Approvals supersede the Flea Market Approvals with respect to the Flea Market South site, including the Traffic Mitigation Improvements and Traffic Mitigation Payments, and instead require the Flea Market South developer to pay the Traffic Impact Fee as mitigation for the Flea Market South project's traffic impacts; and

WHEREAS, the developer has requested further changes to the Policy to provide a credit against future TIF payments that are required for the Flea Market South project to

align the Traffic Mitigation Payments to the actual buildout of the Flea Market North project; and

WHEREAS, attached hereto and incorporated herein by reference as Exhibit “A” is the amended US-101/Oakland/Mabury Transportation Development Policy (“Amended Policy”), which Amended Policy addresses the prior Traffic Mitigation Payments and reflects a credit for these payments to be applied to the Traffic Impact Fee to be paid pursuant to the Flea Market South Approvals; and

WHEREAS, because the Amended Policy does not alter the physical improvements anticipated in the Policy EIR, the City prepared a Determination of Consistency with the Policy;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Amended Policy is hereby adopted to read as set forth in EXHIBIT “A” attached hereto and incorporated herein by this reference to address the traffic congestion at US-101/Oakland Road interchange by completion of capital improvements that include the modification of the US-101/Oakland Road interchange and the construction of the US-101/Mabury Road interchange, to ensure the financial viability of the completion of the capital improvement projects by requiring a traffic impact fee program for all future development in the general area of the Oakland/13th and Mabury/Taylor corridors, including the Flea Market South development as approved in accordance with the Flea Market South Approvals.
2. The Amended Policy shall take effect on the effective date of the Flea Market South Approvals.

NVF:EEH
3/4/2021

ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NVF:EEH
3/4/2021

EXHIBIT A
AMENDED POLICY

T-40683\1796658
Council Agenda: 06-08-2021
Item No.: 10.3(d)

Exhibit A

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

US-101/Oakland/Mabury Transportation Development Policy

Adopted 12/18/2007 (Resolution No. 74195)
Superseded 12/18/2009 (Resolution No. 75141)
Superseded 6/2/2015 (Resolution No. 77365)
Superseded ###/###/##### (Resolution No. #####)

This Transportation Development Policy supersedes the policy adopted on June 2, 2015 by the San José City Council pursuant to Resolution No. 77365.

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.
- Address the phased payments for mitigation of traffic impacts by the Flea Market project on the US- 101/Oakland Road interchange based on the new zoning and development for the Flea Market project on the south side of Berryessa Road.
- Authorize flexibility in the use of funds to construct either Interchange in advance of the

other.

- Allow the LOS of signalized intersection 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]¹

Table 1: Existing² 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 (see attached), and the two regional transportation projects are as follows:

¹ References to documents upon which this Policy relies are cited and numbered accordingly at the end of this policy.

² There have been no significant changes affecting the LOS at these intersections since the 2007 traffic analysis (US- 101/Oakland Road & US-101/Mabury Road Interchanges Traffic Impact Fee Analysis) based on a comparison with the City's current LOS information.

- 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 costs 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 were originally estimated at \$20 million (in 2008 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 were originally estimated at \$49 million (in 2008 dollars).

The two interchanges are referred to in this TDP as the "Policy Interchanges" that are illustrated in Figure 1. 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).

These intersections are illustrated in Figure 1. 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 Capacity³

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

³ Available interchange capacity remains unchanged as the designs for the improvements remain the same as indicated in 2007 US-101/Oakland Road & US-101/Mabury Road Interchange Capacity Analysis, Final Report. Additionally, LOS at the Policy Intersections remains unchanged.

Improvements. A currently estimated total of \$80 million⁴ is required to fund the construction of the Planned Improvements with two funding sources already identified to contribute a total of \$44 million.⁵ One source is the regional funds pursued by the City and the Santa Clara Valley Transportation Authority (VTA) as part of the Valley Transportation Plan 2040 (VTP 2040) toward the construction of the US-101/Mabury Road interchange. This regional contribution is currently expected to be a \$35 million⁶ allocation. The City of San Jose would contribute \$9 million.⁷

Along with the adoption of this TDP, the City Council established a Traffic Impact Fee program to fund the currently estimated balance of the \$36 million⁸ 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 \$55,000,⁹ which amount is achieved by dividing the total currently estimated improvement cost of \$80 million¹⁰ by the total acquired PM peak hour capacity of 1462 trips [Ref. 3]. However, with the expected \$9 million and \$35 million contributions from the City and regional funding sources, respectively, only the balance of \$36 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 (in 2014 \$)

FUNDING SOURCE	AMOUNT
Traffic Impact Fee	\$36 million
Regional Funding	\$35 million
City of San Jose	\$9 million
TOTAL	\$80 million

6. Traffic Impact Fee

This TDP requires new residential and commercial development to make a fair-share contribution toward the construction cost of \$36 million based on the development capacity and

⁴ Increased from \$69 million in 2008 dollars.

⁵ Increased from \$38 million in 2008 dollars.

⁶ Increased from \$30 million in 2008 dollars.

⁷ Increased from \$8 million in 2008 dollars.

⁸ Increased from \$31 million in 2008 dollars.

⁹ Increased from \$47,000 in 2008 dollars.

¹⁰ Increased from \$69 million in 2008 dollars.

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 subject to the Traffic Impact Fee. The current fair share Traffic Impact Fee for each interchange trip is \$34,682,¹¹ calculated by apportioning \$36 million¹² 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 McGraw Hill. [Ref. 5]

7. The Flea Market Site

The Original Flea Market Zoning

The site commonly referred to as "The Flea Market site" is situated on approximately 120 gross acres on both the north side ("Flea Market North") and south side ("Flea Market South") 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 (collectively, "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 ("Original Flea Market Zoning"). The Original Flea Market Zoning allowed the construction of a combined 2,818 residential units and 265,000 square-feet of commercial on Flea Market North and Flea Market South. 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 ("Original Flea Market EIR"). The Original Flea Market EIR and the Original Flea Market Project required the developer to complete specified improvements to the US-101/Oakland Road Interchange at the time of approval of the 50th building permit for its project ("Traffic Mitigation Improvements").

However, in 2008 after the Traffic Impact Fee program was approved excluding the Flea Market Site, the developer notified the City that it desired to be included in the TDP. The developer desired to construct or pay for phased interchange improvement, pre-construction activities, and construction instead of constructing the Traffic Mitigation Improvements as originally required by the Original Flea Market Zoning. The developer's request resulted in the 2009 revision of this TDP to include the Flea Market Site and the phasing of construction of the Flea Market project, phasing of construction of the Traffic Mitigation Improvements or, in the alternative, making phased payments equal to the estimated costs of constructing the Traffic Mitigation Improvements.

¹¹ Increased from \$30,000 in 2008 dollars.

¹² Increased from \$31 million in 2008 dollars.

Because the Flea Market Site developer was required to construct the Traffic Mitigation Improvements as a condition of the Original Flea Market Zoning approval, because the Flea Market site was not included in the fee study for the traffic impact fee, 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(s) did not pay the traffic impact fee for the Original Flea Market Zoning. Instead, the developer was required to make phased payments equal to the estimated costs of constructing the Traffic Mitigation Improvements (“Traffic Mitigation Payments”). The Traffic Mitigation Payments totaled \$16 million (in 2008 dollars, subject to annual escalation in accordance with the Engineering News-Record Construction Cost Index for San Francisco published by McGraw Hill), and were subject to a payment plan that correlated with the phased construction of the Flea Market project.

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. PP07-1 72 ("TDP EIR") and addenda thereto, and also evaluated in the September 2009 Addendum to the Flea Market EIR under File No. PDC09-006 and further addenda thereto.

On June 2, 2015, the TDP was further amended by City Council through the adoption of Resolution 77365 to better align the phasing of construction or payments with the planned build-out of the Flea Market Site. In addition to changes of the phasing of construction or payments required under the TDP, the 2015 TDP amendment required the developer to advance an additional \$800,000 to support the City's continued efforts towards the PSR/PR and EIR's for the interchange improvements. The 2015 TDP amendment did not alter the total required Traffic Mitigation Payments.

Pursuant to the Original Flea Market Zoning, Flea Market North constructed 1,000 residential units and 118,580 square-feet of commercial space, and has built to the capacity allowed by the Original Flea Market Zoning. Pursuant to the 2015 TDP, the developer has paid approximately \$11.4 million (in 2008 dollars) of the \$16 million (in 2008 dollars) required Traffic Mitigation Payments. These payments satisfy the Flea Market Site's Traffic Mitigation Payment obligation for Flea Market North.

The Flea Market South Zoning

In August 2018, a Notice of Preparation of an Environmental Impact Report for rezoning of Flea Market South was prepared under File No. PDC17-051. On April 27, 2021, the City Council certified the Final Environmental Impact Report for the General Plan Amendment, rezoning, and development of the Flea Market South Site in Resolution No. _____ under File No. PDC17-051 (“Flea Market South EIR”), and adopted a General Plan Amendment and Planned Development Rezoning to allow up to 3,450 residential units, 3,400,000 square feet of commercial use, and

approximately 13.1 acres of public park/open space on the 61.5 acre Flea Market South site (“Flea Market South Zoning”). With respect to Flea Market South, the Flea Market South Zoning supersedes the Original Flea Market Zoning and, instead of making the Traffic Mitigation Payments, requires the new Flea Market South project to pay the Traffic Impact Fee in accordance with the Traffic Impact Fee program and this TDP.

Credits for Traffic Mitigation Payments

The Flea Market developer has requested that the City provide a credit to be applied against the Flea Market South’s Traffic Impact Fee due under the Traffic Impact Fee program and this TDP. The credit is based on the difference between the Traffic Mitigation Payments made in accordance with the 2015 TDP and the actual buildout of residential and commercial units on Flea Market North.

Therefore, the methodology in Table 4 shall be used to calculate the credit the Flea Market developer will receive toward the Traffic Impact Fee required to be paid for the Flea Market South Zoning.

Table 4. Trip Credit Calculation

Flea Market Traffic Mitigation Payment Obligation (2015 TDP)	\$16M
Flea Market Traffic Mitigation Payments Made (as of January 2020)	\$11.4M
Flea Market Traffic Mitigation Payments (Percentage of Total)	71%
Original Flea Market Zoning Trips to Mabury Road Interchange	730
Equivalent Trips Paid by Flea Market Traffic Mitigation Payments	518
Trips Produced by Flea Market North using City’s Travel Demand Model	327
Number of Trips to be Credited to Flea Market South Zoning TIF	191

The foregoing credit shall only be applied to the Traffic Impact Fee required to be paid pursuant to the Flea Market South Zoning. Any subsequent changes to the land use approvals for the Flea Market Site shall not be entitled to the credit absent City Council approval.

Nothing in this Section or this Policy shall require the City to approve any application for additional development permits, tentative subdivision maps, or any other land use approvals regarding the Flea Market site.

8. Applicability and Implementation to Development

Unless otherwise specified in this TDP, the 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.¹³ 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

¹³ Development on the Flea Market site may be required to partially pay amounts owing for mitigation through payment of the Traffic Impact Fee in accordance with Section 7 of this Policy.

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 5 below.

Table 5. 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 5 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 6.

Table 6: 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 7 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 7: 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 timing of financial contribution by the region is not set. In order to provide traffic operation benefits sooner, the City may accelerate construction of the Planned Improvements with other public funds. The advanced public funds shall be reimbursed by the Traffic Impact Fees collected from new development including Flea Market South, the Traffic Mitigation Payments collected for the Original Flea Market Zoning and from the regional funds once they are allocated.

The Traffic Impact Fee requirement of this TDP and the Traffic Mitigation Payments from the Flea Market developer(s) will expire when all Planned Improvements are fully funded and constructed. Notwithstanding the foregoing, in the event that public funds are advanced to accelerate the construction of the Planned Improvements, the Traffic Impact Fee requirement and the Traffic Mitigation Payments from the Flea Market Site developer(s) will expire when advanced public funds are fully reimbursed to the City.

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 Jose.
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 Jose.
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.



Figure 1: Policy Interchanges and Policy Interchange Intersections