

**ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR
THE SAN JOSÉ FLEA MARKET GENERAL PLAN AMMENDMENT &
PLANNED DEVELOPMENT REZONING PROJECT**
and to the
**KING AND DOBBIN TRANSIT VILLAGE AND US 101 -- OAKLAND/MABURY
TRANSPORTATION DEVELOPMENT POLICY EIR, AS ADDENDED**
April 2015

PURPOSE OF ADDENDUM

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they affect the conclusions in the environmental document.

In April 2007, the City of San José certified the Final Environmental Impact Report (FEIR) for the San José Flea Market General Plan Amendment and Rezoning project. The FEIR analyzed the redevelopment of the existing San José Flea Market site with a mixed use development to be built within the planned Berryessa Station Area Node¹ which surrounds the future Berryessa Bay Area Rapid Transit (BART) Station.

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. An 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.

In late 2007, the US 101 – Oakland/Mabury Transportation Development Policy (“TDP”) was adopted, which created a Transportation Development Policy and Traffic Impact Fee for the US 101/Oakland Road and US 101/Mabury Road interchanges. The TDP was analyzed in King and Dobbin Transit Village and US 101 – Oakland/Mabury Transportation Development Policy EIR (“TDP EIR”) (Resolution 74195.1, adopted 12/18/2007, as addended in September 2009 by File No. PDC09-006). The Flea Market project was specifically not included in the TDP.

¹ The San José General Plan defines BART Station Area Nodes as the area within a radius of 3,000 feet from a planned BART Station. The purpose of the BART Station Area Node is to direct transit-oriented and pedestrian-friendly land use development in close proximity to BART stations. BART Station Area Nodes are suitable for higher residential densities, intensive job generating uses, and mixed use development, which in turn should support BART ridership.

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 US-101/Oakland Road Interchange improvements at the time of approval of the 50th building permit for its project. This request from the developer resulted in the 2009 revision of the TDP to include the Flea Market Site and the phasing of construction of the Flea Market project, phasing of construction of the required US-101/Oakland Road interchange improvements or phased payments for the costs the US 101/Mabury Road interchange improvements.

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 TDP EIR and further evaluated in the September 2009 Addendum to the Flea Market EIR (File No. PDC09-006).

Additionally, as a condition of participation in the TDP, in 2010, the Flea Market Site developer obtained a master planned development permit from the City for the phased development of the entire Flea Market Site that is consistent with this TDP, which included phasing of commercial and residential development.

In 2014, the developer of the Flea Market Site notified the City that it desired to further modify the TDP to better align the phasing of construction or payments with the planned build-out of the Flea Market project site. The phasing scheme proposed includes two separate options that require the same level of monetary commitment to mitigate impacts from the project.

The TDP allows interim congestion at the following three Policy Interchange Intersections and four 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 temporary traffic impacts due to interim congestion were analyzed and disclosed in the TDP EIR. The changes proposed to the phasing of improvements related to the TDP do not increase the severity of temporary congestion impacts that were identified in the TDP EIR, because the TDP EIR analysis did not include a specified sequencing of the required improvements, and the temporary congestion impacts described in the EIR were not limited in duration.

The CEQA Guidelines Section 15162 states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines Section 15164 state that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in 15162 (see above) calling for preparation of a subsequent EIR have occurred.

CONCLUSION

Based on the above discussion, no substantive revisions are needed to either the 2007 San José Flea Market General Plan Amendment and Rezoning FEIR or the 2007 King and Dobbin Transit Village and US 101 -- Oakland/Mabury Transportation Development Policy EIR as addended by File No. PDC09-006, because no new significant impacts or impacts of greater severity would result from the modified Transportation Development Policy. Additionally, no changes in circumstances in the project area would result in new significant environmental impacts. Therefore, no further evaluation is required, and no

Supplemental or Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162. An Addendum has therefore been appropriately prepared, pursuant to Section 15164.

Pursuant to CEQA Guidelines 15164, this addendum will not be circulated for public review, but will be included in the public record file for the project.

for John Davidson
Harry Freitas, Director
Planning, Building, Code Enforcement

4/29/2015
Date