

Appendix A

Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING
FOR THE
FUNDING AND DELIVERY
OF THE
I-880/ROUTE 262 (MISSION BOULEVARD)/WARREN AVENUE/BART
ACCOMMODATION PROJECT IN FREMONT
AND
LOCAL ROADWAY IMPROVEMENT (OPTION 2) PROJECT IN FREMONT AND
UNION CITY
BY AND BETWEEN
THE ALAMEDA COUNTY TRANSPORTATION AUTHORITY, THE CALIFORNIA
DEPARTMENT OF TRANSPORTATION, AND THE CITIES OF UNION CITY AND
FREMONT**

This Memorandum of Understanding (MOU) between the Alameda County Transportation Authority (ACTA), California Department of Transportation (Caltrans), the City of Union City (Union City), and the City of Fremont (Fremont), dated effective for convenience on May 25, 2006, outlines the general commitment of funding and general roles and responsibilities of each agency for the development and delivery of the I-880/Route 262 (Mission Boulevard) Interchange Phase 1B/Warren Avenue/BART Accommodation Project ("Mission/I-880 Completion Project") and the Local Roadway Improvement Project ("Option 2") in Fremont and Union City. The Mission/I-880 Completion Project and Option 2 are both defined in Exhibit A, attached to and made an express part of this MOU.

This MOU constitutes solely a guide to the respective intentions and policies of the parties involved and is not an enforceable contract. Funding commitments to provide for the deposit of funds for specific work phases or project effort committing machine or personnel time will be covered by one or more separate cooperative agreements as may be necessary. Therefore, contingent on full support and consensus for the development and eventual construction of Option 2 by the Cities of Union City and Fremont, it is understood that:

CALTRANS

1. Caltrans is committed to work closely with ACTA and the Cities of Union City and Fremont using that flexibility provided by the approved AB 1462 to redirect funds from the sale of State-owned lands purchased for the Historic Parkway Project to instead fund State Highway improvements, in Alameda County as specified in AB 1462.
2. Caltrans will support directing up to \$42.35 million, derived from sale of State-owned lands in the Historic Parkway Corridor to fund the currently estimated \$42.35 million Mission/I-880 Completion Project funding needs.

3. Caltrans will support using other AB 1462 funding to rehabilitate and improve existing State Route 84 between I-880 and State Route 238 (Mission Boulevard) before relinquishing it to the City of Fremont, pursuant to section 73 of the Streets and Highways Code. The cost to relinquish will be established through the development of a Project Scope Summary Report (PSSR) to be prepared by Caltrans coordinated with the City of Fremont.

4. Caltrans will work with ACTA and the Cities of Fremont and Union City to utilize AB 1462 funding for State Route 238 (Mission Boulevard) in the vicinity of the Historic Parkway project so that Option 2 can be constructed utilizing previously committed local funds (Measure B funds and local matching funds).

5. Caltrans will work with ACTA, the Cities of Fremont and Union City, as well as other local and regional partners to develop a priority list of other State highway projects in Alameda County (as specified in AB 1462), in order to fully utilize any then remaining AB 1462 funds.

6. Caltrans will recommend that the California Transportation Commission (CTC) program State funding derived from the sale of State-owned land in the Historic Parkway Corridor for the Mission/I-880 Completion Project as part of the development of the list of priority projects on State Highways in accordance with AB 1462.

7. Caltrans agrees to relinquish existing Route 84 between I-880 and Route 238 (Mission Boulevard) to Fremont once funding becomes available and Caltrans completes its obligations to improve or rehabilitate that facility or relinquishes it to Fremont with CTC funding allocated to allow Fremont to perform that work of improvement or add betterments as authorized by the CTC.

8. Caltrans will work with the appropriate regional transportation planning agencies to expeditiously amend the regional traffic model to remove planned State Route 84 in the Historic Parkway Corridor between I-880 and State Route 238 (Mission Boulevard) and include Option 2 as the replacement project.

9. Caltrans will work with the Cities of Fremont and Union City to amend their respective General Plans to ensure that Caltrans' excess lands are appropriately zoned prior to sale.

10. Caltrans will not declare the State-owned lands located in Fremont and Union City as excess until such time the final environmental document ("EIR") for Option 2 is certified by the lead agency and Fremont and Union City have agreed to allow Option 2 to proceed to construction.

11. Caltrans will withdraw as the project sponsor for the State Route 84 project that is identified in the 1986 Measure B Expenditure Plan as soon as the amendment to that Expenditure Plan (modifying the Rt. 84 Project as described in this Agreement) has been approved.

12. Caltrans will thereafter proceed with the sale of the State-owned lands purchased for the Historic Parkway Project within the Historic Corridor and will return all proceeds to the State Highway Account if local consensus cannot be reached and Option 2 is not constructed by the date required by AB 1462.

ACTA

13. ACTA will program \$70 million of Measure B sales tax revenue, plus any interest earned on this amount (estimated to be \$3 million for a \$73 million total) and the proceeds from the sale of the property ACTA owns in the Route 84 historic alignment (estimated to be worth approximately \$15 million) for the delivery of Option 2. Neither Fremont nor Union City will be responsible for any Option 2 costs above the (approximate) \$88 Million to be committed by ACTA from these specific sources only.

14. ACTA will be the project sponsor of Option 2 and will take the lead in the project development, environmental review process and implementation process while adhering to all state and federal regulations for environmental review, but will utilize the appropriate city design standards for project development and construction for portions of the project roadway outside of the State Highway right of way. ACTA's Board will review and certify the final environmental document. Staff members from Caltrans, the Cities of Fremont and Union City, as well as others, will be a part of a technical advisory team to help define the scope and review the administrative draft of the EIR and guide project development. In addition, a policy committee comprised of a Caltrans representative and elected officials from Fremont, Union City and ACTA will also be formed to oversee project development.

- (a) The EIR will address, among other things, the following issues:
 - (i) How neighborhood traffic will access the new road.
 - (ii) How the new alignment adjacent to the creek will avoid significant impacts on the creek and mitigate those impacts it cannot avoid.
 - (iii) Documenting traffic mitigation benefits of the new alignment.
 - (iv) Using the most updated travel model for the traffic analysis.
 - (v) The relative sound levels on all adjacent residential neighborhoods.
 - (vi) Constructing sound walls as warranted by sound studies, along adjacent residential streets, including Decoto Road, Paseo Padre Parkway, and within the segment behind Mission Lakes and the following Union City streets of Mahogany Ln, Cascades Cir., Sandburg Dr., Chesapeake Ct., Sandburg Ct., Platinum St., Monterra Ter., Osprey Dr., Astor St., Clover St., Begonia St., Daffodil Way, Daisy St., and Oak Tree Ct.
 - (vii) Evaluating the affect of noise and traffic on existing homes fronting on Paseo Padre Parkway and others on Decoto Road, in the Mission Lakes Subdivision, and on the following Union City streets of Mahogany Ln, Cascades Cir., Sandburg Dr., Chesapeake Ct., Sandburg Ct., Platinum St., Monterra Ter., Osprey Dr., Astor St., Clover St., Begonia St., Daffodil Way, Daisy St., and Oak Tree Ct., potential mitigation, and appropriate remedies, including possible acquisition of these homes.

- (viii) Providing funding for double-pane windows for houses along the Option 2 route where needed to meet noise requirements identified in the EIR.
- (b) The following potential alternatives, with the appropriate level of information, will be included in the environmental document:
 - (i) Option 2.
 - (ii) Option 2 with two access points for new homes behind existing Mission Lakes development.
 - (iii) Option 2 with access point(s) to Union City neighborhoods.
 - (iv) Historic alignment in Union City up to Alvarado-Niles Road.
 - (v) TSM (which may summarize results from previous EIR/S for comparison purposes).
- (c) In designing the project, ACTA will consider the following respective concerns of Fremont and of Union City:
 - Fremont:
 - (i) An alignment that will not move any closer to the Mission Lakes neighborhood than was generally shown at the Option 2 community meetings, keeping the roadway alignment as far from existing Mission Lakes homes as physically and environmentally possible.
 - (ii) Providing reasonable median improvements, including landscaping and irrigation, throughout the alignment on Decoto, Paseo Padre Parkway, and along the historic alignment within Fremont.
 - (iii) The upgrade of intersections at Fremont/Decoto and Decoto/Paseo Padre in order to optimize capacity and traffic flow.
 - Union City:
 - (iv) An alignment that will move farther from Union City neighborhoods than was generally shown at the Option 2 community meetings, keeping the roadway alignment as far from existing adjacent homes in Union City as physically and environmentally possible.
 - (v) Providing reasonable median improvements throughout the alignment and on Mission Boulevard.

For both Cities:

- (vi) Making all traffic signals within the Option 2 alignment interconnected and connecting those signals to each city's Traffic Management Center.

15. ACTA is committed to initiate an amendment to the 1986 Measure B Expenditure Plan to replace the Route 84 Historic Parkway with Option 2.

16. ACTA supports Caltrans' position on local consensus and these proposed uses of the sale proceeds from State-owned land.

17. ACTA, as the project sponsor, will acquire the right of way needed to construct Option 2 that is owned by Caltrans, the City of Fremont, and Union City at fair market value, appraised at its highest and best use.

18. ACTA will advance funds for the construction of the Mission/I-880 Completion Project to the extent allowed by its Capital Budget, provided that the provisions for repayment of any such advance include a reasonable interest rate, sufficient security and that such advance does not negatively impact ACTA's ability to fully fund Option 2 if it is approved by Fremont and Union City, or all elements of the Union City Segment if Option 2 is not approved by Fremont and Union City. In no event shall such advance exceed \$20 million [as stated in Section 37(c)] plus any excess 1986 Measure B funds from Phase 1A unless and until Fremont has accepted the final environmental document for Option 2 and commits to allow Option 2 to proceed to construction. Other terms of such an advance, consistent with the provisions of this section, will be the subject of a separate agreement among Caltrans, ACTA, Santa Clara Valley Transportation Authority and Fremont ("Mission/880 Interchange Coop").

UNION CITY

19. Union City will agree to pay its fair share of the required local match, which share shall be determined by the ratio of lane mileage of new roadway within Fremont and Union City.

20. Union City will have the right to review and comment on the Mission/880 Interchange Coop before it is finalized.

21. Union City will support efforts to ensure that the environmental impact studies will be conducted fairly and equitably, without bias for or against either Fremont or Union City.

22. Union City will formally consider the construction of Option 2 contingent upon its review and acceptance of the environmental document and mitigation of potential significant impacts of the project or findings of overriding considerations, which shall be made in Union City's sole discretion, all as required by applicable state and federal regulations and procedures.

CITY OF FREMONT

23. Fremont will fairly and openly consider the environmental review and project development of Option 2.

24. Fremont will support efforts to ensure that the environmental impact studies will be conducted fairly and equitably, without bias for or against either Fremont or Union City.

25. Fremont will formally consider the construction of Option 2 contingent upon its review and acceptance of the environmental document and mitigation of potential significant impacts of the project or findings of overriding considerations, which shall be made in Fremont's sole discretion, all as required by applicable state and federal regulations and procedures.

26. Fremont agrees that if it does not agree to allow Option 2 to proceed to construction, Caltrans will no longer be obligated to contribute \$42.35 million to the Mission/880 Interchange Project and Caltrans may proceed with the sale of State-owned lands governed by AB 1462 and all proceeds of such sales will flow to the State Highway Account.

27. Fremont agrees that if it does not accept the final environmental document for Option 2 and does not allow Option 2 to proceed to construction, Fremont will refund all the proceeds, plus interest, derived from the sale of the State-owned lands that were expended by any party on the Mission/I-880 Completion Project with the written permission of Fremont pursuant to the terms of the Mission/880 Interchange Coop.

28. Fremont agrees to accept relinquishment of existing Route 84 between I-880 and Route 238 (Mission Boulevard) once funding becomes available. The facility will be subject to negotiations between Caltrans and Fremont with respect to any required betterments or improvements deemed necessary by the parties, the cost of which shall be paid from project funds or other funding available from Caltrans, subject to the determination of the CTC that such an allocation of funding is in the best interest of the public or the State in accordance with section 73 of the Streets and Highways code.

29. Fremont will not be required to pay any portion of the local match for the Project.

ALL PARTIES

30. All parties understand that the environmental document for Option 2 shall include the Historic Parkway Segment in Union City as an alternative, and that the Union City Segment will be implemented if Option 2 is not chosen as the preferred alternative at the conclusion of the environmental process.

31. All parties agree that the optimal alignment of the Option 2 project between Alvarado Niles Road and Paseo Padre Parkway shall be based upon the best traffic engineering standards, taking into account environmental impacts and community concerns.

32. All parties will work cooperatively to fund and deliver both Option 2 and the Mission/I-880 Completion Project.

33. All parties will support the full and fair evaluation of Option 2 and, subject to the discretionary certification or acceptance of the Environmental Impact Report, endorse an Amendment to the 1986 Measure B Expenditure Plan to replace the Route 84 Historic Parkway with Option 2.

34. Conditioned upon Option 2 proceeding to final design and construction, all parties will support the use of AB 1462 funds for the Mission/880 Interchange Project, for improving existing State Route 84 prior to relinquishment as provided in this Agreement and for use on Route 238 at the intersection with Option 2, and then for the other parts of State Route 238 related to Option 2 in Union City and Fremont, and after those uses for a priority list of projects

to be developed by ACTA, Fremont, Union City and Caltrans, as previously described in this Agreement.

35. If any party does not approve or accept the Environmental Impact Report, then all parties will endorse an Amendment to the 1986 Measure B Expenditure Plan to replace the Route 84 Historic Parkway with another project that incorporates the elements described in Section 38 below.

36. All parties will support reprogramming \$10 million of State Transportation Improvement Program (STIP) funds previously programmed for the Route 84 Historic Parkway Project to Option 2. ACTA will sign the PSR/PR that is required by the use of STIP funds on Option 2, providing that all parties have certified or accepted the EIR.

37. All parties will cooperate with Fremont if it takes action to ban trucks on the Option 2 alignment within the Fremont City limits.

38. All parties understand that if at the end of the environmental process for Option 2, which will be conducted fairly and equitably in adherence with state and/or federal environmental guidelines and regulations and ACTA has certified the environmental document in accordance with this MOU, that if there is no local consensus to move the project into the final design and eventual construction phases, the following actions will occur:

- (a) ACTA will program \$46 million in Measure B funds to Union City to complete the portion of the Historic Parkway in that City.
- (b) ACTA will program \$9 million in Measure B funds for the mitigation of potential impacts from constructing the Union City segment of the Historic Parkway.
- (c) ACTA will program the remaining funds from the sources described in Section 13 above among the Cities of Newark, Union City, and Fremont based on the roadway mileage and population formula, resulting in about \$4.2 million for Newark, \$5.8 million for Union City, and \$20.0 million for Fremont (or the equivalent percentages based on the actual money available). Once these funds are redistributed, no further Measure B funding would be available for any projects in this Tri-City area and no additional 1986 Measure B funds will be available for the Mission/I-880 Completion Project.
- (d) Any AB 1462 funds expended on the Mission/I-880 Completion Project would be returned to Caltrans by the jurisdiction that does not approve Option 2.
- (e) All proceeds from the sale of State owned lands will be returned to the State Highway Account.
- (f) Measure B funds expended on the environmental clearance effort of Option 2 will be deducted from the portion of the \$30 million of Measure B funds that would be programmed to the jurisdiction that does not approve Option 2.

SIGNATURE PAGE

(One Page per Agency)

ALAMEDA COUNTY TRANSPORTATION AUTHORITY

By: _____

Christine Monsen, Executive Director

Date of Execution: _____

SIGNATURE PAGE

(One Page per Agency)

CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: _____

Bijan Sartipi, District 04 Director

Date of Execution: _____

SIGNATURE PAGE
(One Page per Agency)

CITY OF FREMONT

By: _____
Fred Diaz, City Manager

Date of Execution: _____

SIGNATURE PAGE

(One Page per Agency)

CITY OF UNION CITY

By: _____

Larry Cheeves, City Manager

Date of Execution: _____

EXHIBIT A

Mission/I-880 Completion Project

The Mission/I-880 Completion Project proposes to complete several elements of the current project to reconstruct the I-880/Mission Boulevard (Route 262) Interchange and widen the I-880 Freeway. These elements are technically integrated and interdependent and cannot be implemented individually without substantial staging and cost impacts as well as having the potential of railroad denial of approval and will include the following:

1. Widening of Mission Boulevard (Route 262) to six lanes from Warm Springs Boulevard to I-880.
2. Reconstruction of the Kato on and off-ramps connecting Warm Springs Boulevard to the widened Mission Boulevard.
3. Construct a new replacement railroad underpassing structure to carry Union Pacific Railroad rail traffic.
4. Construct a new railroad underpassing structure to carry BART rail traffic.
5. Construct two new grade separated railroad underpassing structures over the existing Warren Avenue, one underpassing structure for BART and the other for UPRR.
6. Reconstruct the portion of the Warren Avenue that would be affected by the grade separation.
7. Relocation of an existing truck-rail transfer facility located southerly and adjacent to Warren Avenue.
8. Construct and reconstruct all necessary railroad tracks and railroad facilities to provide for continuous railroad and BART operating facilities between Mission Boulevard (Route 262) and Warren Avenue.
9. Relocate and/or remove all existing structures and utilities to accomplish all of the above.

EXHIBIT A (cont.)

Option 2

Option 2 Project proposes to construct the following, at a minimum:

1. Provide one additional lane in each direction on Decoto Road between (approximately) I-880 and Paseo Padre Parkway
2. Provide one additional lane in each direction on Paseo Padre Parkway between Decoto Road and the approximate location of the Historical Parkway Corridor.
3. Provide intersection improvements on Decoto Road and Paseo Padre Parkway as required by the traffic technical studies and the environmental document to be prepared for the Option 2 project.
4. Construct a new 4 lane roadway between Paseo Padre Parkway and Mission Boulevard (Route 238) with median and shoulders width appropriate for this type of facility.
5. Construct grade separated underpassing structures between the new 4-lane roadway and the existing BART and UPRR railroad tracks.
6. Construct all intersection improvements on the new 4-lane roadway between Paseo Padre Parkway and Mission Boulevard, inclusive of new intersections at Paseo Padre Parkway, Alvarado Niles Road and Mission Boulevard. Additional intersection(s) with the new 4-lane roadway may be added during the environmental phase of the project development.
7. Construct appurtenance drainage facilities required for the project.
8. Construct noise barriers where required by the environmental document.
9. Where possible, Option 2 can be constructed in phases. The new 4-lane roadway segment between Alvarado-Niles Road and Mission Boulevard could be considered (and defined as) the initial phase of Option 2 project to move forward into final design and construction.

