

**AMENDMENT NO. 1
TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF SAN LEANDRO
AND
THE ALAMEDA COUNTY TRANSPORTATION COMMISSION
FOR
THE WESTGATE/DAVIS STREET AND SOUTHBOUND I-880 HOV LANE IMPROVEMENTS**

This AMENDMENT NO. 1, made and entered into by and between the CITY OF SAN LEANDRO (“COSL”) and the ALAMEDA COUNTY TRANSPORTATION COMMISSION (“ALAMEDA CTC”), is dated for reference purposes only as of the 23rd day of October, 2014.

RECITALS

WHEREAS, ALAMEDA CTC and COSL (“PARTIES”) entered into a Memorandum of Understanding (“MOU”) to coordinate activities and responsibilities involving the Westgate/Davis Street improvements, Davis Street Interchange Improvement Project, the I-880 Southbound HOV Lane project, and the major improvements at the I-880/Davis Street Interchange and the I-880/Marina Boulevard Interchange together referred to herein as “PROJECT”, in order to provide an enhanced experience for motorists that travel the I-880 corridor and to reduce the disruption of traffic and inconvenience to residents of San Leandro and Alameda County;

WHEREAS, COSL has requested hardscape slope paving improvements and other necessary improvements (together, “IMPROVEMENTS”) be incorporated into the PROJECT at an estimated design and construction cost of \$2,000,000;

WHEREAS, COSL has requested the programming of \$2,000,000 Congestion Management Agency Transportation Improvement (“CMA TIP”) program funds to the PROJECT to be used to fund the IMPROVEMENTS;

WHEREAS, the \$2,000,000 of CMA TIP program funds will be derived from (1) a shift of \$1,000,000 of CMA TIP program funds from the E. 14th St./Hesperian Blvd./150th St. Intersection Improvement Project (CMA TIP Project No. 350.3) to the I-880 Southbound HOV Lane Project (CMA TIP Project No. 102.7) and (2) an exchange of \$1,000,000 COSL local funds for CMA TIP funds to be allocated to the PROJECT;

WHEREAS, COSL receives DLD funds from ALAMEDA CTC which are deemed to be local funds and which are eligible to support the activities of the PROJECT; and

WHEREAS, this AMENDMENT NO. 1 was authorized by the governing body of the ALAMEDA CTC at its October, 2014 meeting;

NOW THEREFORE, the PARTIES mutually understand and agree to the following:

**SECTION I
INTRODUCTION**

- 1.1 The Recitals above are true, correct and made a part hereof.
- 1.2 This AMENDMENT NO. 1 shall be legally binding on the PARTIES, and by executing the same, each PARTY hereby acknowledges that its governing body has given all approvals necessary therefor.
- 1.3 Except as amended hereby, all terms and conditions of the MOU will remain in full force and effect.

**SECTION II
IT IS MUTUALLY AGREED:**

- 2.1 COSL will provide \$1,000,000 in local funds comprised of the approximate amounts shown in APPENDIX A, attached hereto and by this reference incorporated herein. Commencing in July 2015, COSL authorizes ALAMEDA CTC to retain future DLD funds from each of the DLD categories shown in APPENDIX A until the \$1,000,000 commitment has been met through a combination of a payment of local funds from COSL to ALAMEDA CTC and the retention of DLD funds by ALAMEDA CTC. On a quarterly basis, ALAMEDA CTC will provide a complete accounting of the monthly DLD retention.
- 2.2 ALAMEDA CTC shall program \$2,000,000 CMA TIP program funds to the I-880 Southbound HOV Lane Project.
- 2.3 ALAMEDA CTC shall use such funds to design and construct the IMPROVEMENTS.
- 2.4 If the total cost to design and construct the IMPROVEMENTS is less than \$2,000,000, ALAMEDA CTC shall reduce the CMA TIP programming and COSL's obligation to repay local funds accordingly, and return any excess DLD funds retained by ALAMEDA CTC to COSL. Any cost increases above this design and construction estimate will be the responsibility of COSL and funding for the same will be incorporated into this MOU by a further written amendment.
- 2.5 This MOU as amended hereby, in conjunction with any and all agreements between COSL and ALAMEDA CTC regarding DLD funds, contains the entire understanding between the PARTIES regarding the PROJECT, and no oral understanding or agreement not incorporated herein or therein shall be binding on any of the PARTIES hereto.

[signatures on following page]

APPENDIX A

COSL LOCAL FUNDS SUMMARY

Source of Funds	Monthly Retentions ²	Estimated Monthly Amount	Total
Marina Blvd. Interchange Impact Fees (First Local Payment) ¹	N/A	N/A	\$300,000
Measure B (Local Streets and Roads)	4	\$110,000	\$440,000
VRF	4	\$30,000	\$120,000
Measure BB (Local Streets and Roads)	2	\$75,000	\$150,000
Total:			\$1,000,000

Note:

1. COSL shall make the First Local Payment by no later than June 15, 2015. Amount shown is estimated.
2. Retention of COSL DLD is anticipated to begin July 2015. The number of monthly retentions required will depend upon the actual monthly amounts available from each fund category and the actual amount of First Local Payment.