

**FUNDING AGREEMENT
BETWEEN THE COUNTY OF SANTA CLARA AND
THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
FOR 2010 MEASURE B VEHICLE REGISTRATION FEE COUNTYWIDE PROGRAM**

This Agreement (“**Funding Agreement**”) between the County of Santa Clara, a political subdivision of the state of California, (“**Grantee**”), and the SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, a public agency, (“**VTA**”) is made and effective as of (“**Effective Date**”).

RECITALS

- A. WHEREAS**, in November of 2010, the voters of Santa Clara County authorized a TEN DOLLAR (\$10) increase in the Vehicle Registration Fee (“**VRF**”) (“**Program**”) for transportation-related projects and adopted an expenditure plan which allocates the revenue to transportation-related programs and projects that have a relationship or benefit to the persons who pay the fee;
- B. WHEREAS**, the VTA Board of Directors (“**VTA Board**”) has adopted administrative procedures for the Program;
- C. WHEREAS**, these administrative procedures state that VTA will execute program funding agreements with project grantees;
- D. WHEREAS**, the Program includes within it a “Countywide Program” that includes Intelligent Transportation System (“**ITS**”) technologies as an eligible project category;
- E. Whereas**, on November 2, 2023, the VTA Board approved VRF ITS funds for the Installation of Pedestrian Detection Sensors and Replacing Inactive Existing Traffic Video Cameras at three intersections on Lawrence Expressway within Santa Clara County (“**Project**”); and,
- F. Whereas**, each party hereto (“**Party**”) desires to specify the terms and conditions under which VRF ITS PROJECT grants are conducted and financed.

NOW, THEREFORE, in consideration of the mutual promises contained herein, each Party (collectively referred to as the “**Parties**”) agrees as follows:

AGREEMENT

- 1. Grant of VRF Funds.** VTA hereby agrees to allocate to Grantee, a grant (“**Grant**”) in an amount not to exceed five hundred thousand dollars (\$500,000) (“**Maximum Grant Amount**”). Said Grant is provided to Grantee in return for Grantee’s agreement to implement the Project. The use of Project funds is for installation of pedestrian detection sensors and replacing inactive existing traffic video cameras at three intersections on Lawrence Expressway (Homestead, Lehigh and Moorpark), including Grantee’s staff support

that should not exceed 10% of the Maximum Grant Amount. Approved Project elements and costs are shown on Table 1 of Exhibit A attached hereto and incorporated by reference.

2. **Term.** The term of this Funding Agreement shall commence on the Effective Date (as defined as the last execution date in the signature block below) and shall continue until the earlier of: (i) the date that the Project is completed or terminated; or (ii) 5:00 p.m. (Pacific Standard Time) on December 31, 2025.

Any requests for additional time to complete Project beyond December 31, 2025 must be submitted in writing to VTA no later than 5:00 p.m. (Pacific Standard Time) on October 1, 2025 and document that significant progress has been made on the Project. VTA may approve or deny such requests in its sole discretion. Written approval of the extension request by VTA shall state the extension term of this Funding Agreement.

3. **Invoicing and Payment.**

- a. Grantee shall submit invoices at quarterly intervals to VTA for reimbursement of eligible costs incurred to implement the Project commencing on the Effective Date. Grantee shall include auditable back-up documentation (time sheets, bills, etc.) with each invoice.
- b. VTA shall reimburse Grantee's Project-eligible costs up to the Maximum Grant Amount. VTA will allocate to Grantee the VRF funds only on a cost reimbursement basis and only for documented eligible costs of the Project.
- c. VTA shall, within twenty (20) calendar days after receipt of an invoice that conforms to the requirements set forth in this Funding Agreement, reimburse Grantee for all eligible expenditures not reimbursed by other Project funding up to the Maximum Grant Amount.
- d. Grantee shall submit bi-annual reports of Grantee's expenditures of Program funds and associated interest. Each report will provide Project status to date and a status update for uncompleted tasks. Reports are due from Grantee to VTA no later than April 15 and October 15 of each year as a condition of receiving funds. Grantee should include photographs to document work performed as appropriate and requested by VTA.

4. **Naming of Project Liaison.** Grantee's Project liaison ("Liaison") is as follows: Thien Pham, Senior Civil Engineer, County of Santa Clara, Roads and Airports Department, 1505 Schallenberger Road, San José, CA 95131, thien.pham@rda.sccgov.org, 408-494-1326. The Liaison shall be the liaison to VTA pertaining to implementation of this Funding Agreement and shall be the contact for information about the Project. Grantee shall notify VTA in writing of any change of Liaison or of the Liaison's contact information. Where possible, such notification shall be delivered to VTA no later than thirty (30) days prior to the date of any change.

5. **Maintenance of Records.** Grantee shall maintain Project financial records, books, documents, papers, accounting records, and other evidence pertaining to costs for five (5) years after the Project's completion. Grantee shall make such records available to VTA upon request for review and audit purposes. Financial audits will be performed at VTA's discretion. VTA will notify Grantee in writing in advance of any audit or other Project review.
6. **Credit of Funding Contribution.** Grantee shall include a reference to VTA's funding contribution on all signage, as well as electronic or printed materials related to the Project that are distributed to the public. VTA shall provide a copy of VTA logos to Grantee for use in complying with the requirement of this provision.
7. **Indemnities.** In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code section 895.6, the Parties agree that all losses or liabilities incurred by each Party shall not be shared pro rata but, instead, County and VTA agree that, pursuant to Government Code Section 895.4, each Party hereto shall fully indemnify and hold each of the other Party, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No Party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Party hereto, their officers, board members, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such other Party under this Agreement.
8. **Changes to Terms of Agreement.** No amendment, alteration, or variation of the terms of this Funding Agreement shall be valid unless made in writing and signed by both of the Parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
9. **Entire Agreement.** This Funding Agreement represents the full and complete understanding of the Parties with respect to the Project. Any prior or contemporaneous oral or written agreements by and between the Parties or their agents and representatives with respect to the subject matter of this Funding Agreement are revoked and extinguished hereby.
10. **Assignment.** Grantee shall not assign this Funding Agreement without the prior written authorization of the VTA. Any assignment made in the absence of such authorization shall be deemed void *ab initio* and without legal effect.
11. **Binding on Successors and Assigns.** This Funding Agreement shall be binding upon each Party and any of its successors and/or permitted assigns.

- 12. Notices.** Each Party shall give any notice which may be required under this Funding Agreement in writing. Such notice shall be effective when received, and shall be given by personal service, by the U.S. Postal Service or by certified mail, to the addresses set forth below, or to such addresses which may be specified in writing by the Parties hereto.

To VTA:

Deborah Dagang
Director of Planning and Program Development
Santa Clara Valley Transportation Authority
3331 North 1st Street
Building B2
San José, CA 95134

To GRANTEE:

Harry Freitas
Director of Roads and Airports
County of Santa Clara
101 Skyport Drive
San José, CA 95110

- 13. Signature Authority.** Each Party to this Funding Agreement represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this Funding Agreement on its behalf.
- 14. No Waiver.** The failure of either Party to insist upon the strict performance of any of the terms, covenants and conditions of this Funding Agreement shall not be deemed a waiver of any right or remedy that either Party may have, and shall not be deemed a waiver of their right to require strict performance of all of the terms, covenants, and conditions thereafter.
- 15. Dispute Resolution.** If a question arises regarding interpretation of this Funding Agreement or its performance, or the alleged failure of a Party to perform, the Party raising the question or making the allegation shall give written notice thereof to the other Party. The Parties shall promptly meet in an effort to resolve the issues raised. If the Parties fail to resolve the issues raised, alternative forms of dispute resolution, including mediation, may be pursued by mutual agreement. It is the intent of the Parties to the extent possible that litigation be avoided as a method of dispute resolution.
- 16. Choice of Law; Venue.** This Funding Agreement shall be construed and its performance enforced under California law. In the event that suit shall be brought by either Party to this Funding Agreement, the Parties agree that venue shall be exclusively vested in the State courts in Santa Clara County, or if federal jurisdiction is appropriate, exclusively in the United States District Court for the Northern District of California, in San José, California.

17. **Interpretation of this Funding Agreement.** The doctrine that ambiguities in an agreement should be resolved against the drafting party shall not be employed in connection with this Funding Agreement, which shall be interpreted in accordance with its fair meaning.
18. **Counterparts.** This Funding Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

Signatures of Parties begin on following page.

IN WITNESS WHEREOF, the Parties have executed this Funding Agreement as of the date shown below:

**COUNTY OF SANTA CLARA
(GRANTEE)**

**SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY
(VTA)**

DocuSigned by:
Greg Richardson
16A7C55F42334A8...

Susan Ellenberg
President, Board of Supervisors

Carolyn Gonot
General Manager/CEO

Date: _____

Date: 1/18/2024

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisor.

ATTEST:

By: _____
Curtis Boone
Acting Clerk of the Board of Supervisors

Approved as to Form and Legality:

DocuSigned by:
John A. Castro 1/31/2024

John A. Castro, Deputy County Counsel

Approved as to Form:

DocuSigned by:
Ed Moran 1/18/2024

Ed Moran, Senior Assistant Counsel

Exhibit A

Table 1 – Proposed VRF Project Elements & Costs

Project Element	No. of Units	Cost per Unit	Total Cost
<i>County</i>			
Pedestrian Sensors at Signalized Crosswalks	11	\$ 22,727	\$ 250,000
12 Traffic Video Cameras at Intersections	3	\$ 83,333	\$ 250,000
Subtotal			\$ 500,000