

AMENDED AND RESTATED FUNDING AGREEMENT
BETWEEN
TOWN OF LOS GATOS
AND
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
FOR
2016 MEASURE B BICYCLE & PEDESTRIAN EDUCATION AND ENCOURAGEMENT PROGRAM

THIS AMENDED AND RESTATED FUNDING AGREEMENT ("AGREEMENT") is entered into as of July 1st, 2025 ("EFFECTIVE DATE") and is by and between the TOWN OF GATOS ("RECIPIENT") and SANTA CLARA VALLEY TRANSPORTATION AUTHORITY ("VTA"). RECIPIENT and VTA may be individually referred to as "PARTY" or collectively referred to as "PARTIES."

I. RECITALS

1. Whereas, on June 24, 2016, the VTA Board of Directors ("VTA BOARD") adopted a resolution to place a ballot measure before the voters of Santa Clara County ("SCC") in November 2016 to authorize a one-half of one percent retail transaction and use tax ("2016 MEASURE B") for 30 years for nine transportation-related program categories;
2. Whereas, on November 8, 2016, the voters of Santa Clara County enacted 2016 MEASURE B for 30 years to pay for the nine transportation-related program categories;
3. Whereas, on October 5, 2017, the VTA BOARD established the 2016 Measure B Program ("PROGRAM") and adopted the 2016 Measure B Program Category Guidelines ("GUIDELINES"). In addition, VTA established a program manual ("PROGRAM MANUAL"). Both the GUIDELINES and the PROGRAM MANUAL are incorporated into this Agreement by this reference and available at www.vta.org or upon request to VTA;
4. Whereas, the PROGRAM includes a Bicycle & Pedestrian program category ("BIKE/PED CATEGORY") to fund bicycle and pedestrian projects and educational programs;
5. Whereas, the BIKE/PED CATEGORY consists of three sub-categories, including the education & encouragement program ("BIKE/PED E&E PROGRAM");
6. Whereas, the duration of 2016 MEASURE B will be 30 years from the initial year of collection, beginning April 1, 2017, and continuing through March 31, 2047;
7. Whereas, the PARTIES executed a funding agreement for the BIKE/PED E&E PROGRAM funds on December 20, 2019 which expires on June 30, 2025 ("PRIOR AGREEMENT"); and
8. Whereas, the PARTIES desire to amend and restate the PRIOR AGREEMENT to, among other things, specify the terms and conditions under which VTA will administer BIKE/PED E&E PROGRAM funds allocated to VTA and RECIPIENT through the life of the PROGRAM.

NOW, THEREFORE, in consideration of the mutual promises contained in this AGREEMENT, the PARTIES agree as follows:

II. AGREEMENT

1. BIKE/PED E&E PROGRAM DEFINITION

The BIKE/PED E&E PROGRAM covers activities and the development and distribution of materials that are designed and intended to satisfy the following goals within RECIPIENT's jurisdiction: (i) promote, educate, and/or encourage safe walking or bicycling for residents or visitors of every age and ability; (ii) communicate to residents and visitors the benefits of walking and bicycling; and (iii) communicate to school children, residents, and visitors the rights and responsibilities of pedestrians, bicyclists, and motorists.

2. TERM OF AGREEMENT

The term of this AGREEMENT will commence on the EFFECTIVE DATE and continue through March 31, 2047, or until BIKE/PED E&E PROGRAM CATEGORY funds allocated to RECIPIENT have been expended entirely, whichever occurs later.

Notwithstanding the foregoing, the PARTIES may terminate this AGREEMENT pursuant to Section II, Paragraph 13.

3. ELIGIBLE USE OF FUNDS

A. RECIPIENT may use RECIPIENT's allocated BIKE/PED E&E PROGRAM funds only for activities/projects that (i) are offered/available to individuals who live, work, or attend school in RECIPIENT'S boundaries or school districts, and (ii) VTA has pre-approved in writing (each, an "E&E PROJECT"). Only VTA's AUTHORIZED REPRESENTATIVE (defined in Section II, Paragraph 15 below), or designee, has authority to approve an E&E PROJECT.

B. VTA will consider for approval the following types of activities / projects:

- i.** Organization and implementation of K-12 Safe Routes to Schools programs and activities.
- ii.** Organization and implementation of Vision Zero programs. "Vision Zero" is defined by the Vision Zero Network campaign as the "Strategy to eliminate all traffic fatalities and severe injuries while increasing safe, healthy, equitable mobility for all," which definition is adopted for purposes of this AGREEMENT.
- iii.** Organization and implementation of open streets events. "Open streets events" are defined by the Open Streets Project (an advocacy project and collaboration between 80 Cities and Street Plans) as "Programs that temporarily open streets to people by closing them to cars," which definition is adopted for purposes of this AGREEMENT.
- iv.** Creation and implementation of marketing to encourage mode shift towards active transportation.
- v.** Development and distribution of maps that promote places to walk or bike.
- vi.** Education of walking and bicycling skills to adults and children.
- vii.** Working with law enforcement officials to ensure common understanding and consistent application among law enforcement officials of traffic laws related to biking and walking.
- viii.** Organization and implementation of broad or targeted safety campaigns to promote safe driving, walking, and bicycling behavior.*

- ix. Creation and distribution of marketing materials to encourage safe walking, biking, and driving.*
- x. Purchase and distribution of bicycle helmets, lights, reflective vests, or other bicycle/pedestrian safety equipment to be used in education/encouragement activities.
- xi. Purchase and distribution of incentives for education/encouragement activities.
- xii. Organization and implementation of crosswalk stings or other activities that educate roadway users on traffic laws. Crosswalk stings are activities conducted by law enforcement to educate the public about crosswalk right of way laws that may or may not include citations.
- xiii. Organization and implementation of special community events focused on achieving the BIKE/PED E&E PROGRAM goals described in Section II, Paragraph 1, such as community rides or walks.
- xiv. Energizer stations and other Bike to Wherever Day activities.
- xv. Implementation of valet bicycle parking.
- xvi. Community-based bicycle/pedestrian surveys of facilities and surrounding areas to learn, observe, and identify bicycle and pedestrian hot spots.
- xvii. Any other program or activity VTA pre-approves in writing.

*Any safety campaign or public service announcement targeted to motorists must focus on safe, responsible, and respectful motorist interactions with pedestrians and bicyclists.

- C. RECIPIENT is permitted to use BIKE/PED E&E PROGRAM funds allocated for (i) direct costs and staff time costs incurred by RECIPIENT to support E&E PROJECTS, and (ii) costs incurred for evaluation of the E&E PROJECTS (as required under Section II, Paragraph 4).
- D. Notwithstanding any other provision of this AGREEMENT, RECIPIENT is not permitted to use BIKE/PED E&E PROGRAM funds for capital improvements.
- E. E&E PROJECTS may be targeted and limited to specific demographics including, but not limited to, school children, seniors, or people with disabilities to the extent not prohibited by applicable law.
- F. Only BIKE/PED E&E PROGRAM costs incurred by RECIPIENT on or after July 1, 2017, will be eligible for reimbursement.

4. EVALUATION REQUIREMENTS

- A. RECIPIENT must identify (i) the project reach and scale of each E&E PROJECT and (ii) one or more metric(s) that will be used to evaluate whether the goal was achieved. Examples of acceptable metrics are set forth in Attachment A, attached hereto and incorporated herein.
- B. RECIPIENT must identify and obtain VTA's prior written approval of the frequency and schedule of each E&E PROJECT evaluation.

5. MAXIMUM FUNDING ALLOCATIONS

- A. RECIPIENT'S maximum funding allocation for each fiscal year (July 1st through June 30th of the following calendar year) will be based upon the VTA BOARD's Adopted Biennial Budget for the BIKE/PED E&E PROGRAM and the annual fund distribution formula described below.
- B. **Annual Fund Distribution Formula.** The BIKE/PED E&E PROGRAM annual fund distribution formula is calculated every two fiscal years (in line with VTA's budget cycle) and is based on the following:
- i. First, at the same time that VTA plans and finalizes its budget for the two upcoming fiscal years, the VTA BOARD determines the allocation of 2016 MEASURE B funds for the two upcoming fiscal years.
 - ii. Second, the VTA BOARD determines the amount of 2016 MEASURE B funds to be allocated amongst the PROGRAM categories and subcategories, including the BIKE/PED E&E PROGRAM CATEGORY.
 - iii. Third, an allocation is made to VTA and the County of Santa Clara for countywide (with respect to Santa Clara County) BIKE/PED E&E PROGRAM activities ("COUNTYWIDE ACTIVITIES"). Per the GUIDELINES, COUNTYWIDE ACTIVITIES will receive 25% of available BIKE/PED E&E PROGRAM funds.
 - iv. Fourth, the 2016 Measure B funds remaining for the BIKE/PED E&E PROGRAM category allocation are calculated by deducting the amount allocated for COUNTYWIDE ACTIVITIES in subparagraph (iii), immediately above, from the total BIKE/PED E&E PROGRAM category allocation ("REMAINING FUNDS").
 - v. Fifth, VTA determines the percentage of the total population of SCC ("TOTAL SCC POP") of each city ("CITY POP") and of the unincorporated areas of SCC ("SCC UNINCORP POP") to determine allocations to each city. For purposes of these calculations, the TOTAL SCC POP includes unincorporated areas and is based on the then most current California Department of Finance's more current annual population estimates at the time of allocation determination, i.e., Report E-1, or any successor report. Each CITY POP is divided by the TOTAL SCC POP, and then the result is multiplied by 100. The result for each city is the "CITY PERCENTAGE SHARE" (for SCC, the "SCC PERCENTAGE SHARE").
 - vi. SIXTH, each CITY PERCENTAGE SHARE (including the SCC PERCENTAGE SHARE) is multiplied by the REMAINING FUNDS to determine the dollar amount that would be allocated to each city based on their CITY PERCENTAGE SHARE; however, no allocation is yet made at this step. Cities that would receive less than \$10,000 as a result of the calculation described in Subsection (v) will be identified as low population cities ("LOW POP CITIES").
 - vii. Seventh, each city is allocated \$10,000 ("10K ALLOCATIONS"). LOW POP CITIES will not be allocated any additional funds beyond the 10K ALLOCATIONS made to each city as described in this Subsection (vii). The minimum 10k ALLOCATIONS will continue through fiscal year 2025. Following fiscal year 2025, the minimum allocated to LOW POP CITIES will increase by

\$2,000 every five years. See the "LOW POP CITIES ALLOCATION SCHEDULE" included in this AGREEMENT as Attachment B, attached hereto and incorporated herein.

- viii. Eighth, the modified REMAINING FUNDS are calculated by subtracting the cumulative total of allocations made to LOW POP CITIES from the REMAINING FUNDS ("MOD REMAINING FUNDS").
 - ix. Ninth, a modified Santa Clara County population is calculated by deducting the SCC UNINCORP POP and all LOW POP CITIES from the TOTAL SCC POP ("MODIFIED POPULATION").
 - x. Tenth, a modified population percentage share ("MOD CITY PERCENTAGE SHARE") is calculated for all cities that are not LOW POP CITIES ("NON-LOW POP CITIES") by dividing the NON-LOW POP CITY'S total population by the MODIFIED POPULATION and multiplying the result by 100.
 - xi. Eleventh, each NON-LOW POP CITY'S MOD CITY PERCENTAGE SHARE is multiplied by the MOD REMAINING FUNDS to calculate each NON-LOW POP CITY's additional allocation of 2016 Measure B funds for the BIKE/PED E&E PROGRAM category. This allocation will be made in addition to the 10K ALLOCATION described above.
- C. RECIPIENT's allocations are subject to change based on allocations made by the VTA BOARD pursuant to the PROGRAM.
- D. BIKE/PED E&E PROGRAM allocations may be banked and remain unspent for a maximum of three fiscal years, provided that (i) RECIPIENT provides VTA with a satisfactory explanation for why the allocation is not being spent and (ii) VTA provides RECIPIENT with written approval for such explanation. In this instance, RECIPIENT must begin drawing funds during the fourth fiscal year. Following the third fiscal year of banked allocations and within the fourth fiscal year, RECIPIENT must provide to VTA the required documentation as described in Section II, Paragraph 7. In this fourth fiscal year, RECIPIENT must submit, at minimum, one invoice for funds towards an E&E PROJECT.
- If RECIPIENT fails to do the above by the end of the fourth fiscal year and no funds have been spent in the past four consecutive fiscal years, then allocations will be returned by VTA to the pool of 2016 MEASURE B funds allocated to the BIKE/PED E&E PROGRAM category for redistribution in the next allocation cycle pursuant to the formula above.
- E. All funds will be available to RECIPIENT on a reimbursement basis only.

6. VTA's OBLIGATIONS

VTA will:

- A.** Annually report to the public the amount of BIKE/PED E&E PROGRAM revenues allocated and distributed to RECIPIENT.
- B.** Annually report to the public a summary of E&E PROJECT evaluation metrics submitted by RECIPIENT, as required in Section II, Paragraph 4.
- C.** Conduct an assessment regarding the effectiveness of the BIKE/PED E&E PROGRAM using approved metrics and data provided by RECIPIENT (pursuant to Section II, Paragraph 4) related to RECIPIENT's E&E PROJECT(s).
- D.** Biennially, or however frequently as VTA determines is appropriate based upon the number of ongoing E&E PROJECTs, report to the public the effectiveness of the BIKE/PED E&E PROGRAM based on the assessment described immediately above in Section II, Paragraph 6(C).
- E.** Remit the amount due to the RECIPIENT under an invoice within thirty (30) calendar days of receipt of a complete and proper, fully documented invoice complying with the requirements set forth herein.

7. RECIPIENT's OBLIGATIONS

RECIPIENT must:

- A.** Comply with 2016 Measure B reporting requirements.
- B.** Ensure that all 2016 MEASURE B funds are expended on allowable BIKE/PED E&E PROGRAM expenditures as described above in Section II, Paragraph 3, ELIGIBLE USE OF FUNDS.
- C.** Annually complete and submit to VTA, by October 1st of each year, RECIPIENT's proposed work program for the BIKE/PED E&E PROGRAM, in which RECIPIENT must set forth proposed E&E PROJECTS and develop all such E&E PROJECTS that are approved by VTA as eligible. RECIPIENT's proposed metrics and frequency of E&E PROJECT evaluation must be included with the proposed work program (see Section II, Paragraph 4); VTA must provide approval of the proposed metrics and frequency of evaluation.
- D.** Annually submit to VTA, by October 1st of each year, a summary of the prior fiscal year's completed E&E PROJECTS.
- E.** Submit to VTA, on a frequency as approved by VTA, the evaluation of the completed E&E PROJECTS pursuant to Section II, Paragraph 4.
- F.** If applicable, annually submit to VTA, by October 1st of each year, an explanation of why no BIKE/PED E&E PROGRAM funds are planned for expenditure during the upcoming fiscal year.

- G. Annually complete and submit to VTA, by October 1st of each year, any accompanying reporting requirements for the BIKE/PED E&E PROGRAM.
- H. Submit to VTA all records including contractors' invoices, miscellaneous invoices, and force account charges as substantiation for invoices submitted to VTA for reimbursement hereunder.
- I. Maintain financial records, books, documents, papers, accounting records, and other evidence pertaining to costs related to this AGREEMENT for five (5) years. RECIPIENT shall make such records available to VTA upon VTA's written request for review and audit purposes. Financial audits will be performed at VTA's sole discretion.
- J. Submit invoices to VTA, no more frequently than monthly, for reimbursement of eligible E&E PROJECT costs (see Section II, Paragraph 3) RECIPIENT must submit invoices within one year of the date RECIPIENT incurs the cost submitted on the invoice for reimbursement (unless otherwise approved by VTA in writing).
- K. At all times during this AGREEMENT, RECIPIENT must comply with the insurance requirements and specifications of the attached Attachment C, Insurance Requirements. RECIPIENT may, in its discretion, elect to self-insure, but any such self-insurance must meet the requirements and specifications in Attachment C.

8. INDEMNIFICATION

Neither VTA nor any officer or employee thereof will be responsible for any damage or liability arising out of or relating to RECIPIENT's negligent acts or omissions, recklessness, or willful misconduct under or in connection with any work, authority, or jurisdiction associated with this AGREEMENT. Pursuant to California Government Code §895.4, RECIPIENT must fully defend, indemnify, and hold harmless VTA from all suits or actions of every name, kind, and description arising from an injury (as defined by California Government Code §810.8) arising out of or relating to RECIPIENT's negligent acts or omissions, recklessness, or willful misconduct under or in connection with any work, authority, or jurisdiction delegated to RECIPIENT under this AGREEMENT. This provision will survive the termination or expiration of this AGREEMENT.

9. INSURANCE

At all times during this Agreement, RECIPIENT must comply with the insurance requirements and specifications of Attachment C, Insurance Requirements, attached hereto and incorporated herein. RECIPIENT may, in its discretion, elect to self-insure, but any such self-insurance must meet the requirements and specifications in Attachment C.

10. ADDITIONAL INSURED AND INDEMNITY PROVISION

In any agreement executed between the RECIPIENT and a third party for purposes related in any way to the subject matter of this Agreement ("Third Party Contract"), RECIPIENT must require that VTA be named as (i) an additional insured on a primary and non-contributory basis with separation of insureds and waiver of subrogation on all policies of insurance, except when not applicable and (ii) an indemnified party in any indemnity provision contained in the Third Party Contract. Third Party Contracts must contain insurance requirements with coverages at least as broad as, and limits at least as great as, the requirements of Attachment C.

11. COMPLIANCE WITH APPLICABLE LAW

In execution of any E&E PROJECT and performance of its responsibilities set forth herein, RECIPIENT must comply with all applicable requirements of local, state, and federal law.

12. COMPLIANCE WITH 2016 MEASURE B REQUIREMENTS

- A.** In its performance under this AGREEMENT, RECIPIENT must comply, and must ensure E&E PROJECT compliance, with all PROGRAM requirements including, but not limited to, the GUIDELINES and PROGRAM MANUAL.
- B.** VTA may, in its sole discretion, make changes to the GUIDELINES and/or the PROGRAM MANUAL at any time. If VTA makes such changes, VTA will notify RECIPIENT within a reasonable time of such changes.

13. TERMINATION

- A.** Either PARTY may at any time terminate this Agreement by giving ten (10) business days written notice of such termination to the other PARTY. Notice must identify the effective date of such cancellation and must be provided in accordance with the terms and conditions of this AGREEMENT.
- B.** In the event of termination under this section, City must submit its final invoice to VTA within thirty (30) calendar days of the effective date of termination, and such invoice will be solely for ELIGIBLE COSTS RECIPIENT incurred prior to termination.

14. AUDITS AND RECORDS

- A.** RECIPIENT must maintain, and must require their contractors to maintain, in accordance with generally accepted accounting principles and practices, complete books, accounts, records, and data pertaining to services performed under this AGREEMENT, including the costs of contract administration. Such documentation must be supported by properly executed payrolls, invoices, contracts, and vouchers evidencing in detail the nature and propriety of any charges and must be sufficient to allow a proper audit of services. All checks, payrolls, invoices, contracts, and other accounting documents pertaining in whole or in part to the services must be clearly identified and readily accessible.
- B.** For the duration of the AGREEMENT, and for a period of five years after final payment, each PARTY and its representatives must have access during normal business hours to any books, accounts, records, data, and other relevant documents ("RECORDS") of the other PARTY that are pertinent to this AGREEMENT for audits, examinations, excerpts, and transactions. The other PARTY must furnish copies of the RECORDS upon request.

15. NOTICES / AUTHORIZED REPRESENTATIVES

- A. Notices.** Any notice which may be required under this AGREEMENT (i) must be in writing, (ii) will be effective one (1) business day after personal service or delivery by certified mail, and (iii) must be given by personal service or certified mail the other PARTY'S AUTHORIZED REPRESENTATIVE at the addresses set forth below, or to such other address that may be specified in writing by a PARTY.

B. Authorized Representatives.

VTA:
Marcella Rensi
Deputy Director, Programming and Grants
Santa Clara Valley Transportation Authority
3331 N First Street
San Jose, CA 95134
Email: marcella.rensi@vta.org

RECIPIENT:
Town Clerk
Town of Los Gatos
111 East Main Street
Los Gatos, 95030

Written notification to the other PARTY must be provided, in advance, for changes in the name or address of the individuals identified above.

The individual identified above for RECIPIENT is RECIPIENT's BIKE/PED E&E PROGRAM Liaison ("LIAISON"). The LIAISON shall be (i) the liaison to VTA pertaining to implementation of this AGREEMENT and (ii) the contact for information about the BIKE/PED E&E PROGRAM and E&E PROJECTS.

16. GENERAL TERMS AND CONDITIONS

- A. Headings.** The subject headings of the articles and paragraphs in this AGREEMENT are included for convenience only and will not affect the construction or interpretation of any of its provisions.
- B. Incorporation of Exhibits and Attachments.** All exhibits and attachments referenced in this AGREEMENT are incorporated into it by this reference.
- C. Construction and Interpretation of Agreement.** This AGREEMENT, and each of its provisions, terms, and conditions, has been reached as a result of negotiations between the PARTIES. Accordingly, each PARTY expressly acknowledges and agrees that (i) this AGREEMENT will not be deemed to have been authored, prepared, or drafted by any particular PARTY and (ii) the rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this AGREEMENT or in the resolution of disputes.
- D. Amendment.** No alteration or variation of the terms of this AGREEMENT will be valid unless made in writing and signed by both of the PARTIES hereto, and no oral understanding or AGREEMENT not incorporated herein will be binding on any of the PARTIES hereto.
- E. Entire Agreement.** This AGREEMENT constitutes the entire agreement between the PARTIES relating to the subject matter and supersedes all prior negotiations, contracts, agreements, or understandings, whether oral or written, of the PARTIES regarding the subject matter.

- F. Representation of Authority.** Each PARTY to this AGREEMENT represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this AGREEMENT on behalf of the entity that is a PARTY to this AGREEMENT.
- G. No Waiver.** The failure of either PARTY to insist upon the strict performance of any of the terms, covenant, and conditions of this AGREEMENT will not be deemed a waiver of any right or remedy that either PARTY may have, and will not be deemed a waiver of either PARTY's right to require strict performance of all of the terms, covenants, and conditions hereunder.
- H. Dispute Resolution.**
- a.** If a question or allegation arises regarding (i) interpretation of this AGREEMENT or its performance, or (ii) the alleged failure of a PARTY to perform, the PARTY raising the question or making the allegation must give written notice thereof to the other PARTY. The PARTIES must 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 avoid litigation as a method of dispute resolution to the greatest extent possible.
- b.** Notwithstanding the foregoing, nothing in this Paragraph 16 will be deemed to prevent a PARTY from filing suit or an administrative action to preserve its right to assert a claim within any applicable statute of limitations. To the extent practicable, the PARTIES will negotiate in good faith to create a tolling agreement to toll such statute(s) of limitations to allow for the PARTIES to engage in dispute resolution provisions of this AGREEMENT prior to filing of such actions.
- I. Severability.** If any term, covenant, condition or provision of this AGREEMENT, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this AGREEMENT, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- J. Governing Law.** The laws of the State of California will govern this AGREEMENT, as well as any claim that might arise between RECIPIENT and VTA, without regard to conflict of law provisions.
- K. Venue.** Any lawsuit or legal action arising from this AGREEMENT must be commenced and prosecuted in the courts of Santa Clara County, California. RECIPIENT agrees to submit to the personal jurisdiction of the courts located in Santa Clara County, California for the purpose of litigating all such claims.
- L. Use of Work.** All PARTIES may retain a copy of all material produced under this AGREEMENT for use in their general activities.
- M. Attribution to VTA.** RECIPIENT must include attribution to VTA that indicates part of the work was funded by PROGRAM Funds. This provision applies to any project or publication that was funded in part or in whole by PROGRAM Funds. Acceptable forms of attribution include 2016 MEASURE B's branding on E&E PROJECT-related documents, public information materials, and any other applicable documents. VTA will provide Program branding to RECIPIENT.

- N. Non-discrimination.** The PARTIES and any contractors performing services on behalf of the PARTIES (“CONTRACTORS”) will not unlawfully discriminate or permit discrimination, harass, or allow harassment against any person or group of persons because of race, color, religious creed, national origin, ancestry, age (over 40), sex, gender, gender identity, gender expression, sexual orientation, marital status, pregnancy or childbirth (including related conditions), medical condition (including cancer), mental disability, physical disability (including HIV and AIDS), genetic information, or military and veteran’s status, or in any manner prohibited by federal, state, or local laws. In addition, the PARTIES and CONTRACTORS must not unlawfully deny any of their employees family care leave to which they are entitled or discriminate against such employees on the basis of having to use family care leave. The PARTIES and CONTRACTORS must ensure that the evaluation and treatment of their employees and applicants for employment is free of such discrimination and harassment.
- O. Relationship of the Parties.** It is understood that this is an AGREEMENT by and between independent parties and does not create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship other than that of independent contractor.
- P. Execution in Counterparts / Electronic Signature.** This AGREEMENT may be executed in one or more counterparts, each of which will be deemed an original but all of which will constitute one and the same instrument. 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 copy of an original signed contract that meets the admissibility standards of a writing described in Evidence Code §1550. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by each of the Parties.
- Q. Authority to Execute Agreement.** Each PARTY to this AGREEMENT represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this AGREEMENT on behalf of the entity that is a PARTY to this AGREEMENT.
- R. Third Party Beneficiaries.** This AGREEMENT does not, and is not intended to, confer any rights or remedies upon any person or entity other than the PARTIES.
- S. Survival.** All representations, warranties, and covenants contained in this AGREEMENT, or in any instrument, certificate, exhibit, or other writing intended by the PARTIES to survive this AGREEMENT, shall survive the termination or expiration of this AGREEMENT, including but not limited to all terms (1) providing for indemnification; (2) relating to the California Public Records Act; (3) relating to maintenance of data; and (4) relating to PARTIES’ obligations upon and following termination or expiration of this AGREEMENT.

Signatures of PARTIES on following page.

IN WITNESS WHEREOF, VTA and RECIPIENT have caused their undersigned, duly authorized signatories to execute this AMENDED AND RESTATED FUNDING AGREEMENT as of the EFFECTIVE DATE.

***SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY***

TOWN OF LOS GATOS

Carolyn M. Gonot
General Manager/CEO

Chris Constantin
Town Manager

Date

Date

Approved as to Form

Approve as to Form

Evelynn Tran
General Counsel

Gabrielle Whelan
Town Attorney

Date

Date

ATTACHMENT A

Example Evaluation Requirement Metrics

Evaluation metrics include, but are not limited to, the ones used below.

- **Project reach** - A metric measuring the total number of people or entities that participated in the activity or received a physical item provided by the program.
 - Hypothetical Example: Online media safety campaign had 10,000 unique views, resulting in 2,000 people taking the “I will drive, walk, and bike safely and responsibly” pledge.
- **Mode shift** - A metric measuring the change in the number or percentage of people who replaced another mode of transportation with walking or biking.
 - Hypothetical Example: At the end of the school year, 200 bicycles were counted in the bike cage, an increase of 20% over the number of bicycles counted at the beginning of the year.
- **Behavior change** - A metric measuring the change in the number or percentage of people who changed their travel habits, including but not limited to frequency of walking or biking.
 - Hypothetical Example: Individualized marketing packets were provided to 1,200 households. 200 households requested additional information. Before and after surveys showed that 5% of households that requested additional information switched to biking, walking, or taking transit more.
- **Safety improvements** – A metric measuring the change in risky/safe behavior or the change in crashes.
 - Hypothetical Example: After the crosswalk sting, motorists were observed yielding to pedestrians 8 out of 10 times, an increase of 10% over the yielding rate before the crosswalk sting. However, these rates decreased over time, suggesting that continued events or infrastructure changes are needed to permanently improve driver behavior.
- **Community Engagement** – A metric measuring the number or percentage of people who become involved in a program on an ongoing basis.
 - Hypothetical Example: At the end of five Train the Trainer events, of the 25 trainees, ten agree to lead Safe Routes to School activities at their schools.

ATTATCHMENT B

LOW POP CITES ALLOCATION SCHEDULE

Cities that would receive less than \$10,000 as a result of the allocation calculations are instead allocated \$10,000 minimum per fiscal year. The minimum \$10,000 allocation will continue through fiscal year 2028. Following fiscal year 2028, the minimum allocated to LOW POP CITIES will increase every biennial budget cycle.

The allocation schedule starting fiscal year 2028 is as follows:

Fiscal Year (FY)	Allocation Amount to LOW POP CITIES
FY 2028	\$12,000
FY 2029	\$12,000
FY 2030	\$12,000
FY 2031	\$12,000
FY 2032	\$12,000
FY 2033	\$12,000
FY 2034	\$14,000
FY 2035	\$14,000
FY 2036	\$14,000
FY 2037	\$14,000
FY 2038	\$14,000
FY 2039	\$14,000
FY 2040	\$16,000
FY 2041	\$16,000
FY 2042	\$16,000
FY 2043	\$16,000
FY 2044	\$16,000
FY 2045	\$16,000
FY 2046	\$18,000
FY 2047	\$18,000

ATTACHMENT C

INSURANCE REQUIREMENTS

RECIPIENT'S ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT RECIPIENT CONFER WITH THEIR INSURANCE CARRIERS OR BROKERS IN ADVANCE OF PROPOSAL SUBMISSION TO DETERMINE THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS REQUIRED BY THIS AGREEMENT.

INSURANCE

Without limiting RECIPIENT's obligation to indemnify and hold harmless VTA, RECIPIENT must procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by RECIPIENT, its agents, representatives, or employees, or subcontractors. The cost of such insurance must be included in AGREEMENT price. In the event of any material change in the AGREEMENT Scope of Services, VTA reserves the right to change the insurance requirements set forth herein. RECIPIENT must furnish complete copies of all insurance policies, within three (3) business days of any request for such by VTA.

A. Liability and Workers' Compensation Insurance

1. Minimum Scope of Coverage

Coverage must be at least as broad as:

- a. Insurance Services Office General Liability coverage ("occurrence" form CG 0001). General Liability insurance written on a "claims made" basis is not acceptable.
- b. Insurance Services Office Business Auto Coverage, Insurance Services Office form number CA 0001, covering Automobile Liability, code 1 "any auto." Auto Liability written on a "claims-made" basis is not acceptable.
- c. Workers' Compensation insurance as required by the Labor Code of the State of California, and Employer's Liability insurance.
- d. Professional Liability, including limited contractual liability coverage, covering liability arising out of any negligent act, error, mistake or omission in the performance of RECIPIENT's services under this AGREEMENT. This coverage must be continuously maintained for a minimum of two (2) years following completion of this AGREEMENT. This coverage may be written on a "claims made" basis, if so, please see special provisions in Section B.

2. Minimum Limits of Insurance

RECIPIENT must maintain limits no less than:

- a. General Liability (including Umbrella/Excess insurance): \$2,000,000 limit per occurrence for bodily injury, personal injury, and property damage. If a General Liability or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit. This requirement may be satisfied by a combination of General Liability insurance with Excess or Umbrella policies, but in no event may the General Liability primary policy limit per occurrence be less than \$2,000,000, unless Umbrella/Excess policies feature inception and expiration dates concurrent with the underlying policy, "Follow Form" coverage, and a "Drop Down".
- b. Automobile Liability \$1,000,000 limit per accident for bodily injury and property damage.
- c. Workers' Compensation and Employer's Liability: Statutory Workers' Compensation limits and Employer's Liability limits of \$1,000,000 per accident.
- d. Professional Liability: \$2,000,000 each occurrence/aggregate minimum limit per claim. This requirement may be satisfied by a combination of Professional Liability insurance with Excess or Umbrella policies, but in no event may the Professional Liability primary policy limit per occurrence be less than \$2,000,000, unless Umbrella/Excess policies feature inception and expiration dates concurrent with the underlying policy, "Follow Form" coverage, and a "Drop Down" provision.

3. Self-Insured Retention

The certificate of insurance must disclose the actual amount of any deductible or self-insured retention, or lack thereof, for all coverages required herein. Any self-insured retention or deductible in excess of \$50,000 (\$100,000 if RECIPIENT is a publicly-traded company) must be declared to and approved by VTA. If RECIPIENT is a governmental authority such as a state, municipality or special district, self-insurance is permitted. To apply for approval for a level of retention or deductible in excess of \$50,000, RECIPIENT must provide a current financial report including balance sheets and income statements for the past three years, so that VTA can assess RECIPIENT's ability to pay claims falling within the self-insured retention or deductible. Upon review of the financial report, if deemed necessary by VTA in its sole discretion, VTA may elect one of the following options: to accept the existing self-insured retention or deductible; require the insurer to reduce or eliminate the self-insured retention or deductible as respects VTA, its directors, officers, officials, employees and volunteers; or to require RECIPIENT to procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Applicable costs resulting therefrom will be borne solely by RECIPIENT. RECIPIENT may request execution of a nondisclosure agreement prior to submission of financial reports.

B. Claims Made Provisions (not applicable to General Liability or Automobile Liability)

Claims-made coverage is never acceptable for General Liability or Auto Liability. Claims-made may be considered for Professional, Environmental/Pollution, or Cyber Liability. If coverage is written on a claims-made basis, the Certificate of Insurance must clearly state so. In addition to all other coverage requirements, such policy must provide that:

1. The policy must be in effect as of the date of this AGREEMENT and the retroactive date must be no later than the date of this AGREEMENT.
2. If any policy is not renewed or the retroactive date of such policy is to be changed, RECIPIENT must obtain or cause to be obtained the broadest extended reporting period coverage available in the commercial insurance market. This extended reporting provision must cover at least two (2) years.
3. No prior acts exclusion may be added to the policy during the contract period.
4. The policy allows for reporting of circumstances or incidents that might give rise to future claims.

C. Other Provisions

The policies must contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability

- a. VTA, its directors, officers, officials, employees and volunteers are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of RECIPIENT, including VTA's general supervision of RECIPIENT; products and completed operations of RECIPIENT and its subcontractors; premises owned, occupied or used by RECIPIENT; or automobiles owned, leased, hired or borrowed by RECIPIENT. The coverage must contain no special limitations on the scope of protection afforded to VTA, its directors, officers, officials, employees, or volunteers. Additional Insured endorsements must provide coverage at least as broad as afforded by the combination of ISO CG 20 10 10 01 and CG 20 37 10 01.
- b. Any failure to comply with reporting provisions of the policies may not affect coverage provided to VTA, its directors, officers, officials, employees, or volunteers.
- c. RECIPIENT's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d. The General Liability General Aggregate limit must apply per project, not per policy.
- e. The General Liability policy must be endorsed to remove the exclusion for railroad liabilities, with coverage at least as broad as afforded by ISO CG 24 17.

2. All Coverages

- a. The insurer must agree to waive all rights of subrogation against VTA, its directors, officers, officials, employees, and volunteers for losses arising from work performed by RECIPIENT and its subcontractors for VTA.

- b. RECIPIENT's insurance coverage must be primary insurance as respects VTA, its directors, officers, officials, employees, and volunteers. Self-insurance or insurance that may be maintained by VTA, its directors, officers, officials, employees, or volunteers may apply only as excess to RECIPIENT's insurance. RECIPIENT's insurance must not seek contribution from VTA's insurance program.

3. Other Insurance Provisions

- a. The Certificate must disclose the actual amount of the Deductible or Self-Insured Retention
- b. If any coverage forms or endorsements required by this AGREEMENT are updated by their publishers, whether they be the insurance carrier(s), the Insurance Services office, or the American Association of Insurance Services, during the duration of this AGREEMENT, VTA reserves the rights to require RECIPIENT to procure said coverage forms or endorsements using the updated versions upon the next renewal cycle.

D. Acceptability of Insurers

Insurance and bonds must be placed with insurers with an A.M. Best's rating of no less than A VII (financial strength rating of no less than A and financial size category of no less than VII), unless specific prior written approval has been granted by VTA.

E. Certificates of Insurance

RECIPIENT must furnish VTA with a Certificate of Insurance. The certificates for each insurance policy are to be signed by an authorized representative of that insurer. The certificates must be issued on a standard ACORD Form. The RECIPIENT must instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to Insurance.certificates@vta.org. All endorsements must be attached to the ACORD certificate in a single PDF document.

The certificates must (1) identify the insurers, the types of insurance, the insurance limits, the SIRs/deductibles or lack thereof and the policy term, (2) include copies of all the actual policy endorsements required herewith, and (3) in the "Certificate Holder" box include:

Santa Clara Valley Transportation Authority ("VTA")
3331 North First Street
San Jose, CA 95134-1906

In the Description of Operations/Locations/Vehicles/Special Items Box, the VTA Contract number must appear, the list of policies scheduled as underlying on the Umbrella/Excess policy must be listed, Certificate Holder must be named as additional insured, and Waiver of Subrogation must be indicated as endorsed to all policies as stated in the Contract Documents.

It is a condition precedent to award of this AGREEMENT that all insurance certificates and endorsements be received and approved by VTA before AGREEMENT execution. No work may be performed until insurance is in full compliance. VTA reserves the rights to require complete, certified copies of all required insurance policies, at any time.

If RECIPIENT receives notice that any of the insurance policies required by this Exhibit may be cancelled or coverage reduced for any reason whatsoever, RECIPIENT must immediately provide written notice to VTA that such insurance policy required by this Exhibit is canceled or coverage is reduced.

F. Maintenance of Insurance

If RECIPIENT fails to maintain insurance as required herein, VTA, at its option, may suspend payment for work performed and/or may order RECIPIENT to suspend work at RECIPIENT's expense until a new policy of insurance is in effect.

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