

TRANSPORTATION FUND FOR CLEAN AIR FUNDING AGREEMENT

BETWEEN

THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT

AND

TOWN OF LOS GATOS

PROJECT NUMBER: 20R11

This funding agreement (“Agreement”) is made and entered into between Town of Los Gatos, hereinafter referred to as “Project Sponsor,” and the Bay Area Air Quality Management District, hereinafter referred to as the “Air District” (and hereinafter referred to jointly as the “Parties”).

**SECTION I
RECITALS**

- 1) California Health and Safety Code Sections 44223 and 44225 authorize the Air District to levy a fee on motor vehicles registered within its jurisdiction and to use those fees to implement mobile source and transportation control projects that result in surplus emission reductions.
- 2) The Air District has established a grant fund, entitled the Transportation Fund for Clean Air (“TFCA”) to implement such projects. Under the TFCA’s Regional Fund Program, the Air District may issue TFCA funds to public agencies and, for certain vehicle-based projects, to other entities for projects within the Air District’s jurisdiction (“TFCA Program”).
- 3) California Health and Safety Code Section 44241 lists the permissible types of projects, all of which must conform to the transportation control measures and mobile source measures that are included in the Air District’s air quality plan(s) adopted pursuant to California Health and Safety Code Sections 40233, 40717, and 40919 and are in effect as of the date of execution of this Agreement.
- 4) On May 1, 2019, the Air District’s Board of Directors approved funding allocations for the TFCA Program for Fiscal Year Ending (FYE) 2020, under California Health and Safety Code Section 44241, and authorized the Executive Officer/Air Pollution Control Officer (APCO) to execute Grant Agreements for eligible projects funded by the TFCA Program, with individual grant awards up to \$100,000.
- 5) On June 5, 2019, the Air District’s Board of Directors approved the *FYE 2020 TFCA Regional Fund Program Policies (“Program Policies”)*, which sets forth requirements for projects that are eligible for funding through the TFCA Program.
- 6) On August 6, 2019, the Air District released the *Application Guidance for Vehicle Trip Reduction Program for FYE 2020*, dated November 2019 (“*Program Guidance*”), which includes the Program Policies and sets forth additional requirements for eligible trip reduction projects.
- 7) On January 29, 2020, the Air District’s Board of Directors approved an award of TFCA Program funds to the Project Sponsor to implement an eligible mobile source or transportation control project to improve air quality in the San Francisco Bay Area Air Basin based on the Program Guidance and the information provided in Project Sponsor’s application (“Project”).
- 8) The Project Sponsor affirms that the Project has not commenced, would not have otherwise commenced without TFCA Program funding, and will result in surplus emission reductions.
- 9) The Parties desire to enter into this Agreement to implement the Project in accordance with the terms and conditions of this Agreement, including all attachments thereto.

NOW, THEREFORE, pursuant to California Health and Safety Code Section 44241, the Parties hereby agree as follows:

SECTION II
PROJECT SPONSOR OBLIGATIONS

- 1) The Project Sponsor hereby agrees to implement the Project, which is described in “Project Information” (Attachment A), in accordance with the costs, terms, and conditions in the “Project Budget and Payment Process” (Attachment B), and all applicable provisions of federal, state, and local law and regulations. Failure to implement the Project in accordance with the terms and conditions set forth in this Agreement and all attachments thereto shall be deemed a breach of this Agreement and may result in the Air District’s enforcement of the Agreement, termination of the Agreement, a reduction in the amount of the Project’s TFCA Funds Awarded that are specified in Attachment B, a required reimbursement from the Project Sponsor to the Air District of TFCA Funds already awarded, or other remedies sought by the Air District at its sole discretion.
- 2) The Project Sponsor shall be responsible for all Project costs necessary to complete the Project prior to submission of the Final Invoice to the Air District for reimbursement. Air District’s funding obligation under this Agreement is limited to reimbursement of Eligible Costs, as specified in Attachment B, the amount of which shall not exceed the TFCA Funds Awarded, also as specified in Attachment B. The Project Sponsor shall be solely responsible for all costs that exceed the TFCA Funds Awarded.
- 3) The Project Sponsor is responsible for assuring that all funds received under this Agreement and Matching Funds are expended only in accordance with the requirements of the TFCA Program, this Agreement, and all applicable provisions of law and regulations.
- 4) The Project Sponsor shall allow the Air District and its authorized representatives to conduct performance and fiscal audits of the Project at any time during the Term of this Agreement. The Project Sponsor shall cooperate with such audits and shall make available to the Air District all records relating to Project performance and expenses incurred in the implementation of the Project.

The Project Sponsor shall allow the Air District or its authorized representatives to inspect the Project at any time during the Project Operational Period. The Project Sponsor shall cooperate with such inspections.

- 5) The Project Sponsor shall prepare and maintain all necessary Project Records to document Project activities and performance, including invoicing documentation set forth in Section 5 of Attachment B, documentation to support the Project reporting requirements set forth in Attachment C, and insurance documentation set forth in Attachment D (all of which comprise “Project Records”). Project Records shall also include documentation that verifies compliance with the requirements set forth in Section II.8. The Project Sponsor shall keep Project Records in one central location for a period of three (3) years after the later of a) the date of the Air District’s final payment, or b) the end of the Project Operational Period.
- 6) The Project Sponsor shall submit the reports specified in Attachment C to the Air District by the due dates specified in Attachment C. These reports are public documents. At its discretion, the Air District may accept and process a late-submitted report, without thereby waiving or amending the submission deadline of any or all subsequent reports.
- 7) The Project Sponsor shall implement and operate the Project for the duration of the Project Operational Period. The Project Sponsor may not make any changes to the operational status of the Project without the prior approval of the Air District. Failure to obtain prior approval is a breach of this Agreement.

For purposes of this Agreement, a “change to the operational status” occurs whenever any portion of the Project is removed from active service other than for routine maintenance, relocated to a different location than what is specified in this Agreement (Attachment A), rendered inoperable, sold, or transferred to another entity, before full completion of the Project Operational Period.

If the Project Sponsor intends to make a change to the Project’s operational status, the Project Sponsor must seek a modification of this Agreement in advance to allow for a change pursuant to Section IV.3.

- 8) The Project Sponsor shall acknowledge, and require any third party that implements any portion of the Project (“Sub-awardee”) to also acknowledge, the Air District as a Project funding source at all times throughout the Project Operational Period as specified in Attachment A. The Project Sponsor shall use, and

require any Sub-awardee to use, the Air District's approved logo for the Project. The required documentation and materials are specified in Attachment C.

- 9) Beginning when the Project starts and throughout the Project Operational Period, the Project Sponsor shall obtain, maintain, and comply, and require any Sub-awardee to also obtain, maintain, and comply, with the insurance coverage specified in Attachment D, "Insurance Requirements," and with all insurance requirements set forth therein, including the provision of documentation of said insurance coverage.
- 10) To the extent not otherwise prohibited by law, and to the extent required by the California Public Records Act (Government Code section 6250 et seq.), the Project Sponsor shall place in the public domain any software, written document, or other product developed with TFCA Program funds as part of the Project and shall require recipients of any TFCA Program funds, if any, to do the same.
- 11) The Project Sponsor shall use TFCA Program funds only for the implementation of a project that will result in surplus motor vehicle emission reductions and clean air benefits within the Air District's jurisdiction and be responsible for demonstrating the emission reductions and benefits achieved. Surplus emission reductions are those that exceed the requirements of applicable regulations or other legal obligations (including contracts) as of the Effective Date of this Agreement.
- 12) The Project Sponsor shall comply with all TFCA Program requirements set forth in the Air District's Application Guidance for Vehicle Trip Reduction Program for FYE 2020, dated November 2019 ("Program Guidance"), which are incorporated herein and made a part hereof by this reference as if fully set forth herein.

SECTION III AIR DISTRICT OBLIGATIONS

- 1) The Air District will provide TFCA Program funds for this Project in an amount not to exceed the TFCA Funds Awarded, in accordance with the formula set forth in Attachment B. In the event that the Total Project Cost is less than the amount listed in Attachment B, the Air District shall recalculate its contribution to the Project in accordance with the provisions of Section 3 of Attachment B.
- 2) The Air District will endeavor to pay the undisputed amount of an approved invoice within thirty (30) calendar days of the date of Air District's approval of such invoice and in accordance with the Invoice and Payment Schedule set forth in Section 5 of Attachment B.
- 3) The Air District will provide timely notice to the Project Sponsor prior to conducting any audits of the Project. Also, the Air District makes reasonable efforts to conduct audits and inspections during normal business hours of the Project Sponsor.
- 4) The Air District will provide the Project Sponsor a copy of the fiscal audit of the Project as specified in California Health and Safety Code Section 44242.
- 5) The Air District will provide the Project Sponsor all applicable Air District-approved reporting and invoice forms.
- 6) The Air District will make its logo available to Project Sponsor solely for use to fulfill the Project Sponsor's obligation under Section II.8 of this Agreement.

SECTION IV GENERAL PROVISIONS

- 1) **Effective Date:** The effective date of this Agreement is the date the Air District Executive Officer/Air Pollution Control Officer executes this Agreement ("Effective Date").
- 2) **Term:** The term of this Agreement shall commence on the Effective Date of this Agreement and end three (3) years from the later of either 1) the date of the Air District's final payment, or 2) the last day of the Project Operational Period, unless this Agreement is terminated or amended as provided below, or the Term is extended pursuant to Special Conditions, Attachment A.

- 3) Amendment: This Agreement may not be modified except in writing, signed by both Parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect. Any change in Project scope shall require an Amendment under this Agreement.
- 4) Project Liaison: Within thirty (30) calendar days from the Effective Date of this Agreement, the Project Sponsor shall notify the Air District of the Project Sponsor's Project Liaison and of the Liaison's address, telephone number, and email address. The Project Liaison shall be the liaison to the Air District pertaining to implementation of this Agreement and shall be the day-to-day contact about the Project. All correspondence shall be addressed to the Project Liaison. The Project Liaison shall notify the Air District of a change of Project Liaison or of the Liaison's contact information in writing no later than thirty (30) calendar days from the date of the change.
- 5) Notices: Any notice that may be required under this Agreement shall be in writing, shall be effective when received, and shall be given by personal service, by U.S. Postal Service first class mail, or by certified mail (return receipt requested). Within thirty (30) calendar days of the Effective Date of this Agreement, the Parties shall inform the other Party of the addressee for notice. Each Party shall promptly inform the other of any changes for notice. All correspondence shall reference the Project Number.
- 6) Project Due Dates: If any Project act or task must be performed by a specific deadline or date, which day falls on a Saturday or holiday (which includes Sunday), that act or task may be performed by the next business day, except where otherwise noted in Special Conditions, Attachment A.
- 7) Breach and Termination:

A. Voluntary. Either Party may terminate this Agreement by giving written notice to the other Party. The notice of termination shall specify the effective date of termination. The terminating party shall provide notice that is a minimum of forty-five (45) calendar days from the mailing date of the notice. However, if any payments are due to either party, this Agreement may not be terminated earlier than the date that all parties have received all payments they are due under this Agreement. In this circumstance, each party shall notify the other party of having received all payments due and the date of receipt. The notice of the termination shall be delivered as provided for in Section IV.5.

If the Project Sponsor terminates this Agreement, the Project Sponsor shall not be entitled to the full amount of the TFCA Funds Awarded. The Air District will calculate the amount of funds to which the Project Sponsor is entitled, based on the Air District's determination of what funds are Eligible Costs and the formula set forth in Attachment B, Section 3. If the Air District has paid the Project Sponsor more than the amount of funds to which the Project Sponsor is entitled, the Project Sponsor shall reimburse any funds owed to the Air District prior to the effective date of termination, which may include all or a portion of the TFCA funds that Project Sponsor has already received but is not entitled to retain.

If the Air District terminates this Agreement pursuant to this provision, any costs incurred on the Project following the effective date of termination shall be ineligible for reimbursement of TFCA funds, except costs for any work that the Air District has specified in the notice of termination that the Project Sponsor may continue to perform for the specified period of time. The Air District will reimburse Project Sponsor for all Eligible Costs that were expended prior to the date specified in the notice of termination based on the formula set forth in Attachment B.

The Agreement cannot be terminated unless all payments have been fully made.

B. Breach. In the case of Project Sponsor's breach of this Agreement, the Air District will deliver a written notice of breach. The notice will specify the nature of the breach and will direct the Project Sponsor to cease all work immediately upon receipt of the notice, except as specifically provided for in the notice. At its discretion, the Air District may allow the Project Sponsor to cure the breach; in that instance, the notice of breach will specify the date by which such breach must be cured ("Cure Period"). As one of its remedies, the Air District may terminate this Agreement. In that event, the notice of breach will specify the date of termination, which shall be no less than thirty (30) calendar days from the date of mailing of such notice of breach.

The notice of breach will also notify the Project Sponsor that the Project Sponsor may not be entitled to the full amount of the TFCA Funds Awarded. The notice will specify the amount of the TFCA Funds Awarded; the amount of funds the Air District has paid to date, if any; and that some or all of the TFCA Funds Awarded may be subject to reimbursement to, or withholding by, the Air District. In no event shall the Agreement terminate prior to the Project Sponsor's reimbursement of any funds owed to the Air District.

- 8) **Additional Provisions and Additional Acts and Documents:** Each Party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents that are reasonably required to carry out the provisions, intent and purpose of this Agreement. All attachments to this Agreement are expressly incorporated herein by this reference and made a part hereof as though fully set forth.
- 9) **Indemnification:** The Project Sponsor shall indemnify, defend, and hold harmless, and shall require any third party who operates, controls or implements any portion of the Project to indemnify, defend, and hold harmless, the Air District, its officers, employees, agents, representatives, and successors-in-interest against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the Project Sponsor's performance of the Project or the Project Sponsor or any third party's operation, implementation or use of any portion of the Project. The Project Sponsor's obligations, including the obligation to cooperate as described herein and the obligation to have applicable third parties indemnify the Air District shall survive expiration or termination of this Agreement.
- 10) **Independent Contractor:** Neither the Project Sponsor nor its officers, employees, agents, or representatives shall be considered employees or agents of the Air District. This Section does not apply to elected officials serving concurrently on the governing boards of both the Project Sponsor and the Air District.
- 11) **Assignment:** Neither Party shall assign, sell, license, or otherwise transfer any rights or obligations under this Agreement to a third party without the prior written consent of the other Party. All of the terms, provisions and conditions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors, assigns and legal representatives.
- 12) **Waiver:** No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the Party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a Party to enforce performance by the other Party of any term, covenant, or condition of this Agreement, and the failure of a Party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that Party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.
- 13) **Severability:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected.
- 14) **Force Majeure:** Neither the Air District nor the Project Sponsor shall be liable for, or deemed to be in default for, any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the Project, or other causes, except financial, that are beyond the reasonable control of the Air District or the Project Sponsor, for a period of time equal to the period of such force majeure event, provided that the Party failing to perform notifies the other Party within fifteen (15) calendar days of discovery of the force majeure event, and provided further that that Party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to a Party's own action or inaction, then such cause shall not excuse that Party from performance under this Agreement.

- 15) **Governing Law:** Any dispute that arises under or relates to this Agreement shall be governed by California law, excluding any laws that direct the application of another jurisdiction’s laws. Venue for resolution of any dispute that arises under or relates to this Agreement, including mediation, shall be San Francisco, California.
- 16) **Public Entities - Conflict of Interest:** The Project Sponsor warrants that neither Project Sponsor nor its operators, employees, or elected officials, if any, are subject to the conflict of interest provisions of California Government Code sections 1090 et seq. or 87100 et seq. during the performance of this Agreement.
- 17) **Integration:** This Agreement, including all attachments hereto, represents the final, complete, and exclusive statement of the agreement between the Air District and the Project Sponsor related to the Parties’ rights and obligations and subject matter described in this Agreement, and supersedes all prior and other contemporaneous understandings and agreements of the parties. No Party has been induced to enter into this Agreement by, nor is any Party relying upon, any representation or warranty outside those expressly set forth herein.
- 18) **Survival of Terms:** Any terms of this Agreement that by their nature extend beyond the term (or termination) of this Agreement shall remain in effect until fulfilled and shall apply to both Parties’ respective successors and assigns. Such terms include the requirements set forth in Sections IV.9 and II.5.
- 19) Each of the undersigned expressly affirms that he or she is authorized to execute this Agreement on behalf of the Party whom he or she represents.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized officers.

SIGNATURES:

by: _____
Jack P. Broadbent
Executive Officer/APCO
Bay Area Air Quality Management District

by: _____
Matt Morley
Parks and Public Works Director
Town of Los Gatos

Date: _____

Date: _____

Approved as to form:

Approved as to form (optional):

by: _____
Brian C. Bunger
District Counsel
Bay Area Air Quality Management District

by: _____
Legal Counsel

**ATTACHMENT A
PROJECT INFORMATION**

(Note: The section numbers shown in parentheses below refer to sections in the Agreement.)

1. **Project Number (Section IV.5):** 20R11
2. **Project Sponsor:** Town of Los Gatos
3. **Project Title:** Install 1.58 miles of Class IV bikeway in Los Gatos
4. **Project Description:** Project Sponsor shall construct and maintain the approved bicycle facility components accessible to the general public at the approved installation locations, as further described in Sections 9 and 10.
5. **Project Goal:** The goal of this Project is to reduce motor vehicle emissions and thereby improve air quality by constructing, installing, and maintaining new bicycle facilities to help commuters and residents to mode shift to cycling and walking as alternatives to driving for short and first- and last-mile trips.
6. **Project Operational Period:** Begins when the Project is made available to the public and lasts for ten (10) years.
7. **Project Schedule:**

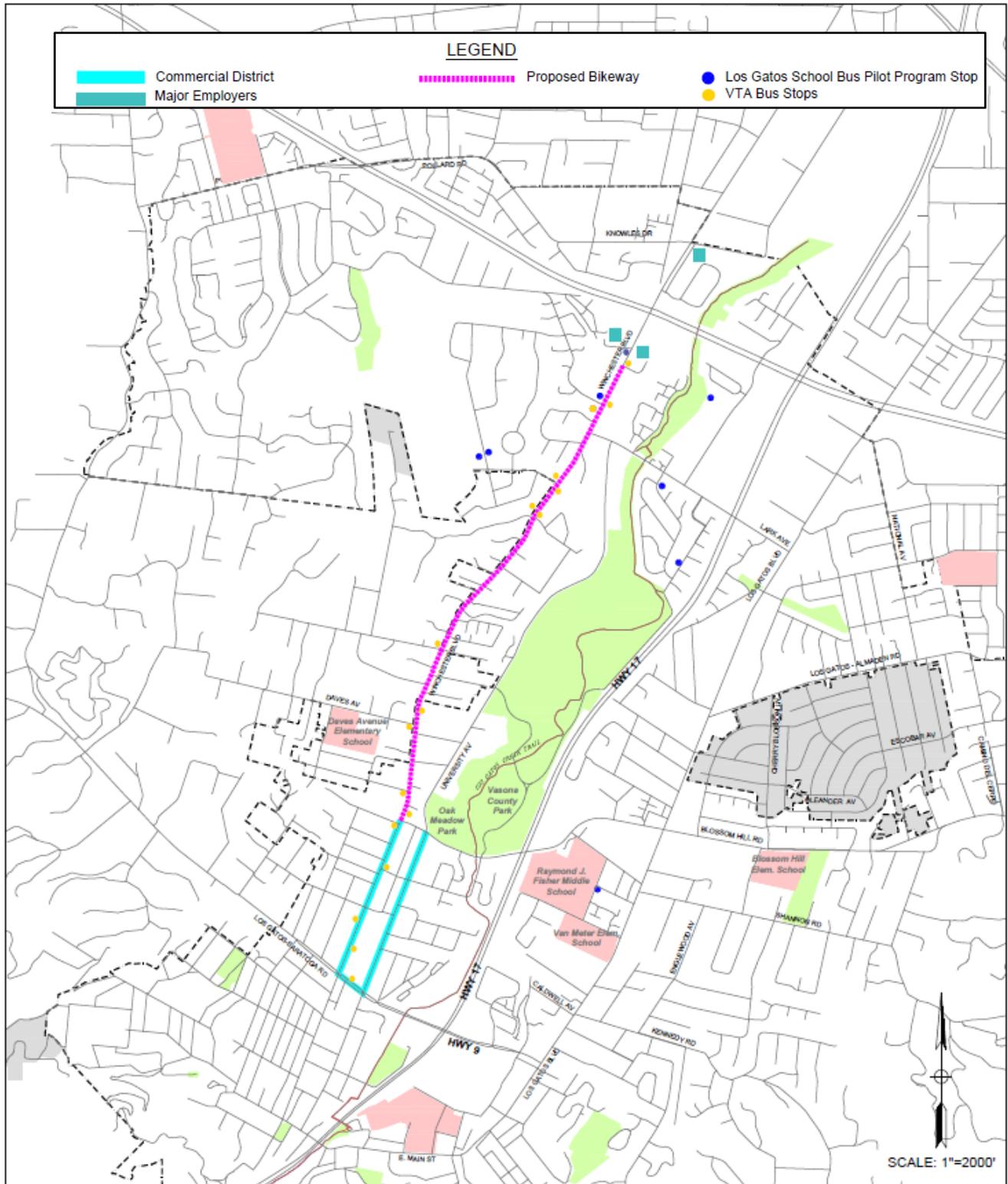
<u>Milestone</u>	<u>Date</u>
Project commences	Effective Date of Agreement
All bicycle facilities are placed into service/Project Operational Period commences	By October 1, 2021
Post-completion bicycle count completed	By October 1, 2022
Project Operational Period ends	Ten (10) years from the date Project Operational Period commences

8. **Special Conditions:**
 - A. Project Sponsor shall maintain all bikeways and equipment funded under this Agreement for the Project Operational Period and in accordance with the manufacturer's specifications, if applicable. Project Sponsor must ensure that all Project equipment complies with all applicable requirements of the Americans with Disabilities Act (ADA) and that service is available to all members of the public throughout the Project Operational Period and at least during the peak commute hours (5 AM-10 AM and 3 PM-7 PM on weekdays).
 - B. Project Sponsor shall ensure that any construction work is fully permitted and performed by a contractor licensed in the State of California.
 - C. [Reserved]
 - D. Project Sponsor must conduct a post-completion bicycle count (count) within the first twelve months of the Project Operational Period using the Air District-approved count form, unless the Air District notifies Project Sponsor in advance that this requirement is waived. The last day to conduct the count is listed in Section 7 of this Attachment A. Project Sponsor may propose to provide alternative data, which must be approved by the Air District, for the Air District's evaluation of air quality benefits.
 - E. Project Sponsor shall allow the Air District, and its authorized representatives, to collect and share usage information about the Project. Additionally, Project Sponsor agrees to provide information it has collected regarding usage of the Project upon request.

9. Approved Project Components

Component ID	Facility Location	Class I or IV	Minimum Length (miles)	Maximum TFCA Funds Per Mile	Maximum TFCA Funds Awarded
20R11-1	Winchester Blvd between Blossom Hill Rd and Albright Way	IV	1.58	\$186,013	\$293,900
	Total		1.58		\$293,900

10. Maps showing routes of approved Project:



**ATTACHMENT B
PROJECT BUDGET AND PAYMENT PROCESS**

(Note: The section numbers shown in parentheses below refer to sections in the Agreement.)

1. **Total Project Cost (Section II.2):** The Total Project Cost is the sum of the Eligible Costs that are listed in Section 4 of Attachment B.
2. **Matching Funds (Sections II.2, 3):** The Project Sponsor is responsible for all project costs that are not covered by the TFCA Funds Awarded and at least 10% of the Total Project Cost.
3. **TFCA Funds Awarded (Sections II.2, II.11, III.1, IV.7):** A maximum of \$293,900
 - A. The Air District will determine the final TFCA Funds Awarded based on the actual eligible costs for each Project component, which will not exceed the Maximum TFCA Funds Awarded specified in Section 9 of Attachment A, or 90% of actual eligible costs, whichever is lower.
 - B. If the scope of the Project is modified, the Air District will recalculate the Maximum TFCA Funds Awarded for each approved Project component to ensure the Project meets the cost-effectiveness limits and that the percentage of Maximum TFCA Funds Awarded for Eligible Costs do not exceed 90% for each Project component. The Air District will cancel this Agreement if the TFCA Funds Awarded is reduced to below \$50,000.
 - C. If this Agreement is terminated pursuant to Section IV.7 of this Agreement, the Air District will calculate the funds to which the Project Sponsor is entitled for each Project component, which will be the lesser of the following:
 - a. 90% of the actual eligible project costs; or
 - b. The Maximum TFCA Funds Awarded, as specified in Section 9 of Attachment A, divided by the number of weekdays during the Project Operational Period specified in Section 6 in Attachment A, then multiplied by the actual number of weekdays completed during the Project Operational Period, during which the Project is in compliance with the Agreement.
4. **Eligible Costs:** Eligible Costs may only be incurred on or after the Effective Date of this Agreement and must be directly and solely related to the implementation of the Project.

For the purposes of determining eligibility of Project costs, the date for equipment costs incurred shall be the date the Project Sponsor submits a signed purchase order or other document that commits the order, and for direct labor costs incurred shall be the date such services were rendered.

Eligible Costs may include:

- A. Material that is directly related to construction of the Project (e.g., concrete, asphalt);
- B. Equipment rental that is directly related to construction of the Project (e.g., dump truck);
- C. Documented labor charges (i.e., salaries, wages, and benefits) directly and solely related to the site preparation and construction of the protected bikeway(s) (e.g. trenching, painting) at the Project location; and
- D. Permit fees directly related to the Project.

Costs that are not included in the list above are not Eligible Costs, for example:

- A. Any work conducted prior to the full execution of a funding agreement, including work that was required for the application;
- B. Feasibility and planning studies;
- C. Costs associated with non-essential (i.e., not directly related to the operations of the service) hardware/equipment or labor; and
- D. [Reserved]

- E. Costs related to grant administration (e.g., salaries, wages, benefits, supplies, equipment and other office expenses); including but not limited to the following types of expenses:
 - a. Time required to monitor and report on project status, prepare reimbursement requests and account for project and TFCA funds, maintain records, participate in audit proceedings and workgroup activities required by this grant program, and any other requirements specified in the funding agreement, and
 - b. Indirect administrative costs, including management fees and overhead (e.g., costs of utilities, office supplies, property fees/leases).
- 5. **Invoice and Payment Schedule (Section III.2):** The Project Sponsor shall submit a single invoice (Final Invoice) for reimbursement to the Air District along with the Expenditure Report as specified in Attachment C.

The Final Invoice shall be prepared on the Air District's General Invoice Form and shall include:

- A. The Project Number;
- B. The total funds being requested;
- C. An itemized list of all expenses incurred by the Project Sponsor, specifying which are Eligible Costs and the dates labor was performed;
- D. Supporting documentation of all Eligible Costs incurred, including payments made by the Project Sponsor, and other documents the Air District deems necessary. Documentation of Eligible Costs incurred may include invoices from vendors, consultants, or contractors, with an explanation of line-item costs incurred for the Project, or other types of documentation provided by the Project Sponsor. Documentation of payments made by the Project Sponsor may include copies of receipts for payments made, copies of checks issued to vendors, or other types of proof of payment made by Project Sponsor.

The Air District will not process the Final Invoice until Project Sponsor is current on all Project reporting obligations.

The Air District shall retain fifteen percent (15%) of the final TFCA Funds Awarded until the Air District receives and approves the first Operations Report and the post-completion bicycle count, as specified in Attachment C.

ATTACHMENT C
MONITORING OF PROJECT PERFORMANCE

(Note: The section numbers shown in parentheses below refer to sections in the Agreement.)

1. **Progress Reports (Section II.6):** The Project Sponsor shall submit Progress Reports to the Air District summarizing Project progress. Progress Reports shall be prepared on the Air District's Progress Report form.

Due Dates: Beginning sixty (60) calendar days after the Effective Date, every March 1 and September 1 until the start of the Project Operational Period.

The Progress Report shall include at least the following information:

- A. Project costs (as specified in Attachment A), project costs incurred to date, and project costs incurred during the applicable reporting period.
 - B. A summary of project activity during the reporting period.
 - C. Information about the implementation status of the project, including if Project is adhering to the Project Schedule as specified in Attachment A, and if delays are anticipated or have occurred, the reasons for the delays and the proposed new schedule for Project implementation.
 - D. If applicable, copies of any press releases, newsletter articles, or other public information materials regarding the Project produced during the reporting period. Include use of the Air District's logo and any other acknowledgment of the Air District as the Project funding source.
2. **Expenditure Report (Section II.6):** The Project Sponsor shall submit an Expenditure Report along with the Final Invoice to the Air District to request reimbursement. The Expenditure Report shall be prepared on the Air District's Expenditure Report form.

Due Date: By sixty (60) calendar days after the start of the Project Operational Period.

The Expenditure Report shall include at least the following information:

- A. A table that contains the applicable information for each of the Project bicycle facilities:
 - a. Activity centers or transit stops serviced by, and the distance from, the bicycle facility;
 - b. Date construction or installation completed, and bicycle facilities are placed into public service;
 - c. Length and cross section of the bikeways, and page and section numbers of Chapter 1000 of the California Highway Design Manual pertaining to the design of the Project bikeways, and two (2) or more days of pre-project bicycle count data using methodology and count forms from the National Bicycle and Pedestrian Documentation Project;
- B. Maps showing the locations of each of the installed Project bicycle facilities.
- C. Photographs with date-stamps that demonstrate that all the bicycle facilities are installed or constructed.
- D. Documentation that the Project Sponsor has acknowledged the Air District as a Project funding source, such as photographs of the funded bicycle facilities with Air District logos attached; documentation of use of the Air District's logo on promotional materials, brochures, handbooks, and maps that promote or inform the public about the Project services; and copies of press releases and newsletter articles related to the Project.
- E. A discussion of any pertinent issues or problems experienced with the Project to date.

3. **Operations Reports (Section II.6):** The Project Sponsor shall submit the Operations Reports listed below to the Air District. Operations Reports shall be prepared on the Air District’s Operations Report form.

Report #	Period Covered	Due Date
1	Project Operational Period commences to December 31, 2021	By March 1, 2022
2	January 1, 2022 to December 31, 2022	By March 1, 2023
3	January 1, 2023 to December 31, 2023	By March 1, 2024
4	January 1, 2024 to December 31, 2024	By March 1, 2025
5	January 1, 2025 to December 31, 2025	By March 1, 2026
6	January 1, 2026 to December 31, 2026	By March 1, 2027
7	January 1, 2027 to December 31, 2027	By March 1, 2028
8	January 1, 2028 to December 31, 2028	By March 1, 2029
9	January 1, 2029 to December 31, 2029	By March 1, 2030
10	January 1, 2030 to December 31, 2030	By March 1, 2031
11 & Final	January 1, 2031 to End of Project Operational Period	Within 60 days from the end of Project Operational Period

Operations Reports shall include the following information:

- A. A discussion of any pertinent issues or problems experienced with the Project to date.
- B. If applicable during the reporting period, documentation that the Project Sponsor has acknowledged the Air District as a Project funding source. Examples of documentation and material acknowledgement may include the following: photographs of facilities operated as part of the Project with Air District logos attached; documentation of use of the logo on the Project Sponsor’s website, promotional materials, and on Project brochures, handbooks, and maps that promote or inform the public about the Project; and copies of press releases and newsletter articles related to the Project (Section II.8). A discussion of any pertinent issues or problems experienced with the Project to date.
- C. If this is the first Operations Report, also include the following additional information:
 - a. A description of the Project.
 - b. Two (2) or more days of bikeway post-completion bicycle count data using methodology and count forms from the National Bicycle and Pedestrian Documentation Project. The post-completion bicycle count should be conducted within the timeframe specified in the Project Schedule and include raw data (in Excel) and a summary of the count for each bikeway listed in Attachment A of the Agreement (if more than one route, use a table to display information).
 - i. If the first Operations Report is due prior to the completion of the post-completion bicycle count, as specified in the Project Schedule, then the summary of the post-completion bicycle count is instead due in the Operations Report immediately due after the first Operations Report.

- c. If providing alternative data, include a summary of that data for each component listed in Attachment A of the Agreement (if more than one route/component, use a table to display information).
 - d. A Map for each component listed in Attachment A of the Agreement.
- D. If this is the Final Operations Report, specify this in the report.

**ATTACHMENT D
INSURANCE REQUIREMENTS**

Verification of Coverage

Project Sponsor shall provide, and require any sub-awardee to provide, the Air District with certificates and/or other evidence of the insurance coverage required below. The Air District reserves the right to require Project Sponsor to provide complete, certified copies of any insurance offered in compliance with these specifications. Certificates, policies, and other evidence provided shall specify that the Air District shall receive thirty (30) calendar days advanced notice of cancellation from the insurers.

The Project Sponsor may submit evidence that listed insurance is not required for the Project.

Acceptability of Insurers

Insurance is to be placed with insurers that have a current A.M. Best's rating of no less than A: VII. The Air District may, at its sole discretion, waive or alter this requirement or accept self-insurance in lieu of any required policy of insurance.

Minimum Scope of Insurance

Throughout the Project Operational Period, Project Sponsor shall obtain and maintain in full force and effect the insurance as set forth below and shall require any third party to obtain and maintain in full force and effect all of the insurance as set forth below. Project Sponsor must initial next to each insurance requirement to confirm understanding and agreement with the applicable Project insurance requirements:

1. Liability Insurance

Corporations/Private and Public Entities - a limit of not less than \$1,000,000 per occurrence. Such insurance shall be of the type usual and customary to the business of the Project Sponsor and/or third-party who owns, operates, controls or implements any portion of the Project, and to the operation of the vehicles, engines or equipment operated by the Project Sponsor and/or third-party.

Initial

2. Workers Compensation Insurance.

Workers Compensation Insurance – for any third-party who owns, operates, controls, or implements any portion of the project, as required by California law.

Initial

3. Property Insurance.

Property Insurance - in an amount of not less than the insurable value of Project Sponsor's vehicles, engines or equipment funded under the Agreement, and covering all risks of loss, damage or destruction of such vehicles, vessels, engines or equipment.

Initial