

**THIRD AMENDMENT TO
FUNDING AGREEMENT
BETWEEN THE CITY OF CUPERTINO AND
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
FOR THE I-280/WOLFE ROAD INTERCHANGE IMPROVEMENTS PROJECT**

This FUNDING AGREEMENT AMENDMENT No. 3 ("**Third Amendment**") dated June 15, 2021, for purposes of reference, is made and entered into by and between the CITY OF CUPERTINO, a municipal corporation of the State of California ("**CITY**"), and SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, a public agency organized as a special district under California law ("**VTA**"). Hereinafter, CITY and VTA may be individually referred to as "**Party**" or collectively referred to as "**Parties**". Except as otherwise modified by the First and Second Amendments and this Third Amendment, the terms and conditions of the original Funding Agreement between the Parties, dated January 25, 2016, shall remain in full force and effect.

I. RECITALS

- A. WHEREAS, on January 25, 2016, Parties entered into an agreement ("**FUNDING AGREEMENT**") setting their respective obligations in regard to the modifications to the I-280/Wolfe Road Interchange Improvements Project ("**PROJECT**"). Under the original FUNDING AGREEMENT, the City's initial contribution to the Project was one million two hundred thousand dollars (\$1,200,000) for the development and completion of the Project Initial Document ("PID") phase. The PID phase was completed on June 9, 2017.
- B. WHEREAS, on May 3, 2017, Parties entered into a FUNDING AGREEMENT AMENDMENT No. 1 ("**First Amendment**") to add five hundred thousand dollars (\$500,000) to CITY's contribution, increasing the CITY's contribution from \$1,200,000 to \$1,700,000 to continue project development into the Project Approval/Environmental Document ("**PAED**") phase.
- C. WHEREAS, on March 7, 2018, Parties entered into a FUNDING AGREEMENT AMENDMENT No. 2 ("**Second Amendment**") to add two hundred sixty thousand dollars (\$260,000) to CITY's contribution, increasing the CITY's contribution from \$1,700,000 to \$1,960,000 to continue project development for the PAED phase.
- D. WHEREAS, the FUNDING AGREEMENT's expiration date was December 31, 2020, which expiration was extended by six months to June 30, 2021, without formal amendment, by the Parties pursuant to the terms of the FUNDING AGREEMENT.
- D. WHEREAS, the PROJECT is not yet complete, and the Parties wish to extend the term of the FUNDING AGREEMENT to allow for completion of the final design Plans, Specifications, and Estimate ("**PS&E**") phase of the PROJECT.

NOW, THEREFORE, the Parties agree to amend the FUNDING AGREEMENT as

follows:

II. AMENDED AGREEMENT

1. SECTION II, PARAGRAPH 7 Term of Agreement of the FUNDING AGREEMENT, is hereby amended to extend the FUNDING AGREEMENT's term and shall be restated as follows:

"This Agreement shall become effective upon full execution of the Agreement and shall remain in effect through December 31, 2022. The CITY's Director of Public Works or his designee and VTA's General Manager or her designee, each in his or her sole discretion, are authorized to extend the term of the Agreement for up to six (6) months after the termination date, without formal amendment of this Agreement. Any further extension of the term must be approved by the City Council."

2. SECTION II, PARAGRAPH 14 Notice of the FUNDING AGREEMENT, is hereby amended to update VTA's and City's address for notices and shall be restated as follows:

"14. Notice. Any notice required to be given by either Party, or which either party may wish to give, shall be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows:

To VTA: Santa Clara Valley Transportation Authority
Chief Engineering and Program Delivery Officer
3331 North First Street, Bldg. A
San Jose, CA 95134-1906

To CITY: City of Cupertino
Director of Public Works
Department of Public Works
10300 Torre Avenue
Cupertino, CA 95014

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the United States mail."

[signatures continue on next page]

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

“CITY”

City of Cupertino
a municipal corporation

“VTA”

Santa Clara Valley Transportation Authority
a public agency

By: _____

Deborah Feng
City Manager

By: _____

Evelynn Tran
General Counsel and Interim General
Manager/CEO

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

Heather M. Minner
City Attorney

By: _____

Victor Pappalardo
Deputy General Counsel