

**ATTACHMENT 1**

**PROJECT FUNDING AGREEMENT NO. 17-1001692**

**BETWEEN**

**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY**

**AND**

**CITY OF HESPERIA**

**FOR**

**RANCHERO ROAD WIDENING PROJECT**

THIS Project Funding Agreement (“Agreement”) is made and entered into this 12th day of July, 2017, by and between the San Bernardino County Transportation Authority (hereinafter referred to as “SBCTA”) and the CITY OF HESPERIA (hereinafter referred to as “CITY”). SBCTA and CITY shall be individually or collectively, as applicable, known as “Party” or “Parties.”

**RECITALS**

A. The Measure I 2010-2040 Expenditure Plan and the Victor Valley Subarea transportation planning partners have identified projects eligible for partial funding from Measure I 2010-2040 Victor Valley Subarea Major Local Highway Program (“MLHP”); and

B. Ranchero Road Widening Project in the City of Hesperia (“PROJECT”) is one of the projects identified as eligible for such funding and is described more fully in Attachment A; and

C. SBCTA has determined that the PROJECT is eligible to receive the Victor Valley Subarea MLHP funds; and

D. On June 7, 2017, SBCTA’s Board of Directors approved allocation of \$1,513,964 in Victor Valley Subarea MLHP funds for the PROJECT; and

E. This Agreement is to be carried out in accordance with the policies in the Measure I 2010-2040 Strategic Plan; and

F. Parties desire to proceed with the PROJECT in a timely manner; and

G. The PROJECT will widen Ranchero Road from two lanes to five lanes from the City Limits at Topaz Avenue to the completed Ranchero Road Undercrossing at 7th Avenue; and

H. This Agreement is intended to delineate the duties and funding responsibilities of the Parties for the PROJECT; and

I. SBCTA and CITY are entering into this Agreement with the understanding that SBCTA will reimburse CITY for eligible PROJECT expenditures with MLHP funds.

NOW, THEREFORE, SBCTA and CITY agree to the following:

## SECTION I

### SBCTA AGREES:

1. To reimburse CITY for the actual cost of the PROJECT up to a maximum of \$1,513,964 in MLHP funds. An estimate of costs for the PROJECT is provided in Attachment B. SBCTA shall have no further responsibilities to provide any funding for PROJECT exceeding this amount unless an amendment to this Agreement is approved by the Parties.
2. To reimburse CITY within thirty (30) days after CITY submits an original and two copies of the signed invoices in the proper form covering those actual allowable PROJECT expenditures that were incurred by CITY up to a maximum of \$1,513,964, consistent with the invoicing requirements of the Measure I 2010-2040 Strategic Plan, including backup information. Invoices may be submitted to SBCTA as frequently as monthly.
3. When conducting an audit of the costs claimed under the provisions of this Agreement, to rely to the maximum extent possible on any prior audit of CITY performed pursuant to the provisions of State and Federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to SBCTA when planning and conducting additional audits.
4. SBCTA shall assign a project liaison for the purpose of attending Project Development Team (PDT) meetings.

## SECTION II

### CITY AGREES:

1. To be the lead agency for this PROJECT and to diligently undertake and complete in a timely manner the Scope of Work for the PROJECT as shown in Attachment A.
2. To be responsible for expending that portion of allocated MLHP funds on eligible PROJECT expenses for an amount not to exceed \$1,513,964 in MLHP funds unless

this Agreement is amended and approved increasing PROJECT costs. Reimbursement by SBCTA shall be in accordance with Section I, Paragraph 2. Additionally, expenses relative to time spent on the PROJECT by CITY staff are considered eligible PROJECT expenses and may be charged to the PROJECT, subject to SBCTA's guidelines.

3. To abide by all SBCTA, CITY, State, and Federal laws, regulations, policies and procedures pertaining to the PROJECT.
4. To prepare and submit to SBCTA an original and two copies of signed invoices for reimbursement of eligible PROJECT expenses. Invoices may be submitted to SBCTA as frequently as monthly.
5. To maintain all source documents, books and records connected with its performance under this Agreement for a minimum of five (5) years from the date of the Final Report of Expenditures submittal to SBCTA or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of SBCTA during normal business hours at CITY Hall. Copies will be made and furnished by CITY upon written request by SBCTA.
6. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support CITY's requests for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of PROJECT work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by CITY.
7. To prepare a Final Report of Expenditures, including a final invoice reporting the actual eligible PROJECT costs expended for those activities described in the work activities, and to submit that Final Report of Expenditures and final invoice no later than one hundred twenty (120) days following the completion of those expenditures. An original and two copies of the Final Report of Expenditures shall be submitted to SBCTA and must state that these PROJECT funds were used in conformance with this Agreement and for those PROJECT-specific work activities described.
8. To cooperate in having a PROJECT-specific audit completed by SBCTA, at SBCTA's option and expense, upon completion of the PROJECT. The audit must state that all funds expended on the PROJECT were used in conformance with this Agreement.
9. To repay to SBCTA any reimbursement for Measure I costs that are determined by subsequent audit to be unallowable within one hundred twenty (120) days of CITY receiving notice of audit findings, which time shall include an opportunity for CITY to respond to and/or resolve the findings. Should the findings not be otherwise resolved and CITY fail to reimburse moneys due SBCTA within one hundred twenty (120) days of audit findings, or within such other period as may be agreed between both

Parties, the SBCTA reserves the right to withhold future payments due CITY from any source under SBCTA's control.

10. To include SBCTA in Project Development Team (PDT) meetings if and when such meetings are held and in related communications on PROJECT progress, to provide at least quarterly schedule updates to SBCTA, and to consult with SBCTA on critical issues relative to the PROJECT.
11. As an eligible PROJECT expense, to post signs at the boundaries of the PROJECT noting that PROJECT is funded with Measure I funds. Signs shall bear the logos of SBCTA and CITY.

### SECTION III

#### IT IS MUTUALLY AGREED:

1. To abide by all applicable Federal, State and Local laws and regulations pertaining to the PROJECT, including policies in the applicable program in the Measure I 2010-2040 Strategic Plan, as amended, as of the Effective Date of this Agreement.
2. The final PROJECT cost may ultimately exceed current estimates of PROJECT cost. Any additional eligible costs resulting from unforeseen conditions over the estimated total of the PROJECT cost, shall be borne by CITY unless prior authorization has been approved by the SBCTA Board of Directors pursuant to Section III, Paragraph 3 of this Agreement;
3. In the event CITY determines PROJECT work may exceed the not to exceed amount identified in Section I, Paragraph 1, CITY shall inform SBCTA of this determination and thereafter the Parties shall work together in an attempt to agree upon an amendment to the PROJECT amounts identified in this Agreement. In no event, however, shall SBCTA be responsible for PROJECT costs in excess of the PROJECT amounts identified herein absent a written amendment to this Agreement that is approved by the Parties.
4. Eligible PROJECT reimbursements shall include only those costs incurred by CITY for PROJECT-specific work activities that are described in this Agreement and shall not include escalation or interest.
5. Neither SBCTA nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless SBCTA, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to

be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. CITY's indemnification obligation applies to SBCTA's "active" as well as "passive" negligence but does not apply to SBCTA's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

6. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by SBCTA under or in connection with any work, authority or jurisdiction delegated to SBCTA under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, SBCTA shall fully defend, indemnify and save harmless CITY, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SBCTA under or in connection with any work, authority or jurisdiction delegated to SBCTA under this Agreement. SBCTA's indemnification obligation applies to CITY's "active" as well as "passive" negligence but does not apply to CITY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.
7. This Agreement will be considered terminated upon reimbursement of eligible costs by SBCTA or June 30, 2022, whichever is sooner, provided that the provisions of Paragraphs 5, 6, 7, 8, and 9 of Section II, and Paragraphs 5 and 6 of Section III, shall survive the termination of this Agreement. The Agreement may also be terminated by SBCTA, in its sole discretion, in the event the PROJECT work described in Attachment A has not been initiated by CITY within twelve (12) months of the Effective Date of this Agreement.
8. SBCTA may terminate this Agreement if CITY fails to perform according to the terms of this Agreement and if this failure jeopardizes the delivery of the PROJECT according to the terms herein.
9. The Recitals to this Agreement are true and correct and are incorporated into this Agreement.
10. Attachment A, The Ranchero Road Widening Project (Description of Project and Milestones), and Attachment B, Ranchero Road Widening Project (Summary of Estimated Costs), are attached to and incorporated into this Agreement.
11. This Agreement may be signed in counterparts, each of which shall constitute an original.
12. This Agreement is effective and shall be dated on the date executed by SBCTA.

In witness whereof, the Parties have executed this Agreement by their authorized signatories below.

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

**CITY OF HESPERIA**

By: \_\_\_\_\_  
Robert A. Lovingood, President  
Board of Directors

By: \_\_\_\_\_  
Paul Russ, Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Eileen Monaghan Teichert  
SBCTA General Counsel

By: \_\_\_\_\_  
Eric Dunn  
City Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jeffery Hill  
Procurement Manager

Date: \_\_\_\_\_

## Attachment A

### RANCHERO ROAD PROJECT

#### Description of Project and Milestones

<b>PROJECT DESCRIPTION</b>	Widen Ranchero Road from 2 Lanes to 5 Lanes from the City Limits at Topaz Avenue east to the completed Ranchero Road Undercrossing at 7th Avenue. This project connects to the County's portion of the same project from Topaz Avenue west to 0.3 miles east of Mariposa. The milestones are as of July 12, 2017 and are subject to change due to variables regarding the Union Pacific Railroad crossing and the California Department of Water Resources aqueduct crossing.	
<b>PROJECT MILESTONE</b>		<b>BASELINE</b>
Project Study Report Approved		n/a
Begin Environmental (PA&ED) Phase		12/1/2007
Circulate Draft Environmental Document		6/1/2013
Draft Project Report		n/a
End Environmental Phase (PA&ED Milestone)		7/1/2013
Begin Design (PS&E) Phase		3/1/2009
End Design Phase (Ready to List for Advertisement Milestone)		3/15/18
Begin Right of Way Phase		5/2/17
End Right of Way Phase (Right of Way Certification Milestone)		8/15/2018
Begin Construction Phase (Contract Award Milestone)		11/15/2018
End Construction Phase (Construction Contract Acceptance Milestone)		5/31/2022
Begin Closeout Phase		6/30/2022
End Closeout Phase (Closeout Report)		12/31/2022

**ATTACHMENT B**

**RANCHERO ROAD PROJECT**

**Summary of Estimated Costs**

<b>Component*</b>	<b>Total Cost</b>	<b>Cost Incurred Prior to Agreement</b>	<b>SBCTA Share of Balance** 41.1%</b>	<b>City Share of Balance 58.9%</b>
PA&ED	\$958,041	\$467,824	\$201,479	\$288,738
PS&E	\$1,717,599	\$935,399	\$321,484	\$460,716
Right of Way	\$1,496,409	\$85,214	\$580,001	\$831,194
Utility Relocation	\$1,000,000	\$0	\$411,000	\$589,000
<b>Total</b>	<b>\$5,172,049</b>	<b>\$1,488,437</b>	<b>\$1,513,964</b>	<b>\$2,169,648</b>

\* The construction phase is not included unless this Agreement is amended and approved.

\*\*SBCTA's Share can be from sources under control of SBCTA including but not limited to Measure I Major Local Highways Program (MLHP), State Transportation Improvement Program (STIP), Surface Transportation Program (STP), or other funds without necessitating an amendment of this agreement.