

**FUNDING AGREEMENT NO. 08MAR01  
BETWEEN  
TRANSPORTATION AUTHORITY OF MARIN  
AND  
COUNTY OF MARIN**

**This Funding Agreement** is effective on the date shown on page 5 between the Transportation Authority of Marin, hereinafter referred to as "TAM," and the County of Marin, hereinafter referred to as the "RECIPIENT."

**SECTION 1. Purpose of Funding Agreement**

The Purpose of this Funding Agreement, hereinafter referred to as "AGREEMENT," is to specify the terms and conditions for the distribution of funds made available to TAM as the "Program Manager" of the Transportation Fund for Clean Air (TFCA) program for Fiscal Year 2008/09 for the **Bike Rack and Locker Program** described in Attachment A.

**SECTION 2. Scope of Work**

RECIPIENT shall perform the work necessary to complete the scope in a manner satisfactory to Attachment A, entitled "Project Information," incorporated herein by reference and made part of this AGREEMENT.

**SECTION 3. Maximum Obligation**

TAM and RECIPIENT mutually agree that TAM's maximum cumulative payment obligation shall be Four Hundred and Ten Thousand Dollars (\$410,000.00) for the project specified in Attachment A. RECIPIENT shall perform said service as described in Attachment A even if the total cost of the project exceeds TAM's maximum cumulative payment obligation. RECIPIENT shall provide for ongoing maintenance of the project with non-TFCA funds.

**SECTION 4. Term of Funding Agreement**

This AGREEMENT shall remain in effect on the date shown on Page 5, after the signature of the Executive Director for TAM, until: 1) the scope of work included in Attachment A is completed and the final reimbursement request and Project Monitoring Form have been approved by TAM, 2) this AGREEMENT has been terminated as provided in Section 5, "Termination," or 3) the expiration date as provided in Section 15, "Unexpended Funds," has lapsed, which ever comes first.

**SECTION 5. Termination**

Either party may terminate this AGREEMENT at any time by giving written notice of termination to the other party, which shall specify the effective date thereof. Notice of termination under this article shall be given at least ninety (90) days before the effective date of termination. In the event that RECIPIENT terminates this AGREEMENT and fails to complete the project specified in Attachment A, TAM shall not reimburse RECIPIENT for any uncompleted portion of the project.

**SECTION 6. Indemnification**

RECIPIENT shall indemnify and save harmless TAM, its directors, officers, agents, and employees from all claims, suits or actions resulting from the performance by RECIPIENT of its duties under this AGREEMENT. TAM shall indemnify and save harmless RECIPIENT, its directors, officers, agents, and employees from all claims, suits or actions resulting from the

performance by TAM of its duties under the AGREEMENT.

#### **SECTION 7. Audit and Inspection of Records**

RECIPIENT shall allow TAM, the Bay Area Air Quality Management District (BAAQMD), or an independent auditor to audit all expenditures and to inspect all records relating to project performance in implementing the project described in Attachment A for the duration of this AGREEMENT and for three (3) years following completion of the project. TAM shall provide timely notice prior to conducting an audit of project costs.

#### **SECTION 8. Third-Party Contract Audits**

TAM reserves the right to request an audit of other third-party contracts for any reason. If RECIPIENT is subject to third-party financial audit requirements imposed by another funding source, copies of audits performed in fulfillment of such requirements shall be provided to TAM.

#### **SECTION 9. Project Oversight**

RECIPIENT shall cooperate with TAM's project management team and shall provide any requested project information.

#### **SECTION 10. Compliance With Law**

In the performance of its obligations pursuant to this AGREEMENT, RECIPIENT shall keep itself fully informed of the federal, state and local laws, ordinances and regulations in any manner affecting the performance of this AGREEMENT, and must at all times comply with such laws, ordinances, and regulations as they may be amended from time to time.

#### **SECTION 11. Environmental Compliance**

RECIPIENT shall undertake all environmental mitigation measures that may be identified as commitments in applicable documents (such as environmental assessments, environmental impact statements and reports, and memoranda of agreement) and comply with any conditions imposed as a part of a finding of no significant impact or a record of decision; all such mitigation measures are incorporated in this AGREEMENT by reference. Recipient shall be responsible for obtaining all necessary environmental permits for performance of work.

#### **SECTION 12. Annual Report**

RECIPIENT shall maintain necessary records of the performance of the project and submit an annual report to TAM within one (1) month after the end of TAM's fiscal year which: (a) itemizes the expenditure of funds, (b) summarizes progress to date in the implementation of any funded project and (c) provides the results of the monitoring of the performance of the project as specified in Attachment A.

#### **SECTION 13. Emissions Performance Evaluation**

RECIPIENT shall keep necessary records of the performance of the project as specified in Attachment A in order to expedite evaluation of emissions reductions achieved from the implementation of this project.

#### **SECTION 14. Payment**

RECIPIENT shall request payment from TAM for reimbursement of costs associated with the implementation of the project described in Attachment A by submittal of a request letter signed by the department head or his/her official designee with attached invoices. Reimbursement of costs is eligible as of the date first above written. Payments are to be used only for expenditures specified in Attachment A, and TAM shall have sole and absolute discretion in determining whether expenditures are legitimate project expenses that conform to the scope.

#### **SECTION 15. Unexpended Funds**

RECIPIENT shall submit a written request for approval to extend the terms of this AGREEMENT if RECIPIENT cannot expend all TFCA funds within two years of the date shown on page 5 after the signature of the Executive Director for TAM. TAM reserves the right to withdraw approval of any TFCA funds not expended within two years of the date shown on page 5 unless TAM has approved a project schedule that extends beyond the two-year period.

#### **SECTION 16. Reimbursement of Cost**

RECIPIENT shall return any funds realized from the sale of facilities, equipment, or vehicles purchased with TFCA funds to TAM if RECIPIENT no longer provides said service with the facilities, equipment, or vehicles or if such reuse or sale occurs within the industry standards for the useful life from the date of purchase of the facilities, equipment, or vehicles. The amount of the funds returned to TAM shall be proportional to the percentage of TFCA funds originally used to purchase the facilities, equipment, or vehicles. RECIPIENT may request from TAM an approval of an alternate use of the facilities, equipment, or vehicles and this alternate use will be granted or denied at the sole discretion of TAM.

#### **SECTION 17. Time Sheets Documentation**

RECIPIENT shall maintain employee time sheets documenting those hourly labor costs incurred in the implementation of the project described in Attachment A, which are paid with funds received under this AGREEMENT, or to establish an alternative method to document staff costs charged to this project.

#### **SECTION 18. Identification**

RECIPIENT shall affix a BAAQMD-approved sign on each vehicle identifying the Transportation Fund for Clean Air, the Bay Area Air Quality Management District, and TAM as funding sources for the project. RECIPIENT shall credit the Bay Area Air Quality Management District and TAM as funding sources in any related articles, news releases or other publicity materials for the projects funded under this AGREEMENT that are implemented directly by RECIPIENT.

#### **SECTION 19. Press Releases**

RECIPIENT shall notify TAM in advance of any press releases about activities, particularly groundbreakings and ribbon cuttings, in connection with grant funds expended pursuant to this AGREEMENT.

#### **SECTION 20. Public Domain**

To the extent not otherwise prohibited by law and to the extent required by the California Public Records Act, RECIPIENT shall place in the public domain any software, written document, or other product developed with funds received through this AGREEMENT.

#### **SECTION 21. Contacts**

RECIPIENT shall designate one or more persons to act as contact and liaison with TAM with regard to the day-to-day activities of the project. Day-to-day contact shall be with TAM's Manager of Programming or his designee. Notification of change of status of contact persons shall be made in writing within thirty (30) day's time. The designated contact persons for both parties are as follow:

**RECIPIENT**

Craig Tackabery  
Assistant Director  
County of Marin  
3501 Civic Center Drive  
San Rafael, CA 94913  
(415) 499-6582

**TAM**

David Chan  
Manager of Programming  
Transportation Authority of Marin  
750 Lindero Street, Suite 200  
San Rafael, CA 94901  
(415) 226-0821

**SECTION 22. Independent Agency**

RECIPIENT performs the terms and conditions of this AGREEMENT as an entity independent of TAM. None of RECIPIENT'S agents or employees shall be agents or employees of TAM.

**SECTION 23. Assignment and Delegation**

This AGREEMENT may not be assigned or delegated by either party without the express written consent of the other party.

**SECTION 24. Expenses**

Each party shall be solely responsible for and shall bear all of its own respective legal expenses in connection with any dispute arising out of this AGREEMENT and the transactions hereby contemplated. RECIPIENT may not use GRANT funds, or other TAM programmed funds, for the aforementioned purpose.

**SECTION 25. Severability**

Should any part of this AGREEMENT be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decisions shall not affect the validity of the remainder of this AGREEMENT, which shall continue in full force and effect; provided that the remainder of this AGREEMENT can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

**SECTION 26. Amendments**

Amendments to this AGREEMENT, including no dollar cost increases in scope and modification to the project described herein, shall be made in writing and signed by both parties.

**SECTION 27. Integration**

This AGREEMENT represents the entire agreement of the parties with respect to the subject matter thereof. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.

**SECTION 28. District Funding Agreement**

RECIPIENT shall be subject to all of the terms and conditions of the Funding Agreement 08-MAR (Attachment B) between the Bay Area Air Quality Management District and the Transportation Authority of Marin, dated August 22, 2008. These documents are attached to and incorporated herein by reference.

In Witness Whereof, the parties have entered into this Funding Agreement No. 08MAR01 to be executed as dated below.

COUNTY OF MARIN

TRANSPORTATION AUTHORITY OF  
MARIN

By \_\_\_\_\_  
Signature

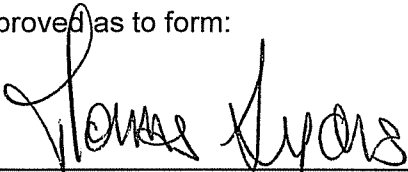
By \_\_\_\_\_  
Dianne Steinhauser  
Executive Director


\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Approved as to form:

By  \_\_\_\_\_  
Attorney

 \_\_\_\_\_  
Print Name