

Memorandum of Understanding (MOU)

**San Mateo County Transportation Authority
and
City/County Association of Governments of San Mateo County
and
City and County of San Francisco**

for the Implementation of

Pedestrian and Bicycle Safety Improvements on North McDonnell Road

This memorandum of understanding (MOU) is entered into as of the __ day of _____, 20[XX] (Execution Date), by and between the San Mateo County Transportation Authority (TA) and the City/County Association of Governments of San Mateo County (C/CAG) (Sponsor), and the City and County of San Francisco (City) San Francisco International Airport Commission, acting by and through its Airport Director (the Airport)], each of which is referred to herein individually as "Party" and jointly as "Parties."

RECITALS

WHEREAS, on November 2, 2004, the voters of San Mateo County approved the continuation of the collection and distribution by the TA of the Measure A half-cent transaction and use tax for 25 years to implement the 2004 Transportation Expenditure Plan, beginning January 1, 2009 (New Measure A); and

WHEREAS, the Measure A Expenditure Plan designates three percent of Measure A funds for pedestrian and bicycle projects throughout the County of San Mateo (County); and

WHEREAS, the San Francisco International Airport is located in the County; and

WHEREAS, on November 6, 2018, the voters of San Mateo County authorized a new one-half percent sales tax for transportation purposes, and tasked the TA with administering four of the five transportation program categories described in the Congestion Relief Plan presented to the voters (Measure W); and

WHEREAS, the Measure W Congestion Relief Plan designates five percent of Measure W funds to bicycle and pedestrian projects throughout the County; and

WHEREAS, the TA Strategic Plan 2020-2024 reconciled the requirements of both Measures and created a consolidated program to guide funding decisions; and

WHEREAS, on August 4, 2022, the TA issued the 2022 Cycle 6 Pedestrian and Bicycle Program Call for Projects; and

WHEREAS, in response to the call for projects, Sponsor requested that the TA provide \$2,000,000 in funds for the Pedestrian and Bicycle Safety Improvements on North McDonnell Road (Project); and

WHEREAS, the Project meets the intent of the [*if New Measure A: 2004 Transportation Expenditure Plan AND/OR if Measure W: 2018 Congestion Relief Plan*] and the TA's Strategic Plan 2020-2024; and

WHEREAS, on [DATE], the TA's Board of Directors programmed and allocated up to [\$AMOUNT] from the [New Measure A AND/OR Measure W] Pedestrian and Bicycle Program Category for the [PHASE(S)] phase (Scope of Work) of/for the Project through Resolution XXXX-XX; and

WHEREAS, the Airport will contribute funds totaling \$242,000 for a total Project scope of work with not-to-exceed cost of \$2,200,000; and

WHEREAS, the Sponsor desires the Airport to implement the Scope of Work as described in Section A-2, below.

Now, THEREFORE, the Parties to this MOU agree as follows:

A. Project Scope and Description

1. Project Scope. This Project shall be referred to as the "Pedestrian and Bicycle Safety Improvements on North McDonnell Road ."
2. Scope of Work. The Scope of Work for the Project is Implement pedestrian and bicycle safety elements and intersection improvements at five intersections on North McDonnell Road (NMR). These locations are NMR and Lot C/CC, NMR and West Field Road, NMR and West Area Drive/Kiss n Fly, NMR and Access Road 8, and NMR and Rental Car Center Quick Turnaround Intersection. Pedestrian improvements include ADA curb ramps, center island passageways, detectable warning surfaces, sidewalk, crosswalk striping, yield marking striping and a new bus shelter at NMR and West Area Drive. Bicycle improvements include striping removal and restriping of NMR, from Lot C/CC to West Field Road, to provide a road diet with widened buffered bike lanes in both directions.
3. Limited to Scope of Work. This MOU is intended to cover only those activities, responsibilities, and obligations necessary to complete the Scope of Work.

B. Funding and Payment

1. Funding Commitment. The TA will provide up to \$[AMOUNT] of [New Measure A AND/OR Measure W] Pedestrian and Bicycle Program funds for the Project.

2. Cost Savings. Any pro-rata cost savings of the [New Measure A AND/OR Measure W] funds allocated for the Project will revert to the [New Measure A AND/OR Measure W] Pedestrian and Bicycle Program for the TA to reallocate to any eligible project through its usual fund programming and allocation activities.
3. Insufficient Funding. In the event that additional funding is needed to complete the Scope of Work, the TA will identify the additional amounts needed and review those estimates with the Sponsor and the Airport. The Parties will work together to identify potential sources of funding, as well as obtain the necessary funds to complete the Scope of Work. If additional funding is needed due to a change in the Scope of Work, as requested by the Airport, the TA will identify the additional amounts needed and review those estimates with the Airport. In such case, it is the responsibility of the the Airport to identify the potential sources of funding, as well as obtain the necessary funds to complete the changed Scope of Work. The TA may consider requests for additional funding, but is under no obligation to grant such requests.

C. Term

1. Term of Agreement. This MOU is effective upon the Execution Date, and will terminate upon the earlier of: (a) six months after written acceptance/endorsement of the Sponsor and the Airport of the completed Scope of Work, (b) termination of the MOU by Sponsor, the Airport, or the TA pursuant to section C-3, C-4, or C-5 of this MOU.
2. Time of Performance. This Project must be completed no later than five years from the TA Board allocation date.
3. Termination by Sponsor. The Sponsor may at any time terminate the MOU by giving ten (10) days' written notice to the TA and the Airport. Sponsor will reimburse the TA for all reasonable funds expended by the TA in connection with the Scope of Work, and for all reasonable costs incurred by the TA in connection with the termination, within ninety (90) days of the TA's submission to Sponsor of a detailed statement of such payments and costs and appropriate supporting documentation.
4. Termination by the Airport. the Airport may at any time terminate the MOU, with or without cause, by giving ten (10) days' written notice to the TA and Sponsor. the Airport will reimburse the TA for all reasonable funds expended by the TA in connection with the Scope of Work solely to the extent said funds directly pertain to the Scope of Work located at the the Airport campus, and for all reasonable costs incurred by the TA in connection with the termination, within ninety (90) days of the TA's submission to the Airport of a detailed statement of such payments and costs and appropriate supporting documentation.
5. Termination by the TA. The TA may at any time terminate the MOU, with or without cause, by giving ten (10) days' written notice of such termination to Sponsor and the Airport. the

Airport. If the TA terminates the MOU for convenience (i.e., without cause), the TA will reimburse the Airport all reasonable costs and expenses incurred by the Airport as a result of such termination.

6. Termination by the Parties. If it is mutually agreed in writing by the Parties that it would be in their mutual best interests to terminate or suspend work on the Project, no Party may seek nor be entitled to receive further reimbursement from the remaining Parties for any costs or expenses incurred in connection with the Scope of Work nor termination of this MOU.
7. Expiration of TA Financial Obligations. Any and all financial obligations of the TA pursuant to this MOU will expire upon the expenditure of the TA's maximum contribution to the Project as established in Section B-1 above or upon termination of this MOU under Section C-1 above, whichever occurs first.

D. TA Responsibilities

1. The TA will make available to the Project up to [\$AMOUNT] of [New Measure A AND/OR Measure W] funds for the Scope of Work and TA will process reimbursements from the Airport for timely payment.
2. The TA will review, process, and audit (at its discretion) invoices and other documentation of expenditures for work performed under this MOU. The TA will also track the accumulation and expenditure of [New Measure A AND/OR Measure W] funds allocated for Scope of Work, and process other documentation of expenditures in compliance with TA accounting and budgeting requirements.

E. Sponsor Responsibilities

1. Provide a cover letter stating that this project is a joint project to be implemented by the Airport.
2. Provide a resolution adopted by the C/CAG Board of Directors.
3. C/CAG is not the primary fiscal agency on the project. Further, C/CAG is not responsible for project delivery or identifying additional funds should the project costs increase.
4. If awarded, enter into a three party funding agreement listing C/CAG as the Sponsor.

F. Third Party Roles

1. Third Party Roles. The Airport is responsible for the design and construction for the Project.
2. the Airport will be responsible for championing the effort of obtaining political and public support for the Project.
3. the Airport will be the public face of the Project for purposes of leading outreach efforts to local stakeholders and community members, including coordination of public meetings and solicitation of public comment.
4. the Airport will provide input and oversight based on local policies and desires regarding the outcome of and deliverables of the Project.

G. Indemnification

1. Each of the Parties will indemnify, hold harmless and defend the other Party and its directors/councilmembers, commissioners, officers, employees and agents (collectively, "Indemnitees") against all liability, claims, suits, actions, costs or expenses related to performance of the Project, including but not limited to those arising from loss of or damage to property, and injuries to or death of any person (including but not limited to the property or employees of each Party) when arising out of or resulting from any act or omission by the indemnifying Party, its agents, employees, contractors or subcontractors in connection with any aspect of the Project design or construction.

H. Miscellaneous

1. Ownership of Work. All reports, designs, drawings, plans, specifications, schedules, studies, memoranda, and other documents assembled for or prepared by or for; in the process of being assembled or prepared by or for; or furnished to the TA or the Sponsor under this MOU, are the property of the Airport. Each Party is entitled to copies and access to these materials during the progress of the Project and upon completion of the Scope of Work or termination of this MOU.
2. Attribution to the TA. the Airport must include attribution that indicates work was funded by [New Measure A/Measure W] funds from the TA. This provision applies to any project, or publication, that was funded in part or in whole by [New Measure A/Measure W] funds. Acceptable forms of attribution include TA branding on Project-related documents, construction signs, public information materials, and any other applicable documents.
3. No Waiver. No waiver of any default or breach of any covenant of this MOU by any Party will be implied from any omission by a Party to take action on account of such default if such default persists or is repeated. Express waivers are limited in scope and

duration to their express provisions. Consent to one action does not imply consent to any future action.

4. Assignment. No Party can assign, transfer or otherwise substitute its interest or obligations under this MOU without the written consent of the other Party.
5. Governing Law. This MOU is governed by the laws of the State of California as applied to contracts that are made and performed entirely in California.
6. Compliance with Laws. In performance of this MOU, the Parties must comply with all applicable Federal, and State laws and regulations.
7. Accessibility of Services to Persons with Disabilities. The Project implementation must comply with, and not subject any Party to liability under, the Americans with Disabilities Act, the California Disabled Persons Act, or any other state or federal laws protecting the rights of persons with disabilities.
8. Modifications. This MOU may only be modified in a writing executed by all Parties.
9. Disputes. If a question arises regarding interpretation of this MOU or its performance, or the alleged failure of a Party to perform, the Party raising the question or making the allegation must give written notice thereof to all other Parties. The Parties will 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.
10. Relationship of the Parties. It is understood that this is an MOU by and between independent contractors and is not intended to and does not create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of independent contractor.
11. Warranty of Authority to Execute MOU. Each Party to this MOU represents and warrants that each person whose signature appears hereon is duly authorized and has the full authority to execute this MOU on behalf of the entity that is a Party to this MOU.
12. Severability. If any portion of this MOU, or the application thereof, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining portions of this MOU, or the application thereof, will remain in full force and effect.
13. Counterparts. This MOU may be executed in counterparts. The Parties consent to the use of Digital Signatures, affixed using the City's DocuSign platform, to execute this MOU and all subsequent modifications. For this purpose, "Digital Signature" means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.
14. Entire MOU. This MOU constitutes the entire agreement between the Parties pertaining to its subject matter and supersedes any prior or contemporaneous written or oral

agreement between the Parties on the same subject. This MOU may only be modified or amended by written instrument executed and approved in the same manner as this MOU.

15. Public Records Request. The Parties acknowledge that this MOU and all records related to its formation and the Parties' performance of the activities required by the MOU are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law, or as specifically identified in Section 3 as "Confidential." If anyone challenges the material as not being properly designated as "Confidential," The Party(ies) designating the record as confidential will bear the burden to establish that the information may be lawfully withheld. the Airport will comply with all federal, state and local laws related to public information disclosure and coordinate with the remaining Parties for any requests.
16. Notices. All notices affecting any of the clauses of this MOU must be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or by personal delivery or overnight courier, to the appropriate address indicated below or at such other place(s) that either Party may designate in written notice to the other. Notices will be deemed received upon delivery if personally served, one (1) day after mailing if delivered via overnight courier, or two (2) days after mailing if mailed as provided above.

To TA: San Mateo County Transportation Authority
1250 San Carlos Avenue
P.O. Box 3006
San Carlos, CA 94070-1306
Attn: Dora Seamans
District/TA Secretary

To Sponsor: City/County Association of Governments
555 County Center
Redwood City, CA 94063
Attn: Sean Charpentier
Executive Director

To the Airport: [the Airport]
[ADDRESS LINE ONE
ADDRESS LINE TWO
Attn: PROJECT SPONSOR CONTACT NAME
TITLE OF PROJECT SPONSOR CONTACT]

IN WITNESS WHEREOF, the Parties have hereunder subscribed their names on the Execution Date.

City/County Association of Governments of San Mateo County

By: _____

Name: _____

Its: _____

Approved as to Form:

Attorney for City/County Association of
Governments of San Mateo County

SAN MATEO COUNTY TRANSPORTATION AUTHORITY

By: _____

Name: _____

Its: _____

Approved as to Form:

Legal Counsel for the TA

**CITY AND COUNTY OF SAN FRANCISCO SAN FRANCISCO INTERNATIONAL
AIRPORT COMMISSION**

By: _____

Name: _____

Its: _____