

AGREEMENT BETWEEN CITY AND COUNTY OF SAN FRANCISCO AND
COUNTY OF SAN MATEO FOR PARTIAL REIMBURSEMENT OF
AIRPORT/COMMUNITY ROUNDTABLE COSTS INCURRED BY COUNTY TO
ASSIST AIRPORT COMMISSION IN IDENTIFYING NOISE REDUCTION
MEASURES AND OTHER SERVICES

This Agreement, dated for convenience July 1, 2010, is by and between the County of San Mateo, a political subdivision of the State of California, hereinafter referred to as "County," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Airport Commission, hereinafter referred to as "Commission."

RECITALS

WHEREAS, the Parties to this Agreement believe that the residents of the County and the residents of the City have important interests in resolving any noise related problems created by the operation of aircraft at San Francisco International Airport ("SFO"); and

WHEREAS, in the interest of resolving any noise-related problems, City, County and communities located in County have formed the Airport/Community Roundtable ("Roundtable") as a centralized forum for addressing aircraft related noise issues; and

WHEREAS, approval for said Agreement was obtained from a Civil Service Commission Notice of Action for Contract Number 4051-07/08;

WHEREAS, the Commission and the City are members of the Roundtable; and

WHEREAS, County is the coordinating lead for the Roundtable and has used its resources to provide advisory and technical services to the Roundtable, including development of possible noise mitigation measures; and

WHEREAS, through the efforts of the Roundtable, improved methods of operation and other measures for preventing and alleviating noise due to aircraft operations at SFO have been and will continue to be presented to Commission; and

WHEREAS, the Roundtable provides consultation to the Commission regarding any findings, conclusions, recommendations, reports of activities, or other matters in connection with the performance of this Agreement; and

WHEREAS, the Roundtable is funded by its membership and each member of the Roundtable reimburses the County for the County's expenses for services rendered to the Roundtable, including but not limited to county staff support, consultant contracts, office supplies/equipment, mailing and photocopying costs; and

WHEREAS, the Commission's reimbursement to the County for its share of the County's costs have been determined to be \$125,000.00 for fiscal year 2010-2011;

NOW, THEREFORE, the Parties agree as follows:

1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. County's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. Term of the Agreement

A. Subject to Section 1, the term of this Agreement shall be from July 1, 2010 to June 30, 2011; provided, however, that this Agreement shall continue in effect only so long as: (1) at least five of the following Roundtable members – Brisbane, Burlingame, Daly City, Foster City, Hillsborough, Millbrae, Pacifica, San Bruno, South San Francisco – remain members of the Roundtable and remain signatories to the April 2005 Memorandum of Understanding (MOU) and (2) the County remains a member of the Roundtable and a signatory to the MOU. If any of these conditions is not fully met, the Agreement shall terminate upon written notice to the County by SFO and the County shall be paid only for those services performed pursuant to this Agreement prior to such notice, less the amount of any payment previously made.

B. City or County may, at the discretion of either, upon a 30-day written Notice of Intent to Terminate this Agreement, terminate this Agreement. After notice has been delivered, the party signing the Notice of Intent shall set a meeting with the Airport Director, the President of the Airport Commission, and the Chair of the Roundtable to discuss termination of this Agreement. Upon termination of this Agreement by either Party, County shall be paid for the services performed pursuant to this Agreement prior to

the date of receipt of Notice of Intent to Terminate this Agreement, less the amount of any payment previously made.

C. Notwithstanding the other termination provisions of this section, County shall be under no obligation to provide any services under this Agreement until such time as the City Controller has certified to the availability of funds, and City's assumption of risk that such services will not be provided is part of the consideration for this Agreement.

3. Effective Date of Agreement

This Agreement shall become effective when the Controller has certified to the availability of funds and County has been notified in writing.

4. Services Provided by County

A. County is retained as an independent contractor to use its professional skills and best efforts during the term of this Agreement to coordinate the efforts of the Roundtable and to provide professional services to the Roundtable, as hereinafter described.

B. County shall provide staffing to the Roundtable, consisting of the following:

- Transportation Systems Coordinator for San Mateo County – Roundtable Oversight, part-time position, not to exceed \$15,800 per year
- Roundtable Coordinator (consultant contract), salary not to exceed \$60,000 per year
- Roundtable Administrative Assistant not to exceed \$25,000 per year
- Roundtable Media Program (consultant contract), not to exceed \$40,000 per year.
- As needed consultants (consultant contract), not to exceed \$10,000 per year

Consultants selected and furnished by the County shall have experience, education and training in the field of urban planning and shall also possess experience, education and training in the field of airport land use and noise issues.

C. County, through qualified consultant(s), shall perform the following services:

1. Study the source, extent and areas in which noise from aircraft operations is produced at SFO;
2. Evaluate any problems created in surrounding communities by aircraft noise;

3. Furnish information to the Roundtable, the Airport Commission and the Airport Director regarding improved methods of operation and other measures for preventing and alleviating noise from aircraft operations at SFO;
4. Consult with Roundtable, Airport Commission, Airport Director as requested regarding any findings, conclusions, recommendations, reports of activities or other matters in connection with the performance of this Agreement;
5. Develop the Annual work Plan for adoption by the Roundtable;
6. Assist the Roundtable in addressing any unresolved or any new issues relating to the compatibility of SFO to the surrounding communities; and
7. Perform such special studies and other work as directed by the Airport Commission or Airport Director or the Chairperson of the Roundtable.

D. County shall provide for the operating needs of the Roundtable, including postage, photocopying, office equipment/supplies, website support and maintenance, and other similar costs.

5. Compensation

A. The total payment to County under this Agreement for the City's share of operating costs related to the Roundtable and for services provided by the County shall not exceed One Hundred Twenty-Five Thousand Dollars (\$125,000.00) for fiscal year 2010-2011. This payment constitutes City's entire obligation and contribution for its participation in the Roundtable and for reimbursement to the County for services.

B. Payment for services under this Agreement for each fiscal year shall be made by City in two equal payments not-to-exceed \$62,500 each on July 1 and January 1 upon receipt of statements from County. Statements shall be submitted to:

San Francisco International Airport
Aircraft Noise Abatement Office
P.O. Box 8097
San Francisco, CA 94128
Attn: Bert Ganoung

6. Guaranteed Maximum Costs

A. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

B. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the County for goods or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

C. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller.

D. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. General Conditions

A. This Agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of California.

B. City designates the Airport Director, or his authorized representative and the Chairperson of the Roundtable, for the direction of all services to be performed by County under this Agreement.

C. The representative of Commission and the representative of the Controller of the City and County of San Francisco shall have the right to examine and inspect the books and any other records of County with respect to the services performed by County under this Agreement.

D. Any provision or portion of this Agreement determined by a court of competent jurisdiction to be unlawful under any applicable law shall be ineffective without affecting any other provision of the Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding Agreement enforceable in accordance with its terms.

E. County may subcontract for the services contemplated by this Agreement.

8. Sunshine Ordinance

In accordance with San Francisco Administrative Code Section 67.24(e), contracts, contractors' bids, responses to requests for proposals, and all other records of communications between the City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information

provided which is covered by this paragraph will be made available to the public by the City upon request.

9. Tropical Hardwood and Virgin Redwood Ban

Pursuant to San Francisco Administrative Code § 121.5(b), the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

10. Resource Conservation

County will use recycled paper or paper products to the maximum extent possible and, when appropriate, print documents using double-sided pages.

11. Cooperative Drafting

This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

12. Notification

All notices required to be given shall be sent by U.S. Mail as follows:

A. City

San Francisco International Airport
Noise Abatement Office
P.O. Box 8097
San Francisco, CA 94128
Attn: Bert Ganoung

Telephone: (650) 821-5100
Fax: (650) 821-5112

B. County

Planning and Building Department
County of San Mateo
455 County Center, Second Floor
Redwood City, CA 94063
Attn: Virginia Diehl
David Carbone

Telephone: (650) 363-4417
Fax: (650) 363-4849

13. Headings

The headings given in this Agreement are for labeling purposes only and shall not be considered in the interpretation of the Agreement.

14. Entirety of Agreement

This Agreement constitutes the entire agreement between the City and the County. No modification of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement shall be binding on the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

AIRPORT COMMISSION
City and County of San Francisco

COUNTY OF SAN MATEO

John L. Martin
Airport Director

President, Board of Supervisors

ATTEST:

ATTEST:

Jean Caramatti
Airport Commission Secretary

Clerk of the Board of Supervisors

Resolution No: 11-0104
Adopted: April 5, 2011

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Dennis J. Herrera, City Attorney

John Beiers, County Counsel

Melba Yee
Deputy City Attorney

County Counsel