

File No. 160408

Committee Item No. 9

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee Date July 13, 2016

Board of Supervisors Meeting Date _____

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Airport Commission Resolution</u> |
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Completed by: Linda Wong Date July 8, 2016

Completed by: Linda Wong Date _____

1 [Intergovernmental Agreement - San Mateo County - Reimburse Dispatched Calls - Not to
2 Exceed \$1,000,000 - Share Transient Occupancy Tax

3 **Resolution approving an Intergovernmental Agreement between San Mateo County and**
4 **the City and County of San Francisco, by and through its Airport Commission, to**
5 **reimburse San Mateo County for the cost of dispatched calls to the Airport in an**
6 **amount not to exceed \$1,000,000 for the period of July 1, 2015, through June 30, 2020;**
7 **and to share the Transient Occupancy Tax relating to the Airport's Hotel.**

8
9 WHEREAS, The San Francisco International Airport ("Airport") is an enterprise
10 department of the City and County of San Francisco and physically located in unincorporated
11 San Mateo County; and

12 WHEREAS, San Mateo County operates the public communications dispatch center
13 that receives emergency 911 calls from San Francisco International Airport; and

14 WHEREAS, The Airport wishes to reimburse San Mateo County for the Airport's
15 prorata share of the net cost to operate the Dispatch Center, based on the percentage of 911
16 calls relating to the Airport; and

17 WHEREAS, The Airport is building a Grand Hyatt Hotel located on Airport property;
18 and

19 WHEREAS, The San Francisco Board of Supervisors approved the Airport Hotel
20 Management Agreement with the Hyatt Corporation for an On-Airport Hotel by Resolution
21 No. 434-15; and

22 WHEREAS, San Mateo County levies a Transient Occupancy Tax ("TOT") under San
23 Mateo County Ordinance Code, Chapter 5.136 and California State Revenue and Taxation
24 Code, Section 7280, equal to ten (10%) percent of the rent charged by the operator of a hotel
25

1 for the privilege of occupying a room at a hotel located in the unincorporated areas of the
2 County; and

3 WHEREAS, In order to assist the Airport in building a successful hotel, San Mateo
4 County has agreed to provide an economic development incentive by sharing the TOT equally
5 with the Airport until either the Airport hotel receives a cumulative total of \$8,000,000 or June
6 30, 2029, whichever occurs first, as approved by San Mateo County by Resolution
7 No. 074439 adopted by the San Mateo County Board of Supervisors on Tuesday, April 13,
8 2016; and

9 WHEREAS, San Mateo County receives aviation fuel tax revenues on aviation/jet fuel
10 sold at the Airport, which must be used solely for aviation purposes in accordance with
11 Federal law and the policies of the Federal Aviation Administration; and

12 WHEREAS, Any fuel tax revenues that San Mateo County is required to remit to the
13 Airport will count towards the Airport's cumulative TOT sharing limit of \$8,000,000 dollars; and

14 WHEREAS, The Airport Commission approved this Agreement by Resolution
15 No. 16-0076 and directed the Commission Secretary to seek approval from both the San
16 Mateo County of Board of Supervisors and the San Francisco Board of Supervisors, a copy of
17 which is on file with the Clerk of the Board of Supervisors in File No. 160408, which is hereby
18 declared to be a part of this resolution, as set forth herein; now, therefore, be it

19 RESOLVED, That this Board of Supervisors hereby approves the Intergovernmental
20 Agreement between San Mateo County and the City and County of San Francisco, by and
21 through its Airport Commission, to reimburse San Mateo County for the cost of dispatched
22 calls to the Airport in an amount not to exceed \$1,000,000 over five years and to share
23 Transient Occupancy Tax relating to the Airport's Hotel; and, be it

1 FURTHER RESOLVED, That within thirty days of the Intergovernmental Agreement
2 being fully executed by all parties, the Airport Commission shall provide the final
3 Intergovernmental Agreement to the Clerk of the Board for inclusion into the official file.
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<p>Item 9 File 16-0408</p>	<p>Department: San Francisco International Airport (Airport)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<p>The proposed resolution would approve an Intergovernmental Agreement between San Mateo County and the City and County of San Francisco, through the Airport Commission, to:</p>	
<ol style="list-style-type: none"> 1. Reimburse San Mateo County for the cost of public safety dispatches to the Airport in an amount not to exceed \$1,000,000 for the period retroactive to July 1, 2015, through June 30, 2020; and 2. Share the Transient Occupancy Tax (hotel tax) relating to the Airport’s hotel until either the Airport hotel receives a cumulative total of \$8,000,000 in hotel taxes or June 30, 2029, whichever occurs first. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • San Francisco International Airport is physically located in unincorporated San Mateo County. San Mateo County operates the public safety communications dispatch center that receives emergency 911 calls from the Airport. • The Airport is currently developing a 350-room hotel on Airport property. San Mateo County levies hotel taxes of 10 percent of the hotel room rate for hotels located in unincorporated areas of the County. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • Net costs for operating the San Mateo County Public Safety Dispatch Center were \$2,639,414 in FY 2014-15, and approximately 6 percent of calls came from the Airport. The Airport would have been requested to pay \$158,365 to San Mateo County in FY 2014-15 if the proposed agreement were in place. While net costs or the share of calls coming from the Airport could change over the five-year term of the agreement, the cost to the Airport will not exceed \$1,000,000. • San Mateo County will share half of the first \$16,000,000 in hotel taxes collected from operation of the new hotel with the Airport. The Airport expects to receive the maximum amount of \$8,000,000 in hotel taxes sometime in year 2024. • If aviation fuel tax revenues are remitted to the Airport, the Airport will still receive \$8,000,000 in combined hotel tax and aviation fuel tax revenues from San Mateo County. 	
<p style="text-align: center;">Recommendations</p>	
<ul style="list-style-type: none"> • Amend the proposed resolution to state that the provision for the Airport to reimburse San Mateo County for the Airport’s share of public safety dispatches is retroactive to July 1, 2015. • Approve the proposed resolution, as amended. 	

MANDATE STATEMENT

City Charter Section 9.118(a) states that contracts entered into by a department, board, or commission that have anticipated revenues of \$1 million or more are subject to Board of Supervisors approval.

BACKGROUNDPublic Safety Dispatch

San Francisco International Airport (the Airport) is physically located in unincorporated San Mateo County. San Mateo County operates the Public Safety Communications Dispatch Center (911 Call Center). Approximately 6 percent of calls to the San Mateo County 911 Call Center come from the Airport.

The Airport cannot enter into a mutual aid agreement with the San Mateo County Emergency Services Joint Powers Authority because on-duty emergency personnel and vehicles at the Airport are not permitted to leave Airport property. Therefore, the Airport needs an Intergovernmental Agreement to reimburse San Mateo County for the Airport's share of costs for 911 Call Center calls.

Airport Hotel Tax

The Airport is currently developing a 350-room hotel on Airport property that will be owned by the Airport and operated by the Hyatt Corporation, as approved by the Board of Supervisors in 2015 (File No. 15-0988; Resolution No. 434-15). The hotel is expected to be ready for occupancy on or about July 1, 2019. San Mateo County levies a Transient Occupancy Tax (hotel tax) of 10 percent of the hotel room rate for hotels located in unincorporated areas of the County.

Aviation Fuel Tax

Approximately \$4 million in aviation fuel tax revenues are generated each year on aviation/jet fuel sold at the Airport. Fuel tax revenues are collected by the State and disbursed equally to San Francisco and San Mateo counties.

By Federal law and the policies of the Federal Aviation Administration (FAA), aviation fuel tax revenues must be used for aviation purposes only. There are only two small general aviation airports located within the jurisdiction of San Mateo County (San Carlos and Half Moon Bay). If the FAA determines that the municipality receiving aviation fuel tax revenues uses the revenues for non-aviation purposes, the municipality could be required to remit revenues to the Airport, according to FAA's Revenue Use Policy. San Mateo County does not currently remit any of its share of the fuel tax revenues to the Airport.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a new Intergovernmental Agreement between San Mateo County and the City and County of San Francisco, through the Airport Commission, to have the Airport:

1. Reimburse San Mateo County for the Airport's share of costs for 911 Call Center calls in an amount not to exceed \$1,000,000 for the period retroactive to July 1, 2015, through June 30, 2020; and
2. Share the Transient Occupancy Tax (hotel tax) relating to the Airport's hotel with San Mateo County until either the Airport hotel receives a cumulative total of \$8,000,000 in hotel taxes or June 30, 2029, whichever occurs first.

The proposed Intergovernmental Agreement establishes a process for the Airport to reimburse the San Mateo County Emergency Services Joint Powers Authority for the Airport's share of costs for 911 Call Center calls. The agreed upon approach is to invoice the Airport for its share of 911 call volume multiplied by the Public Safety Communications Dispatch Center's net cost. The Public Safety Communications Dispatch Center's net cost is the expenditures not reimbursed by other agencies, including the San Mateo County's Sheriff's Office.

As noted above, San Mateo County does not currently remit its share of aviation fuel tax revenues to the Airport. Under the proposed Intergovernmental Agreement, if the FAA requires San Mateo County to return aviation fuel tax revenues to the Airport in the future, these remittances would count towards the Airport's cumulative hotel tax sharing limit of \$8,000,000.

FISCAL IMPACT

Public Safety Communications Dispatch

Net costs for operating the San Mateo County Public Safety Communications Dispatch Center increased 17 percent over two years between FY 2012-13 and FY 2014-15, from \$2,254,849 to \$2,639,414. If the Intergovernmental Agreement had been in place in FY 2012-13 through FY 2014-15, the Airport would have been requested to pay \$135,291 to San Mateo County in FY 2012-13, increasing to \$158,365 in FY 2014-15, assuming that the Airport's share of calls to the 911 Call Center are constant at 6 percent, as shown in Table 1 below.

Table 1: San Mateo County Public Safety Dispatch Center Costs

Year	Net Cost	Airport Share of Call Volume	Airport Reimbursement to San Mateo County ^a
FY 2012-13	\$2,254,849	6%	\$135,291
FY 2013-14	2,575,009	6%	154,501
FY 2014-15	2,639,414	6%	158,365

^a The proposed Intergovernmental Agreement does not involve the Airport reimbursing San Mateo County for public safety dispatch in FY 2012-13 through FY 2014-15. Amounts are shown for analytical purposes only.

It is not known how much the Public Safety Communications Dispatch Center's net costs or the Airport's share of 911 emergency calls will change over the five-year term of the agreement, but the cost to the Airport will not exceed \$1,000,000 over five years under the terms of the proposed agreement, and could be less if net costs and 911 emergency call volumes do not increase from FY 2014-15 levels. The source of funds will be the Airport's operating budget, which is subject to appropriation approval by the Board of Supervisors.

However, as noted above, the Airport will be responsible to reimburse San Mateo County for the Airport's share of Public Safety Communications Dispatch Center calls retroactive to July 1, 2015. According to Ms. Cathy Widener, Airport Government Affairs Manager, the agreement will be retroactive because San Mateo County has been requesting reimbursement for several years, and it took time to negotiate the agreement and have the Airport Commission and San Mateo County Board of Supervisors approve it. According to Ms. Widener, San Mateo County has not yet submitted information to the Airport on the amount of reimbursement to be paid by the Airport to San Mateo County in FY 2015-16. Because the proposed Intergovernmental Agreement between the Airport and San Mateo County is retroactive to July 1, 2015, the proposed resolution should be amended for retroactivity.

Airport Hotel Tax

San Mateo County will share 50 percent of the first \$16,000,000 in hotel taxes collected from operation of the new Hyatt hotel expected to open on July 1, 2019 at the Airport. Once the Airport has received \$8,000,000, through a combination of hotel taxes and aviation fuel tax, all hotel taxes thereafter will accrue to San Mateo County. As shown in Table 2 below, Airport staff project that hotel taxes for the first ten years of the Hyatt hotel operations will be approximately \$34,617,737. Assuming (1) the hotel is ready for occupancy around July 1, 2019, and (2) a modeled "economic shock" in year 2022 that reduces room revenues, the Airport would receive the maximum amount of \$8,000,000 in hotel taxes sometime in year 2024. Despite the inherent uncertainty in predicting future economic conditions that affect hotel room revenues, it seems reasonable to assume that the Airport would receive the \$8,000,000 share of hotel tax revenue by June 30, 2029, which is the end date for the Airport and San Mateo County to share hotel taxes under the proposed Intergovernmental Agreement.

Table 2: On-Airport Hotel Tax Projections

Year	Average Daily Rate without Tax (\$)	Annual Occupancy (%)	Room Revenue without 10% Tax (\$)	Hotel Tax (10% of Room Revenue)	50% Share of Tax (\$)	Airport Cumulative Hotel Tax (\$)
2019	294	69.5	\$26,058,764	\$2,605,876	\$1,302,938	\$1,302,938
2020	307	80.1	31,546,860	3,154,686	1,577,343	\$2,880,281
2021	319	85.1	34,731,261	3,473,126	1,736,563	\$4,616,844
2022	272	80.8	28,076,384	2,807,638	1,403,819	\$6,020,663
2023	280	82.5	29,510,250	2,951,025	1,475,513	\$7,496,176
2024	320	85.1	34,884,192	3,488,419	1,744,210	\$9,240,386
2025	352	85.1	38,267,768	3,826,777	1,913,388	\$11,153,774
2026	366	85.1	39,789,782	3,978,978	1,989,489	\$13,143,263
2027	377	85.1	40,983,475	4,098,347	2,049,174	\$15,192,437
2028	388	85.1	42,328,631	4,232,863	2,116,432	\$17,308,868
		Total	\$346,177,367	\$34,617,737	\$17,308,868	--

Aviation Fuel Tax

It is not known if or how much aviation fuel tax revenue San Mateo County could be required to remit to the Airport. The FAA has not yet determined that San Mateo County is using aviation fuel tax revenues for non-aviation purposes. If aviation fuel tax revenues are remitted to the Airport, the Airport will still receive a cumulative \$8,000,000 in combined hotel tax and aviation fuel tax revenues from San Mateo County between the start of hotel occupancy expected in July 2019 and June 30, 2029.

RECOMMENDATIONS

1. Amend the proposed resolution to state that the provision for the Airport to reimburse San Mateo County for the Airport's share of public safety 911 emergency calls is retroactive to July 1, 2015.
2. Approve the proposed resolution, as amended.

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF SAN MATEO
AND
THE AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO
RELATING TO VARIOUS MATTERS**

This Intergovernmental Agreement (the "Agreement") between the **COUNTY OF SAN MATEO** (the "County"), a political subdivision of the State of California, and the **CITY AND COUNTY OF SAN FRANCISCO** (the "City"), a municipal corporation and political subdivision of the State of California, acting by and through its **AIRPORT COMMISSION** (the "Commission"), is dated as of April 12, 2016.

RECITALS

- A. The City owns and operates the San Francisco International Airport (the "Airport") through the Commission.
- B. The County provides certain emergency response services to the Airport and the Commission wishes to pay the County for the cost of these services.
- C. The Commission is planning to build and own a Grand Hyatt hotel (the "Hotel") located on Airport property in an unincorporated area of the County that will be managed and operated by Hyatt Corporation ("Hyatt") under a Hotel Management Agreement between the Commission and Hyatt.
- D. The County levies a TOT (as defined in paragraph 1 below) on the guests of hotels located in the unincorporated areas of the County and is willing to provide an economic development incentive relative to the TOT in order to assist the Commission in building a successful hotel at the Airport.
- E. On November 21, 2013, the Federal Aviation Administration ("FAA") amended its 1999 Revenue Use Policy (as defined in paragraph 1 below) to provide that state and local taxes on aviation fuel, whether part of a general sales tax or otherwise, and whether imposed by an airport operator or by state or local taxing authorities, are subject to the federal restrictions on the uses of airport revenue. The County receives taxes on the sale of aviation fuel dispensed at the Airport.
- F. Consistent with Section 9.118 of the Charter of the City and County of San Francisco, all contracts entered into by a City commission or department, which contract has an anticipated revenue of one million dollars or more require approval by resolution of the City's Board of Supervisors. Similarly, contracts or agreements having a term in excess of ten years must also be approved by the City's Board of Supervisors.

- G. The County and the Commission are entering into this Agreement to document their agreement on various matters and to mutually assist each other.

THEREFORE, THE COUNTY AND THE COMMISSION AGREE as follows:

1. Definitions

“*Dispatch Calls*” means emergency dispatch calls (i.e., 911 calls) for emergency response services (including law enforcement, fire response, emergency medical services and ambulance transportation) received by the County’s Public Safety Communications Dispatch Center.

“*Fuel Tax Proceeds*” means the proceeds of any tax on the sale of aviation and/or jet fuel at the Airport received by the County.

“*Revenue Use Policy*” means the FAA’s 1999 *Policies and Procedures Concerning the Use of Airport Revenue* (64 Fed. Reg. 7696), as amended and supplemented, including as amended on November 21, 2013 (79 Fed. Reg. 66282).

“*TOT*” means the Transient Occupancy Tax authorized under California State Revenue and Taxation Code Section 7280 and levied by the County under San Mateo County Ordinance Code Chapter 5.136, equal to ten (10%) percent of the rent charged by the operator of a hotel for the privilege of occupying a room at a hotel located in the unincorporated areas of the County, as such tax may be amended from time to time.

2. Payment for Dispatch Call Services to the Airport

- A. Dispatch Call Services: The Commission will pay the County an allocable share of the annual cost to operate the County’s Public Safety Communications Dispatch Center based on the percentage of Dispatch Calls to the Airport, calculated according the following formula (the object code references are to the County’s budget system report entitled “SR13 Adopted Book {SYS} {1240P, Public Safety Communications}”):

$$\frac{[\text{Net Appropriations (NETAPP)} - \text{Total Sources (TOTSRC)}]}{[\text{Airport Dispatch Calls} / \text{Total Dispatch Calls}]} = \text{Airport payment to County}$$

As an illustration, the payment for Fiscal Year 2014-15 would have been calculated as follows:

$$[\$10,667,788 - \$8,028,373] \times [3,940 / 65,340] = \$159,157$$

- B. Maximum Amount of Payment. For purposes of encumbrance of funds and certification of this Agreement by the San Francisco City Controller, the maximum payment amount for services under this Section 2 will not exceed One Million

Dollars (\$1,000,000) during the term set forth in Section 2.E. This maximum amount may be adjusted by the parties from time to time as needed by amendment to this Agreement.

- C. Notice of Changes in Payment Rates. The County will notify the Airport in writing of any change in the payment rates for the services described above no later than sixty (60) days following such change, and in any event prior to sending the next quarterly invoice.
- D. Invoicing and Payment. The County will send the Airport a quarterly invoice for the reimbursable services described above, with such detail and back-up cost documentation as the Airport may require. The Airport will pay each approved invoice within thirty (30) days. The frequency of invoices is subject to change as the parties may agree. The parties shall perform an annual true-up at the end of each fiscal year, as needed.
- E. Term for Payment of Emergency Response Services. The provisions of this Section 2 will apply to emergency response services received by the Airport from and after July 1, 2015 through June 30, 2020, unless extended by the parties by amendment of this Agreement. Notwithstanding the expiration of this Section 2, the other provisions of this MOU will continue in force as amended until terminated by the parties.
- F. FAA-Related Representations. In compliance with subsections VI.B.1 and 2 of the FAA's Revenue Use Policy, the County represents that the payment rate for Dispatch Calls (i) is now, and in the future will be, based on a cost allocation formula that is calculated consistently for the Airport and other comparable units or cost centers of government, and (ii) does not and will not exceed the cost of providing the services to the Airport.
- G. Budget Changes. The parties shall meet and confer in case of significant budget changes.

3. Hotel Economic Development Incentive

- A. Amount of Incentive. As an economic development incentive to assist the Commission in building a successful hotel at the Airport, the County will pay to the Airport an amount up to fifty percent (50%) of the TOT generated by the Hotel per fiscal year until the Airport has received a cumulative total incentive equal to Eight Million Dollars (\$8,000,000), as provided in this Section 3.
- B. Flow of Funds and Timing. Each quarter following the opening of the Hotel (currently estimated to open in July 2019), the operator of the Hotel will transfer 100% of the TOT proceeds to the County on a quarterly basis as required by law. Prior to the end of the fiscal year, the County will transfer fifty percent (50%) of the

TOT collected for the fiscal year to the Airport (the "Airport's TOT share") as an economic development incentive without the need for an invoice or demand from the Airport. However, if during that fiscal year the County pays Fuel Tax Proceeds to the Airport, then the Airport's TOT share will be reduced by the amount of Fuel Tax Proceeds paid to the Airport. If the Fuel Tax Proceeds paid during the fiscal year exceed the Airport's TOT share for that fiscal year, then the excess amount will offset the Airport's TOT share for the succeeding fiscal years. Payments to the Airport of both the Airport's TOT share and Fuel Tax Proceeds will be applied to the Airport's cumulative maximum economic development incentive of \$8,000,000.

- C. Term for Economic Development Incentive. The sharing of the TOT with the Airport as provided in this Section 3 will end on the earlier to occur of (i) the end of the fiscal year in which the cumulative incentive amount paid to the Airport equals \$8,000,000; (ii) June 30, 2029; or (iii) the termination of this Agreement pursuant to Section 5. Following such expiration of this Section 3, the parties acknowledge that the Airport will no longer be paid a portion of the TOT as an economic development incentive, but that the County may be required to continue remitting Fuel Tax Proceeds to the Airport as required by the Revenue Use Policy without any further offsets. Notwithstanding the expiration of this Section 3, the other provisions of this MOU will continue in force as amended until terminated by the parties.
- D. Responsibility for use of Fuel Tax Proceeds. The parties agree that (i) the County bears the sole responsibility for its compliance with the FAA's Revenue Use Policy with respect to the Fuel Tax Proceeds, and (ii) the County may decide to pay Fuel Tax Proceeds to the Airport in excess of the incentive amount, both before and after the effectiveness of this Section 3, in order to comply with the Revenue Use Policy. This Agreement shall not be construed as County's assent to the Revenue Use Policy.

4. Limitation on Payments

Any obligation or liability of the City or the Airport created by or arising out of this Agreement shall be payable solely out of the revenues and other lawfully available moneys of the Airport, and shall not constitute a general obligation of the City or a charge upon its general fund. This Agreement shall not obligate the City to make any appropriation from its general fund for any payment due hereunder. No breach by the City hereunder shall impose any pecuniary liability upon the City, other than from Airport revenues, or be payable from or constitute a charge upon the general credit or against the taxing power of the City.

5. Termination of the Agreement; Budget and Fiscal Provisions

- A. Termination for Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter and the annual appropriation of funds by the City and the County. This Agreement will terminate without penalty, liability or

expense of any kind to the City or the County 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 to the City or the County at the end of the term for which funds are appropriated.

- B. Optional Termination. In addition to the expiration and termination provisions in Sections 2.E, 3.C and 5.A, either party may terminate this Agreement in its entirety without cause or penalty at the end of any fiscal year upon at least thirty (30) days' prior written notice to the other party.
- C. Effect of Termination. Upon any termination under this Section 6, the County will send the Airport a final invoice for the amounts due under Section 2 to pay the County for emergency response services provided through the termination date. The parties will also perform a final calculation as of the termination date relating to the TOT and Fuel Tax Proceeds as provided in Section 3.B and the County will pay any amount due to the Airport as of the termination date.

6. Access to Records

Both parties shall maintain books and records showing all revenues, expenses, and payments for those matters under this Agreement, and each party shall have the right, at its own expense, upon reasonable notice and during regular business hours, to inspect and audit the other party's books and records.

7. Notices and Communications

Any notice, request, demand or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United States mail, postage prepaid, by certified mail addressed:

- A. In the case of the County, to:

County Manager
County of San Mateo
400 County Center, 1st Floor
Redwood City, CA 94063

or to such person or address as the County may, from time to time furnish to the Commission.

- B. In the case of the Commission or the City, to:

Airport Director

Administrative Offices
International Terminal
San Francisco International Airport
P.O. Box 8097
San Francisco, CA 94128

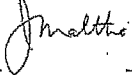
or to such person or address as the Commission may, from time to time furnish to the County.


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IN WITNESS WHEREOF, the County and the Commission have caused this Agreement to be executed by their duly authorized representatives on the dates, as shown below:

COUNTY OF SAN MATEO

Date: April 12, 2016

ATTEST: 
Clerk, Board of Supervisors

BY: 
President, Board of Supervisors

Resolution # 074439

AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

Date: _____

BY: _____
John L. Martin
Airport Director

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

AUTHORIZED BY:

Commission Resolution No.: _____

Adopted: _____

BY: _____
Sheryl L. Bregman
Airport General Counsel

ATTEST: _____
Jean Caramatti
Secretary, Airport Commission

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 16-0076

APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY OF SAN MATEO TO REIMBURSE THE COUNTY FOR THE COST OF DISPATCHED CALLS TO THE AIRPORT IN AN AMOUNT NOT TO EXCEED \$1,000,000 OVER FIVE YEARS, AND TO SHARE TRANSIENT OCCUPANCY TAX RELATING TO THE AIRPORT'S GRAND HYATT HOTEL; AND REQUEST FOR APPROVAL BY THE BOARD OF SUPERVISORS

WHEREAS, the County of San Mateo (the "County") operates a Public Safety Communications Dispatch Center that receives 911 emergency calls and dispatches law enforcement, emergency medical responders and fire responders throughout the County, including to the Airport, which is located primarily in unincorporated San Mateo County; and

WHEREAS, the Airport wishes to reimburse the County for the Airport's prorata share of the net cost to the County to operate the Dispatch Center, based on the percentage of 911 calls relating to the Airport; and

WHEREAS, the Commission is planning to build and own a Grand Hyatt hotel located on Airport property in an unincorporated area of the County; and

WHEREAS, the County levies a Transient Occupancy Tax ("TOT") under San Mateo County Ordinance Code Chapter 5.136 and California State Revenue and Taxation Code Section 7280, equal to ten (10%) percent of the rent charged by the operator of a hotel for the privilege of occupying a room at a hotel located in the unincorporated areas of the County; and

WHEREAS, in order to assist the Commission in building a successful hotel at the Airport, the County is willing to provide an economic development incentive by sharing the TOT equally with the Airport until the earlier to occur of the Airport receiving a cumulative total of \$8,000,000 or June 30, 2029; and

WHEREAS, the County receives aviation fuel tax revenues on aviation/jet fuel sold at the Airport, which must be used solely for aviation purposes in accordance with Federal law and the policies of the Federal Aviation Administration; and

WHEREAS, any of fuel tax revenues that the County is required to remit to the Airport will count towards the Airport's cumulative TOT sharing limit of \$8,000,000 dollars; now, therefore, be it

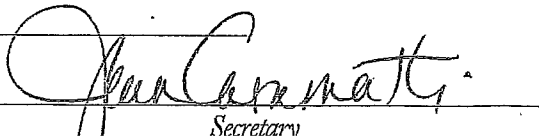
RESOLVED, that the Airport Director is authorized to enter into an Intergovernmental Agreement with the County regarding reimbursement for the dispatched calls to the Airport described above in an amount not to exceed \$1,000,000 over five years (July 1, 2015 through June 30, 2020), and the sharing of the Transient Occupancy Tax as described above until the earlier to occur of the Airport receiving a cumulative total of \$8,000,000 or June 30, 2029; and be it further

RESOLVED, that following approval by the San Mateo County Board of Supervisors, the Commission Secretary is hereby authorized and directed to request Board of Supervisors approval of the Intergovernmental Agreement with the County. In the event that the San Mateo County Board of Supervisors does not approve the Intergovernmental Agreement, this Resolution shall become null and void with no further action required.

I hereby certify that the foregoing resolution was adopted by the Airport Commission

at its meeting of _____

MAR 15 2016


Secretary

years. The reimbursement for dispatched calls to the Airport is estimated at approximately \$200,000 annually, with a not-to-exceed amount of \$1 million over five years (July 1, 2015 through June 30, 2020).

Sharing of the Transient Occupancy Tax

Once the Airport's Grand Hyatt Hotel opens in 2019, the County will share 50% of the Transient Occupancy Tax collected with the Airport to help the Airport fund the hotel's various reserves and expenses until the earlier to occur of (1) a cumulative total of \$8 million is reached, or (2) June 30, 2029.

On a separate issue, the County receives aviation fuel tax revenues on aviation/jet fuel sold at the Airport. The Federal Aviation Administration (FAA) has advised all jurisdictions nationwide that receive aviation fuel tax revenues that these tax revenues must be used solely for aviation purposes. Included in the Agreement is a provision that if the County is required to return any of these fuel tax revenues to the Airport, those amounts will count towards the Transient Occupancy Tax cumulative limit of \$8 million dollars.

San Mateo and San Francisco Board of Supervisors Approvals

The San Mateo County Board of Supervisors has not yet approved the Intergovernmental Agreement. We expect the San Mateo County Board to hear the matter in April. If the Commission approves the Intergovernmental Agreement, it will be contingent on approval by the San Mateo County Board and then subject to the approval of the San Francisco Board of Supervisors.

Consistent with Section 9.118 of the San Francisco Charter, all contracts entered into by a City commission or department, which have an anticipated revenue of \$1 million or more, or a term in excess of ten years, require approval by resolution of the City's Board of Supervisors. The proposed Agreement with the County, which provides for the Airport receiving up to \$8 million of TOT revenue through June 30, 2029, requires Board approval. The proposed resolution authorizes and directs the Commission Secretary to submit the Agreement for Board approval.

Recommendation

I recommend adoption of the attached Resolution approving an Agreement with the County regarding reimbursement of dispatched calls to the Airport and the sharing of the Transit Occupancy Tax from the Airport's Grand Hyatt Hotel.



John L. Martin
Airport Director

Prepared by: Leo Fermin
Chief Business and Finance Officer

Attachment

RESOLUTION NO. 074439

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION AUTHORIZING THE PRESIDENT OF THE BOARD TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO RELATING TO THE REIMBURSEMENT OF SERVICES AND SHARING OF HOTEL TRANSIENT OCCUPANCY TAX

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the City and County of San Francisco owns and operates the San Francisco International Airport ("Airport") through the Commission; and

WHEREAS, the County provides certain emergency response services to the Airport and the Commission wishes to pay the County for the cost of these services; and

WHEREAS, the Commission is planning to build and own a Grand Hyatt hotel located on Airport property in an unincorporated area of the County that will be managed and operated by Hyatt Corporation under a Hotel Management Agreement between the Commission and Hyatt; and

WHEREAS, the County levies a Transient Occupancy Tax ("TOT") on the guests of hotels located in the unincorporated area of the County and is willing to provide an economic development incentive related to the sharing of TOT for a limited term in order to assist the Commission in building a successful hotel at the Airport; and

WHEREAS, the sharing of TOT under the Intergovernmental Agreement will be adjusted on a dollar for dollar basis by the amount of sales tax proceeds from aviation fuel sales that the County is required to transfer to the Airport, if any, pursuant to the Federal Aviation Administration's amended Revenue Use Policy; and

WHEREAS, this Board has been presented with a form of such Intergovernmental Agreement and has examined and approved same as to both form and content, and desires to enter into same;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors be, and is hereby authorized to, execute the Intergovernmental Agreement with the Airport Commission of the City and County of San Francisco for and on behalf of the County of San Mateo, and the Clerk of this Board shall attest the President's signature thereto.

* * * * *

Regularly passed and adopted this 12th day of April 2016

AYES and in favor of said resolution:

Supervisors: _____ *DAVE PINE*

_____ *CAROLE GROOM*

_____ *DON HORSLEY*

_____ *WARREN SLOCUM*

_____ *ADRIENNE J. TISSIER*

NOES and against said resolution:

Supervisors: _____ *NONE*

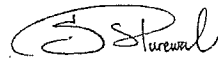
Absent Supervisors: _____ *NONE*



*President, Board of Supervisors
County of San Mateo
State of California*

Certificate of Delivery

I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.



Deputy Clerk of the Board of Supervisors



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
 County Manager's Office



DATE: March 30, 2016
BOARD MEETING DATE: April 12, 2016
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: John L. Maltbie, County Manager
SUBJECT: Intergovernmental Agreement with SFO Airport Commission

RECOMMENDATION:

Adopt a resolution authorizing the President of the Board to enter into an Intergovernmental Agreement with the Airport Commission of the City and County of San Francisco relating to the reimbursement of services and the sharing of Hotel Transient Occupancy Tax.

BACKGROUND:

During the summer of 2015 the County Manager's Office was approached by representatives from the City and County of San Francisco and the San Francisco International Airport Commission (SFO) on two matters requiring an Intergovernmental Agreement ("Agreement"). The first was SFO's plan to build and operate a new 350-room hotel and enter into a revenue sharing agreement with the County for a portion of the new hotel's Transient Occupancy Tax (TOT) for the first five years of operation, and the second was to identify a way that SFO could reimburse the San Mateo County Emergency Services Council Joint Powers Authority (JPA) without becoming a member of the JPA. SFO has long held that they can't become a JPA member for two reasons: one, the Federal Aviation Administration (FAA) requires that SFO only reimburse agencies for activities that happen on airport property and two, SFO cannot enter into a mutual aid agreement, as on-duty emergency personnel and vehicles at SFO are not permitted to leave airport property.

DISCUSSION:

SFO has selected Hyatt Corporation as the operator of the hotel, and they've entered into agreements with an architect and a construction firm. They anticipate that the hotel will be completed and ready for occupancy on or about July 1, 2019. As an Enterprise Fund, any losses sustained by the hotel would be passed on to the airlines. SFO representatives have requested a share of the TOT to offset anticipated losses during the early years until the hotel has matured into a viable, profitable business. Based on projections provided by SFO staff, it is believed that total TOT to be paid by the hotel for the first five years would approximate \$16 million with the County sharing up to \$8 million

of TOT revenues with SFO pursuant to the terms of the Agreement. As the Airport is a major economic engine for the County and the region, County staff believe that this arrangement is in the County's best interest in order to minimize the impact of anticipated early losses sustained by the hotel. Notwithstanding the foregoing, the County is in no position to contribute half of its TOT from the hotel if the County experiences a decrease in the County's Measure A half-cent sales tax as a result of the FAA's contention that such proceeds from the sale of jet fuel must be utilized to fund airport operations, capital construction and maintenance. Therefore, pursuant to the proposed Agreement, the County and SFO agree to share the TOT for an amount not to exceed \$8 million, provided that the amount of TOT shared with SFO would be reduced on a dollar for dollar basis if the County is required to utilize Measure A sales tax revenue from jet fuel sales for airport operations, construction, and maintenance. The term for this economic incentive will end when the Airport receives the cumulative amount of \$8 million or on June 30, 2029, whichever occurs first. (The extended term is provided in case the opening of the hotel is delayed or revenues are lower than anticipated.)

This agreement also sets forth a process by which the Airport can reimburse the JPA that is agreeable to all parties, including the FAA. The FAA requires that any reimbursements to outside agencies represent out-of-pocket costs for services that benefit the Airport, including its employees, travelers and visitors. After reviewing several options, the agreed upon approach is to invoice SFO for its share of the overall 9-1-1 call volume multiplied by Public Safety Dispatch's (PSC) net cost. This meets FAA requirements as the 9-1-1 call volume represents a real and measurable service and PSC's net cost represents those expenditures not reimbursed by other agencies, including the Sheriff's Office. Based on actuals for the past three fiscal years, it is estimated that six percent of the overall call volume comes from SFO, which equates to approximately \$160,000 of the annual net cost. The term for the payment of these services is July 1, 2015 through June 30, 2020.

In addition to the terms described above, either party may terminate this agreement in its entirety without cause at the end of any fiscal year upon at least thirty (30) days prior written notice.

On March 15, 2016, the Airport Commission approved the Agreement. It will go to the San Francisco Board of Supervisors following approval by this Board.

Adoption of this resolution contributes to the Shared Vision 2025 outcome of a Collaborative Community by partnering with the San Francisco International Airport on matters that will ultimately benefit the residents and visitors of San Mateo County, as well as the local economy.

County Counsel has reviewed the resolution and agreement as to form.

FISCAL IMPACT:

With the adoption of this Agreement, the County would receive approximately \$160,000 annually for the ESC JPA, with a not-to-exceed amount over the five-year term of \$1 million. A portion of these funds may be transferred to Public Safety Communications to

compensate them for performing the reimbursement calculations. In addition, the County would share approximately \$16 million in TOT with SFO for the first five years the new hotel is in operation. Once the Airport has received \$8 million, through a combination of TOT and jet fuel sales tax, all TOT thereafter will accrue to the County. Airport staff project that TOT for the first ten years of hotel operation will approximate \$38 million.

RESOLUTION NO. 074439

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

**RESOLUTION AUTHORIZING THE PRESIDENT OF THE BOARD TO ENTER INTO
AN INTERGOVERNMENTAL AGREEMENT WITH THE AIRPORT COMMISSION OF
THE CITY AND COUNTY OF SAN FRANCISCO RELATING TO THE
REIMBURSEMENT OF SERVICES AND SHARING OF HOTEL TRANSIENT
OCCUPANCY TAX**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the City and County of San Francisco owns and operates the San Francisco International Airport ("Airport") through the Commission; and

WHEREAS, the County provides certain emergency response services to the Airport and the Commission wishes to pay the County for the cost of these services; and

WHEREAS, the Commission is planning to build and own a Grand Hyatt hotel located on Airport property in an unincorporated area of the County that will be managed and operated by Hyatt Corporation under a Hotel Management Agreement between the Commission and Hyatt; and

WHEREAS, the County levies a Transient Occupancy Tax ("TOT") on the guests of hotels located in the unincorporated area of the County and is willing to provide an economic development incentive related to the sharing of TOT for a limited term in order to assist the Commission in building a successful hotel at the Airport; and

WHEREAS, the sharing of TOT under the Intergovernmental Agreement will be adjusted on a dollar for dollar basis by the amount of sales tax proceeds from aviation fuel sales that the County is required to transfer to the Airport, if any, pursuant to the Federal Aviation Administration's amended Revenue Use Policy; and

WHEREAS, this Board has been presented with a form of such Intergovernmental Agreement and has examined and approved same as to both form and content, and desires to enter into same;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors be, and is hereby authorized to, execute the Intergovernmental Agreement with the Airport Commission of the City and County of San Francisco for and on behalf of the County of San Mateo, and the Clerk of this Board shall attest the President's signature thereto.

* * * * *

Regularly passed and adopted this 12th day of April 2016

AYES and in favor of said resolution:

Supervisors: _____ *DAVE PINE*

_____ *CAROLE GROOM*

_____ *DON HORSLEY*

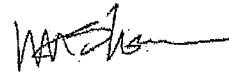
_____ *WARREN SLOCUM*

_____ *ADRIENNE J. TISSIER*

NOES and against said resolution:

Supervisors: _____ *NONE*

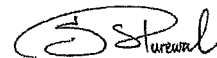
Absent Supervisors: _____ *NONE*



*President, Board of Supervisors
County of San Mateo
State of California*

Certificate of Delivery

I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.



Deputy Clerk of the Board of Supervisors



San Francisco International Airport

April 22, 2016

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Subject: Approval of Intergovernmental Agreement with San Mateo County Regarding Reimbursement for Dispatched Calls to the Airport in an Amount not to Exceed \$1 Million for Five Years, and Sharing of Hotel Transient Occupancy Tax

Dear Ms. Calvillo:

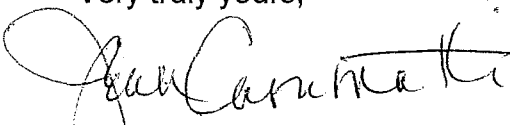
Pursuant to Section 9.118 of the City Charter, I am forwarding legislation for Board of Supervisors approval of an Intergovernmental Agreement between San Mateo County and the San Francisco International Airport to allow for reimbursement for dispatched calls to the Airport in an Amount not to Exceed \$1 million for five years, and the sharing of the Hotel Transient Occupancy Tax.

The following is a list of accompanying documents:

- Proposed Board of Supervisors Resolution
- Approved Airport Commission Resolution No. 16-0076 and memo
- San Mateo County Board of Supervisors Resolution No. 074439 and memo
- Intergovernmental Agreement

You may contact Cathy Widener of Airport Governmental Affairs with any questions at (650) 821-5023 regarding this matter.

Very truly yours,


Jean Caramatti
Commission Secretary

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 APR 21 PM 1:39
BT

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE MAYOR	LARRY MAZZOLA PRESIDENT	LINDA S. CRAYTON VICE PRESIDENT	ELEANOR JOHNS	RICHARD J. GUGGENHIME	PETER A. STERN	JOHN L. MARTIN AIRPORT DIRECTOR
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