

**SECOND AMENDMENT TO  
THE MEMORANDUM OF UNDERSTANDING  
BETWEEN THE SAN MATEO COUNTY TRANSPORTATION AUTHORITY, THE  
CITY OF SAN MATEO, AND THE PENINSULA CORRIDOR JOINT POWERS  
BOARD FOR THE 25TH AVENUE GRADE SEPARATION AND RAIL  
REALIGNMENT PROJECT**

THIS SECOND AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE SAN MATEO COUNTY TRANSPORTATION AUTHORITY, THE CITY OF SAN MATEO, AND THE PENINSULA CORRIDOR JOINT POWERS BOARD FOR THE PRELIMINARY ENGINEERING/ENVIRONMENTAL PHASE FOR THE 25TH AVENUE GRADE SEPARATION AND RAIL REALIGNMENT PROJECT is made as of the 10 day of August, 2017, by and between the San Mateo County Transportation Authority (TA), the City of San Mateo (Sponsor), and the Peninsula Corridor Joint Powers Board (JPB), referred to herein individually as "Party" and jointly as "Parties."

**WHEREAS**, the Parties entered into a MOU for the Preliminary Engineering/Environmental (PE/ENV) phase of work on July 11, 2014, and the Parties entered into a First Amendment to the MOU on March 3, 2016 for the Final Design and Right of Way (PS&E and ROW) phases of work for the 25th Avenue Grade Separation and Rail Realignment Project (Project); and

**WHEREAS**, on October 6, 2016, the TA programmed and allocated \$65.3 million in Measure A Grade Separation Program Category funds (Measure A Funds) to complete the ROW and Construction phases of work for the Project based on an estimated budget of \$180 million to complete the Project; and

**WHEREAS**, the JPB and the Sponsor entered into an MOU on March 21, 2017 in which the Sponsor committed to provide \$100 million in funding for the Project, equating to 60.5% of the then-budgeted total Project ROW/Construction cost of \$165.3 million, including \$84 million in CHSRA funds, \$10 million in Caltrans, Section 190 Funds, and \$6 million in Sponsor's local funds; and

**WHEREAS**, the JPB awarded the Project construction contract on July 6, 2017 for \$82.9 million, which is substantially less than the \$107.8 million construction contract estimate, thereby reducing the estimated budget for completion of the Project to \$165.28 million, and reducing the anticipated funding contribution of each funding partner by a proportional amount; and

**WHEREAS**, the California High-Speed Rail Authority (CHSRA) entered into an agreement with the Sponsor and JPB on June 23, 2017, based on the revised Project cost estimate set forth in the June 11, 2017 Funding Plan Update in Attachment 5 of that agreement, committing CHSRA to contribute 46.67% of the Project Construction costs, up to \$84 million; and

**WHEREAS**, the Parties' total Project contributions for the PE/ENV, PS&E, ROW and Construction phases for the Project, based on current Project cost estimates are described in the Scope of Work Budget/Scope of Funding Table in Exhibit A-2; and

**WHEREAS**, the Project also requires the conveyance, via a vehicle and form of conveyance that are still under discussion, of approximately 3.7 acres of TA-owned real property to the JPB for Caltrain access and the street connection at 28th Avenue, which property an independent third party has valued at \$19.97 million, though the price and terms of any appropriate compensation also are still under discussion; and

**WHEREAS**, the Parties desire to amend the MOU to allow the Sponsor and the JPB to seek reimbursement for Project costs incurred to complete the ROW and Construction phases of work.

**IT IS HEREBY AGREED** by the Parties that the MOU is revised and amended as follows:

1. **EFFECTIVE DATE.** This Second Amendment is effective as of the day and year first written above.
2. **SCOPE OF WORK.** Section A.2, Scope of Work, of the MOU is revised and restated to read:

The Scope of Work is:

- a. The Preliminary Engineering/Environmental Phase as described in Exhibit A, "Scope of Work Information," which is attached to the MOU and incorporated herein by this reference; and
  - b. The PS&E and ROW Phases, including advertisement and award of the construction contract as described in Exhibit A-1, "Scope of Work Information," which is attached to the First Amendment to the MOU and incorporated herein by this reference; and
  - c. The ROW and Construction Phases, including additional right of way costs and costs associated with the advertisement and award of the construction contract not fully funded under the First Amendment to the MOU, and the construction of Project, as described in Exhibit A-2, "Scope of Work Information," which is attached to the Second Amendment to the MOU and incorporated herein by this reference.
3. **FUNDING COMMITMENT.** Section B.1. of the MOU is revised and restated to read:

The total Project cost in Exhibits A and A-1 is \$14.7 million, of which \$8.7 million is to be provided by the TA and \$6 million, is to be provided by the Sponsor.

The next phase of work, set forth in Exhibit A-2, has an estimated Scope of Work cost of \$150.58 million, down from the pre-bid estimate of \$165.3 million. The TA is responsible for contributing 39.35% of the cost of this phase of work, estimated to be

\$59.25 million and not to exceed \$65.3 million. Sponsor is responsible for contributing, or securing the contribution of, the remaining cost of this phase of work, and any additional costs required for completion of the Project, estimated to be \$91.33 million.

For purposes of the work set forth in Exhibit A-2: The TA will reimburse the JPB for 100% of the cost of performance of the work prior to the award of a construction contract. The TA may provide reimbursement at a variable rate after the JPB awards the construction contract, but in no event will the TA contribute more than its pro-rata share of the ROW and Construction phase costs upon Project completion, as set forth in Exhibit A-2. The TA's funding commitment under this MOU in no way establishes a right for the Sponsor to receive additional funding from the TA.

**4. REIMBURSEMENT BASIS.** Section B.6. of the MOU is revised and restated to read:

The JPB may seek reimbursement from the TA and the Sponsor as of the October 6, 2016 TA Board Measure A Grade Separation Program allocation for the Scope of Work costs. Scope of Work Costs must be incurred and paid by the JPB prior to requesting reimbursement. Sufficient documentation must accompany all requests for reimbursement, including the submittal of all due operations and progress reports.

**5. INVOICES; PAYMENTS.** Section B.8.b. of the MOU, Invoices; Payments, is revised and restated to read:

b. To the Sponsor:  
by email to [jyu@cityofsanmateo.org](mailto:jyu@cityofsanmateo.org)

or otherwise delivered to:

Jay Yu, Senior Engineer  
City of San Mateo  
330 W. 20th Avenue  
San Mateo, CA 94403

**6. TA RESPONSIBILITIES.** Section D.1 of the MOU, TA Responsibilities, is revised and restated to read:

1. The TA will make available Measure A Funds as detailed in Section B.1.

**7. TERM OF MOU.** Section C.1 of the MOU, Term of MOU, is revised and restated to read:

1. Term of MOU. This MOU is effective upon the Execution Date. This MOU, as amended, will terminate upon the earliest of: (a) six months after the written acceptance/endorsement of the Sponsor of the completion of the Scope of Work, (b) termination by Sponsor, the JPB or the TA pursuant to section C.3, C.4, C.5, or C.6, or (c) five years and six months from the date of execution of the Second Amendment to this MOU.

**8. TIME OF PERFORMANCE.** Section C.2 of the MOU, Time of Performance, is revised and restated to read:

2. Time of Performance. The Project Scope of Work must be completed no later than five years from the date of the execution of the Second Amendment to this MOU.

**9. JPB RESPONSIBILITIES.** Section E of the MOU, JPB Responsibilities, is revised to add the following new paragraph E.3 after paragraph E.2:

3. The JPB is the lead implementing agency responsible for delivering the Scope of Work described in Exhibit A-2 for the ROW and Construction Phases of the Project and agrees to:
  - a. Undertake the advertisement and award of the construction contract, and accept responsibility to manage the construction of the Project, which includes administering the construction contract and overseeing construction management and design services during construction.
  - b. Coordinate utility relocation for Project construction. Where utilities within the JPB right-of-way are required to be relocated or protected in place, the JPB will enforce its contractual rights to ensure timely action by the utility owner in support of the Project.
  - c. Acquire all necessary right-of-way for the Project, including temporary construction easements as needed.
  - d. Provide technical Project oversight and management.
  - e. Coordinate with regulatory and review agencies.
  - f. Invoice the TA and Sponsor, and assist the Sponsor with progress reporting to the TA.
  - g. Support public outreach efforts.
  - h. Coordinate with other Caltrain projects.
  - i. Obtain environmental permits from regulatory agencies, as required.

**10. SPONSOR RESPONSIBILITIES.** Section F of the MOU, Sponsor Responsibilities, is revised to revise the paragraph added by the First Amendment between paragraphs F.2 and F.3 to read as follows:

- 2.1. For the Scope of Work described in Exhibits A-2, the Sponsor will also:
  - a. Assist in utility relocation for Project construction. Where utilities within the Sponsor's franchise are required to be relocated or protected in place, the Sponsor

will enforce its franchise rights to ensure timely action by the utility owner in support of the Project.

- b. Assist JPB with successful implementation of construction; provide responses to JPB inquiries in a timely manner. Provide all design comments for design services during construction within three (3) weeks of receipt of any design changes from the JPB.
- c. Coordinate with major Project stakeholders, including Hillsdale Mall and Bay Meadows Development.
- d. Conduct public outreach meetings to provide updates and local input for the Project, including progress updates to City Council as needed.
- e. Coordinate regular Project development team meetings with JPB.
- f. Secure all non-Measure A funding to complete the ROW and Construction phases of the Project as described in Exhibit A-2.

**11. EFFECT.** Except as and solely to the extent amended by this Second Amendment, the MOU and the First Amendment will continue in full force and effect in accordance with their terms.

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amendment to be executed by the persons authorized to act in their respective names on the day and year first written above.

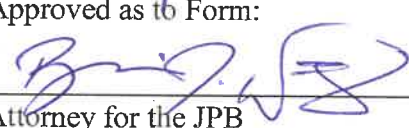
**CITY OF SAN MATEO**

By:   
Name: Larry A. Patterson  
Its: city manager

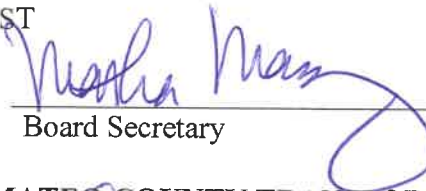
Approved as to Form:  
  
City Attorney for the City of San Mateo

**PENINSULA CORRIDOR JOINT POWERS BOARD**

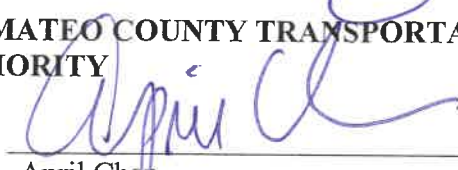
By:   
Name: Jim Hammett  
Its: Executive Director

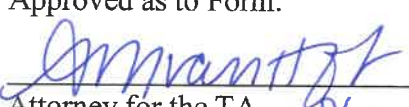
Approved as to Form:  
  
Attorney for the JPB

**ATTEST**

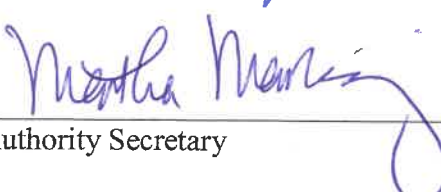
By:   
Its: Board Secretary

**SAN MATEO COUNTY TRANSPORTATION AUTHORITY**

By:   
Name: April Chan  
Its: Chief Officer, Planning, Grants, & Transportation Authority

Approved as to Form:  
  
Attorney for the TA Shayna M. van Hoften

**ATTEST**

By:   
Its: Authority Secretary

## EXHIBIT A-2: SCOPE OF WORK INFORMATION

### *25<sup>th</sup> Avenue Grade Separation and Rail Realignment Project Right-of-Way and Construction*

**Sponsoring Agency:** City of San Mateo (Sponsor)  
**Contact:** Jay Yu, Senior Engineer  
330 West 20<sup>th</sup> Avenue  
San Mateo, CA 94403  
(650) 522-7323; [jyu@cityofsanmateo.org](mailto:jyu@cityofsanmateo.org)

**Lead Implementing Agency:** Peninsula Corridor Joint Powers Board (JPB)  
**Contact:** Rafael Bolon, Acting Deputy Director of Capital Programs  
1250 San Carlos Avenue P.O. Box 3006  
San Carlos, CA 94070  
(650) 622-7828; [bolonr@samtrans.com](mailto:bolonr@samtrans.com)

#### **Overall Project Description:**

The overall Project will construct a two-track elevated rail alignment grade separating the existing at-grade crossing at 25<sup>th</sup> Avenue in San Mateo, California. The elevated rail alignment will require the relocation of the existing Hillsdale Caltrain Station northward to a location between 28<sup>th</sup> and 31<sup>st</sup> Avenues. The elevated rail alignment also creates an opportunity to make new street connections between El Camino Real and Delaware Street at 28<sup>th</sup> and 31<sup>st</sup> Avenues.

While the overall Project consists of creating a two-track elevated alignment, it will be designed so that four (4) tracks could be incorporated in the future if the section is selected for construction of passing tracks.

The Project has completed the preliminary engineering/environmental and final design phases, which include the layout of the relocated Hillsdale Caltrain Station.

#### **Measure A Funded Scope of Work:**

This second amended Scope of Work includes costs for (a) all activities needed to secure right of way for the project, (b) the advertisement and award of the construction contract and (c) construction of the Project, none of which are fully funded under MOU and the First Amendment to the MOU. The construction of the Project includes construction management.

#### **Scope of Work Schedule:**

	<u>Begin</u>	<u>End</u>
Planning		(COMPLETED)
Preliminary Engineering/Environmental		(COMPLETED)
Final Design		(COMPLETED)
Right-of-Way	03/01/2016	9/30/2018
Construction	05/01/2016	03/30/2020

**Scope of Work Budget/Funding Table**

Phase	TA Responsibility		Sponsor Responsibility						Total (in \$M)
	Measure A Funding (in \$M)	%	Sponsor Local Funds (in \$M)	%	CHSRA (in \$M)	%	Caltrans Section 190 (in \$M)	%	
PE/ENV <sup>1</sup>	\$3.70	78.72%	\$1.00	21.28%					\$4.70
PSE/ROW	\$5.00	50.00%	\$5.00	50.00%					\$10.00
ROW/Construction <sup>2,3</sup>	\$59.25	39.35%	\$5.02	3.33%	\$77.13	51.22%	\$9.18	6.10%	\$150.58
<b>Total</b>	<b>\$67.95</b>	<b>41.11%</b>	<b>\$11.02</b>	<b>6.67%</b>	<b>\$77.13</b>	<b>46.67%</b>	<b>\$9.18</b>	<b>5.56%</b>	<b>\$165.28</b>

*Footnotes*

- 1) \$200,000 of the Sponsor's \$1 million match from the PE/ENV phase was from in-kind staff support
  
- 2) Sponsor costs for in-kind staff support during the ROW/Construction phase, as further described in the Sponsor Responsibilities, are anticipated to be \$225,000 and may be subject to change during the course of the Project upon mutual agreement by the Parties' authorized representatives. These costs will be paid first from: 1) A balance of \$94,066 of Sponsor in-kind staff support capacity carried over from the PE/ENV and PS&E/ROW phases, and then 2) \$130,934 from the contributions of other fund sources listed in the Table above under "Sponsor Responsibility"; and
  
- 3) The funding plan is based on reduced post-bid cost estimates that reflect the JPB Board-approved construction contract award and contingency amount. The specified funding contribution of each funding partner has been decreased proportionally to the amounts listed in the table as a result of the projected Project cost savings. Should there be an increase in construction costs, the CHSRA will contribute up to \$84 million, the California State Department of Transportation (Caltrans) will contribute up to \$10 million of Streets and Highway Section 190 Grade Separation Program funds (Section 190 funds), and the Sponsor will provide up to \$6 million of local funds for the ROW/Construction phase of work.



### Cash Flow Projection for Measure A funds only

The cash flow projections are provided for informational purposes only and include projections for both Sponsor and JPB activities. Total costs listed for right of way and construction are best estimates and may be subject to change within the overall total amount of Measure A funds allocated for the Scope of Work.

Task/Activity	FY16				Subtotal FY16	FY17				Subtotal FY17
	1st Quarter (Jul 1-Sept 30)	2nd Quarter (Oct 1-Dec 31)	3rd Quarter (Jan 1-Mar 31)	4th Quarter (Apr 1-Jun 30)		1st Quarter (Jul 1-Sept 30)	2nd Quarter (Oct 1-Dec 31)	3rd Quarter (Jan 1-Mar 31)	4th Quarter (Apr 1-Jun 30)	
Prior Right of Way <sup>1</sup>	\$0	\$0	\$1,510,000	\$0	\$1,510,000	\$0	\$0	\$0	\$0	\$0
Right of Way <sup>2</sup>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,850,000	\$3,737,500	\$5,587,500
Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$426,847	\$5,195,830	\$5,622,677
<b>Total</b>	\$0	\$0	\$1,510,000	\$0	\$1,510,000	\$0	\$0	\$2,276,847	\$8,933,330	\$11,210,177
<b>Cumulative to Date</b>	\$0	\$0	\$1,510,000	\$1,510,000		\$1,510,000	\$1,510,000	\$3,786,847	\$12,720,177	
Task/Activity	FY18				Subtotal FY18	FY19	FY20	FY21	Subtotal for FY19-FY21	Project Total <sup>3</sup>
	1st Quarter (Jul 1-Sept 30)	2nd Quarter (Oct 1-Dec 31)	3rd Quarter (Jan 1-Mar 31)	4th Quarter (Apr 1-Jun 30)						
Prior Right-of-Way <sup>1</sup>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,510,000
Right-of-Way <sup>2</sup>	\$662,500	\$0	\$0	\$1,325,000	\$1,987,500	\$1,325,000	\$0	\$0	\$1,325,000	\$8,900,000
Construction	\$4,095,510	\$5,282,762	\$3,210,326	\$6,642,430	\$19,231,028	\$16,397,727	\$15,148,568	\$0	\$31,546,295	\$56,400,000
<b>Total</b>	\$4,758,010	\$5,282,762	\$3,210,326	\$7,967,430	\$21,218,528	\$17,722,727	\$15,148,568	\$0	\$32,871,295	\$66,810,000
<b>Cumulative to Date</b>	\$17,478,187	\$22,760,949	\$25,971,275	\$33,938,705		\$51,661,432	\$66,810,000	\$66,810,000		

#### Footnotes

- 1) Includes Measure A cash flow for remaining balance of right of way funds from the First Amendment to this MOU.
- 2) Includes right of way for utility relocation during construction.
- 3) Includes remaining funds of \$1.51 million from TA Resolution 2015-21 and \$65.3 million allocation per TA Resolution 2016-25.