

San Mateo County Express Lanes Joint Powers Authority  
(SMCEL-JPA)  
Board of Directors Meeting Notice

**Meeting No. 50**

<b>Date:</b> Friday, September 8, 2023	<b>Join by Webinar:</b> <a href="https://us02web.zoom.us/j/87059358242?pwd=OHZ0bGhyTlY4ckI0dGVScjNDNFkZz09">https://us02web.zoom.us/j/87059358242?pwd=OHZ0bGhyTlY4ckI0dGVScjNDNFkZz09</a>
<b>Time:</b> 9:00 A.M.	<b>Webinar ID:</b> 870 5935 8242
<b>Primary Location:</b> San Mateo County Transit District Office 1250 San Carlos Ave, 2 <sup>nd</sup> Fl. Auditorium, San Carlos, CA	<b>Password:</b> 090823
<b>Teleconference Location (Alternate Public Access):</b> Bay Area Metro Center 375 Beale Street Ohlone Conference Room, 1st Floor San Francisco, CA 94105	<b>Join by Phone:</b> (669) 900-6833

**\*\*\*HYBRID MEETING - IN-PERSON AND BY VIDEOCONFERENCE\*\*\***

This meeting of the SMCEL-JPA Board of Directors will be held in person and by teleconference pursuant to Government Code Section 54953(e). Members of the public will be able to participate in the meeting remotely via the Zoom platform or in person at the location above. For information regarding how to participate in the meeting, either in person or remotely, please refer to the instructions at the end of the agenda.

**Board of Directors:** Alicia Aguirre (Chair), Emily Beach (Vice Chair), Rico E. Medina, Gina Papan, Michael Salazar and Carlos Romero

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**1.0 CALL TO ORDER/ ROLL CALL**

**2.0 PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

*Note: Public comment is limited to two minutes per speaker. Members of the public who wish to address the Board should complete a speaker's slip to make a public comment in person or raise their hand in Zoom to speak virtually.*

**3.0 APPROVAL OF CONSENT AGENDA**

This item is to set the final consent and regular agenda, and to approve the items listed on the consent agenda. All items on the consent agenda are approved by one action. There will be no separate discussion on these items unless members of the Board, staff or public request specific items to be removed for separate action.

- 3.1 Approval of the minutes of Board of Directors regular business meeting No. 49 dated June 9, 2023. ACTION p. 1
- 3.2 Accept the Sources and Uses of Funds for the FY23 Period Ending May 31, 2023. ACTION p. 5
- 3.3 Review and approval of Resolution SMCEL 23-11 authorizing the Chair of SMCEL-JPA to execute the License Agreement between the City of San Bruno and the SMCEL-JPA for Express Lanes toll facilities within the City Rights of Way. ACTION p. 8
- 3.4 Review and approval of Resolution SMCEL 23-12 authoring the Chair of SMCEL-JPA to execute the License Agreement between the City of Millbrae and the SMCEL-JPA for Express Lanes toll facilities within the City Rights of Way. ACTION p. 22
- 3.5 Review and approve Resolution SMCEL 23-13, ratifying the purchase of General Liability Insurance, Public Officials Liability, and Property Insurance policies for a 12-month period at a not to exceed amount of \$531,266. ACTION p. 37
- 3.6 Review and approve Resolution SMCEL 23-14, establishing the settlement authority for general liability claims. ACTION p. 40
- 3.7 Review and approve Resolution SMCEL 23-15 authorizing the Chair of the SMCEL-JPA to execute a new service contract with the California Highway Patrol (CHP) for enforcement services through Fiscal Year 2025 for an amount not to exceed \$606,909. ACTION p. 45
- 3.8 Receive information on Statement of Revenues and Expenses for the Period Ended June 30, 2023. INFORMATION p. 56
- 3.9 Accept the Sources and Uses of Funds for the FY2024 Period Ending July 31, 2023. ACTION p. 57
- 3.10 Reject a claim under California Government Claims Act for non-culpability. ACTION p. 59

#### 4.0 **REGULAR AGENDA**

- 4.1 Review and Approval of Resolution SMCEL 23-16 authorizing the Chair to execute Amendment No. 2 to the Agreement with HNTB Corporation for Policy/Program Management Services for an amount not to exceed \$2,474,560, covering the period of November 1, 2023 through October 31, 2025. ACTION p. 60

- 4.2 Receive an informational update about the Community Transportation Benefits Program, the draft evaluation results from the pilot year, and provide feedback on draft recommendations and next steps. INFORMATION p. 72
- 4.3 Receive quarterly update on the US 101 Express Lanes operations. INFORMATION p. 96

## 5.0 REPORTS

- a) Chairperson Report.
- b) Member Communication.
- c) Executive Council Report - Executive Council Verbal Report.
- d) Policy/Program Manager Report.

## 6.0 WRITTEN COMMUNICATIONS

None.

## 7.0 NEXT REGULAR MEETING

October 13, 2023

## 8.0 ADJOURNMENT

**PUBLIC NOTICING:** All notices of SMCEL-JPA regular Board meetings, standing committee meetings, and special meetings will be posted at the San Mateo County Court Yard, 555 County Center, Redwood City, CA, and on SMCEL-JPA's website at: <http://www.ccag.ca.gov>.

**PUBLIC RECORDS:** Public records that relate to any item on the open session agenda for a regular Board meeting, standing committee meeting, or special meeting are available for public inspection. Those public records that are distributed less than 72 hours prior to a regular Board meeting are available for public inspection at the same time they are distributed to all members, or a majority of the members, of the Board. The Board has designated the San Mateo County Express Lanes JPA (SMCEL-JPA), located at 555 County Center, 5th Floor, Redwood City, CA 94063, for the purpose of making public records available for inspection. Such public records are also available on SMCEL-JPA's website at: <http://www.ccag.ca.gov>. Please note that SMCEL-JPA's office is temporarily closed to the public; please contact Mima Crume at (650) 599-1406 to arrange for inspection of public records.

**ADA REQUESTS:** Persons with disabilities who require auxiliary aids or services to participate in this meeting should contact Mima Crume at (650) 599-1406 or [mcrume@smcgov.org](mailto:mcrume@smcgov.org) by 10:00 a.m. prior to the meeting date.

**PUBLIC PARTICIPATION DURING HYBRID MEETINGS:** During hybrid meetings of the SMCEL-JPA Board, members of the public may address the Board as follows:

Written comments should be emailed in advance of the meeting. Please read the following instructions carefully:

1. Your written comment should be emailed to [mcrume@smcgov.org](mailto:mcrume@smcgov.org).
2. Your email should include the specific agenda item on which you are commenting or note that your comment concerns an item that is not on the agenda.
3. Members of the public are limited to one comment per agenda item.
4. If your emailed comment is received at least 2 hours prior to the meeting, it will be provided to the SMCEL-JPA Board members, made publicly available on the SMCEL-JPA website along with the agenda. Emails

received less than 2 hours before the meeting will be provided to the SMCEL-JPA Board members and included in the administrative record of the meeting as soon as practicable.

Spoken comments will be accepted during the meeting in person and through Zoom. Public comments will be taken first by speakers in person followed by via Zoom. Please read the following instructions carefully:

**\*In-person participation:**

1. If you wish to speak to the Board, please fill out a speaker's slip located on the 2<sup>nd</sup> floor auditorium side table against the wall. If you have anything that you wish distributed to the Board and included in the official record, please hand it to the SMCEL-JPA Clerk who will distribute the information to the Board members and staff.

**\*Remote participation:**

1. The SMCEL-JPA Board meeting may be accessed through Zoom at the online location indicated at the top of this agenda.
2. You may download the Zoom client or connect to the meeting using an internet browser. If using your browser, make sure you are using a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.
3. You will be asked to enter an email address and name. We request that you identify yourself by your name as this will be visible online and will be used to notify you that it is your turn to speak.
4. When the SMCEL-JPA Clerk or Chair call for the item on which you wish to speak, click on "raise hand." The Clerk will activate and unmute speakers in turn. Speakers will be notified shortly before they are called on to speak. If calling in via phone, press \*9 to raise your hand and when called upon press \*6 to unmute.
5. When called, please limit your remarks to the time allotted.

If you have any questions about this agenda, please contact SMCEL-JPA staff:

Executive Director: Sean Charpentier (650) 599-1409

Clerk of the Board: Mima Crume (650) 599-1406



# San Mateo County Express Lanes Joint Powers Authority Board of Directors Meeting Minutes

Meeting No. 49  
June 9, 2023

This meeting of the SMCEL-JPA Board of Directors was held in person and by teleconference pursuant to Government Code Section 54953(e). Members of the public was able to participate in the meeting remotely via the Zoom platform or in person.

**Board of Directors:** Rico E. Medina (Chair), Alicia Aguirre (Vice Chair), Carlos Romero, Emily Beach, Gina Papan and Michael Salazar

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## 1.0 CALL TO ORDER/ ROLL CALL

Chair Rico E. Medina called the meeting to order at 9:00 a.m. Roll call was taken.

<b>AGENCY:</b>	<b>IN-PERSON:</b>	<b>ABSENT:</b>	<b>REMOTE AB 2449:</b>	<b>REMOTE Publicly Accessible Teleconference Location:</b>
C/CAG	Alicia Aguirre			
C/CAG	Gina Papan			
C/CAG	Michael Salazar			
SMCTA				Carlos Romero
SMCTA	Emily Beach			
SMCTA	Rico E. Medina			

<b>Staff Present (In-Person):</b>	<b>Staff Present (Remote):</b>
Sean Charpentier – C/CAG Executive Council	Christa Cassidy – HNTB
April Chan – SMCTA Executive Council	Monique Fuhrman – HNTB
Mima Crume – Clerk of the Board	
Tim Fox – Legal Counsel	<b>Members of the Public (In-Person):</b>
Van Ocampo – C/CAG	
Lacy Vong – HNTB	
Kate Steiner - SMCTA	
Ladi Millard-Olmeda - SMCTA	
Jeannie Chen - SMCTA	

Other members of staff and members of the public were in attendance via in-person or remote using zoom.

## 2.0 PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

*Note: Public comment is limited to two minutes per speaker. Members of the public who wish to address the Board should complete a speaker's slip to make a public comment in*

*person or raise their hand in Zoom to speak virtually.*

Clerk Crume reported that there were no public comments.

### 3.0 APPROVAL OF CONSENT AGENDA

This item is to set the final consent and regular agenda, and to approve the items listed on the consent agenda. All items on the consent agenda are approved by one action. There will be no separate discussion on these items unless members of the Board, staff, or public request specific items to be removed for separate action.

- 3.1 Approval of the minutes of Board of Directors regular business meeting No. 48 dated May 12, 2023. APPROVED
- 3.2 Accept the Sources and Uses of Funds for the FY2023 Period Ending April 30, 2023. APPROVED
- 3.3 Review and approval of Resolution SMCEL 23-09 authorizing the SMCEL-JPA Chair to execute Amendment No. 4 to the Agreement with the Office of County Counsel of San Mateo County for general legal services to SMCEL-JPA, covering the period of two years (Fiscal Years 2023/24 and 2024/25) for an amount not to exceed \$60,000 annually. APPROVED
- 3.4 Review and approval of Biennial update to Conflict of Interest Code for the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA). APPROVED

Director Romero MOVED to approve the consent agenda items 3.1 to 3.4.  
Director Salazar SECONDED. **MOTION CARRIED 6-0-0**

### 4.0 REGULAR AGENDA

- 4.1 Public Hearing: Approval of SMCEL Resolution 23-10 on the adoption of the Fiscal Year (FY) 2024 SMCEL-JPA Operating Budget. APPROVED

The Board of Directors received a brief presentation on the adoption of the Fiscal Year (FY) 2024 SMCEL-JPA Operating Budget. There were not any changes to the budget proposed from the May Board meeting.

Director Beach MOVED to approve item 4.1. Director Aguirre SECONDED.  
Roll call was taken. **MOTION CARRIED 6-0-0**

- 4.2 Review and approve SMCEL Resolution 23-08 to add a payment plan for certain qualified individuals to pay tolls, and to revise the SMCEL-JPA violation penalties schedule to create a one-time waiver for all toll violation penalties for qualified individuals effective July 1, 2023. APPROVED

The Board of Directors received a presentation on the low income payment plan and one time waiver.

Vice Chair Aguirre MOVED to approve item 4.2. Director Papan SECONDED. Roll call was taken. **MOTION CARRIED 6-0-0**

- 4.3 Receive update on the US 101 Express Lanes operations from Interstate 380 to the San Mateo/Santa Clara County line. INFORMATION

The Board of Directors received a presentation on the US 101 Express Lanes operations from Interstate 380 to the San Mateo/Santa Clara County line.

- 4.4 Election of a Chairperson and a Vice Chairperson to serve a one-year term, effective July 1, 2023. APPROVED

Chair Medina MOVED to elect Vice Chair Alicia Aguirre as the SMCEL-JPA Chairperson. Director Beach SECONDED. Roll call was taken. **MOTION CARRIED 6-0-0**

Vice Chair Aguirre MOVED to elect Director Beach as the SMCEL-JPA Vice Chair. Chair Medina SECONDED. Roll call was taken. **MOTION CARRIED 6-0-0**

## 5.0 REPORTS

- a) Chairperson Report.

Chair Medina thanked the Board and staff for the collaboration and professionalism. He had the privilege of being the Chair.

- b) Member Communication.

None.

- c) Executive Council Report - Executive Council Verbal Report.

Sean Charpentier reported that the JPA Community Transportation Benefits Program was a finalist at the California Transportation Foundation Award, but we did not win.

April Chan reported that she attended the Woman's Transportation Conference in May. Theme of the conference was equity and transportation. April was able to share our program since we have been implementing this since last year. Three other presenters also presented, including a MTC representative Pierce Gould, a representative from Georgia DOT and a representative from the Virginia DOT.

- d) Policy/Program Manager Report.

Lacy Vong reported that the abstract on the JPA's Community Transportation

Benefits Program was accepted for the Conference of Minority Transportation Officials Annual meeting in Los Angeles in July. April Chan and Latrice Taylor will be representing.

6.0 WRITTEN COMMUNICATIONS

None.

7.0 NEXT REGULAR MEETING

July 14, 2023

8.0 ADJOURNMENT – 9:50 a.m.

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Accept the Sources and Uses of Funds for the FY2023 Period Ending May 31, 2023

(For further information, contact Kate Steiner, CFO, at 650-647-3504)

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### RECOMMENDATION

That the SMCEL-JPA Board accepts and enters into the record the Sources and Uses of Funds for the Fiscal Year 2023 period ending May 31, 2023.

Included in this report is a forecast for FY2023. The statement columns have been designed to provide the revised budget, the year to date current actuals and the forecast for the current fiscal year.

### BACKGROUND

Annual Forecast: The annual forecast is based on average year to date actuals through February, augmented by analysing trends and reviewing details to develop projections through the rest of the year. The FY2023 Forecast through end of the year projects a surplus of \$3.7 million. As a result, the advances from the partners will not be needed (lines 4, 5, 6 and 7). Staff is working to put in place a mechanism to refund the partners for the year to date advances reflected on this statement.

Year to Date Sources of Funds: As of May 2023, the Total Sources of Funds are \$13.1 million. It is mainly comprised of toll revenues (\$11.7 million) from both Southern and Northern Segments of Express Lanes on U.S. 101. The Northern Segment, which is from Whipple Avenue to the I-380 in South San Francisco, was officially opened on March 3, 2023. The Sources of Funds also include loan advances (\$1.1 million) under the two operating loan agreements between the SMCEL-JPA, the San Mateo County Transportation Authority, and the City/County Association of Governments of San Mateo County, and the Fiscal Year 2021 Carryforward Balance from SMCTA & CCAG (\$0.2 million).

Year to Date Uses of Funds: As of May 2023, the Total Uses of Funds are \$5.9 million. Major expenses are in the categories of toll operations and maintenance costs (\$1.7 million), FasTrak customer service costs (\$1.6 million), consultant costs (\$1.1 million), staff support costs (\$0.5 million), Administrative overhead (\$0.3 million), and insurance costs (\$0.2 million).

Budget Amendment: There are no budget amendments for the month of May 2023.

#### Other Information:

Loan payables represent loan advance payments received since the formation of the SMCEL-JPA from the San Mateo County Transportation Authority and the City/County Association of Governments of San Mateo County. Loan advances will be repaid on a monthly basis and no later than five years after the San Mateo County 101 Express Lanes Project begins operations and receives toll revenues.

## **ATTACHMENT**

### **1. Sources and Uses of Funds Fiscal Year 2023 (May 2023)**

**SAN MATEO COUNTY EXPRESS LANE JPA**  
**SOURCES AND USES OF FUNDS**  
**Fiscal Year 2023**  
**May 2023**

	REVISED BUDGET ***		ACTUALS	FORECAST
	Annual		As of 5/31/2023	Annual
<b>SOURCES OF FUNDS:</b>				
1 Toll Revenue	\$ 8,000,000	\$	11,657,584	\$ 12,884,661
2 Allocated Bond Funds	635,000		175,572	207,500
3 SMCTA Measure A (ACR TDM)	400,000		-	-
4 Carryforward Balance from SMCTA & CCAG	192,109		192,109 *	-
5 Advance from the City/County Association of Governments of San Mateo County	1,350,000		703,926 **	-
6 Advance from the San Mateo County Transportation Authority	1,915,185		370,242	-
7 Additional advance from SMCTA	622,667		-	-
8 Miscellaneous Revenue	-		39,545	-
<b>TOTAL SOURCES OF FUNDS</b>	<b>\$ 13,114,961</b>	<b>\$</b>	<b>13,138,978</b>	<b>\$ 13,092,161</b>
<b>USES OF FUNDS:</b>				
9 Staff Support	\$ 839,628	\$	477,442	\$ 760,906
10 Administrative Overhead	106,055		257,196	106,055
11 Seminar/Training & Business Travel	20,000		-	6,000
12 Audit & Bank Fees	15,160		822	9,243
13 Office Supplies	3,000		1,570	3,140
14 Printing and Information Svcs	5,000		-	-
15 Promotional Advertising	50,000		87,892	85,130
16 Utilities	50,000		27,231	35,667
17 Software Maintenance & License	32,000		26,205	26,205
18 Legal Services	60,000		9,995	15,183
19 Consultant	1,811,000		1,138,558	1,314,758
20 Express Lane Maintenance	444,000		-	219,000
21 Toll Operations and Maintenance	4,981,000		1,675,793	2,860,000
22 FasTrak Customer Service	2,840,000		1,648,510	2,663,000
23 Express Lane Enhanced Enforcement	240,000		42,529	85,058
24 Equity Program Administration and Costs	1,035,000		175,572	207,500
25 Insurance	500,000		203,777	500,000
26 Miscellaneous	83,118		125,244	512,128
<b>TOTAL USES OF FUNDS</b>	<b>\$ 13,114,961</b>	<b>\$</b>	<b>5,898,336</b>	<b>\$ 9,408,973</b>
<b>PROJECT SOURCES OVER USES</b>	<b>\$ -</b>	<b>\$</b>	<b>7,240,642</b>	<b>\$ 3,683,188</b>

**Note:**

\* Represents Fiscal Year 2021 Operating Surplus.

\*\* The advance from the CCAG includes the staff support \$200K and Fiscal Year 2023 Q1 & Q2 expenses billed \$504K.

\*\*\*The revised annual budget was approved by the Board on 02/10/2023.

**Additional Information:**

Loan payables to the City/County Association of Governments of San Mateo County	\$ 3,490,026
Loan payables to the San Mateo County Transportation Authority	\$ 3,700,188

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Review and approval of Resolution SMCEL 23-11 authorizing the Chair of SMCEL-JPA to execute the License Agreement between the City of San Bruno and the SMCEL-JPA for Express Lanes toll facilities within the City Rights of Way.

(For further information please contact Van Dominic Ocampo at [vocampo@smcgov.org](mailto:vocampo@smcgov.org))

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### RECOMMENDATION

Review and approve Resolution SMCEL 23-11 authorizing the Chair of SMCEL-JPA to execute the License Agreement between the City of San Bruno and the SMCEL-JPA for Express Lanes toll facilities within the City Rights of Way.

### FISCAL IMPACT

There is no fiscal impact associated with the approval and execution of the License Agreement. Insurance liability costs for the Express Lanes facilities within the City's Rights of Way are included in the annually adopted SMCEL-JPA Operating Budget, and maintenance expenses will be added to future budgets.

### SOURCE OF FUNDS

None.

### BACKGROUND

This San Mateo 101 Express Lanes Project (Project) created 44 miles (22 miles in each direction) of new express lanes along the US 101 between the San Mateo - Santa Clara County Line and Interstate 380 (I-380) in South San Francisco.

The Project was constructed in two segments; the southern segment, from the San Mateo/Santa Clara County Line to Whipple Avenue in Redwood City and the northern segment from Whipple to Interstate-380. On Feb 11, 2022, toll operations began on the southern segment together with Santa Clara Valley Transportation Authority, while commencement of tolling for the northern segment recently began on March 3, 2023.



Some of the toll facilities necessary for the operation of the Express Lanes were installed outside of Caltrans' Right-of-Way and on the adjacent city rights of way. Examples of these facilities include pull boxes, conduits, cables, electrical meters and pedestals, transformers, close circuit televisions (CCTV), etc. There are eleven cities along the US101 corridor, where toll facilities were installed within the City's Rights of Ways and SMCEL-JPA had entered into eight License Agreements and a Permanent Encroachment Permit (for Belmont) to document the presence of these facilities. With the approval and execution of the License Agreements with San Bruno and Millbrae (Agenda item 3.4), all documentation with the eleven jurisdictions would have now been secured, bringing project close-out a step closer towards completion.

#### **ATTACHMENTS**

1. Resolution SMCEL 23-11
2. License Agreement between the City of San Bruno and the SMCEL-JPA

## **RESOLUTION SMCEL 23-11**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) AUTHORIZING THE CHAIR TO EXECUTE THE LICENSE AGREEMENTS BETWEEN THE CITY OF SAN BRUNO AND SMCEL-JPA**

**RESOLVED**, by the Board of Directors of the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) that,

**WHEREAS**, the San Mateo 101 Express Lanes Project (Project) created 44 miles (22 miles in each direction) of new express lanes along the US 101 between the San Mateo - Santa Clara County Line and Interstate 380 (I-380) in South San Francisco; and

**WHEREAS**, some of the toll facilities necessary for the long-term operations of the Express Lanes were installed within the rights of way of the City of San Bruno including, but not limited to, pull boxes, conduits, cables, electrical meters and pedestals, transformers, close circuit televisions (CCTV), etc.; and

**WHEREAS**, the City of San Bruno owns and controls the public rights of way where these facilities were installed and will remain for the long-term operation of the Express Lanes; and

**WHEREAS**, the City of San Bruno agrees to allow the installation of these facilities within its public rights of way so long as the Express Lanes is in operation; and

**WHEREAS**, SMCEL-JPA is responsible for maintaining the facilities at no cost to the City.

**NOW THEREFORE BE IT RESOLVED**, that the SMCEL-JPA Board of Directors authorizes the Chair to execute the License Agreements between the City of San Bruno and SMCEL-JPA.

**PASSED, APPROVED, AND ADOPTED, THIS 8TH DAY SEPTEMBER 2023.**

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*Alicia Aguirre, Chair*

## **LICENSE AGREEMENT**

16th This LICENSE AGREEMENT ("License" or "Agreement"), made and entered into this day of <sup>June</sup> \_\_\_\_\_, 2023, by and between the City of San Bruno, California, a municipal corporation ("City" or "Licensor") and the San Mateo County Express Lanes Joint Powers Authority ("Licensee"). Licensor and Licensee may be referred to herein collectively as "the Parties."

### **RECITALS**

- A. Whereas, the City owns or controls certain parcels, easements or public rights-of-way ("Property") situated in the City of San Bruno, California, as more particularly described in Exhibit A ("Property, Facility, Location"), attached hereto and incorporated herein by reference.
- B. Whereas, Licensee seeks to install certain "Facilities," as defined in Section 1 - License, for the long-term operation of the San Mateo County Express Lanes Project on the portions of the City's Property ("Premises"), as more particularly shown in Exhibit A.
- C. Whereas, as consideration in lieu of a license fee, City has determined the installation of the Facilities to support the San Mateo County Express Lanes Project is beneficial to its citizens and the general public.
- D. Whereas, the City is agreeable to the grant of this Licensee for access and use of the Property for the purpose of installing the Facilities on the Premises subject to the terms and conditions of this License including Licensee's obligation to maintain the Facilities.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledge, the parties agree as follows:

1. License. Licensor hereby grants to Licensee and its employees, representatives a personal, revocable license ("License") to enter upon the Property to use the Premises to construct, install, operate, maintain, repair, replace, and remove equipment as necessary for the operation of the San Mateo County Express Lanes Project, and as more particularly described in Exhibit A. "Facilities" shall mean infrastructure owned by the San Mateo County Express Lane Joint Powers Authority (SMCEL-JPA) used for tolling purposes. Infrastructure may include but are not limited to service enclosures, transformers, photoelectric unit, and apparatuses supporting these devices, as installed in the Property, and as further detailed and described in Exhibit A.

Licensee, along with its employees, representatives, consultants, contractors, volunteers and/or other persons under its control retained in connection with the construction, installation, operation, maintenance, repair, replacement, and removal of equipment as necessary for the operation of the San Mateo County Express Lanes Project, shall be permitted to use this License unless otherwise prohibited by Licensor. This Agreement grants Licensee a license only and notwithstanding anything to the contrary herein, this

License does not constitute a grant by City of any ownership, leasehold, easement or other property interest or estate whatsoever in the Property, or any portion thereof. Nothing in this Agreement shall be construed as granting or creating any franchise rights pursuant to any federal, state or local laws.

This License is nonexclusive and nonpossessory. Licensee must allow access to the License Area by Licensors and other parties who may be granted access by Licensors. Licensee must coordinate its activities as to not interfere with Licensors' use of the Property.

2. Use. Licensee shall use the Premises solely for purposes of the operation of the San Mateo County Express Lanes Project and will not use it for any other purpose whatsoever without an amendment to this License pursuant to Paragraph 18. Unless specifically provided otherwise herein, the Licensee shall have no right to locate any other surface installation or to install fencing on any part of the Premises.
3. Assumption of the Risk / Waiver of Claims. Licensee accepts the Premises in its existing condition, and without limiting such agreement, Licensee on behalf of itself and its successors and assigns, waives its right to recover from, and forever releases and discharges Licensors from any and all claims, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the Premises and any related improvements or any law or regulation applicable thereto or the suitability of the Premises for Licensee's intended use.
4. Term and Termination. The term of this License shall commence upon final approval of the encroachment permit for the work covered by the License and last until this License is terminated. This License may be terminated by mutual consent of the Parties, or for any reason by Licensors upon 90 days written notice. Licensors may terminate this License in the event of Licensee's default of any License provisions and failure to cure within 60 days of written notice provided pursuant to Paragraph 26 of this License.
5. Installation and Conformity with Approved Plans and Specifications. At its own expense, Licensee shall design, install and construct the Facilities of such material, and in a manner that will not at any time be a source of danger to, or interfere with the City's present or future use of the Premises, including but not limited to, use of the Premises as public right-of-way, or the use of the Premises by any utility presently franchised, licensed, or approved by the City with installations in place at the time this License is entered into. If prior to installation, Licensors determine that the Licensee's proposed installation will interfere with existing or proposed City installations or any existing underground installations that predate this License, then Licensee shall at its sole expense redesign the Facilities to eliminate the interference as described by Licensors.

The Facilities shall be constructed, installed, and maintained in conformity with the Licensors-approved plans and specifications, which are incorporated and hereby approved by reference. The Parties agree that the presentation of plans and specifications of the Facilities shall be a discretionary approval of the plan or design by the Licensee and a determination by Licensee that such plans or design are reasonable, and that the approval of the plans and specifications shall be a discretionary approval of the plan or design by the Licensors and a

determination by Licensor that the plans and designs are reasonable. Before performing any construction, Licensee or its contractors shall be solely responsible for obtaining all permits and insurance required by Licensor for work within the right-of-way and will pay all fees and reimburse Licensor for all reasonable and necessary costs incurred in inspecting and supervising the work performed.

After installation of the Facilities, Licensee shall back-fill, compact, repair and repave all resulting trenches, curbs, gutters and pavement to the satisfaction of the Licensor, in accordance with Licensor's standard designs and specifications.

If, in the sole judgment of Licensor, Licensee at any time fails to perform its obligations under this section, Licensor, at its option, may perform whatever work it deems necessary for the public safety, health and welfare, and Licensee shall reimburse Licensor within thirty (30) days after Licensor invoices Licensee for the actual cost to Licensor of performing such work. However, Licensor is not required to perform such work, and any failure by Licensor to perform Licensee's obligations shall not release Licensee from liability for any loss or damage caused by Licensee's failure to perform its obligations.

Installation and maintenance of the Facilities shall be accomplished in a manner which will not unreasonably impede Licensor's access to the Premises or impede its use for operation and maintenance of infrastructure, as determined by Licensor. The timing and manner of such construction, maintenance, and removal shall be done in compliance with the Licensor's requirements.

If the Facilities or any part thereof creates an emergency condition, and Licensor determines that the situation makes it unreasonable to notify Licensee or await action by Licensee, Licensor may take whatever actions it deems necessary to remedy the emergency situation at the sole expense of Licensee and Licensee will reimburse the Licensor within thirty (30) days after the Licensor invoices Licensee for its actual cost of performing such work.

6. Liens and Claims. Licensee will not permit any mechanics', material suppliers', or other similar liens, claims, or stop notices to stand against the Property for labor, material, or services furnished in connection with any activities by Licensee under this Agreement. If any mechanics', material suppliers', or other similar lien is filed against the Property, or any stop notice is served, for work or labor performed or claimed to have been performed, or goods, materials or services furnished or, claimed to have been furnished upon or with respect to the Property at any time during the use of the Property, then unless Licensee elects to contest such lien or stop notice in accordance with the provisions of this section, Licensee shall discharge or cause the discharge of such lien or stop notice within thirty (30) days thereafter whether by payment, release, or posting of a bond or other similar assurance in the amount of one hundred twenty-five percent (125%) of the face amount of any such lien or stop notice. If such lien or stop notice is discharged other than by recorded full release and satisfaction (e.g., by bond), the same must be reasonably satisfactory in form and substance to Licensor. Licensee, at its sole cost and expense, may contest by appropriate legal proceedings, promptly initiated and diligently conducted in good faith, the amount, validity or application in whole or in part of any lien if the effect of such contest or proceedings completely stays any enforcement of the lien or stop notice; provided that (a) Licensee shall

indemnify Licensor and defend and hold Licensor harmless from and against all liability, costs, claims, damages, interest penalties and expense in connection with or arising out of such contest, and (b) Licensee shall prosecute such contest in good faith and with due diligence to a final determination.

7. Removal. If operation of the San Mateo County Express Lanes ends and the Facilities will no longer be used, Licensee agrees to remove the Facilities within one (1) year after the operation's termination.

If Licensee fails to vacate the Premises in accordance with this Agreement, in addition to any remedies available at law, including, without limitation, direct (actual) damages resulting from Licensee's failure to vacate the Premises as required hereunder, Licensor shall be entitled to specific performance of Licensee's obligation to vacate the Premises at the time and in the manner set forth herein.

8. As-Builts. Upon completion of the construction and installation of the Facilities, the Licensee shall promptly provide Licensor with one set of reproducible as-built, record drawings, reflecting construction and installation as actually accomplished.
9. Location Markers and Marking. As deemed necessary by Licensor, Licensee shall furnish, install, and place signs to give notice and location of the Facilities. Licensee shall install permanent markers situated so as not to impede use of the Premises by the City, members of the public or currently franchised, licensed, or approved utilities on each side of the public right-of-way where the Facilities cross the right-of-way. The permanent markers placed inside the Facilities shall indicate the location of the Facilities, the name and address of Licensee, and a telephone contact number for information regarding the Facilities. Licensee shall conduct periodic inspections of the markers to ensure that such markers are legible and in place as required herein. Licensee shall provide access to the Facilities whenever requested to do so by Licensor, any franchised, licensed or approved utility, and any licensed contractor excavating near the Facilities.
10. Indemnity. Licensee agrees to indemnify and hold harmless the City and its elected and appointed officials, agents and employees from any claims, demands, actions, suits, judgments, losses, damages, civil penalties, fines or other proceedings, including attorney's fees (collectively "Claims"), incurred as a result of personal injury or property damage caused by the acts or omissions of Licensee, its employees, agents, representatives, contractors or subcontractors or arising from the failure of the Licensee, its employees, agents, representatives, contractors or subcontractors to perform any act or duty required of the Licensee herein. This indemnity is not applicable to the extent any Claims result from the sole negligence or willful misconduct of Licensor, its employees, agents, representatives, authorized contractors, successors or assigns.

Neither Licensee nor its employees, agents, representatives, contractors or subcontractors shall have any obligation under this indemnity with respect to any Pre-Existing Environmental Condition. "Pre-Existing Environmental Condition" means the presence, emission, disposal, discharge or release of any hazardous material at, in, on, under or about the Property, however caused, existing at the commencement of this License, whether the

nature and extent of such contamination is known or unknown at the time. However, Licensee shall indemnify Licensors against any claims, demands, actions, suits, judgments, losses, damages, civil penalties, or fines proximately caused in whole or in part by any activities by Licensee, its agents, or subcontractor(s) which exacerbates any Pre-Existing Environmental Condition including the release of any hazardous materials as a result of Licensee's use of the Premises. "Exacerbate" for purposes of this section means to make any Pre-Existing Environmental Condition worse by causing damages that would not have occurred but for Licensee's use of the Premises.

11. Insurance. During the Term of this License, Licensee shall obtain and maintain the insurance set forth in Exhibit B to this Agreement.
12. Premises Damage. Licensee shall repair or pay for all actual damages to the Premises, caused by Licensee's activities.
13. Interference. Whenever, after Licensee installs the Facilities, Licensors determine that the Facilities are not located as indicated on as-built plans provided to Licensors by the Licensee, and the Facilities interfere with Licensors' use of the Premises, Licensee shall immediately relocate the Facilities to another location approved in advance by Licensors, at Licensee's sole expense, restoring the surface to its prior condition.

If the Facilities are at the location indicated on the as-built plans provided to Licensors by Licensee and the Facilities interfere with Licensors' use of the Premises, Licensors will provide written notice to Licensee that relocation of the Facilities is required and the Licensee shall relocate the Facilities within ninety (90) days of notice to the new location as approved in advance by Licensors, at Licensee's sole expense, restoring the surface to its prior condition.

14. Interference with Utility. Whenever, after Licensee installs the Facilities, Licensors determine that the Facilities are not located as indicated on as-built plans provided to Licensors by Licensee, the Facilities interfere with the reasonable use of the Premises by a utility holding a franchise, license, or approval issued prior to execution of this License, Licensee shall immediately relocate the facility to a location approved in advance by Licensors. None of the related costs shall be paid by Licensors.

If the Facility is at the location indicated on the as-built plans provided to the City by the Licensee and it is alleged by a utility franchised, licensed, or approved by the City prior to the execution of this License that the Facility interferes with the previously-franchised utility's use of the City's Property, the Licensee shall make a good faith effort to negotiate with the previously-franchised, licensed, or approved utility to resolve any conflict. None of the related costs shall be paid by the City. The Licensee and the previously franchised, licensed, or approved utility shall determine between themselves who will pay the cost of relocation and restoration of the surface. [first in time, first in right]

15. Installation by Third-Party. Unless required by a pre-existing agreement, state or federal law, applicable government regulation, or order from a court of competent jurisdiction, Licensors shall not voluntarily permit, authorize or approve any installation or construction



by a third party that would deprive Licensee of, or unreasonably interfere with Licensee's use and enjoyment of, the Premises during the term of the License. If any road, street, sidewalk, passageway, fire alarm, electric light or power line, waterline, storm drain, sanitary sewer line, gas line, telephone pole, telephone line or other utility, appurtenances or facility is placed along or across the Facilities by any entity other than Licensor, and the construction requires the Licensee to relocate the Facilities, then that entity and the Licensee shall determine between themselves who will pay the cost of relocation and the restoration of the surface. None of the related costs shall be paid by Licensor.

16. Waiver. The waiver by either party of any breach or violation of any term, covenant, or condition of this License shall not be deemed a waiver of such term, covenant, condition, ordinance, or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance, or law.
17. Mediation. Should any dispute arise out of this License, either party may request that it be submitted to mediation. The Parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties. In the absence of an agreement, the Parties shall each submit one name from mediators listed by either the American Arbitration Association, the State Mediation and Conciliation Service, or other agreed-upon service. The mediator shall be selected by a blind draw. The cost of mediation shall be borne equally by the Parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than 60 days, unless the maximum time is extended by the Parties.

In the event of a legal action, the prevailing party in any dispute under this License shall be paid all of its costs and expenses including, without limitation, reasonable attorney's fees incurred in connection with enforcement of either party's performance of all of its obligations under this License.

18. Entire Agreement. This License contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith. This License shall not be amended or modified in any way except in writing, executed by the duly authorized representative of each of the Parties. The rights and remedies of the Parties shall be solely and exclusively those herein contained and in lieu of any remedies otherwise available at law or in equity.
19. Counterparts. This License may be executed by facsimile or other electronic means (DocuSign, PDF format, etc.) in any number of counterparts, each of which is an original, but all of which shall constitute one instrument.
20. Binding Effect and Authority. This License is binding upon and inures to the benefit of the successors and/or assigns of the parties. Each individual executing this License on behalf of a party entity represents and warrants that he or she is duly authorized to execute this License on behalf of that party.



21. Compliance with Laws. Licensee, employees, representatives, consultants, contractors, volunteers and/or other persons shall comply with all federal, state, and local laws, ordinances, regulations, rules, and directives any governmental agencies with jurisdiction over the Premises and will not discriminate illegally against any person.
22. Venue and Governing Law. This License is governed by and construed and enforced in accordance with the laws of the State of California. In the event of litigation, venue will be in the County of San Mateo.
23. Construction and Severability. If any part of this License is held to be invalid or unenforceable, the remainder of this License will remain valid and enforceable if the remainder of the License is reasonably capable of completion.
24. Assignment. This License may not be assigned by either party without the prior written consent of the other, which shall not be unreasonable withheld, conditioned, or delayed. This License shall be binding upon and inure to the benefit of each party's respective successors and permitted assigns.
25. Approvals. Each of the Parties hereby represents and warrants that its execution of this Agreement has been duly authorized by all necessary action(s) and constitutes a valid and binding obligation of said party.
26. Notice. For purposes of giving formal written notice to the Licensee, the Licensee's address is:

San Mateo County Express Lanes Joint Powers Authority  
555 County Center, 5<sup>th</sup> Floor  
Redwood City, CA 94063

For purposes of giving formal, written notice to Licensor, Licensor's address is:

City of San Bruno  
Public Works Department  
567 El Camino Real  
San Bruno, CA 94066

Written notice must be made either personally or by regular United States Mail. If the notice is mailed, the notice will be complete when deposited in the United States Mail, postage paid, and addressed as required in this section. Notice of change of address will be given in the same manner as required by this Section.

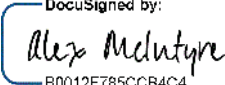
[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, this License Agreement is executed by the undersigned Parties. The Parties hereto further certify that the persons signing this License Agreement is duly authorized to do so.

LICENSEE, San Mateo County Express Lanes Joint Powers Authority

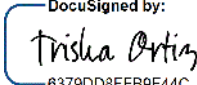
By: \_\_\_\_\_ (Signature) Dated: \_\_\_\_\_  
Name: Alicia Aguirre  
Title: Chair

LICENSOR, City of San Bruno

By:  (Signature) Dated: 6/15/2023  
Name: Alex D. McIntyre  
Title: Interim City Manager

Approved as to form:

By: \_\_\_\_\_ (Signature) Dated: \_\_\_\_\_  
Name: Timothy Fox  
Title: Legal Counsel - San Mateo County Express Lanes Joint Powers Authority

By:  (Signature) Dated: 6/15/2023  
Name: Trisha Ortiz  
Title: City Attorney - City of San Bruno

ATTEST:

## EXHIBITS

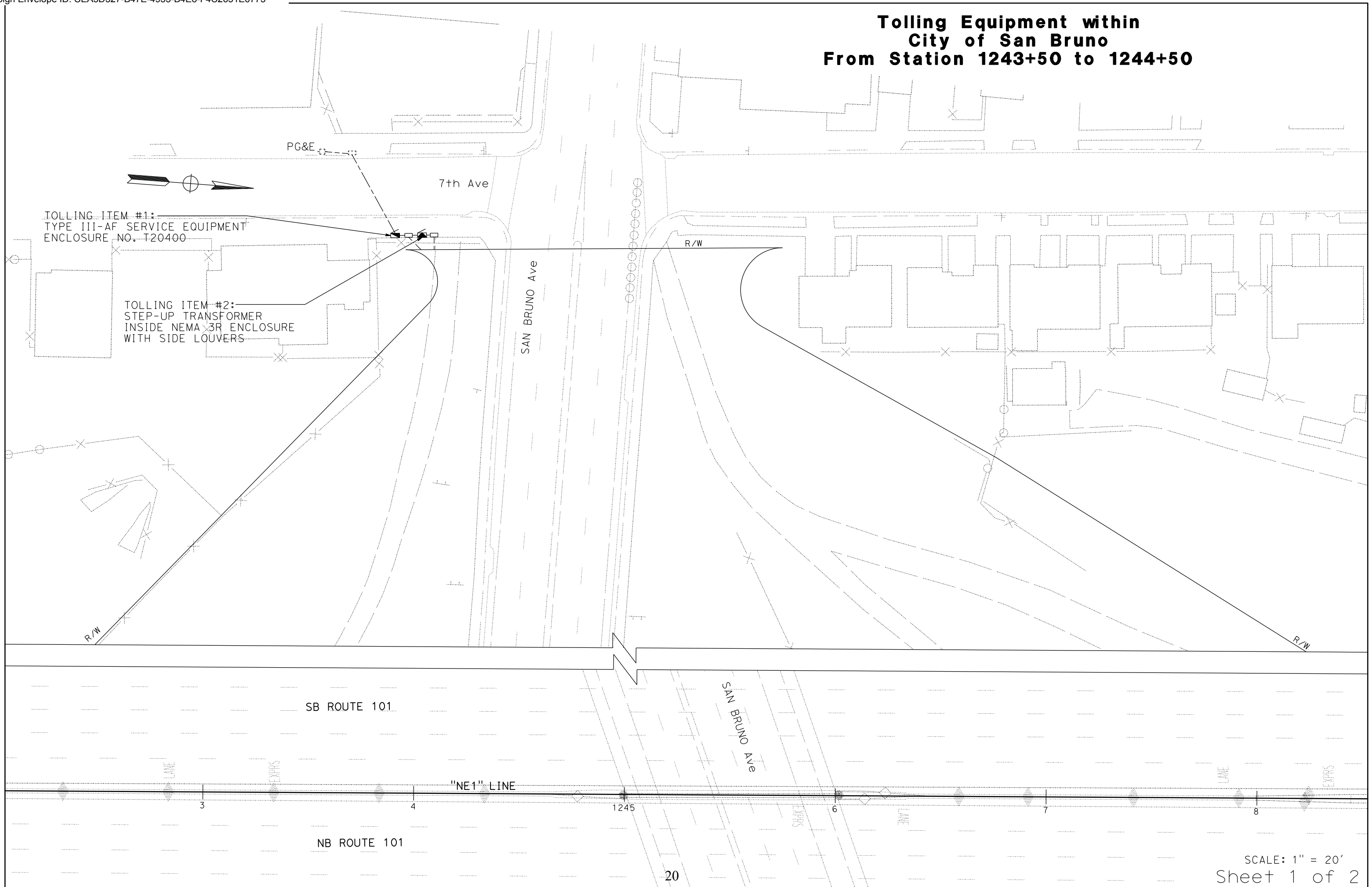
Exhibit A – Property, Facility, Location  
Exhibit B – Insurance Requirement

 6/16/2023  
B28CD14F91514ED...  
Lupita Huerta  
City Clerk

## **EXHIBIT A**

Property, Facility, Location

**Tolling Equipment within  
City of San Bruno  
From Station 1243+50 to 1244+50**





# Tolling Equipment within City of San Bruno

TOLLING ITEM #2:  
STEP-UP TRANSFORMER  
INSIDE NEMA 3R ENCLOSURE  
WITH SIDE LOUVERS

TOLLING ITEM #1:  
TYPE III-AF SERVICE EQUIPMENT  
ENCLOSURE NO. T20400



## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Review and approval of Resolution SMCEL 23-12 authorizing the Chair of SMCEL-JPA to execute the License Agreement between the City of Millbrae and the SMCEL-JPA for Express Lanes toll facilities within the City Rights of Way.

(For further information please contact Van Dominic Ocampo at [vocampo@smcgov.org](mailto:vocampo@smcgov.org))

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### RECOMMENDATION

Review and approve Resolution SMCEL 23-12 authorizing the Chair of SMCEL-JPA to execute the License Agreement between the City of Millbrae and the SMCEL-JPA for Express Lanes toll facilities within the City Rights of Way.

### FISCAL IMPACT

There is no fiscal impact associated with the approval and execution of the License Agreement. Insurance liability costs for the Express Lanes facilities within the City's Rights of Way are included in the annually adopted SMCEL-JPA Operating Budget, and maintenance expenses will be added to future budgets.

### SOURCE OF FUNDS

None.

### BACKGROUND

This San Mateo 101 Express Lanes Project (Project) created 44 miles (22 miles in each direction) of new express lanes along the US 101 between the San Mateo - Santa Clara County Line and Interstate 380 (I-380) in South San Francisco.

The Project was constructed in two segments; the southern segment, from the San Mateo/Santa Clara County Line to Whipple Avenue in Redwood City and the northern segment from Whipple to Interstate-380. On Feb 11, 2022, toll operations began on the southern segment together with Santa Clara Valley Transportation Authority, while commencement of tolling for the northern segment recently began on March 3, 2023.



Some of the toll facilities necessary for the operation of the Express Lanes were installed outside of Caltrans' Right-of-Way and on the adjacent city rights of way. Examples of these facilities include pull boxes, conduits, cables, electrical meters and pedestals, transformers, close circuit televisions (CCTV), etc. There are eleven cities along the US101 corridor, where toll facilities were installed within the City's Rights of Ways and SMCEL-JPA had entered into eight License Agreements and a Permanent Encroachment Permit (for Belmont) to document the presence of these facilities. With the approval and execution of the License Agreements with Millbrae and Millbrae (Agenda item 3.4), all documentation with the eleven jurisdictions would have now been secured, bringing project close-out a step closer towards completion.

#### **ATTACHMENTS**

1. Resolution SMCEL 23-12
2. License Agreement between the City of Millbrae and the SMCEL-JPA

## **RESOLUTION SMCEL 23-12**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) AUTHORIZING THE CHAIR TO EXECUTE THE LICENSE AGREEMENTS BETWEEN THE CITY OF MILLBRAE AND SMCEL-JPA**

**RESOLVED**, by the Board of Directors of the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) that,

**WHEREAS**, the San Mateo 101 Express Lanes Project (Project) created 44 miles (22 miles in each direction) of new express lanes along the US 101 between the San Mateo - Santa Clara County Line and Interstate 380 (I-380) in South San Francisco; and

**WHEREAS**, some toll facilities necessary for the long-term operations of the Express Lanes were installed within the rights of way of the City of Millbrae including, but not limited to, pull boxes, conduits, cables, electrical meters and pedestals, transformers, close circuit televisions (CCTV), etc.; and

**WHEREAS**, the City of Millbrae owns and controls the public rights of way where these facilities were installed and will remain for the long-term operation of the Express Lanes; and

**WHEREAS**, the City of Millbrae agrees to allow the installation of these facilities within its public rights of way so long as the Express Lanes is in operation; and

**WHEREAS**, SMCEL-JPA is responsible for maintaining the facilities at no cost to the City.

**NOW THEREFORE BE IT RESOLVED**, that the SMCEL-JPA Board of Directors authorizes the Chair to execute the License Agreements between the City of Millbrae and SMCEL-JPA.

**PASSED, APPROVED, AND ADOPTED, THIS 8TH DAY SEPTEMBER 2023.**

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*Alicia Aguirre, Chair*



## **LICENSE**

This LICENSE AGREEMENT (“License”), made and entered into this 11th day of August, 2023, by and between the City of Millbrae, California, a municipal corporation (“Licensor”) and the San Mateo County Express Lanes Joint Powers Authority (“Licensee”). Together the Licensor and Licensee are referred to herein as “the Parties.”

## **RECITALS**

- A. The Licensor owns or controls a certain parcel, easement or public right-of-way (the “Property”) more particularly described in Exhibit A.
- B. The Licensee wishes to install facilities for long-term operation of the San Mateo County Express Lanes Project on the portions of the Licensor’s Property as shown in Exhibit A (the “Premises”).
- C. The Licensor agrees that Licensee may install the Facilities on the Premises so long as Licensee maintains the Facilities under terms established by this License.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- 1. License. Subject to the terms and conditions of this License, the Licensor licenses Licensee to construct, install, operate, maintain, repair, replace, and remove equipment as necessary for the operation of the San Mateo County Express Lanes Project (the “Facilities”) on the Premises as more particularly shown on the drawing which is attached hereto as Exhibit A to this License.
- 2. Use. Licensee shall use the Premises solely for purposes of the operation of the San Mateo County Express Lanes Project. This License is limited to the usage expressly allowed and described in this agreement. Unless specifically provided otherwise herein, the Licensee shall have no right to locate any surface installation or to install fencing on any portion of the Premises. Licensee shall not during construction or otherwise, in City’s sole and reasonable judgment, impede access to or in any way obstruct, interfere with or hinder the use of any City property.
- 3. Term and Termination. The term of this License shall commence upon issuance of all City approvals and/or entitlements required for installation of the Facilities, including but not limited to an encroachment permit. The term shall of this License shall cease when this License is terminated pursuant to this section of this License. Licensor may terminate this License in the event of Licensee’s default of any License provisions and failure to cure within 60 days of written notice provided pursuant to Paragraph 23 of this License, or at any time with 120 days of written notice provided pursuant to Paragraph 23 of this License.
- 4. Installation and Conformity with Approved Plans and Specifications. At its own expense, Licensee shall design, install and construct the Facilities of such material, and in a manner that will not at any time be a source of danger to, or interfere with the Licensor’s present or future use of the Premises, including but not limited to, use of the Premises as public right-of-way, or the use of the Premises by any utility presently franchised by the Licensor with installations in place at the time this License is entered into. If prior to installation, Licensor determines that the Licensee’s proposed installation will interfere with existing or proposed Licensor

installations or any underground installations that predate this License, then Licensee shall at its sole expense redesign the Facilities to eliminate the interference as described by Licensor.

The Facilities shall be constructed, installed, and maintained in conformity with the Licensor-approved plans and specifications, which are incorporated and hereby approved by reference. The Parties agree that the presentation of plans and specifications of the Facilities shall be a discretionary approval of the plan or design by the Licensee and a determination by Licensee that such plans or design are reasonable, and that the approval of the plans and specifications shall be a discretionary approval of the plan or design by the Licensor and a determination by Licensor that the plans and designs are reasonable. Before performing any construction, Licensee's contractors shall obtain all permits and insurance required by Licensor for work within the right-of-way and will pay all fees and reimburse Licensor for all reasonable and necessary costs incurred in inspecting and supervising the work performed.

After installation of the Facilities, Licensee shall back-fill, compact, repair and repave all resulting trenches, curbs, gutters and pavement to the satisfaction of the Licensor, in accordance with Licensor's standard designs and specifications.

If, in the sole judgment of Licensor, Licensee at any time fails to perform its obligations under this section, Licensor, at its option, may perform whatever work it deems necessary for the public safety, health and welfare, and Licensee shall reimburse Licensor within thirty (30) days after Licensor invoices Licensee for the actual cost to Licensor of performing such work. However, Licensor is not required to perform such work, and any failure by Licensor to perform Licensee's obligations shall not release Licensee from liability for any loss or damage caused by Licensee's failure to perform its obligations.

Installation and maintenance of the Facilities shall be accomplished in a manner which will not unreasonably impede Licensor's access to the Premises or impede its use for operation and maintenance of infrastructure, as determined by Licensor. The timing and manner of such construction, maintenance, and removal shall be done in compliance with the Licensor's requirements.

If the Facilities or any part thereof creates an emergency condition, and Licensor determines that the situation makes it unreasonable to notify Licensee or await action by Licensee, Licensor may take whatever actions it deems necessary to remedy the emergency situation at the sole expense of Licensee and Licensee will reimburse the Licensor within thirty (30) days after the Licensor invoices Licensee for its actual cost of performing such work.

5. Removal. If operation of the San Mateo County Express Lanes permanently ends or ceases for a period of time greater than 12 months, or should the Facilities be rendered unusable, infeasible or no longer necessary, Licensee agrees, at its sole cost and expense to remove the Facilities within one year of the Facilities use ceasing.
6. Hazardous Materials. No Hazardous Materials (as defined below) shall be created, stored, used, disposed of, brought to or handled at any time upon the Premises, except Hazardous Materials contained in or used in connection with construction equipment necessary for the operation of such equipment or vehicle being used for work which is authorized on the Premises under this License. Licensee shall be responsible for the disposal of any Hazardous Materials encountered and removed as part of the installation of the equipment under this License. Hazardous Material includes, without limitation, any material or substance defined

as a “hazardous substance, pollutant or contaminant” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) or pursuant to Section 25316 of the California Health and Safety Code; a “hazardous waste” listed pursuant to Section 25140 of the California Health and Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the Premises or are naturally occurring substances on the Premises, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids.

7. Repair of Damage. Licensee shall repair any damage to the Premises where such damage is caused by Licensee, any of its agents, representatives, employees, contractors, or subcontractors, as a result of the installation, construction, operation, maintenance, and repair of the Facilities, at its sole cost, as soon as possible, but in no event more than ten (10) days from the date Licensee first receives notice of such damage, except those repairs which require more than ten (10) working days to repair as long as Licensee has commenced the repairs within such period and thereafter diligently pursues the repair to completion. All repairs shall be performed to the reasonable satisfaction of the City. If Licensee fails to repair or refinish any such damage, City may, in its sole discretion, repair, or refinish such damage and Licensee shall reimburse City for all costs and expenses incurred in such repair or refinishing.
8. As-Built. Upon completion of the construction and installation of the Facilities, the Licensee shall promptly provide Licensor with one set of reproducible as-built, record drawings, reflecting construction and installation as actually accomplished.
9. Location Markers and Marking. As deemed necessary by Licensor, Licensee shall furnish, install, and place signs to give notice and location of the Facilities. Licensee shall install permanent markers situated so as not to impede use of the Premises by the Licensor, members of the public or currently franchised utilities on each side of the public right-of-way where the Facilities cross the right-of-way. The permanent markers placed inside the Facilities shall indicate the location of the Facilities, the name and address of Licensee, and a telephone contact number for information regarding the Facilities. Licensee shall conduct periodic inspections of the markers to ensure that such markers are legible and in place as required herein. Licensee shall provide access to the Facilities whenever requested to do so by Licensor, any franchised utility, and any licensed contractor excavating near the Facilities.
10. Indemnity. Licensee agrees to indemnify, defend (with counsel approved by City) and hold harmless the Licensor and its elected and appointed officials, agents and employees from any claims, actions, losses, liabilities, damages, costs, expenses, suits or other proceedings arising from or out of the acts or omissions of the Licensee, its agents, representatives, contractors or subcontractors or arising from Licensee’s rights and obligations under this License, including the failure of the Licensee, its agents, representatives, contractors or subcontractors to perform any act or duty required of the Licensee herein, except to the extent any claims, actions, losses, liabilities, damages, costs, expenses, suits or other proceedings are caused by the active negligence or willful misconduct of the City or design specifications imposed by City staff as conditions.
11. Insurance. During the Term of this License, Licensee shall obtain and maintain the insurance set forth in Exhibit B to this Agreement.

12. Damages. Licensee shall repair or pay for all actual damages to the Premises, caused by Licensee's activities.
13. Interference. Whenever, after Licensee installs the Facilities, Licenser determines that the Facilities are not located as indicated on as-built plans provided to Licenser by the Licensee, and the Facilities interfere with Licenser's use of the Premises, Licensee shall immediately relocate the Facilities to another location approved in advance by Licenser, at Licensee's sole expense, restoring the surface to its prior condition.

If the Facilities are at the location indicated on the as-built plans provided to Licenser by Licensee and the Facilities interfere with Licenser's use of the Premises, Licenser will provide written notice to Licensee that relocation of the Facilities is required and the Licensee shall relocate the Facilities within ninety (90) days of notice to the new location as approved in advance by Licenser, at Licensee's sole expense, restoring the surface to its prior condition.
14. Interference with Utility. Whenever, after Licensee installs the Facilities, Licenser determines that the Facilities are not located as indicated on as-built plans provided to Licenser by Licensee, the Facilities interfere with the reasonable use of the Premises by a utility holding a franchise issued prior to execution of this License, Licensee shall immediately relocate the facility to a location approved in advance by Licenser. None of the related costs shall be paid by Licenser. If the Facility is at the location indicated on the as-built plans provided to the Licenser by the Licensee and it is alleged by a utility franchised by the Licenser prior to the execution of this License that the Facility interferes with the previously-franchised utility's use of the Licenser's Property, the Licensee shall make a good faith effort to negotiate with the previously-franchised utility to resolve any conflict. None of the related costs shall be paid by the Licenser. The Licensee and the previously franchised utility shall determine between themselves who will pay the cost of relocation and restoration of the surface. [first in time, first in right]
15. Installation by Third Party. Unless required by a pre-existing agreement, state or federal law, applicable government regulation, or order from a court of competent jurisdiction, Licenser shall not voluntarily permit, authorize or approve any installation or construction by a third party that would deprive Licensee of, or unreasonably interfere with Licensee's use and enjoyment of, the Premises during the term of the License. If any road, street, sidewalk, passageway, fire alarm, electric light or power line, waterline, storm drain, sanitary sewer line, gas line, telephone pole, telephone line or other utility, appurtenances or facility is placed along or across the Facilities by any entity other than Licenser, and the construction requires the Licensee to relocate the Facilities, then that entity and the Licensee shall determine between themselves who will pay the cost of relocation and the restoration of the surface. None of the related costs shall be paid by Licenser.
16. Waiver. The waiver by either party of any breach or violation of any term, covenant, or condition of this License shall not be deemed a waiver of such term, covenant, condition, ordinance, or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance, or law.
17. Entire Agreement. This License contains the entire agreement of the parties regarding the Facilities and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

18. Changes. Changes to this License are not binding unless made in a written amendment to this License duly authorized by each of the Parties.
19. Binding Effect and Authority. This License is binding upon and inures to the benefit of the successors and/or assigns of the parties. Each individual executing this License on behalf of a party entity represents and warrants that he or she is duly authorized to execute this License on behalf of that party.
20. Compliance with Laws. The Licensee and its contractors shall comply with all federal, state, and local laws, ordinances, regulations, and rules and will not discriminate illegally against any person.
21. Venue and Governing Law. This License is governed by and construed and enforced in accordance with the laws of the State of California. In the event of litigation, venue will be in the County of San Mateo.
22. Construction and Severability. If any part of this License is held to be invalid or unenforceable, the remainder of this License will remain valid and enforceable if the remainder of the License is reasonably capable of completion.
23. Assignment. The Licensee may only assign its obligations under this Agreement with the prior written consent of City, which will not be unreasonably withheld. In connection with any such assignment, Association and its assignee will execute and deliver to City a written assignment and assumption agreement in a form acceptable to the City Manager and City Attorney.
24. Notice. For purposes of giving formal written notice to the Licensee, the Licensee's address is:

San Mateo County Express Lanes Joint Powers Authority  
555 County Center, 5<sup>th</sup> Floor  
Redwood City, CA 94063

For purposes of giving formal, written notice to Licensor, Licensor's address is:

Millbrae City Hall  
Public Works Department  
621 Magnolia Avenue  
Millbrae CA 94030

Written notice must be made either personally or by regular United States Mail. If the notice is mailed, the notice will be complete when deposited in the United States Mail, postage paid, and addressed as required in this section. Notice of change of address will be given in the same manner as required by this Section.

#### **EXHIBITS**

- Exhibit A – Description of Property, Premises, and Facilities  
Exhibit B – Insurance Requirements

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

CITY OF MILLBRAE

SAN MATEO COUNTY EXPRESS LANES  
JOINT POWERS AUTHORITY

By:  
ANN SCHNEIDER  
MAYOR

By:  
ALICIA AGUIRRE  
CHAIR

Approved as to form:

Approved as to form:

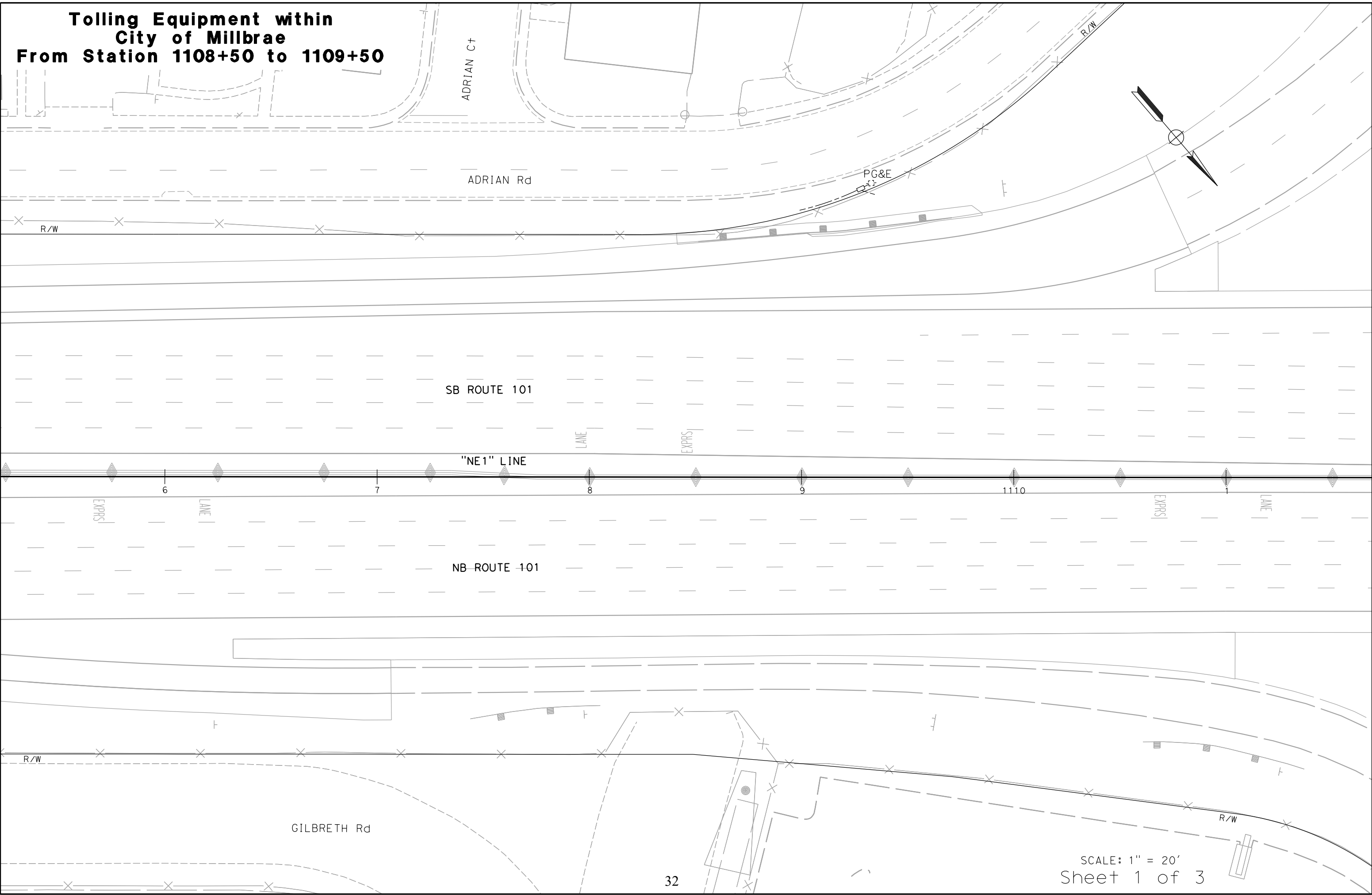
By:  
Michael N. Conneran  
City Attorney

By:  
Timothy Fox  
Legal Counsel

## **EXHIBIT A**

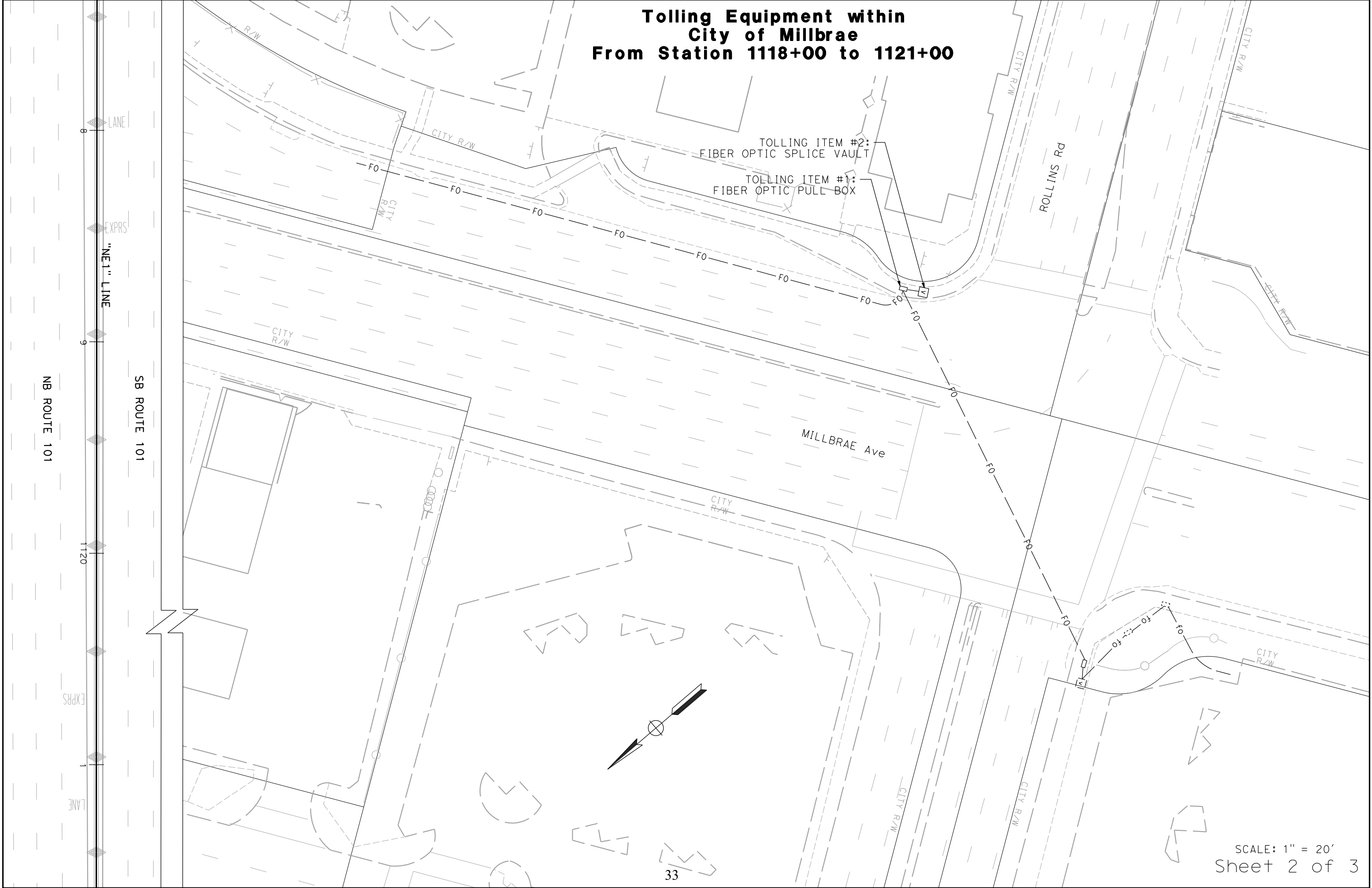
Description of Property, Premises, and Facilities

**Tolling Equipment within  
City of Millbrae  
From Station 1108+50 to 1109+50**





**Tolling Equipment within  
City of Millbrae  
From Station 1118+00 to 1121+00**





# Tolling Equipment within City of Millbrae



TOLLING ITEM #2:  
FIBER OPTIC SPLICE VAULT

TOLLING ITEM #1:  
FIBER OPTIC PULL BOX

## **EXHIBIT B**

### **Insurance Requirements**

Any person, firm or corporation Licensee authorizes to work upon the Premises, including any subcontractor, shall be deemed to be Licensee's agent and shall be subject to all the applicable terms of this License. Upon signing this License, Licensee shall provide City with satisfactory evidence (e.g. in the form of a Certificate of Insurance) that it and any contractors and other agents employed by the Licensee who will obtain access to the Premises pursuant to this License are insured in accordance with the following, which insurance shall remain in effect through the term of this License and shall be at the sole cost and expense of Licensee (or its agents). Licensee agrees to procure and maintain, and to require its contractor(s) to procure and maintain, at its (or its contractors') sole cost and expense (and to prove to City's reasonable satisfaction that it remains in effect) the kinds of insurance described below:

- a. **Workers' Compensation and Employer's Liability Insurance.** Licensee shall procure and maintain and require its contractor(s) to procure and maintain Workers' Compensation Insurance meeting statutory limits and Employers' Liability Insurance providing \$1 million in coverage. Licensee shall insure the procurement and maintenance of such insurance by all contractors engaged to work on the Premises.
- b. **Liability Insurance.** Licensee shall procure and maintain and require its contractor(s) to procure and maintain the following kinds of liability insurance, which shall include as additional insureds the City of Millbrae and its councilmembers, officers, employees and agents while acting in such capacity, and their successors or assignees, as they now or as they may hereafter be constituted, singly, jointly or severally:

- (1) **Commercial General Liability insurance** providing bodily injury and property damage coverage with a combined single limit of at least \$5,000,000 each occurrence or claim and a general aggregate limit of at least \$5,000,000. This insurance coverage shall include, but not be limited to, premises and operations; contractual liability covering the indemnity provisions contained in this Agreement; products and completed operations; broad form property damage; and contain no exclusion of explosion, collapse, and underground coverage.

- (2) **Automobile Liability insurance** providing bodily injury and property damage with a combined single limit of at least \$1,000,000 each occurrence or claim. This insurance shall provide contractual liability covering all motor vehicles including owned, non-owned and hired vehicles and mobile equipment to the extent it may be excluded from general liability insurance.

Upon signing this License, Licensee shall file and shall require any of its contractors to file a Certificate(s) of Insurance with the City evidencing the required coverage and endorsement(s) and, upon request, a certified duplicate original of any of those policies. Said Certificate(s) shall stipulate:

- (1) The insurance company(ies) issuing such policy(ies) shall give written notice to the City of any material alteration, or reduction in aggregate limits, if such limits apply, and provide at least thirty (30) days' notice of cancellation.



(2) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which Licensee is liable for under this Agreement, up to and including the total limit of liability, without right of contribution from any other insurance which is in effect for the benefit of the City.

(3) The policy shall also stipulate that inclusion of the City of Millbrae, its council members, officers, employees and agents as additional insureds shall not in any way affect the rights of such additional insureds as respects any claim, demand, suit or judgment made, brought or recovered against the Licensee, and shall protect them in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

The insurance policy(ies) shall be written by an insurance company or companies acceptable to City. Such insurance company shall be authorized to transact business in the state of California.

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Review and approve Resolution SMCEL 23-13, ratifying the purchase of General Liability Insurance, Public Officials Liability, and Property Insurance policies for a 12-month period for a not-to-exceed amount of \$531,266.

(For further information please contact Marshall Rush at [rushm@samtrans.com](mailto:rushm@samtrans.com))

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### RECOMMENDATION

That the SMCEL-JPA Board review and approve Resolution SMCEL 23-13, ratifying the purchase of General Liability, Public Officials Liability, and Property insurance policies for a 12-month period, beginning July 1, 2023, for a not to exceed amount of \$531,266.

### FISCAL IMPACT

The Commercial General Liability insurance has coverage of \$25M, a self-insured retention (SIR)/ deductible of \$100,000, and a premium cost of \$227,539. The Public Officials Liability insurance has coverage of \$3M, an SIR of \$10,000, and a premium cost of \$15,197. The property insurance has coverage of \$5M, a deductible of \$50,000, and a premium cost of \$288,530.

### SOURCE OF FUNDS

The adopted Fiscal Year 2024 (FY24) includes \$400,000 for estimated insurance premium costs. Actual insurance premium costs increased to \$531,266 due to increased property values and required increase in General Liability coverage. The \$131,266 increase is expected to be absorbed in the JPA budget, but if not, the Finance team will bring forward a budget amendment.

### BACKGROUND

With construction completed, the SMCEL-JPA now operates twenty-two (22) miles of express lanes in both directions of U.S. 101 within San Mateo County and provide a seamless transition to the express lanes being constructed in Santa Clara County.

The table below shows a comparison between the FY23 and proposed FY24 insurance premiums:

<b>Principal Program</b>	<b>Coverage (\$M)</b>	<b>FY23 Premium</b>	<b>FY24 Premium</b>
General Liability	**\$25M	\$117,408	\$227,539
Public Officials	\$3M	\$13,659	\$15,197
Property	\$5M	\$117,072	\$288,530
Total		\$248,139	\$531,266

\*\*Coverage increased from \$10M in FY23 to \$25M in FY24

Premium increases for FY24 are driven by a few factors: The General Liability increase is because of the Operating and Maintenance Agreement with Caltrans, which mandated an increase of coverage from \$10M in 2023, to \$25M in 2024. Property premium cost also increased, with the recent opening of the northern segment, which increased property values by 221%. These factors led to the increase of insurance total premium cost to \$531,266.

USI Insurance Services is the existing insurance broker for the SMCEL-JPA and is the broker to bind the JPA's Insurance program.

#### **ATTACHMENT**

1. Resolution SMCEL-23-13

## **RESOLUTION SMCEL 23-13**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) RATIFYING THE PURCHASE OF COMMERCIAL GENERAL LIABILITY INSURANCE, PUBLIC OFFICIALS LIABILITY INSURANCE AND PROPERTY INSURANCE POLICIES FOR A 12 MONTH PERIOD, BEGINNING JULY 1, 2023, FOR A NOT-TO-EXCEED AMOUNT OF \$531,266.**

**RESOLVED**, by the Board of Directors of the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) that,

**WHEREAS**, Staff of the San Mateo County Transportation Authority have, in their capacity of serving as finance staff of SMCEL-JPA, consider renewal of the General Liability, Commercial Property, and Public Officials Liability exposures associated with the Board of Directors for the SMCEL-JPA; and

**WHEREAS**, after such consideration, Staff recommends binding the renewal of the General Liability Insurance policy, Public Officials Liability, and Commercial Property insurance with the following significant elements:

1. General Liability with coverage of \$25,000,000 and a \$100,000 Self-Insured Retention (SIR) at an annual premium of \$227,539; and
2. Public Officials Liability with coverage of \$3,000,000 and a \$10,000 SIR at an annual premium of \$15,197; and
3. Commercial Property insurance with per occurrence coverage of \$5,000,000 and a \$50,000 deductible for a premium of \$288,530.

**WHEREAS**, the insurance policies will facilitate and satisfy insurance requirements necessitated by the License Agreements entered into with various cities affected by the Express Lanes project.

**WHEREAS**, staff recommend that the Board approve and ratify the renewal of the SMCEL-JPA's insurance program for Fiscal Year 2024 (FY24), as delineated above.

**NOW THEREFORE BE IT RESOLVED**, that the SMCEL-JPA Board of Directors ratifies the Chief Financial Officer's binding of the SMCEL-JPA's FY24 General Liability, Public Officials Liability, and Commercial Property Insurance renewal, at an amount not to exceed \$531,266.

**PASSED, APPROVED, AND ADOPTED, THIS 8TH DAY SEPTEMBER 2023.**

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*Alicia Aguirre, Chair*

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Review and approve Resolution SMCEL 23-14, establishing the settlement authority for general liability claims.

(For further information please contact Marshall Rush at [rushm@samtrans.com](mailto:rushm@samtrans.com))

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### RECOMMENDATION

That the SMCEL-JPA Board review and approve Resolution SMCEL 23-14, adopting a policy establishing the settlement authority for general liability claims.

### FISCAL IMPACT

There is not any fiscal or budgetary impact associated with adopting the settlement authority for general liability claims.

### SOURCE OF FUNDS

Not applicable.

### BACKGROUND

The San Mateo County Transit District (District) provides staff to implement and support the SMCEL-JPA's financial functions, including in acquiring insurance coverage and handling general liability claims. The District's Board of Directors has a long history of delegating authority to staff to efficiently and expeditiously settle general liability claims up to specified levels. District staff has proposed the SMCEL-JPA use a similar process and adopt a policy setting forth settlement authority levels and limitations.

The proposed levels and limitations generally align with those adopted in 2019 by the District Board and several months ago by the Peninsula Corridor Joint Powers Board, which is also administered by District staff. The San Mateo County Transportation Authority Board also is being asked to take the same action, with similar levels of settlement authority, thereby reducing ambiguity and standardizing claims settlement authority across all of the agencies.

Under the proposed policy, staff and contractors, when working on behalf of SMCEL-JPA, would be



authorized to settle general liability claims, and authorize associated payments, as follows:

- The District's contracted third-party claims administrator, with oversight by the District Insurance & Claims Administrator: claims and actions up to \$5,000.
- The District Insurance & Claims Administrator: general liability claims and actions up to \$10,000.
- The District Chief Financial Officer (CFO), after review by SMCEL-JPA's General Counsel: claims and actions between \$10,001 and \$25,000, except those claims that name the Executive Council, CFO, or General Counsel.
- The SMCEL-JPA Executive Council, upon recommendation by the CFO and the General Counsel: general liability claims between \$25,001 and \$100,000, except those claims that name the Executive Council, CFO, or General Counsel.

In addition, the proposed policy would authorize the SMCEL-JPA Executive Council, with the concurrence of the CFO and General Counsel, to approve compromise of a claim SMCEL-JPA has against another party with estimated damages of \$100,000 or less.

Only the Board of Directors would be permitted to approve settlements of claims against the SMCEL-JPA in excess of \$100,000 or which name the Executive Council, CFO, or General Counsel. In addition, only the Board would have authority to approve the compromise of a claim the SMCEL-JPA has against another party in excess of \$100,000.

#### **ATTACHMENT**

1. Resolution SMCEL 23-14

## **RESOLUTION SMCEL 23-14**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) ESTABLISHING THE SETTLEMENT AUTHORITY FOR GENERAL LIABILITY CLAIMS**

**RESOLVED**, by the Board of Directors of the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) that:

**WHEREAS**, Staff of the San Mateo County Transit District (District), in their capacity as finance staff of SMCEL-JPA, recommend establishing settlement authority for general liability claims filed against and by SMCEL-JPA to allow efficient and expeditious resolution thereof on behalf of SMCEL-JPA; and

**WHEREAS**, Staff recommends the District's contracted Insurance & Claims Administrator, District Risk Manager, District Chief Financial Officer (CFO), SMCEL-JPA General Counsel, and SMCEL-JPA Executive Council, all when acting on behalf of SMCEL-JPA, be authorized to settle and be delegated the authority to make or receive payments to resolve general liability claims and actions at the following levels, and subject to the following limitations:

- 1) District's third-party (contracted) Insurance & Claims Administrator, with oversight by the SamTrans Insurance & Claims Administrator: General liability claims up to \$5,000;
- 2) District Risk Manager: General liability claims between \$5,000 and \$10,000;
- 3) District CFO, after review by SMCEL-JPA's General Counsel: General liability claims and actions between \$10,001 and \$25,000, except those claims that name the SMCEL-JPA Executive Council, District CFO, or SMCEL-JPA General Counsel;
- 4) SMCEL-JPA Executive Council, upon recommendation by the District CFO and SMCEL-JPA General Counsel: General liability claims between \$25,001 and \$100,000, except those claims that name the Executive Council, CFO, or General Counsel;
- 5) SMCEL-JPA Executive Council, with the concurrence of the District CFO and SMCEL-JPA General Counsel: Compromises of any claims SMCEL-JPA has against other parties with estimated damages of \$100,000 or less; and

**WHEREAS**, only the Board of Directors shall be able to approve settlements and authorize payments in excess of \$100,000, or settle and authorize payments to resolve claims that name the Executive Council, CFO or General Counsel; and

**WHEREAS**, only the Board of Directors shall be able to compromise and accept payment in excess of \$100,000 for claims SMCEL-JPA has against another party.

**NOW THEREFORE BE IT RESOLVED**, that the SMCEL-JPA Board of Directors hereby adopts the policy on Settlement Authority for General Liability Claims as enumerated above and as set forth in Attachment A.

**PASSED, APPROVED, AND ADOPTED, THIS 8<sup>TH</sup> DAY SEPTEMBER 2023.**

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*Alicia Aguirre, Chair*

## **ATTACHMENT A: PROPOSED POLICY SETTLEMENT OF CLAIMS AUTHORITY**

This policy establishes the settlement authorities vested in the Executive Council of the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) and other positions employed or designated by the SMCEL-JPA to be responsible for risk management in settling general liability claims.

1. The San Mateo County Transit District's (District) contracted third-party claims administrator, with oversight by the District Insurance & Claims Administrator, is authorized to settle general liability claims and actions up to \$5,000 and to authorize payment of same;
2. The District Insurance & Claims Administrator is authorized to settle general liability claims and actions up to \$10,000 and to authorize payment of same;
3. The District Chief Financial Officer (CFO), after review by the SMCEL-JPA General Counsel, is authorized to settle general liability claims and actions between \$10,001 and \$25,000 and to authorize payment of same, except those claims that name the Executive Council, CFO, or General Counsel;
4. The SMCEL-JPA Executive Council, upon recommendation by the CFO and General Counsel, is authorized to settle general liability claims between \$25,001 and \$100,000 and to authorize payment of same, except those claims that name the Executive Council, CFO, or General Counsel;
5. The SMCEL-JPA Executive Council, with the concurrence of the CFO and General Counsel, is authorized to approve compromises of any claims SMCEL-JPA has against other parties with estimated damages of \$100,000 or less, and to accept payment of same; and
6. Only the Board of Directors may approve any settlement in excess of \$100,000 or involving a claim against SMCEL-JPA that names the Executive Council, CFO, or General Counsel, and any compromise of claims by SMCEL-JPA in excess of \$100,000.

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Review and Approval of Resolution SMCEL 23-15 authorizing the Chair of the SMCEL-JPA to execute a new service contract with the California Highway Patrol (CHP) for enforcement services through end of Fiscal Year 2025 for an amount not to exceed \$606,909.

(For further information please contact Sean Charpentier at [scharpentier@smcgov.org](mailto:scharpentier@smcgov.org); or April Chan at [chana@samtrans.com](mailto:chana@samtrans.com).)

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### RECOMMENDATION

That the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board review and approve Resolution SMCEL 23-15 authorizing the Chair of the SMCEL-JPA to execute a new service contract with the California Highway Patrol (CHP) for enforcement services through end of Fiscal Year 2025 for an amount not to exceed \$606,909.

### FISCAL IMPACT

The total Fiscal Impact will be in the amount of \$606,909, covering half of Fiscal Year (FY) 2023 through the end of FY 2025. Funding amount needed in FY2023 was included in the FY2023 Budget Amendment. Funding amount needed for FY 2024 was included in the FY 2024 Approved Budget. Staff plans to include appropriate budget authority in the FY 2025 SMCEL-JPA Budget for CHP enforcement services, and will review this with the Board as part of the FY 2025 budgeting process.

### SOURCE OF FUNDS

For FY 2023, an amount of \$215,000 was approved for CHP enforcement services. For FY 2024, an amount of \$240,000 was set aside and approved to cover these services. Staff plan to include appropriate budget authority in the FY 2025 budget to fund the service contract for the CHP Enforcement Services.

### BACKGROUND

On June 11, 2021, the SMCEL-JPA Board approved Resolution 21-10, which adopted SMCEL Ordinance 2021-01 for the Administration of Tolls and Enforcement of Toll Violations for the 101 Express Lanes in San Mateo County. Administrative procedures and penalties enacted pursuant to Article 4 were adopted to ensure that motorists who evade the payment of Tolls while travelling on San Mateo County 101 Express Lanes shall be subject to civil penalties, while ensuring fairness in the treatment of violators.

California Streets and Highways Code Section 149.7 requires the SMCEL-JPA to enter into a contract with CHP that addresses all law enforcement matters related to the toll facility and authorizes reimbursement of that state agency for the enforcement activities, including those under SMCEL Ordinance 2021-01. Other express lane operators in the State have similar service contracts.

At its October 8, 2021 meeting, the SMCEL-JPA Board approved Resolution SMCEL 21-18 authorizing the Chair of the SMCEL-JPA Board of Directors to execute the initial contract with CHP for the period of one year beginning with the initiation of tolling in the amount of \$200,000. That amount was based on the enforcement levels consistent with other regional express lane operators. The level of enforcement is dependent on the availability of CHP resources, which are occasionally diverted to other emergencies like natural disasters. To date, the level of enforcement has varied but is generally lower than anticipated. As of the end of this contract on December 31, 2022, \$126,909 remained of the \$200,000. Those funds will be rolled over into the new service contract.

At the December 2022 SMCEL-JPA Board meeting, staff presented this item as an amendment to the existing CHP contract, which was approved. Subsequently, CHP management determined a new service agreement for the same period of service (January 1, 2023 through June 20, 2025) and amount, not to exceed \$480,000, along with the remaining funds from the initial contract, \$126,909, for a total of \$606,909 would be necessary. The CHP uses a standard service contract with similar terms throughout the state. A copy of the service contract is provided as Attachment 2.

Staff has negotiated the proposed contract terms between SMCEL-JPA and CHP and recommend that the Chair of the SMCEL-JPA be authorized to execute the service contract.

#### **ATTACHMENTS**

1. Resolution SMCEL 23-15
2. Draft Service Contract with CHP for US 101 Express Lanes in San Mateo County Enforcement Services

**RESOLUTION SMCEL 23-15**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CALIFORNIA HIGHWAY PATROL (CHP) AND THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY FOR ENFORCEMENT SERVICES ON THE US 101 EXPRESS LANES IN SAN MATEO COUNTY FOR A PERIOD OF COMMENCING JANUARY 1, 2023 THROUGH JUNE 30, 2025 FOR A MAXIMUM SUM OF \$606,909**

**RESOLVED**, by the Board of Directors of the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) that,

**WHEREAS**, the SMCEL-JPA was granted approval by the California Transportation Commission (CTC) pursuant to California Streets and Highways Code section 149.7 to build, own, administer and operate high-occupancy toll lanes or other toll facilities, including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit, on US 101 between Interstate 380 and the Santa Clara/San Mateo County line; and

**WHEREAS**, on June 11, 2021, the SMCEL-JPA adopted a Resolution SMCEL 21-10 for the Toll Ordinance for the Administration of Tolls and Enforcement of Toll Violations for the San Mateo County US 101 Express Lanes, and

**WHEREAS**, pursuant to California Streets and Highways Code Section 149.7, SMCEL-JPA shall enter into an agreement with CHP that addresses all law enforcement matters related to the toll facility and authorizes reimbursement of this state agency for the enforcement activities, including those under SMCEL Ordinance 2021-01, and

**WHEREAS**, in order to procure enforcement services for the San Mateo County US 101 Express Lanes; the SMCEL-JPA and the California Highway Patrol (CHP) must enter a contract including, but not limited to, the scope of services, the duration of the contract and the applicable hourly rates; and

**WHEREAS**, by adopting its Resolution 21-18 in November 2021, the SMCEL-JPA authorized its Chair to execute its first agreement for express lanes enforcement by the CHP for an initial period of one year commencing with the opening of the first segment of the 101 Express Lanes in San Mateo County; and

**WHEREAS**, by adopting its Resolution 22-28 in December 2022, the SMCEL-JPA authorized its Chair to execute an extension of the time period through the end of Fiscal Year 2025 for an amount not to exceed \$480,000; and

**WHEREAS**, it is now the desire of the SMCEL-JPA to contract with CHP for the agreed upon express lanes enforcement services for period commencing January 1, 2023 through June 30, 2025 with renewed and updated terms and conditions.

**NOW THEREFORE BE IT RESOLVED**, by the SMCEL-JPA Board of Directors that the Chair is authorized to execute the contract for enforcement services with CHP for an amount not

to exceed \$606,909 for the term between January 1, 2023 and June 30, 2025; and the Executive Council further authorized to make minor revisions prior to execution, subject to approval by the SMCEL-JPA Legal Counsel.

**PASSED, APPROVED, AND ADOPTED, THIS 8TH DAY SEPTEMBER 2023.**

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*Alicia Aguirre, Chair*



**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

Business Services Section  
Contract Services Unit  
601 N. 7th Street  
Sacramento, CA 95811  
(916) 843-3610  
(800) 735-2929 (TT/TDD)  
(800) 735-2922 (Voice)



July 17, 2023

San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA)  
1250 San Carlos Avenue  
San Carlos, CA 94070

Subject: Agreement Number 22R330001-0

**Congratulations, you have been awarded the agreement. Please complete the following marked item(s) and return to the above address within ten (10) business days:**

- ☒ STD. 213, Standard Agreement with attached exhibits. Sign the first page of the STD. 213, sign the additional single STD. 213, and return both copies.
- ☐ STD. 213A, Standard Agreement Amendment. Sign the first page of the STD. 213A, sign the additional single STD. 213A, and return both copies.
- ☐ STD. 210, Short Form Contract. Sign and return both copies.
- ☐ STD. 204, Payee Data Record. Complete and return.
- ☐ CCC, Contractor Certification Clauses. Complete and return.
- ☐ Obtain and forward the liability insurance certificate required by the terms of the Agreement.
- ☒ Resolution, motion, order, or ordinance from the local governing body authorizing this Agreement.
- ☐ STD. 807, Payment Bond. Complete and return one copy.
- ☐ CHP 28, Voluntary Statistical Data. Complete and return.
- ☐ CHP 78V, Conflict of Interest & CHP 116, Darfur Certification
- ☐ Letter of Agreement. Sign and return both copies.

**Contract status.**

- ☐ The enclosed agreement is signed on behalf of the Department of California Highway Patrol. Process and when approved, return an original to this office.
- ☐ The enclosed approved agreement is for your records. You are now authorized to provide services.

KELLIE AU  
Contract Analyst

Enclosures

*Safety, Service, and Security*



*An Internationally Accredited Agency*

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

22R330001

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of California Highway Patrol

CONTRACTOR NAME

San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA)

2. The term of this Agreement is:

START DATE

01/01/2023

THROUGH END DATE

06/30/2025

3. The maximum amount of this Agreement is:

\$606,909.00 (Six Hundred Six Thousand Nine Hundred and Nine Dollars and Zero Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	2
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C	General Terms and Conditions - GTC 04/2017	*
+ -	Exhibit D	Special Terms and Conditions
		2

*Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.**These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>***IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.****CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA)

CONTRACTOR BUSINESS ADDRESS

555 County Center, 5th Floor

CITY

Redwood

STATE

CA

ZIP

94063

PRINTED NAME OF PERSON SIGNING

Alicia Aguirre

TITLE

Chair of Board of Directors, SMCEL-JPA

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

Department of California Highway Patrol

CONTRACTING AGENCY ADDRESS

601 North 7th Street

CITY

Sacramento

STATE

CA

ZIP

95811

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

**EXHIBIT A**  
**(Standard Agreement)**

**SCOPE OF WORK**

1. The Contractee agrees to reimburse the Department of California Highway Patrol (CHP) Redwood City Area office for costs associated with providing Traffic Control Services on the US-101 Express Lanes (northbound and southbound) within San Mateo County with intent on vehicle violation enforcement Monday through Friday between the hours of 0500-0900 and 1500-1900.

2. The services shall be provided during:

The hours of duty performed by CHP officer(s) under this Agreement are those mutually agreed upon by the Project Representatives listed below, or designees. Any changes to the proposed plan such as additional hours, dates, and sites for Traffic Control services can be requested and/or on an "as needed" basis and must be mutually agreed upon by the CHP Redwood City Area office and the Contractee.

3. The Project Representatives during the term of this Agreement will be:

STATE AGENCY		CONTRACTEE	
Department of California Highway Patrol		San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA)	
NAME		NAME	
Sgt. Mishell Marmo, Redwood City Area office		Peter Skinner, Executive Officer	
ADDRESS		ADDRESS	
355 Convention Way Redwood City, CA 94063		1250 San Carlos Avenue San Carlos, CA 94070	
TELEPHONE NUMBER	EMAIL	TELEPHONE NUMBER	FAX NUMBER
(650) 369-6261	<a href="mailto:Mmarmo@chp.ca.gov">Mmarmo@chp.ca.gov</a>	(650) 622-7818	N/A

Direct all inquiries to:

STATE AGENCY		CONTRACTEE	
Department of California Highway Patrol		San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA)	
SECTION/UNIT		NAME	
Business Services Section/Contract Services Unit		Lacy Vong, Policy Program Manager	
ATTENTION		EMAIL	
Kellie Au, Contract Analyst		<a href="mailto:lvong@HNTB.com">lvong@HNTB.com</a>	
ADDRESS		ADDRESS	
601 North 7 <sup>th</sup> Street Sacramento, CA 94298-0001		555 County Center, 5 <sup>th</sup> Floor Redwood City, CA 94063	
TELEPHONE NUMBER	EMAIL	TELEPHONE NUMBER	FAX NUMBER
(916) 843-3610	<a href="mailto:kellie.au@chp.ca.gov">kellie.au@chp.ca.gov</a>	(510) 587-8712	N/A

**EXHIBIT A**  
**(Standard Agreement)**

**SCOPE OF WORK** *(Continued)*

4. Detailed description of work to be performed:

- A. The CHP Redwood City Area office shall provide CHP officer(s) with vehicles and coordinate all traffic control. Should the CHP Redwood City Area office be unable to fill the necessary staffing for each event, the shortage of CHP Officers will be utilized from out-of-Area uniformed personnel.
- B. The traffic control services to be performed by CHP officer(s) under this Agreement, including the standards of performance, discipline and control thereof, shall be the responsibility of CHP.
- C. It is understood by the Contractee that billing of CHP officer(s) time shall be from portal to portal (CHP Area office to the service location and return to CHP Area office) except as specified in Item D.
- D. If the CHP officer(s) has reported to the assigned location and has worked less than four (4) hours, the Contractee agrees to pay every assigned CHP officer(s) a minimum of four (4) hours overtime. Exception: This does not apply to those cases when the hours worked is part of an extended shift.
- E. If the CHP officer(s) report(s) to the assigned service location and if for any reason CHP reassigns the officer(s) away from the service location, the Contractee will be billed only for the officer(s) actual time incurred from the CHP Area office to the service location and for the time spent at the assigned service location covered under this Agreement.

5. Cancellation of Services

- A. The Contractee shall not be charged for service cancellations made more than twenty-four (24) hours prior to the scheduled assignment.
- B. The Contractee agrees that if service cancellation is made within twenty-four (24) hours prior to the scheduled assignment and the assigned CHP officer(s) cannot be notified of such service cancellation, a minimum of four (4) hours overtime shall be charged for each assigned CHP officer.
- C. The Contractee agrees that if service cancellation is made within twenty-four (24) hours prior to the scheduled assignment and CHP officer(s) is notified of such service cancellation, the Contractee shall only be charged a short notice service cancellation fee of \$50.00 per assigned CHP officer(s).
- D. All service cancellation notices to CHP must be made during normal CHP business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding state holidays.
- E. The CHP agrees to make reasonable efforts to notify the assigned CHP officer(s) of the service cancellation.

**EXHIBIT B**  
**(Standard Agreement)**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Invoicing and Payment**

- A. The CHP shall provide the Contractee with an itemized invoice which details all CHP costs for traffic control services under this Agreement.

Monthly itemized invoices will be submitted electronically to:

San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA)  
Attn: [Revenue@samtrans.com](mailto:Revenue@samtrans.com)  
[AccountPayable@samtrans.com](mailto:AccountPayable@samtrans.com)  
1250 San Carlos Avenue  
San Carlos, CA 94070

The Contractee agrees to pay CHP within thirty (30) days after the date of the invoice.

- B. In consideration for the traffic control services contained herein, the Contractee agrees to reimburse the CHP upon receipt of an itemized invoice. The Contractee agrees to reimburse the CHP for **the actual hours worked and mileage costs incurred** at the time services are provided. The rates indicated in this agreement are for estimate purposes only. It is understood by both parties that rate increases in salary and benefits are governed by collective bargaining agreements and/or statute and that no advance written notification is necessary prior to implementing the increased rates. In the event CHP is granted a rate increase, the Contractee agrees to pay the increased rate. The following information are the CHP officer and sergeant overtime rates effective Fiscal Year 2022/2023, until superseded:

<u>CLASSIFICATION</u>	<u>OVERTIME RATE</u>
CHP Officer	\$113.58 per hour
CHP Sergeant	\$138.18 per hour
M/C Officer	\$118.10 per hour
M/C Sergeant	\$143.68 per hour
CHP Automobile	\$ 1.51 per mile
CHP Motorcycle	\$ 1.43 per mile

**EXHIBIT D**  
**(Standard Agreement)**

**SPECIAL TERMS AND CONDITIONS**

1. The CHP and the Contractee agree this Agreement may be canceled by either party with thirty (30) days advance written notice.
2. In the event of an emergency, this Agreement may be canceled by either party without prior notice.
3. The CHP and the Contractee, agree that this Agreement may be amended by written mutual consent of the parties hereto.
4. Unforeseen events may require CHP officer(s) to expend hours in excess of the original estimate. Any costs in excess of the original estimated amount will be processed by appropriate amendment to the Agreement, to reflect the actual costs incurred.
5. Additional charges may be assessed for CHP supplies, additional equipment utilized, damage to property repaired or replaced at state expense, which are directly related to the services provided herein, but only to the extent such supplies or additional equipment are specifically requested in writing by the Contractee or such need for repair or replacement of property arises directly from the Contractee's gross misconduct or willful negligence with respect to the property.
6. Gifts, donations, or gratuities may not be accepted by CHP employees in their own behalf or in behalf of the Department, informal squad club, or other local funds.
7. Any dispute concerning a question of fact arising under the terms of this agreement which is not disposed within a reasonable period of time (ten days) by the parties normally responsible for the administration of this contract shall be brought to the attention of the Administrative Services Officer (or designated representative) of each organization for joint resolution.
8. The Contractee agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Contractee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The Contractee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et CCR Title 2, Section 1896).
9. The Contractee shall fully defend, indemnify, and hold harmless the CHP, as well as the CHP's appointees, officers, and employees, from all claims, actions, losses, liability, and expense (including reasonable attorney's fees) arising from any injury (as defined in GC Section 810.8), but only in proportion to and to the extent such claim, action, loss, liability, and expense are caused by or result from the negligent or intentional acts or omissions of the Contractee, or its appointees, officers, employees, agents, or representatives, during the performance of this Agreement.

**EXHIBIT D**  
**(Standard Agreement)**

**SPECIAL TERMS AND CONDITIONS** *(Continued)*

CHP shall fully defend, indemnify, and hold harmless the Contractee, as well as the Contractee's appointees, officers, and employees, from all claims, actions, losses, liability, and expense (including reasonable attorney's fees) arising from any injury (as defined in GC Section 810.8), but only in proportion to and to the extent such claim, action, loss, liability, and expense are caused by or result from the negligent or intentional acts or omissions of CHP, or its appointees, officers, employees, agents, or representatives, during the performance of this Agreement.

Neither termination nor completion of this Agreement shall release either the Contractee or the CHP from the obligations of this paragraph, so long as the claim, action, loss, expense, or liability is predicated upon an event that occurred subsequent to the effective date of this Agreement and prior to the effective date of termination or completion of this Agreement.

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Receive information on Statement of Revenues and Expenses for the Period Ended June 30, 2023

(For further information, contact Kate Jordan Steiner, CFO, at 650-647-3504)

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### **RECOMMENDATION**

Receive information on Statement of Revenues and Expenses for the Period Ended on June 30, 2023. This report is submitted for informational purposes only.

### **BACKGROUND**

The Finance Division engages in many activities following the end of fiscal year 2023. The demands of these activities require a longer time to produce a complete Sources and Uses of Funds than allowed by the normal board meeting cycle. Consequently, staff will present a Sources and Uses of Funds for June at the October 13th Board of Directors meeting. The auditors, Eide Bailly, LLP, expect to finish the audit in late October. An Annual Financial Report will be finalized in mid-November of 2023.



## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Accept the Sources and Uses of Funds for the FY2024 Period Ending July 31, 2023  
(For further information, contact Kate Steiner, CFO, at 650-647-3504)

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### RECOMMENDATION

That the SMCEL-JPA Board accepts and enters into the record the Sources and Uses of Funds for the Fiscal Year 2024, period ending July 31, 2023.

The statement columns have been designed to provide the annual budget and the year to date current actuals for the current fiscal year.

### FISCAL IMPACT

Year to Date Sources of Funds: As of July 2023, the Total Sources of Funds are \$2.2 million. It is mainly comprised of toll revenues (\$1.9 million) and Toll Violation, Fees and Penalties (\$0.2 million) from both Southern and Northern Segments of Express Lanes on U.S. 101. The Northern Segment, which is from Whipple Avenue to the I-380 in South San Francisco, was officially opened on March 3, 2023. The Sources of Funds also includes Allocated Bond Funds - Equity Program (\$0.1 million).

Year to Date Uses of Funds: As of July 2023, the Total Uses of Funds are \$1.1 million. Major expenses are in the categories of Toll operations and maintenance costs (\$0.3 million), FasTrak customer service costs (\$0.3 million), Consultant (\$0.1 million), and Equity program administration and costs (\$0.1 million).

### BACKGROUND

Budget Amendment: There are no budget amendments for the month of July 2023.

#### Other Information:

Loan payables represent loan advance payments received since the formation of the SMCEL-JPA from the San Mateo County Transportation Authority and the City/County Association of Governments of San Mateo County. Loan advances will be repaid on a monthly basis and no later than five years after the San Mateo County 101 Express Lanes Project begins operations and receives toll revenues.

### ATTACHMENT

1. Sources and Uses of Funds Fiscal Year 2024 (July 2023)

**SAN MATEO COUNTY EXPRESS LANE JPA**  
**SOURCES AND USES OF FUNDS**  
**Fiscal Year 2024**  
**July 2023**

		<b>PROPOSED BUDGET</b>	<b>ACTUALS</b>
		<b>Annual</b>	<b>As of 7/31/2023</b>
<b>SOURCES OF FUNDS:</b>			
1	Toll Revenues	\$ 20,200,000	\$ 1,859,566
2	Toll Violation, Fees and Penalties	4,200,000	190,171
3	Allocated Bond Funds - Equity Program	577,550	103,000
4	SMCTA Measure A (ACR TDM) - Equity Program	400,000	-
5	Misc. Income	-	5,594
<b>TOTAL SOURCES OF FUNDS</b>		<b>\$ 25,377,550</b>	<b>\$ 2,158,331</b>
<b>USES OF FUNDS:</b>			
6	Staff Support	\$ 1,055,611	\$ 42,239
7	Administrative Overhead	117,139	39,842
8	Seminar/Training & Business Travel	40,500	-
9	Audit & Bank Fees	22,636	-
10	Promotional Advertising	50,000	4,167
11	Utilities	50,000	3,024
12	Software Maintenance & License	33,600	1,855
13	Legal Services	60,000	-
14	Insurance	500,000	42,778
15	SMCEL-JPA Bond Related Debt Fees	520,000	-
16	Miscellaneous	29,350	-
17	Consultant	2,206,700	112,000
18	Express Lane Maintenance	847,000	20,000
19	Toll Operations and Maintenance (BAIFA)	8,350,000	338,000
20	FasTrak Customer Service (BATA)	5,200,000	283,000
21	Express Lanes Enhanced Enforcement (CHP)	240,000	19,472
22	Equity Program Administration and Costs	1,435,000	103,000
23	Interest Expense on Operating Advances	269,098	17,966
24	Credit Enhancement Fee	400,000	33,333
25	SMCEL-JPA Bond Interest	1,000,000	-
<b>TOTAL USES OF FUNDS</b>		<b>\$ 22,426,634</b>	<b>\$ 1,060,676</b>
<b>PROJECT SOURCES OVER USES</b>		<b>\$ 2,950,916</b>	<b>\$ 1,097,655</b>
<b>Additional Information:</b>			
Loan payables to the City/County Association of Governments of San Mateo County		\$	2,777,567
Loan payables to the San Mateo County Transportation Authority		\$	3,268,889

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Tim Fox, Legal Counsel

Subject: Reject a claim under California Government Claims Act for non-culpability  
(For further information please contact Tim Fox at tfox@smcgov.org)

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### **RECOMMENDATION**

That the SMCEL-JPA Board reject a claim under California Government Claims Act for non-culpability.

### **FISCAL IMPACT**

There is not any fiscal impact related to this item.

### **SOURCE OF FUNDS**

Not Applicable.

### **BACKGROUND**

Staff has received a claim from a motorist who suffered injuries and property damage resulting from a two-car collision on SB Highway 101 on February 3, 2023. Staff recommends and requests that the Board reject the claim on the basis that the San Mateo County Express Lanes Agency is not culpable for the injuries or losses described by the claim, and to direct staff to respond to the claim by letter pursuant to the California Government Claims Act rejecting the claim for non-culpability.

### **ATTACHMENTS**

None.

## Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Executive Council

Subject: Review and Approval of Resolution SMCEL 23-16 authorizing the Chair to execute Amendment No. 2 to the Agreement with HNTB Corporation for Policy/Program Management Services for an amount not to exceed \$2,474,560 covering the period of November 1, 2023 through October 31, 2025.

(For further information, contact Sean Charpentier at [scharpentier@smcgov.org](mailto:scharpentier@smcgov.org))

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### RECOMMENDATION

That the SMCEL-JPA Board of Directors review and approve Resolution SMCEL 23-16 authorizing the Chair to execute Amendment No. 2 to the Agreement with HNTB Corporation for Policy/Program Management Services for an amount not to exceed \$2,474,560 covering the period of November 1, 2023 through October 31, 2025.

### FISCAL IMPACT

The total not to exceed amount for Amendment No. 2 covering the period of two years (November 1, 2023 through October 31, 2025) is \$2,474,560.

### SOURCE OF FUNDS

The adopted Fiscal Year 2023/2024 Budget includes funding for Policy/Program Management Services for the said Fiscal Year. However, since the SMCEL-JPA adopts budget on an annual basis, expenditures beyond the current budget year will be subjected to future budget approval.

### BACKGROUND

The C/CAG Board and SMCTA Board, both approved the Joint Exercise of Powers Agreement (JEPA) that became effective on June 13, 2019. The JEPA created SMCEL-JPA, pursuant to the California Joint Exercise of Powers Act to oversee the operations and administration of the San Mateo 101 Express Lanes Project, and to jointly exercise ownership rights over the express lanes.

Per the JEPA, SMCEL-JPA will retain an independent, high-level Policy/Program Manager (PPM), via contract, whose primary task is to develop and oversee the implementation of the policies and programs of SMCEL-JPA. The PPM shall report directly to the SMCEL-JPA Board and will work in collaboration with the Executive Council of SMCEL-JPA as well as other staff.

On October 11, 2019, SMCEL-JPA Board approved Resolution SMCEL 19-05 authorizing the Chair to execute the agreement with HNTB Corporation for Policy/Program Management Services beginning November 1, 2019 through October 31, 2021, for an amount not to exceed \$1,381,716. During this two year period HNTB successfully provided Board support, made policy recommendations, oversaw the Equity Study as well as the formulation of the Equity Program. HNTB also facilitated the negotiation of the Operation and Maintenance Agreement with BAIFA and assisted in the formulation and adoption of the Toll Ordinance.

On September 10, 2021, Resolution No. SMCEL 21-14 was approved by the SMCEL-JPA Board authorizing the Chair to execute Amendment No. 1 to the Agreement with HNTB. Amendment No. 1 extended HNTB's contract for two years, through October 31, 2023, for an amount not to exceed \$2,884,199. HNTB not only continued providing PPM Services for SMCEL-JPA, but also assisted with the successful opening of both the southern and northern segments of the Express Lanes. HNTB was also heavily involved with the implementation of the Equity Program, in addition to working on policy issues such as the Clean Air Vehicle discount process. The PPM also provides Tolling, Operations and Technical Analysis support, as well as Finance and Communications assistance and overall program management administration.

As HNTB's current contract extension is about to end, staff recommends approval of Amendment No. 2 to the Agreement with HNTB to further extend HNTB's contract for another two years (from November 1, 2023 through October 31, 2025). During this two year extension HNTB will not only continue to provide PPM Services to the Board, but will also assist with the development and management of policy changes, preparation of the Expenditure Plan, and identification and planning of future projects and programs. HNTB will also continue to support the management of SMCEL-JPA's Community Transportation Benefits Program and other communications and outreach activities. The full scope of work is listed and more described in Attachment A (Scope of Work). Project staff's hourly billing rates (billed by Time and Material), cost estimate per task/year as well as the total not to exceed amount of \$2,474,560 for the two year period is shown on Attachment B (Key Personnel Rates and Cost Estimate).

**ATTACHMENTS:**

1. Resolution SMCEL 23-16.
2. Amendment No. 2 to the Agreement with HNTB Corporation for Policy/Program Management Services for the period of November 1, 2023 to October 31, 2025
3. Attachment A - Scope of Work & Attachment B - Hourly billing rates for HNTB staff and Cost Estimate

## **RESOLUTION SMCEL 21-16**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) AUTHORIZING THE CHAIR TO EXECUTE AMENDMENT NO. 2 TO THE AGREEMENT WITH HNTB CORPORATION FOR POLICY/PROGRAM MANAGEMENT SERVICES FOR THE PERIOD BEGINNING NOVEMBER 1, 2023 THROUGH OCTOBER 31, 2025 FOR A TOTAL AMOUNT NOT TO EXCEED \$2,474,560 .**

**RESOLVED**, by the Board of Directors of San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) that,

**WHEREAS**, the Joint Exercise of Powers Agreement for the San Mateo County Express Lanes was approved by the City/County Association of Governments (“C/CAG”) Board and the San Mateo County Transportation Authority (“SMCTA”) Board at their board meetings on April 11, 2019 and May 2, 2019, respectively; and

**WHEREAS**, the First Amended and Restated Joint Exercise of Powers Agreement for the San Mateo County Express Lanes (JEPA) was approved by the C/CAG Board and the SMCTA Board at their respective board meetings on June 13, 2019 and July 11, 2019; and

**WHEREAS**, the JEPA created the SMCEL-JPA to: apply to the California Transportation Commission in order to own, administer, and manage the operations of the San Mateo County Express Lanes (“Project”); to share in the ownership, administration, and management of any potential future express lanes within San Mateo County; to set forth the terms and conditions governing the management, operation, financing, and expenditure of revenues generated by express lanes in San Mateo County; and to exercise the powers as provided by law (including but not limited to California Streets and Highways Code Section 149.7, as it now exists and may hereafter be amended); and

**WHEREAS**, the JEPA defines the individual roles and responsibilities of the partnering agencies and certain staff, including the Executive Council, County Counsel, SMCTA and C/CAG staff, and the Policy/Program Manager (PPM) to the SMCEL-JPA; and

**WHEREAS**, through a Request for Qualification/Proposal process, HNTB Corporation was selected to provide said Policy/Program Management (PPM) services; and

**WHEREAS**, on October 11, 2019, the SMCEL-JPA Board authorized the Chair to execute the initial agreement with HNTB for PPM Services, for an amount not to exceed \$1,281,716 covering period of November 1, 2019 to October 30, 2021; and

**WHEREAS**, on September 10, 2021, the SMCEL-JPA Board authorized the Chair to execute Amendment No. 1 to the Agreement with HNTB extending the initial agreement for two years (November 1, 2021 to October 30, 2023) for an amount not to exceed \$2,884,199; and

**WHEREAS**, the SMCEL-JPA Board desires to retain HNTB to provide Policy/Program Management services for another two years, beginning November 1<sup>st</sup>, 2023 through October 31, 2025 for a Not to Exceed Amount of \$2,474,560; and

**WHEREAS**, Amendment No. 2 will extend the term of the Agreement for an additional two years for a Not to Exceed Amount of \$2,474,560, subject to SMCEL-JPA annual budget approval beyond June 30, 2024.

**NOW THEREFORE BE IT RESOLVED**, by the Board of Directors of the SMCEL-JPA that the Chair is authorized to execute Amendment No. 2 to the Agreement with HNTB Corporation for Policy/Program Management Services for a period of two years, beginning November 1<sup>st</sup>, 2023 through October 31, 2025, for an amount Not to Exceed \$2,474,560; and further authorize the Executive Council to negotiate the final agreement prior to execution by the Chair, subject to approval by SMCEL-JPA Legal Counsel.

**PASSED, APPROVED, AND ADOPTED, THIS 8TH DAY OF SEPTEMBER, 2023.**

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*Alicia Aguirre, Chair*

**AMENDMENT No. 2 to the AGREEMENT  
BETWEEN  
THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY  
AND  
HNTB CORPORATION  
FOR THE POLICY/PROGRAM MANAGEMENT SERVICES  
BEGINNING NOVEMBER 1, 2023 TO OCTOBER 31, 2025**

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THIS AMENDMENT No. 2 to the AGREEMENT is entered into this 8<sup>th</sup> day of September 2023, by and between the San Mateo County Express Lanes Joint Powers Authority, hereinafter referred to as "SMCEL-JPA" and HNTB Corporation, hereinafter referred to as "HNTB", and

**WITNESSETH:**

WHEREAS, through a Request for Qualification/Proposal process, HNTB Corporation was selected to provide said Policy/Program Management services to SMCEL-JPA.

WHEREAS, on October 11, 2019, the SMCEL-JPA Board authorized the Chair to sign the initial two-year agreement with HNTB for Policy/Program Management services, covering period of November 1, 2019 to October 30, 2021; and

WHEREAS, on September 10, 2021, the SMCEL-JPA Board authorized the Chair to sign Amendment No. 1 to the HNTB Agreement for Policy/Program Management services, extending the initial contract for an additional two years, covering period of November 1, 2021 to October 31, 2023, for a not to exceed amount of \$2,884,199; and

WHEREAS, the SMCEL-JPA Board desires to retain HNTB to continue providing Policy/Program Management services; and

WHEREAS, Amendment No. 2 will further extend the term of the HNTB Agreement for another two years, commencing on November 1, 2023 through October 31, 2025, for a not to exceed amount of \$2,474,560, subject to SMCEL-JPA's annual budget approval beyond June 30, 2024, all other terms and conditions of the original agreement will remain in effect.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions as hereinafter set forth, the parties hereto do hereby agree as follows:

1. HNTB will continue to provide Policy and Program Management services to the SMCEL-JPA as well as the other work listed in Attachment A (Scope of Work)
2. The term of Amendment No. 2 to the Agreement with HNTB will be for a period of two years beginning November 1, 2023 to October 31, 2025.



3. The total Not to Exceed amount for Amendment No. 2 to the Agreement with is \$2,474,560 .
4. The staff hourly billing rates and cost estimate per task and per year for HNTB are shown in Attachment B.

**IN WITNESS WHEREOF**, the parties hereto have executed this agreement on the 8<sup>th</sup> day of September, 2023.

**HNTB Corporation:**

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By: Jeff Watson, Vice President

Date:

**SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY:**

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By: Alicia Aguirre, Chair

Date

---

By: Timothy Fox, Legal Counsel

Date





## **Amendment #2 to the Agreement Between the San Mateo County Express Lanes Joint Powers Authority and HNTB Corporation for the Policy/Program Manager Services**

Pursuant to the original agreement executed between the SMCELJPA and HNTB, this amendment serves to extend the term of the original agreement and Amendment #1 by two year. This amendment will be effective on 11/1/2023 and expire on 10/31/2025 unless otherwise duly extended. In alignment with the original agreement, the scope of work, key personnel hourly rates, and total one-year budget not to exceed for the contract amendment can be found below.

### **SCOPE OF WORK**

#### **Toll Policy & Program Management – Budget line items #1**

##### **Key Functions:**

- **Strategic Advisory Services** – Provide the JPA Board of Directors and Executive Council strategic advice to achieve program goals and objectives. Continue to report directly to the JPA Board on policies and operation of the express lanes.
- **Toll Ordinance, Policies, and Business Rules** – Develop and manage policy changes through the toll ordinance, other policies, and business rules. This includes working with staff on amendments to the toll ordinance for adoption by the Board, developing business rules, and any other policy documents. Monitor and manage changes to federal, state, and regional toll legislation. Provide technical analysis to support policy recommendations, such as CAV discounts, equity program changes, and new toll technology. Respond to special information requests
- **Expenditure Plan** – Prepare and manage the net toll revenue expenditure draft plan in collaboration with the Executive Council and staff.
- **Future Projects & Procurements** – Identify and plan future projects, such as expansion, upgrades, or enhancements to the operations, systems, or vendors that support the Express Lanes. Assist with procurement of additional services for Express Lanes and JPA program operations (e.g., consultants or advisors). Perform studies and/or research as requested by Executive Council relating to future initiatives.
- **Transition Planning** – Begin preparations for JPA Staff transition into program mangement. Develop program management standard operating procedures.
- **Toll Program Management and Document Control** – Provide program management administration support and document organization and control services, including coordination with file managemet vendor (Box) and IT information security team.

## **Community Transportation Benefits Program (CTBP) Management – Budget line item #2**

### **Key Functions:**

- **CTBP Management** – Lead the implementation and management of the current CTBP, including coordination with community and agency partners (e.g., CBO, FasTrak, Clipper), management of program administrators (Samaritan House), and coordination of tasks related to marketing the program. Strategize and enact recommendations following completion of the pilot program assessment (see below), monitoring MTC/BAIFA's Means-based Toll Discount pilot program, and developing strategies a strategy to meet the changing needs of the historically underserved communities served by the Express Lanes as the project or related policies change.
- **CTBP Evaluation Recommendation Enactment and Monitoring** – Enact changes resulting from CTBP's program evaluation, including formalization of the existing pilot program and/or possible subsequent phases of the program as the Express Lanes corridor evolves. Continue to monitor the CTBP and any subsequent phases.
- **CTBP Marketing** – Develop tailored CTBP marketing materials for a variety of community partners to distribute to their respective audiences using various methods like flyers, posters, bus ads, newsletters, op-eds, blog posts, and on-going social media posts. Marketing efforts are conducted for existing CTBP and will adapt to needs identified through the program evaluation process.
- **Regional Coordination** – Coordinate with regional partners, such as MTC, regarding Clipper START program, the I-880 Express Lanes Toll Discount Pilot (Express Lanes START), and other regional equity programs including reviewing and providing feedback on program design or changes; and advising on regional consistency.

## **Communications & Outreach Support – Budget line item #3**

### **Key Functions:**

- **Project Communications** – Create and disseminate communications about the Express Lanes to customers through various online and traditional channels. This includes supporting the following efforts with content and design services: maintaining the Express Lanes website, applicable social media accounts, and a speaker's bureau kit.
- **Marketing & Advertising** – Support the development of advertising campaigns focused on customer education and outreach as well as reaching new customers for corridor expansion.
- **Media & Public Relations** – Support JPA Communications staff on messaging and branding for the Express Lanes; and strategic media efforts
- **Public Information** – Support JPA Communications staff to respond to general public questions regarding the program as well as public information/Freedom of Information Act requests. Manage program and operational data released to the public, media, etc. and provide narratives disclaimers, etc. as necessary.
- **Government Affairs** – Support the JPA in fostering and maintaining relationships with local elected officials as well as stakeholders, as requested.

## **Operations – Budget line item #4**

### **Key Functions:**

- **Traffic Operations Monitoring & Reporting** - Monitor corridor performance on a daily, weekly, and monthly basis
  - Produce and present routine and custom dashboards summarizing Express Lanes performance
  - Provide technical analysis to support operational decisions during real-time situations (e.g., incidents, emergencies, system modifications, etc.)
- **Toll System Operations Monitoring & Reporting** – Monitor toll system performance on a routine basis.
  - Advise on congestion pricing approach, system configuration changes, and pricing trends on the corridor as traffic trends change and as system is updated
  - Provide technical analysis to support pricing changes, as needed/requested
- **Asset Management** – Support and advise on asset management activities and development of asset management tools and policies.
- **Operations Management Team** – Facilitate operations management team activities. Act as liaison between JPA staff and BAIFA, as needed.
- **Contractor Management** - Assist in the management and oversight of operational contracts: BAIFA O&M, BATA FasTrak® Regional Customer Service Center (RCSC) O&M, CHP, and Caltrans
  - Analyze contract performance and recommend changes
  - Monitor and report on KPIs for each contract
  - Track CHP enforcement statistics, review invoices, and prepare contract performance reports
  - Perform change management activities
  - Liaise and attend meetings with BAIFA, BATA, CHP, and Caltrans staff on contract terms and services
  - Participate in meetings and provide input to BATA on its Customer Service Center contract
  - Participate in meetings and provide input to BAIFA on its toll system integrator and civil maintenance contracts, as needed
  - Perform other contract administration activities
  - As requested, serve on or support PMT and OMT meetings and activities
- **Administrative Support**
  - Create, manage, and follow business requirements and standard operating procedures such as FasTrak RCSC oversight and escalations and toll operations (holidays, incidents, etc.)
  - Provide general customer service support for operations
  - Develop training and transition plan for the JPA to self-perform select or all functional roles, as requested, and provide the training
- **Customer Service Operations Support**
  - Maintain a system for responding to customer inquiries and for handling escalation of customer issues in regard to the Express Lanes

- Respond to FasTrak RCSC customer issue escalation requests and/or other disputes related to the Express Lanes, including those involving toll violation notices
- Be responsible for any decision to dismiss a toll charge on the Express Lanes

#### **Finance & Budget – Budget line item #5**

##### **Key Functions:**

**Support JPA Finance staff with education and strategic advice on the following key functions:**

- **Revenue Assurance**
  - Creating reports
  - Performing research
  - Troubleshooting issues and identifying solutions, document findings, corrective actions, and tracking progress
- **Accounting** - Assist in reviewing invoices, revenue reconciliation reports, and other financial reports
  - Revenue Recognition
  - Accounts Payable
- **Audits of Toll System and Back Office** - Coordinate with JPA Finance on understanding risks in preparation for conducting audits of the toll system and back office. Support audit efforts as needed.
  - Contractual Services
  - Budget Management
- **Program Budget** – Assist in development and oversight of JPA Program Budget, as requested.

#### **Project Management & Administration – Budget line item #6**

**The Project Management Team will perform the following activities in support of the project:**

- Coordination of contract activities
- Development and management of the work plan schedule
- Contract and work plan communications/meetings/record keeping
- Contract progress reporting and invoicing
- Monthly progress reports and agreement administration
- Quality control and quality assurance activities in accordance to an agreed upon Quality Management Plan

## Attachment B

### Key Personnel Rates and Cost Estimate

Hourly billing rates for HNTB Corporation (Consultant) AND Cost Estimate per Task, are included below:

#### 2024 HNTB Corporation Key Staff & Hourly Rates

Lacy Vong	\$356.73
Monique Fuhrman	\$271.03
Grant Martinez	\$211.77
Christa Cassidy	\$207.47
Sohee Procek	\$263.93
Samantha Soules	\$364.73
Martha Jones	\$119.98
Lydia Boumann	\$144.34

#### Cost Estimate per Task

Task		Year 1 11/01/23 – 10/31/24		Year 2 11/01/24 – 10/31/25	
		Est. Hours	Est. Cost*	Est. Hours	Est. Cost*
1	General Policy & Program Management	1,250	\$340,000	1,200	\$351,900
2	CTBP Management	1,000	\$205,000	1,000	\$212,175
3	Communications and Outreach Support	180	\$50,000	180	\$51,750
4	Operations	2,130	\$485,000	2,130	\$501,975
5	Finance & Budget	360	\$76,000	360	\$78,660
6	Program Management Administration	330	\$60,000	330	\$62,100
<b>Estimate Total</b>		<b>5,250</b>	<b>\$ 1,216,000</b>	<b>5,250</b>	<b>\$1,258,560</b>

#### Amendment #2 – Two-year not-to-exceed total amount: \$2,474,560

\*Costs calculated using 2024 HNTB Staff Rates, with second year including a 3.5% escalation for all staff rates.

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Lacy Vong, Policy and Program Manager (PPM)

Subject: Community Transportation Benefits Program Pilot Year Evaluation Update

(For further information please contact Lacy Vong at [lvong@hntb.com](mailto:lvong@hntb.com))

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### RECOMMENDATION

Receive an informational update about the Community Transportation Benefits Program (Program), the draft evaluation results from the pilot year, and provide feedback on draft recommendations and next steps.

### FISCAL IMPACT

N/A; This is an informational item. There is no fiscal impact related to receiving this information.

### SOURCE OF FUNDS

Funding for the Program comes primarily from the San Mateo County Transportation Authority (TA) bond/loan proceeds and toll revenue in subsequent years. In addition, a one-time direct allocation of \$400,000 from Measure A Alternative Congestion Relief (ACR) funds through the TA was authorized for the use of the Program.

### BACKGROUND

The San Mateo 101 Express Lanes Community Transportation Benefits Program (Program) completed its pilot year at the end of April 2023, enrolling almost 2,000 participants in the first year. The intention of the Program evaluation is to analyze Program performance in its pilot year, including the extent to which the Program met its goals. The Program evaluation also assesses opportunities for improvements that are likely to best meet the community's needs moving forward. The PPM will share the data and methods employed to perform the Program Evaluation, summarize the findings and recommendations for the next generation of the Program. This includes key considerations and challenges for the Board's consideration.

### ATTACHMENTS

1. Program Evaluation Executive Summary
2. Pilot Year Evaluation Presentation



## SAN MATEO 101 EXPRESS LANES COMMUNITY TRANSPORTATION BENEFITS PROGRAM EVALUATION

### EXECUTIVE SUMMARY

In April 2022, the San Mateo County Express Lanes Joint Powers Authority (SMCEL -JPA) launched the first express lanes-funded choice-based equity program in the United States, known as the San Mateo 101 Express Lanes Community Transportation Benefits Program (Program). The Program helps cover transportation costs for qualifying individuals in the San Mateo County (County). Program participants can choose from one of two transportation benefit options: a preloaded transit card (Clipper) with a \$100 credit or a preloaded toll transponder (FasTrak®) with a \$100 credit. The Program distributes these benefits at the individual—versus household—level, with the recognition that every person has their own specific transportation needs, and provides a choice in the type of benefit for the same reason.

The main goal of the pilot year was to spend down the available budget of \$1.4 million. In addition, there were three high-level goals focused on programmatic outcomes:

1. Be responsive to the transportation needs of historically underserved communities in the County.
2. Provide meaningful benefits to historically underserved communities.
3. Prioritize flexibility so that the Program can be adaptive and evolve over time, in parallel with the phased implementation of the San Mateo 101 Express Lanes and in response to changing community needs.

The Program completed its pilot year at the end of April 2023. Overall, the response to the Program has been positive, with almost 2,000 participants enrolled in the first year.

The intention of this Program Evaluation is to analyze Program performance in its pilot year to primarily understand the extent to which the Program met its goals, and to assess opportunities for improvements that are likely to best meet the community's needs. The Program Evaluation also offers the chance to seek feedback from important Program stakeholders, including participants, the San Mateo County (County) Core Service Agencies (Core Agencies) Network executive directors and case managers, and other local community organizations who work with the Program's target participants to inform recommendations for the future of the Program.

Key findings and conclusions include the following:

- **Expenditures:** The Program underspent significantly in its first year, signaling that there are opportunities to augment the current benefit structure or expand the Program in other directions. Of the funds expended, the vast majority (88%) went to direct benefits to participants and only 12% went to overhead.
- **Demographic Representation:** The Program is serving largely low- and very low-income people of color, seniors, and women, each of which intersect with communities who have and continue to experience historical disadvantages. From the geographic representation standpoint, the Program Evaluation revealed several cities that are underrepresented among Program participants, which also have high overlap with Equity Priority Communities (EPC) (e.g., North Fair Oaks/Redwood City), elevating the need for more targeted outreach and community-based organization (CBO) engagement in these locations.
- **Benefit Uptake:** Overall, the Program's enrollment numbers do not reflect a level of uptake commensurate with the potential need given that, according to the American Community Survey (ACS), 65% of people in the County make below \$75,000 annually. In follow-up with case managers, it was revealed that qualified individuals refused the benefit for various reasons, including that neither benefit met their mobility needs.

Clipper Card selection (83%) far exceeded FasTrak® transponder selection (17%). The analysis of participant Clipper Card usage revealed the following:

- The \$100 credit took participants an average of 3 months to spend-down.
- Almost a quarter of the participants reloaded their Program-issued Clipper Card.
- Three quarters of the trips taken with Program-issued Clipper Cards were on SamTrans, signaling the importance of the County’s bus system for the Program’s participants.

As of August 2023, FasTrak® usage data were not available, and a similar analysis is planned once data are made available.

Throughout the Program evaluation process, participants and stakeholders vocalized that the benefit amount and frequency should be increased to provide increased support to better meet community needs, and that it should work with other regional discount programs, such as the Clipper START and Clipper Senior Programs, so that the discounted transit trips could be leveraged by the \$100 credit on the Program-issued Clipper Cards.

- **Administration and Enrollment:** Partnerships with Samaritan House and the County Core Agencies for Program administration and enrollment ensured that benefits reached those who are known to have among the highest needs in County. However, employing the Core Agencies as the only method for enrollment created a barrier for those who may not know or trust the Core Service Agencies. In addition, individuals may have a difficult time traveling to the physical locations to enroll or pick-up benefits, or may not be able to visit a Core Agency during its open hours. Expanded in-person enrollment partners and an online enrollment option were raised throughout the Program evaluation period as a way to decrease the barrier to entry for a Program.

Taken together, these findings and conclusions provide a valuable understanding of opportunities the Program can implement—informed by a refined set of Program goals—to realize a heightened level of impact for historically underserved communities in the County. **A “next generation” Program is recommended, which includes the following:**

1. Implementation to use a pre-loaded mobility debit card restricted to transportation-related purchases (akin to the City of Oakland’s Universal Basic Mobility Program);
2. Exploration of an online enrollment portal for future Board consideration, including cost and participant experience;
3. An increased benefit amount of \$200;
4. The benefit to be provided annually upon eligibility reverification; and
5. Expanded outreach and engagement through updated marketing collateral to feature new Program details, and CBO engagement in communities underrepresented in participant data.



# San Mateo 101 Express Lanes: Community Transportation Benefits Program

## Pilot Year Evaluation

# Background

**Evaluation time period:** April 2022-April 2023

**Number of benefits distributed:** 1,913

**Initial program goals:** Ultimately, spend down the available budget of \$1.4 million. Three high-level goals focused on programmatic outcomes, as follows:

1. Be responsive to the transportation needs of historically underserved communities in the County.
2. Provide meaningful benefits to historically underserved communities.
3. Prioritize flexibility so that the Program can be adaptive and evolve over time, in parallel with the phased implementation of the San Mateo 101 Express Lanes and in response to changing community needs.

# Evaluation Purpose

- Analyze Program performance in relation to goals
- Identify opportunities for improvement
- Propose recommendations for Program changes and enhancements

# Evaluation Data Sources

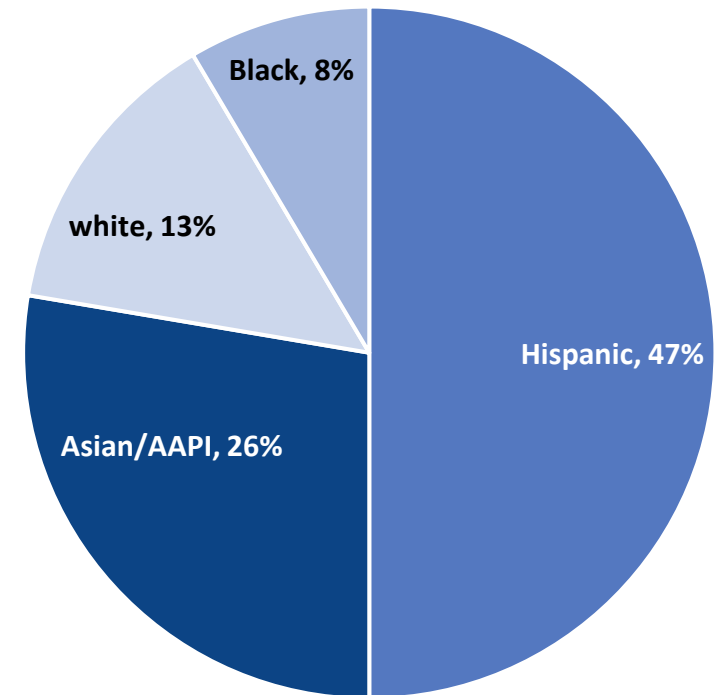
- Program expenditures
- Intake data
- Census data
- Participant survey
- Focus groups with Program administrators and case managers
- Community partner interviews
- Clipper Card usage data
- *FasTrak usage data (pending receipt at the time of report)*

# Findings

# Demographic Representation

- Underrepresented groups have higher levels of representation in the Program than their overall rates in the County
- As income brackets get higher, Program participation gets lower
- Key geographies are underrepresented (Equity Priority Communities (EPC) such as North Fair Oaks)

Participation by Race/Ethnicity

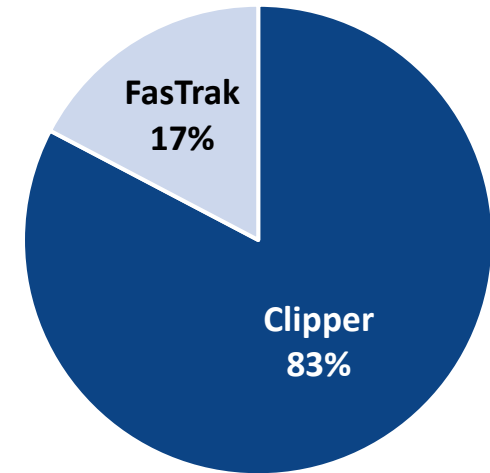




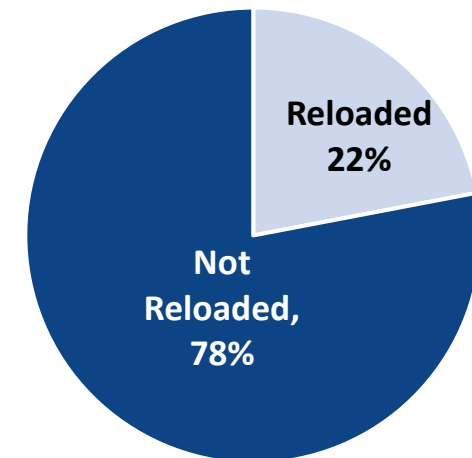
# Benefit Uptake

- **1,913** distributed benefits
  - Strong preference for Clipper Card
- Clipper Card \$100 Credit
  - **Average of 3 months** to spend down
  - **75%** participant trips were on SamTrans
  - **22%** of participants reloaded/self-funded cards beyond the benefit
- FasTrak usage data is pending receipt

FasTrak® v. Clipper Uptake Share



Reloaded/Self-Funded Clipper Cards



Source: Metropolitan Transportation Commission

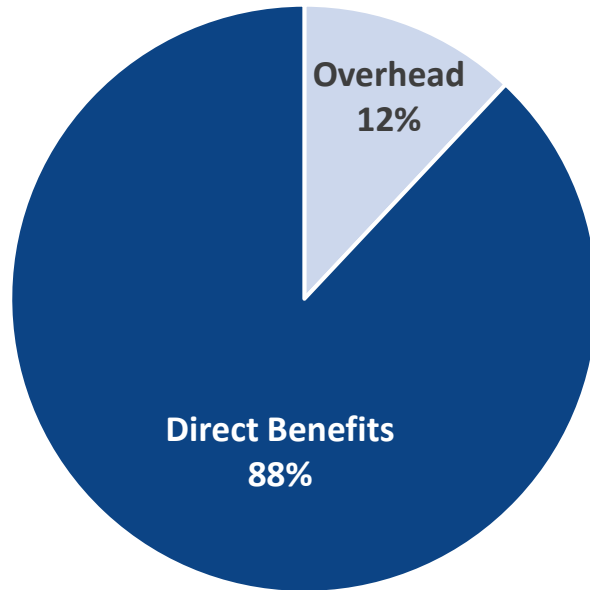
# Administration and Enrollment

- Intake form, eligibility requirements, verification process **do not create barrier to enrollment.**
- Core Agency partnership helps reach and provide benefits for those who have the **highest needs in the County and facilitates countywide distribution.**
- **Enrollment method of one entry point and in-person presents a barrier:**
  - Trust
  - Physically getting to Core Agency
  - Open hours
  - Capacity issues

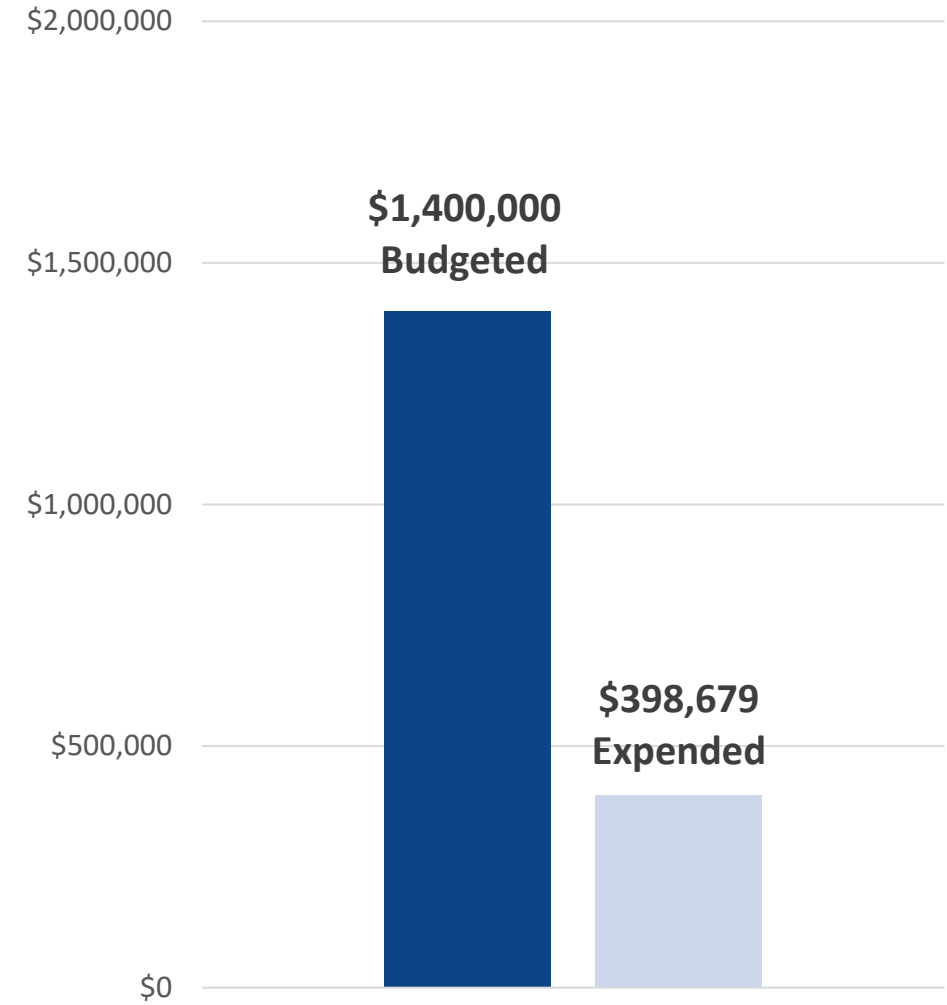
# Program Expenditures

*Pilot Year Performance*

- Program underspent significantly in its first year.
  - **28.5%** was spent in the pilot year



**Expenditure Share**



**Budget v. Expenditures**

# Conclusions

- **Benefit Amount and Frequency:** Benefit amount should increase and be renewed on an annual basis at a minimum (upon eligibility reverification).
- **Enrollment:** Expanding enrollment to include online in addition to Core Agencies would help increase sign-ups and Program access.
- **Integration with other regional programs:** Inability for the benefit to speak to Clipper START, Senior, Regional Transit Connection (RTC), Paratransit discounts should be rectified.
- **Uptake rate:** Several factors contributed to the lower-than-expected uptake rate, including the benefit not meeting mobility needs and in-person.

# Framework for Developing Recommendations

# Key Assumptions

- **Mobility-for-all-eligible-users approach** for Program uses
- **Core Service Agencies are a cornerstone** of the Program's enrollment strategy

# Proposed Updated Program Goals

1. Aim for impact
2. Increase uptake
3. Continue to minimize overhead
4. Balance mode choice
5. Prioritize Equity Priority Communities

# Focal Points

- **Benefit replenishment:** Technical solution to replenish current benefit is complex and is not customer-centric.
- **Enrollment:** An online enrollment option has potential and must balance factors like cost, coordination with in-person enrollment processes, and level of sophistication.
- **Regional coordination:** Express Lanes START Program Pilot currently underway, comparative analysis after pilot completion could help inform regional efforts.





# Next Gen Program Recommendation

# Concept: Preloaded Mobility Debit Card

- A prepaid debit card is issued to qualified participants
- Funds can be used for approved providers
  - Clipper, FasTrak prepaid account (including Clipper START and Senior)
  - Post-paid tolls (invoices) for nearly any toll operator
  - Ability to expand to other options such as bikeshares, carpool programs, etc.
- Similar/peer programs
  - Oakland Universal Basic Mobility Program Pilot
  - LA Metro Mobility Wallet

# Benefits: Preloaded Mobility Debit Card

- Removes several known barriers of cost and time for integrating with legacy systems; low-to-no integration costs
- Improves the participant experience
- Allows participants to fund greater mobility choices based on their needs
- Offers long-term agility in transportation choices for participant uses
- Reveals potential partnerships and campaigns to improve awareness and uptake

# Expand Enrollment Online

- **Continue working** with Samaritan House and the Core Service Agencies as **cornerstone** administrative and enrollment partners.
- **Explore online enrollment** configurations for **future Board consideration/approval** with an eye toward alignment with in-person enrollment processes, cost-benefits, and right-sizing to the Program need.

# Increased Benefit Amount and Annual Frequency

- **Increase benefit amount to \$200 to go further** in supporting the highest need community members for longer periods of time.
- Provide annually upon eligibility reverification.

# Expanded Marketing and Outreach

- Program requires a public **outreach plan and committed budget** to:
  - Focus on Equity Priority Communities, supplement community-based organization engagement, and affordable housing providers
  - Update existing collateral with new program info
  - Develop campaign for online enrollment

# Next Steps

- **October 2023:** Finalize evaluation report
- **Fall-Winter 2023:** Develop implementation plan for recommended Program updates, namely the mobility debit card and online enrollment concepts

## San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: September 8, 2023

To: San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors

From: Policy/Program Manager (PPM)

Subject: Receive Quarterly Update on the US 101 Express Lanes Operations

(For further information please contact Lacy Vong, Policy/Program Manager, [LVong@hntb.com](mailto:LVong@hntb.com))

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### RECOMMENDATION

Receive update on the US 101 Express Lanes operations from Interstate 380 to the San Mateo /Santa Clara County line for the fourth quarter of Fiscal Year 2022-2023. No Board action is required.

### FISCAL IMPACT

There is no fiscal impact related to this informational item.

### SOURCE OF FUNDS

N/A

### BACKGROUND

#### US 101 Express Lanes Operations

On March 3<sup>rd</sup>, 2023, the northern segment of the US 101 Express Lanes (between Interstate-380 and Whipple Avenue) opened, establishing the complete 22-mile San Mateo 101 Express Lanes corridor. There is now a seamless express lanes network along the US 101 from Interstate 380 through San Mateo County connecting to the express lanes in Santa Clara County owned and operated by the Santa Clara Valley Transportation Authority (VTA).

The following are the operational highlights for the 4<sup>th</sup> quarter of fiscal year 2023 (April 1 – June 30, 2023). Q4 of FY23 is our first full quarter of operations on San Mateo 101. Future quarterly reports will seek to draw comparisons between quarters (where applicable), as well as year over year.

#### Trips and Revenue

- About 3.4 million express lane trips were taken on the US-101 Express Lanes in San Mateo County over 64 tolling days.
- An average of 52,900 daily express lane trips were taken in Q4.



- Single-occupant vehicle (SOV) trips utilizing a valid transponder made up 22.5% of total trips in Q4. Trips receiving a discounted toll (either HOV2 or CAV) accounted for 8.5% of trips. Toll-free trips (HOV3+) accounted for 33.8% of trips, while the remaining 35.2% of trips were captured by license plate (image-based transactions, IBT + violations).
- SMCEL-JPA collected \$7.3 million in toll revenue in the 4<sup>th</sup> quarter and has collected \$14.1 million total year to date (FY23).

#### Speeds & Volumes

- Northbound, in the peak hours, express lane average speeds were at least 12 mph faster than the general-purpose lane speeds over the corridor. Southbound, they were at least 11 mph faster.
- Express Lane speeds continued to stay above the federal speed requirement of 45 mph most of the tolling day.

#### Tolls

- Average monthly tolls collected in the southbound direction reached its highest point in the AM peak between \$4.47 and \$6.61. In the northbound direction, they reached its highest point in the PM peak between \$5.34 and \$6.34.
- Average assessed toll collected across the entire tolling day in the southbound direction was \$2.86 and in the northbound direction was \$3.02.
- 66.2% of tolled trips were less than \$3. Tolls to travel the entire corridor exceeded \$12 in both the north and southbound directions, but only 3.5% of drivers paid more than \$12 per trip.

#### Enforcement

- CHP made 602 enforcement contacts in Q4 of FY23, 39% of which resulted in HOV occupancy citations.
- Enforcement costs were approximately \$57,400, resulting in an average cost per enforcement contact of approximately \$95.32.

#### Lane Users

- An estimated 606,000 unique vehicles made trips in the SM101 express lanes.
  - 60% (363,600) of the vehicles did so with a FasTrak® toll tag in the vehicle.
  - 40% (242,400) of the vehicles without a FasTrak® toll tag are captured by license plates.
- Vehicles carrying FasTrak® toll tags made an average of 6.4 trips per vehicle in the quarter, while vehicles identified by license plate made an average of 3.5 trips.

#### Community Transportation Benefits Program

- By the end of Q4, a total of 2,426 program benefits were issued in San Mateo County.
  - 1,964 (81%) Clipper cards were issued.
  - 462 (19%) FasTrak® Flex toll tags were issued.

During the June 9, 2023, SMCEL-JPA Board meeting, Board members asked staff about the average price to use the lanes and congestion/saturation on the corridor to help give an idea what to expect when using the Express Lanes. Staff analyzed Express Lanes performance data for the month of May 2023 and found the following:

- In May 2023, average Express Lanes tolls assessed (actual trip prices) for all trips during peak periods were as follows:

Period	Average Toll Assessed	
	Northbound	Southbound
<b>AM Peak (6:00 – 9:00 AM)</b>	\$4.17	\$4.58
<b>PM Peak (3:00 – 6:00 PM)</b>	\$4.48	\$4.13

- Since traffic varies day to day and hour to hour, tolls assessed sometimes vary outside of the typical AM and PM peak. In May 2023, slightly higher tolls were observed outside of the typical reporting peak periods. The following are the peak average tolls assessed along with the associated 3-hour period when these trips occurred:

Period	Average Toll Assessed	
	Northbound	Southbound
<b>Observed AM Peak</b>	\$4.78 (7:15 – 10:15 AM)	\$4.82 (6:30 – 9:30 AM)
<b>Observed PM Peak</b>	\$5.23 (4:15 – 7:15 PM)	\$4.22 (3:30 – 6:30 PM)

- An HOV facility is generally expected to maintain vehicle speeds of at least 45 miles per hour during weekday peak periods at least 90% of the time before it is considered “degraded.” This definition was used to provide context to the question on the Express Lanes’ congestion/saturation. For the purpose of this discussion, congestion/saturation is when speeds are below 45 mph.
- The May 2023 data indicated that the San Mateo 101 Express Lanes very rarely experienced speeds below 45 mph during peak hours. On average, the Express Lane speeds exceeded 45 mph 99% of the time (during all tolling hours, 5:00 a.m. to 8:00 p.m.) and at least 95% of the time during peak periods.
- May 2023 data demonstrated that on average, the most congested/saturated times on the Express Lanes were as listed below. During these periods, speeds were between 45 and 55 mph on average, but did not fall below 45 mph.
  - Northbound: 7:45 – 9:30 AM and 4:00 – 6:00 PM
  - Southbound: 7:45 – 9:00 AM and 3:45 – 5:30 PM
- The General Purpose lanes experienced more congestion/saturation, with the most congested/saturated periods as listed below. During these periods, speeds fell below 45 mph, occasionally dropping below 30 mph at some locations.
  - Northbound: 7:00 – 10:00 AM and 3:45 – 6:45 PM

- Southbound: 7:30 – 10:00 AM and 3:00 – 6:00 PM
- For additional information about congestion/saturation locations in the Express Lane and General Purpose lanes, please refer to the heat maps within the Express Lanes Performance Report, which show congestion levels by time of day on average for the entirety of the 4<sup>th</sup> quarter of FY2023.

## **ATTACHMENT**

1. US 101 Express Lanes Performance Report



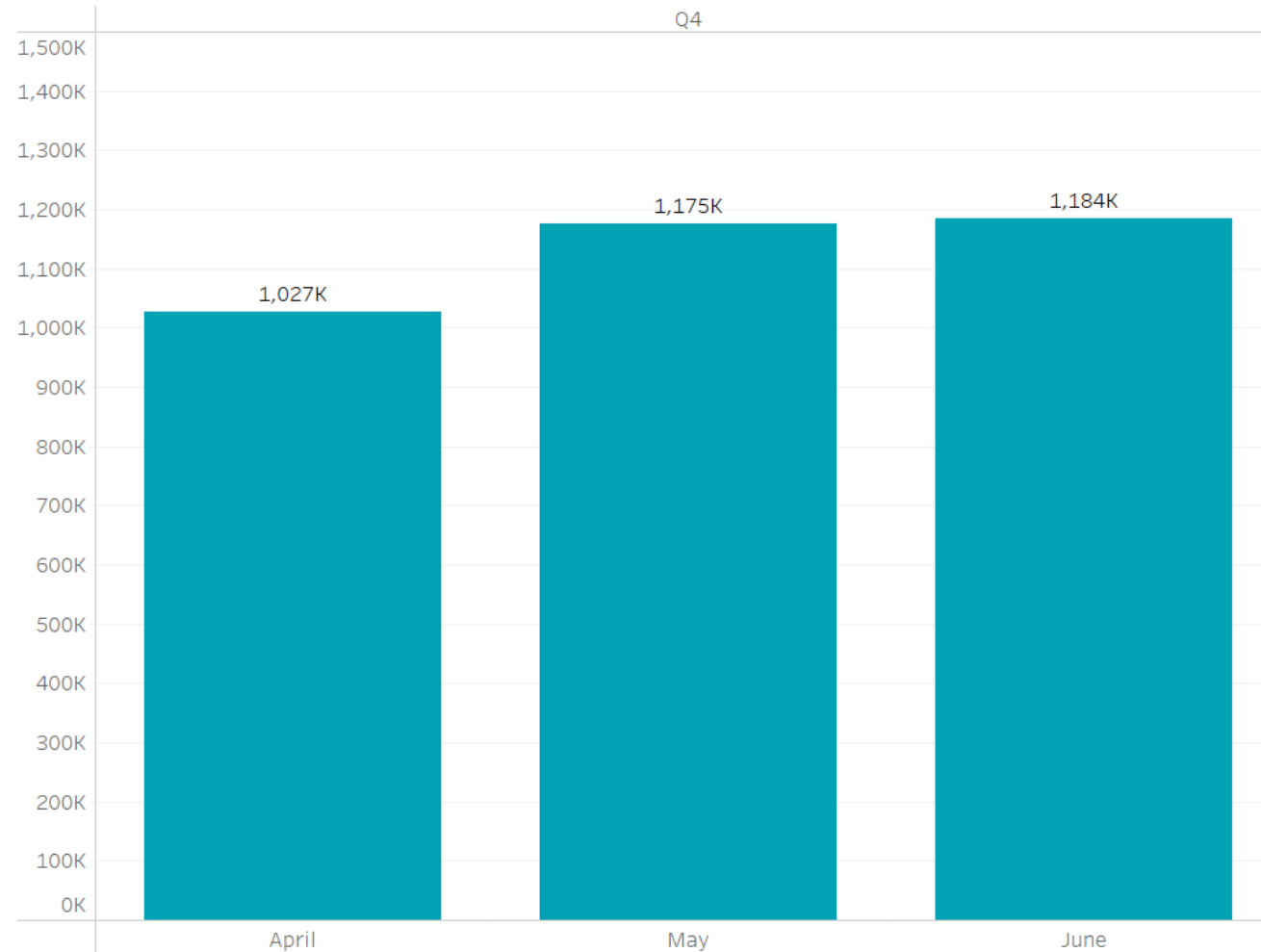
# 101 Express Lanes Performance 4<sup>th</sup> Quarter FY2023 (April – June)

# Rules of the Road

- Hours: 5 a.m. to 8 p.m. Monday – Friday
- FasTrak® required
- Carpools (HOV 3+), buses, and motorcycles travel toll-free with FasTrak® Flex toll tags
- Carpools (HOV 2) pay half-price tolls with FasTrak® Flex toll tags
- Solo drivers in eligible clean-air vehicles pay half-price toll with FasTrak® CAV toll tags

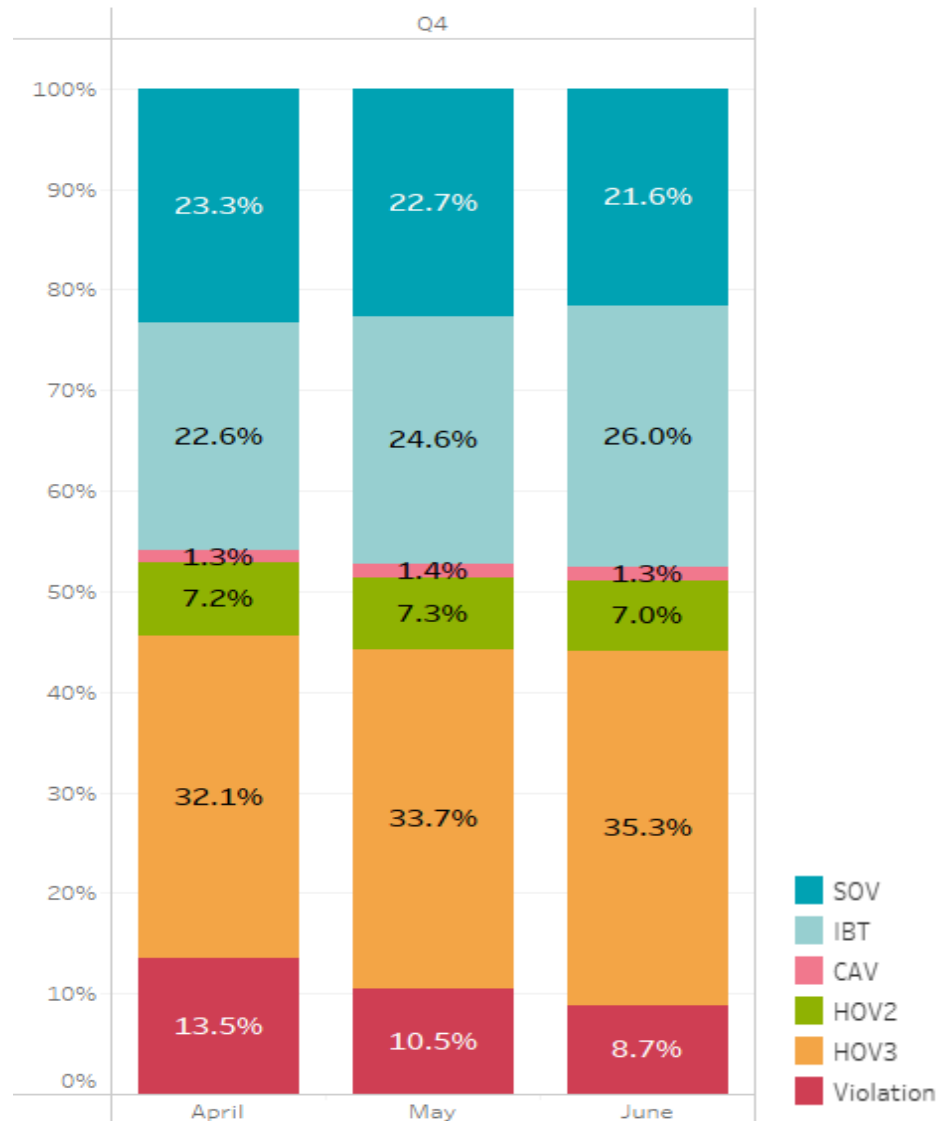


# Express Lane Trips



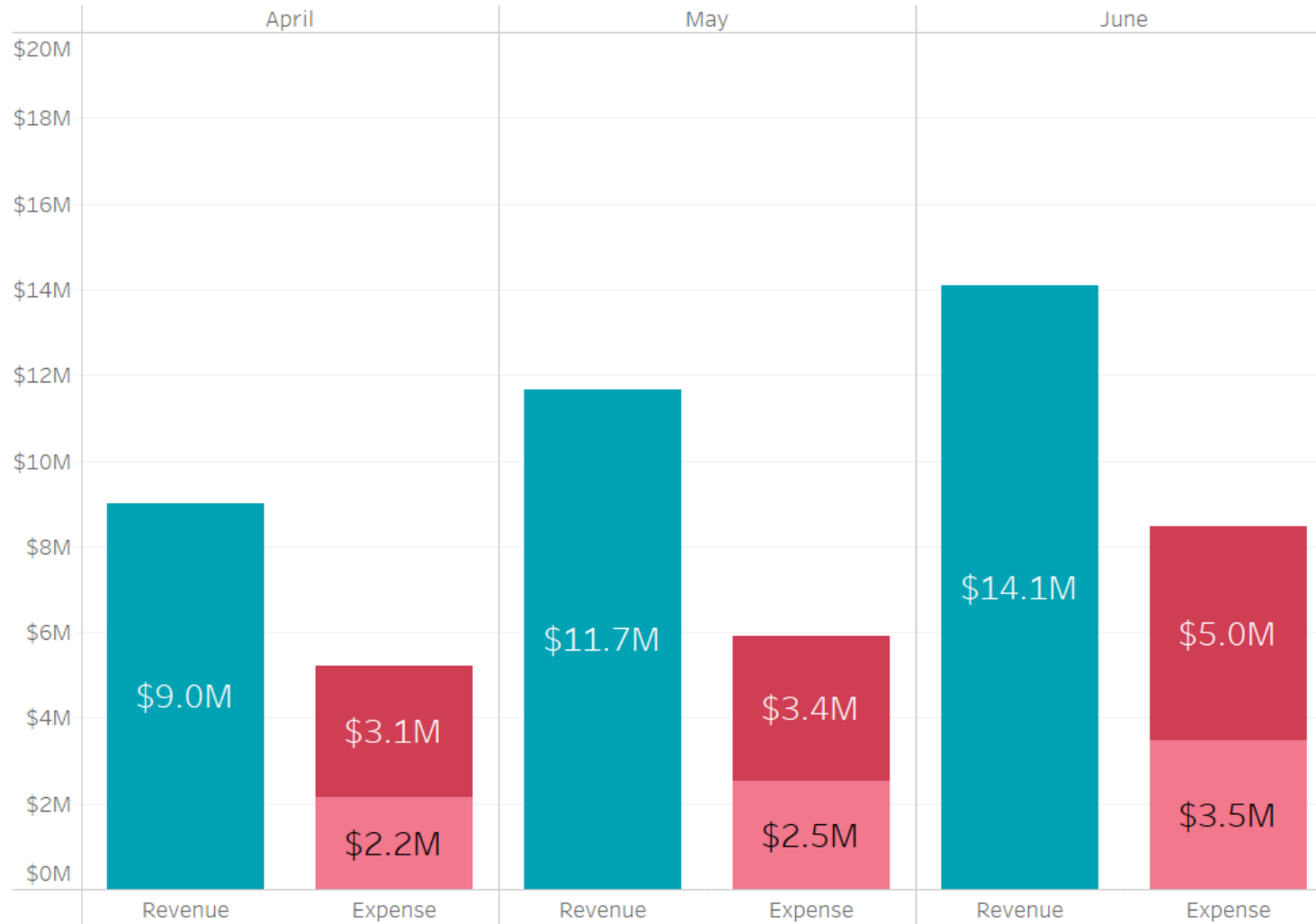
- Q4 of FY23 consisted of 64 tolling days.
- In Q4 of FY23, an average of 52,900 express lane trips have been made daily, totaling 3,386,146 trips for the quarter.

# Express Lane Trip Types



- Toll-free trips: 33.8%
  - HOV 3+ and Non-Revenue
- Tolloed trips: 66.2%
  - 57.7% full toll (SOV + IBT)
  - 7.2% half toll (HOV 2)
  - 1.3% half toll (CAV)
- Violation trips: 10.8%
  - IBT trips with No FasTrak account at the time of the trip

# Express Lanes Actual Cumulative Collected Toll Revenue



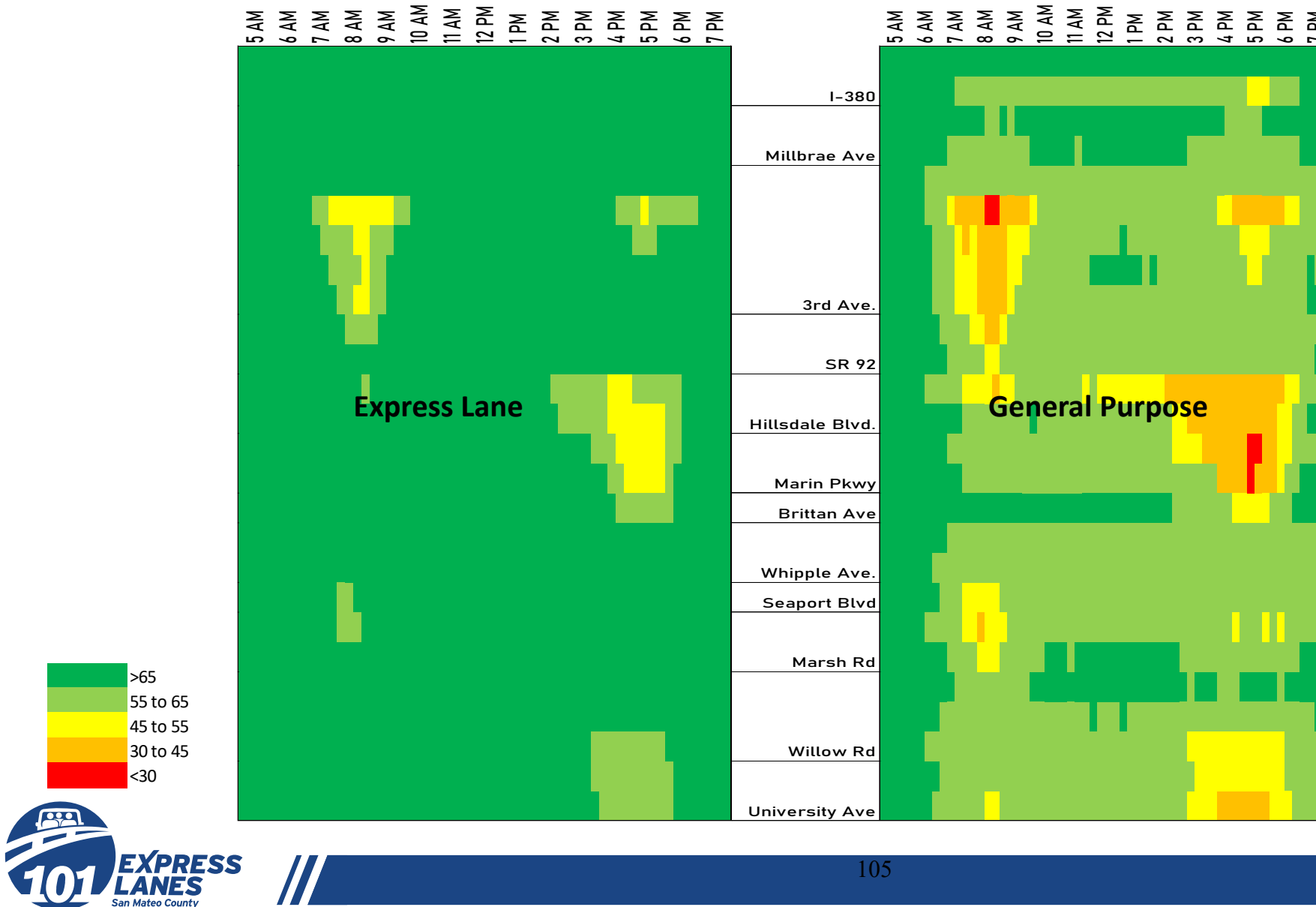
- In Q4, SMCEL-JPA received \$7.3 million in toll revenue.
- To date in FY2023, SMCEL-JPA has received \$14.1 million in toll revenue.
- To date in FY2023, SMCEL-JPA has expended \$5 million in toll operations and maintenance (O&M) costs.

## Notes:

- Toll revenue collected includes toll and violation fees.
- Toll O&M consists of Caltrans Maintenance, BAIFA O&M, BATA CSC, and CHP enforcement.
- Admin Expense includes all other program expenses (legal, advertising, consultants, staff, CTBP costs, etc.)

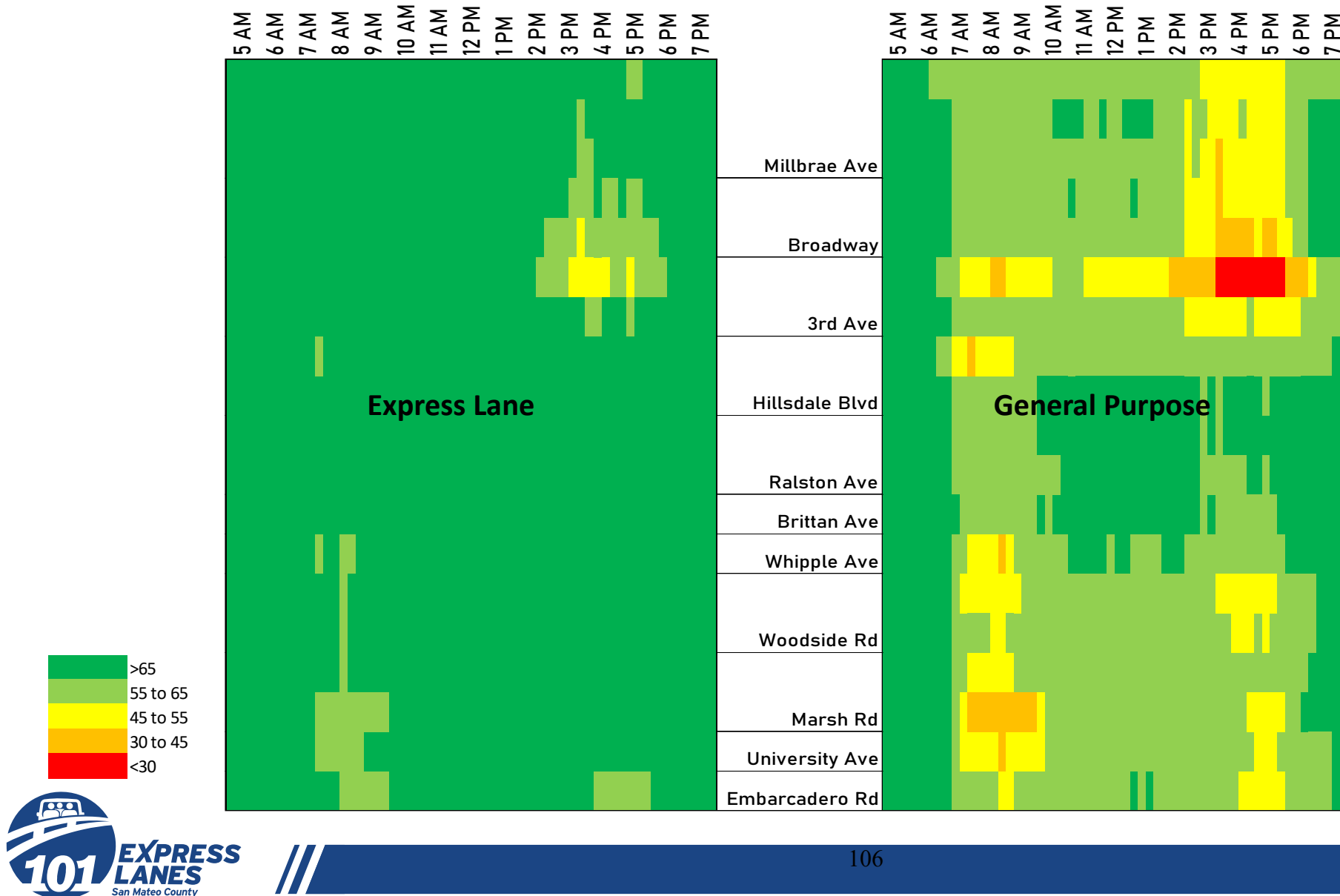


# Northbound Speeds by Location & Time



- Average northbound Express Lane speeds were 11 mph or greater during tolling hours.
- Average northbound **general purpose lane** speeds were lowest in the approach to SR 92.
- Most congested during PM peak period (3-6pm) approaching SR-92.

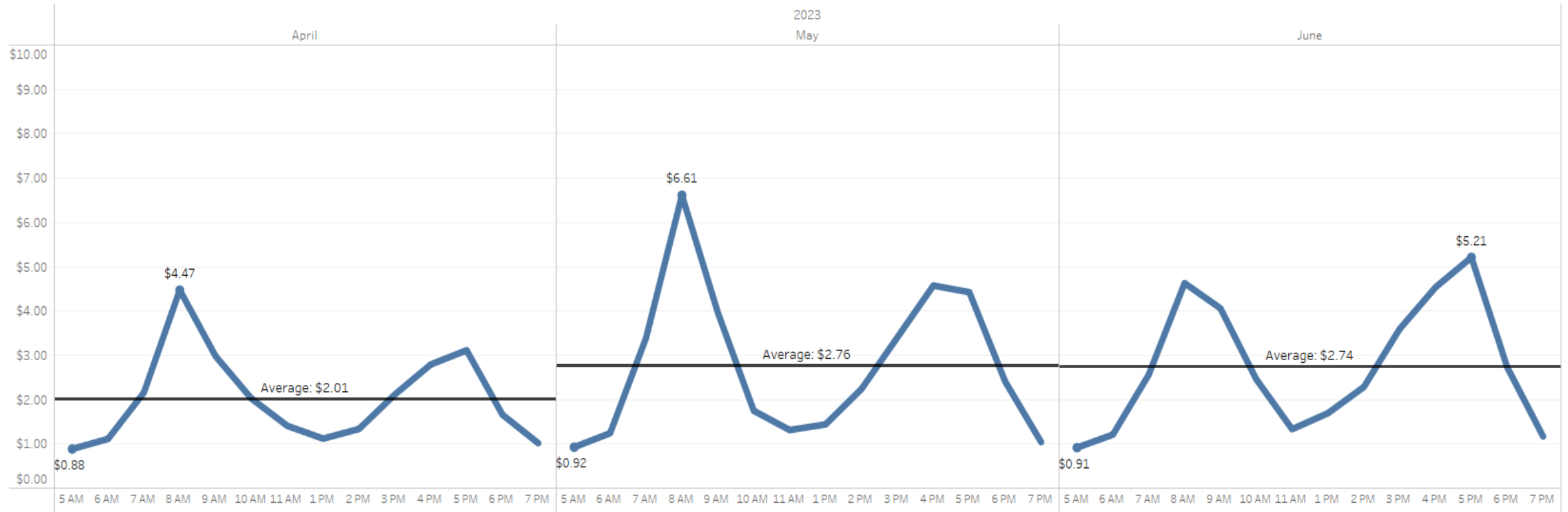
# Southbound Speeds by Location & Time



- Average southbound Express Lane speeds were 12 mph or greater during tolling hours.
- Average southbound **general purpose lane** speeds were lowest between 3<sup>rd</sup> Ave and Broadway.
- Most congested during PM peak period (3-6pm) north of SR-92.

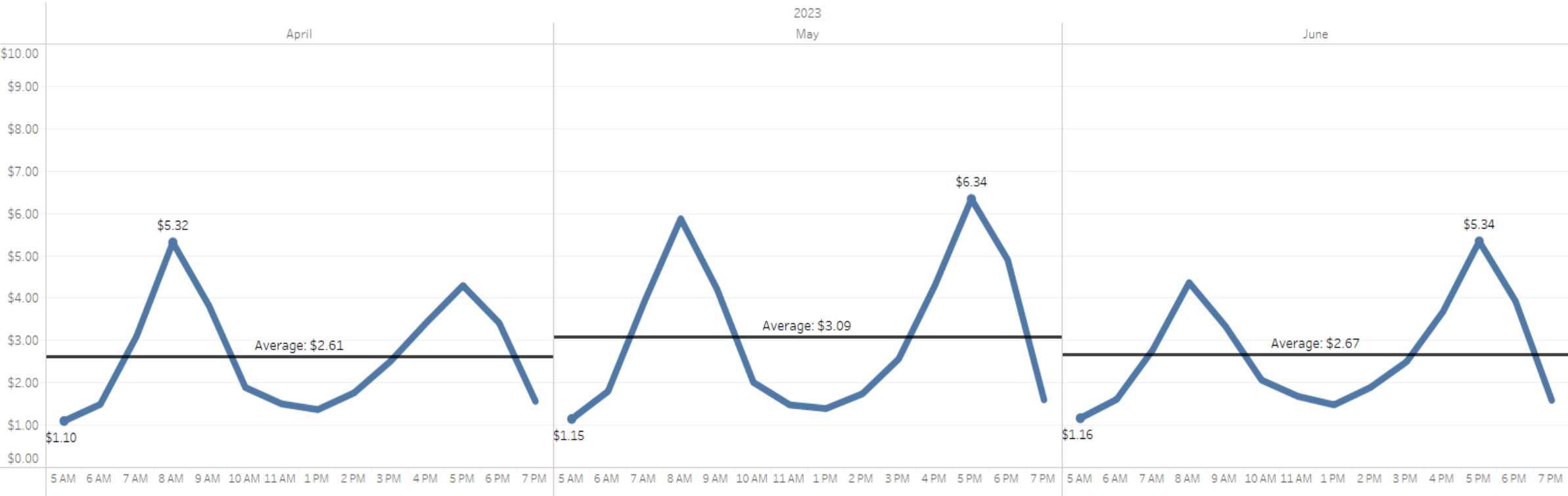
# Southbound Average Assessed Tolls

This quarter's southbound average assessed toll was \$2.86.

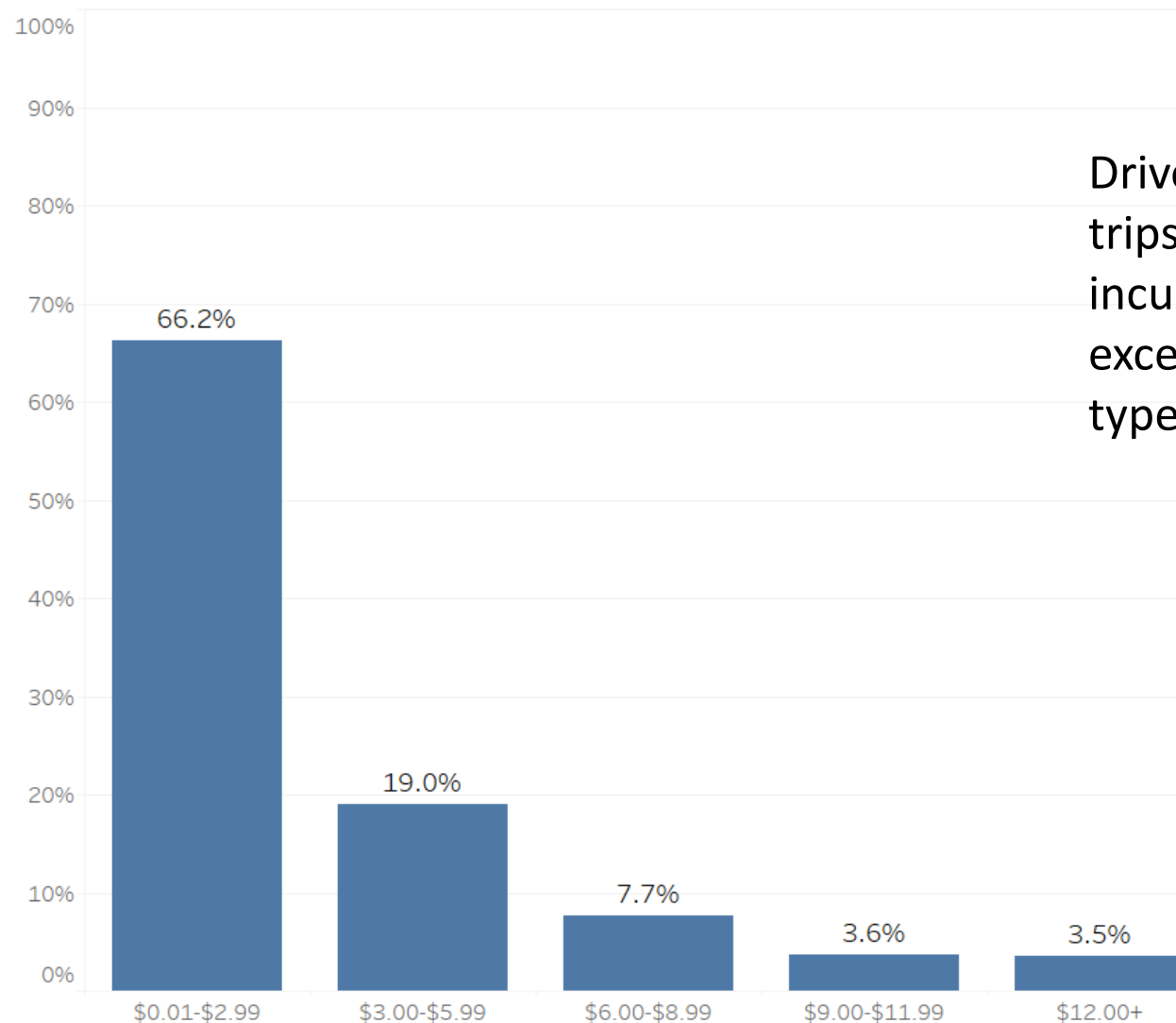


# Northbound Average Assessed Tolls

This quarter's northbound average assessed toll was \$3.02.

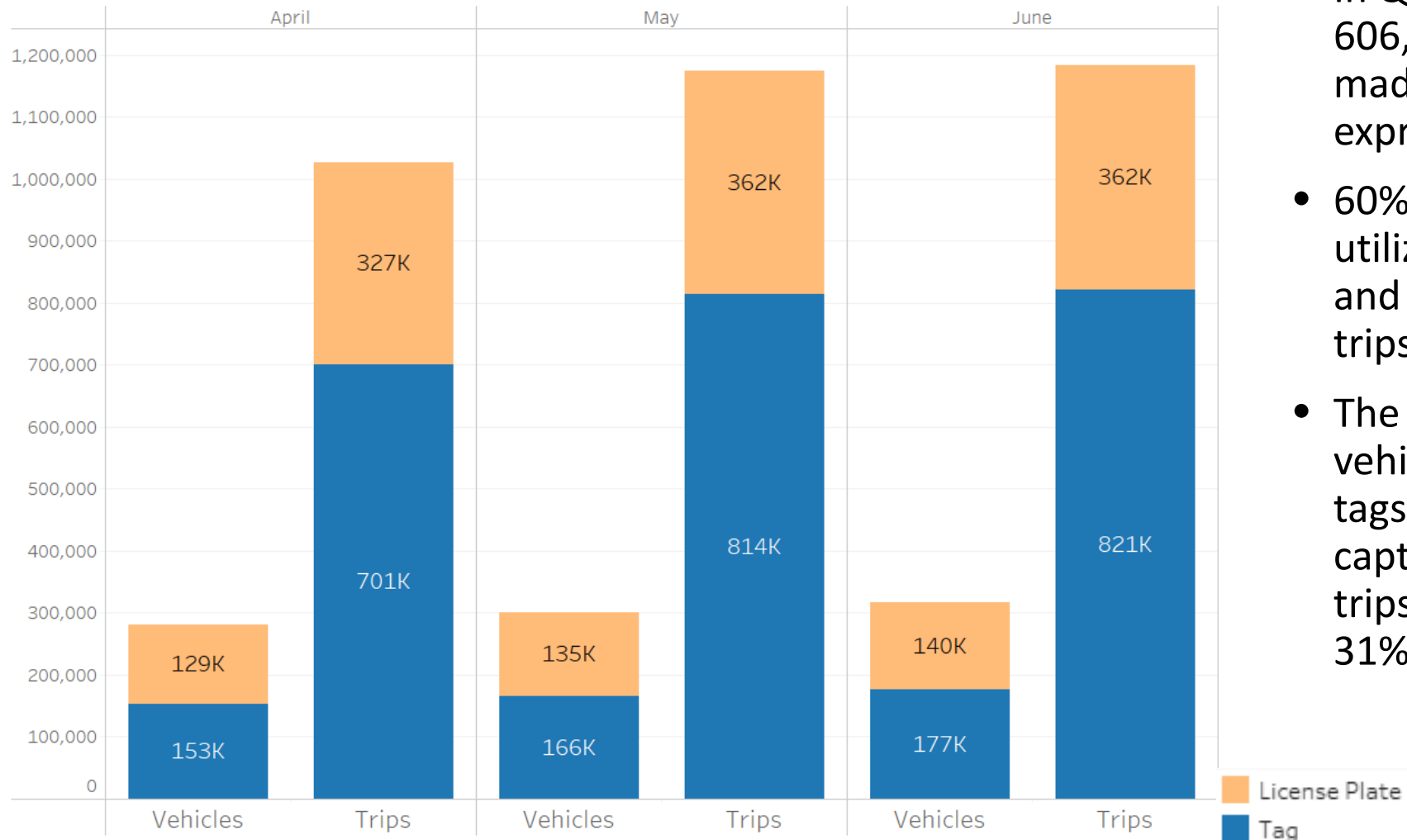


# Distribution of Assessed Tolls



Drivers made 2.2 million tolled express lane trips in Q4 of FY23. 85% of these trips incurred a toll less than \$6, while only 3.5% exceeded \$12. This includes all tolled trip types and lengths.

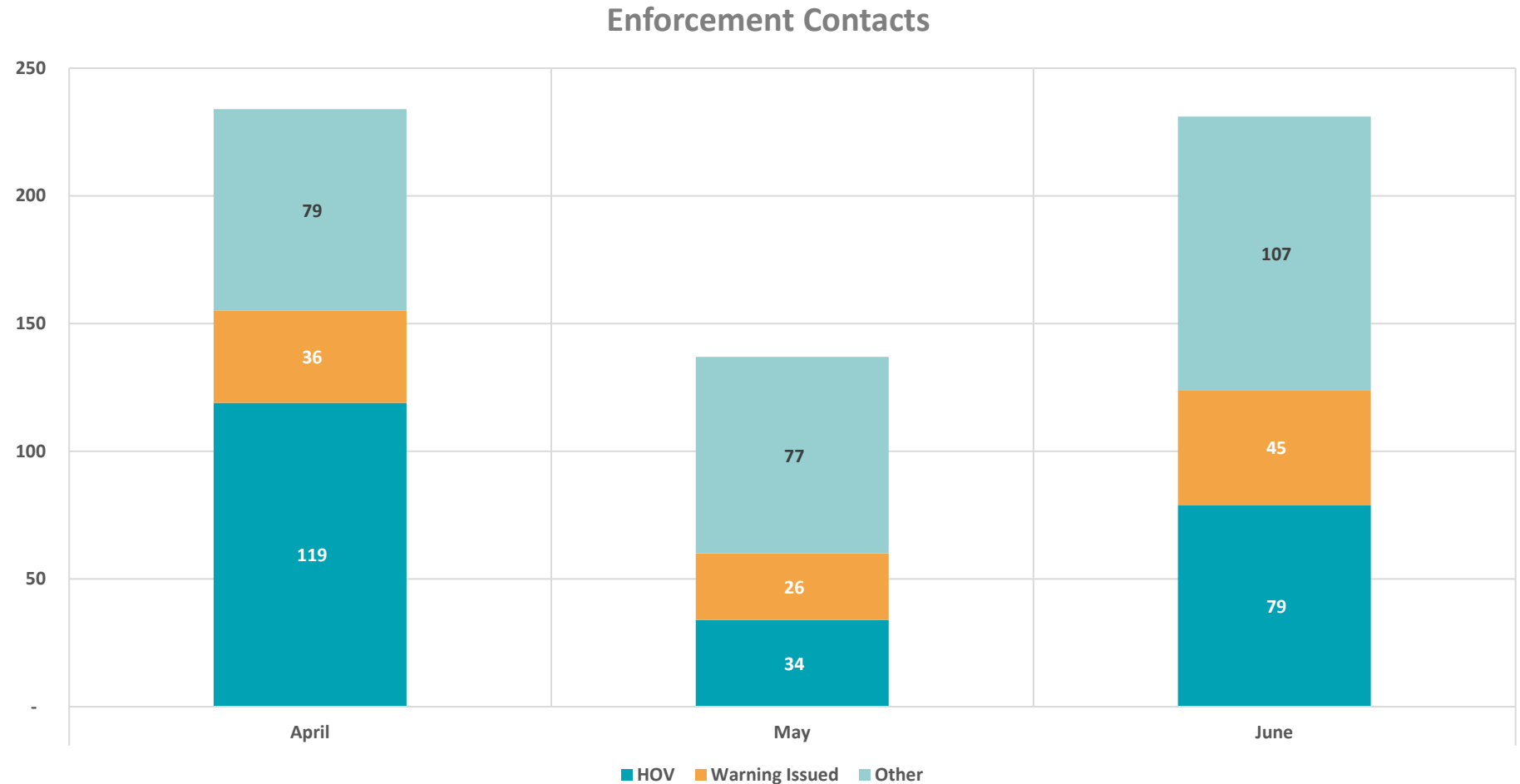
# How Drivers Use the Lanes



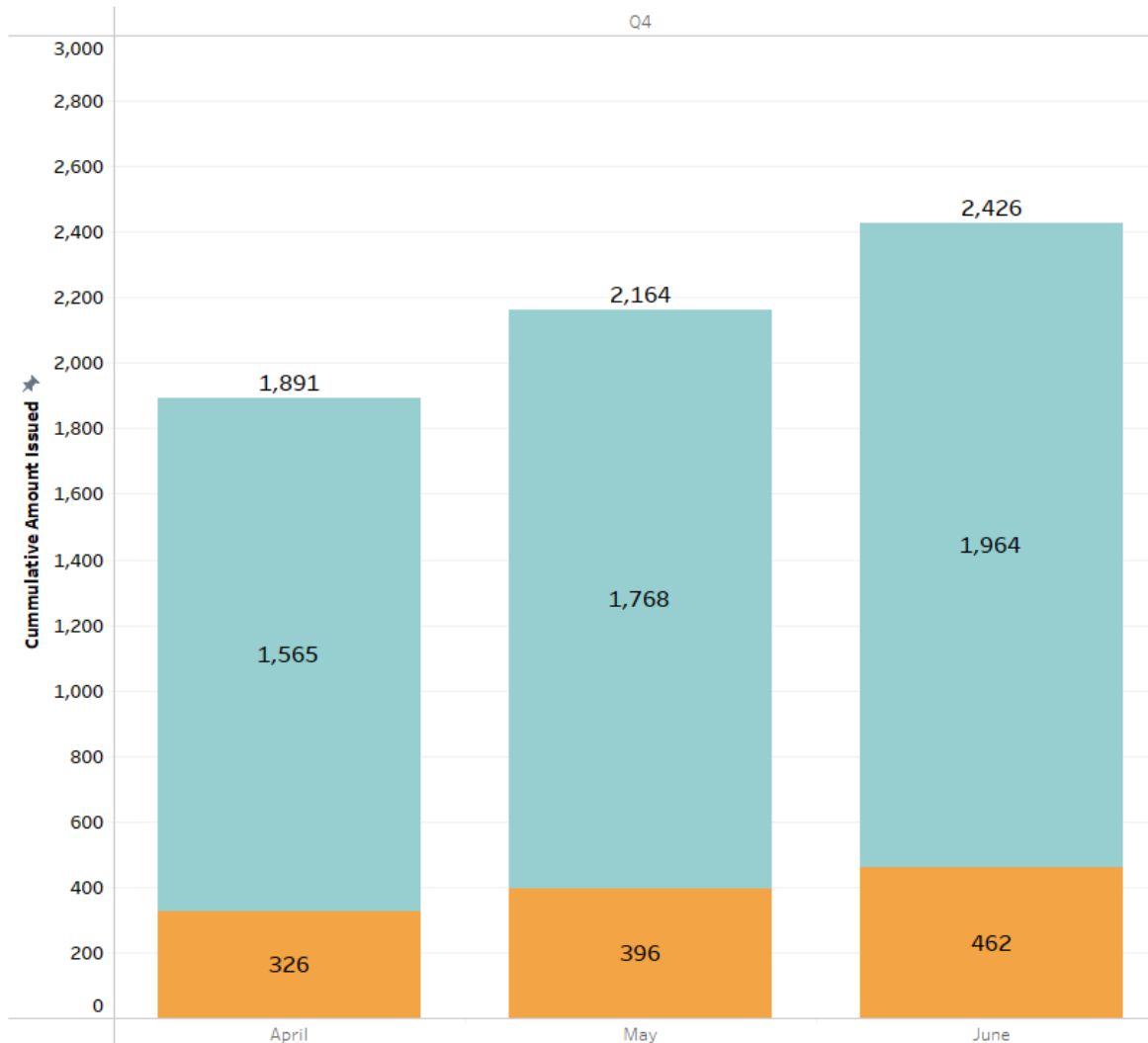
- In Q4 of FY23, about 606,000 unique vehicles made about 3.4 million express lane trips.
- 60% of these vehicles utilized FasTrak® toll tags and made 69% of the total trips.
- The other 40% of these vehicles did not carry toll tags and instead were captured as image-based trips for the remaining 31% of the total trips.

# CHP Enforcement

- CHP patrolled the express lanes for 458 hours in Q4 of FY23.
- CHP made 602 enforcement contacts in Q4 of FY23.
- 39% of the contacts resulted in HOV occupancy citations.
- Q4 of FY24 enforcement costs were approximately \$58,420, resulting in an average cost per enforcement contact of approximately \$97.



# Community Transportation Benefits Program – Cumulative Benefits Issued



**Benefit**

- Clipper Card
- FasTrak





For additional information, please visit: <https://101expresslanes.org>

