

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

Meeting No. 12

DATE: Friday, June 12, 2020

TIME: 9:00 A.M.

Join by Zoom:

<https://us02web.zoom.us/j/88154412132?pwd=NGtKY1JSZUI1RnVYdXJEUDhyZURoUT09>

Meeting ID: 881 5441 2132

Password: 807595

Join by Phone:

(669) 900-6833

Meeting ID: 881 5441 2132

Board of Directors: Alicia Aguirre (Chair), Don Horsley (Vice Chair), Emily Beach, Maryann Moise Derwin, Diane Papan, and Rico Medina

On March 17, 2020, the Governor issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the Shelter-in-Place Order issued by the San Mateo County Health Officer effective March 17, 2020, which was expanded and extended on March 31, 2020 and April 29, 2020, the statewide Shelter-in-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020, and the CDC's social distancing guidelines, which discourage large public gatherings, SMCEL-JPA meetings will be conducted via remote conferencing. Members of the public may observe or participate in the meeting remotely via one of the options above.

Persons who wish to address the SMCEL-JPA Board on an item to be considered at this meeting, or on items not on this agenda, are asked to submit written comments to mguilles@smcgov.org. Spoken public comments will also be accepted during the meeting through Zoom. Please see instructions for written and spoken public comments at the end of this agenda.

1.0 CALL TO ORDER/ ROLL CALL

2.0 BRIEF OVERVIEW OF TELECONFERENCE MEETING PROCEDURES

3.0 PUBLIC COMMENT

Note: Public comment is limited to two minutes per speaker. Public comment permitted on both items on the agenda and items not on the agenda.

4.0 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.

4.1 Approval of the minutes of Board of Directors regular business meeting No. 11 dated May 8, 2020. ACTION p. 1

4.2 Accept the Statement of Revenues and Expenditures for the Period Ending April 30, 2020. ACTION p. 5

4.3 Review and approval of Resolution SMCEL 20-07 authorizing the San Mateo County Express Lanes Joint Powers Authority Chair to execute Amendment No. 1 to the Agreement with the Office of County Counsel of San Mateo County for general legal services for Fiscal Year 2020-21 for an amount not to exceed \$60,000. ACTION p. 7

5.0 REGULAR AGENDA

5.1 Review and approval of Resolution SMCEL 20-08 authorizing the Chair to execute the First Amended and Restated Cooperative Agreement between the Bay Area Infrastructure Financing Authority (BAIFA), San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA), San Mateo County Transportation Authority (SMCTA) and City/ County Association of Governments of San Mateo County (C/CAG). ACTION p. 16

5.2 Public Hearing: Approval of Resolution SMCEL 20-09 adopting the Fiscal Year 2021 SMCEL-JPA Budget in the amount of \$2,187,707. ACTION p. 44

5.3 San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors election of a Chair and Vice-Chair to serve one-year terms. ACTION p. 49

6.0 REPORTS

- a) Chairperson Report.
- b) Member Communication.

- c) Executive Council Report - Executive Council Verbal Report
- d) Policy/Program Manager Report.

7.0 WRITTEN COMMUNICATIONS

- 7.1 Letter from EideBailly, CPAs & Buisness Advisors, to the Governing Board of San Mateo County Express Lanes Joint Power Authority, dated 4/20/20. RE: in connection with the engagement to audit the financial statements of San Mateo County Express Lanes Joint Power Authority (JPA).

8.0 NEXT REGULAR MEETING

July 10, 2020

9.0 ADJOURNMENT

PUBLIC NOTICING: All notices of San Mateo County Express Lanes Joint Powers Authority Regular Board meetings, standing committee meetings, and special meetings will be posted at the San Mateo County Transit District Office, 1250 San Carlos Ave., San Carlos, CA.

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 location of 555 County Center, 5th Floor, Redwood City, CA 94063, for the purpose of making public records available for inspection. Please note this location is temporarily closed to the public; please contact Mima Guilles at mguilles@smcgov.org to arrange for inspection of public records.

PUBLIC PARTICIPATION: Please refer to the first page of this agenda for instructions on how to participate in the meeting. Persons with disabilities who require auxiliary aids or services in attending and participating in this meeting should contact Mima Guilles at (650) 599-1406, five working days prior to the meeting date.

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

1. Your written comment should be emailed to mguilles@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. The length of the emailed comment should be commensurate with the two minutes customarily allowed for verbal comments, which is approximately 250-300 words.
5. If your emailed comment is received at least 2 hours prior to the meeting, it will be provided to the SMCEL-JPA Board members, and read aloud by SMCEL-JPA staff during the meeting. We cannot guarantee that emails received less than 2 hours before the meeting will be read during the meeting, but such emails will be included in the administrative record of the meeting.

Spoken comments will be accepted during the meeting through Zoom. Please read the following instructions carefully:

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.
5. When called, please limit your remarks to the time allotted.

If you have any questions about this agenda, please contact:

Mima Guilles, Secretary - (650) 599-1406

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

Meeting No. 11
May 8, 2020

In compliance with Governor’s Executive Order N-29-20, and pursuant to the Shelter-in-Place Order issued by the San Mateo County Health Officer, this meeting was conducted via remote conferencing.

Board of Directors: Alicia Aguirre (Chair), Don Horsley (Vice Chair), Emily Beach, Maryann Moise Derwin, Diane Papan, and Rico Medina

1.0 CALL TO ORDER/ ROLL CALL

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

Members Present:

C/CAG Members:

Alicia Aguirre, Maryann Moise Derwin, Diane Papan

SMCTA Members:

Don Horsley, Rico Medina, Emily Beach

Members Absent:

None.

Staff Present:

Sandy Wong – Executive Council

Jim Hartnett – Executive Council

Mima Guilles – Secretary

Tim Fox – Legal Counsel

Matthew Click – Program/Policy Manager for SMCEL JPA, HNTB

Samantha Soule – HNTB

Sean Charpentier, Van Ocampo – C/CAG staff supporting SMCEL JPA

Joe Hurley, April Chan, Derek Hansel – TA staff supporting SMCEL JPA

Other members of the public were in attendance.

2.0 BRIEF OVERVIEW OF TELECONFERENCE MEETING PROCEDURES

Sandy Wong, Executive Council member, provided overview of the teleconference procedures.

3.0 PUBLIC COMMENT

Note: Public comment is limited to two minutes per speaker. Public comment permitted

on both items on the agenda and items not on the agenda.

In accordance with the agenda for this meeting, persons who wish to address the SMCEL- JPA Board on an item to be considered at this meeting, or on items not on this agenda, were asked to submit comments in writing to mguilles@smcgov.org by 8:00 AM on Friday May 8, 2020. Mima Guilles, Secretary, reported there were no public comments received by the deadline.

4.0 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.

- 4.1 Approval of the minutes of Board of Directors regular business meeting No. 10 dated April 10, 2020 APPROVED

Director Horsley **MOVED** to approve the Consent Agenda. Director Beach **SECONDED**. Roll call was taken. **MOTION CARRIED 6-0-0**

5.0 REGULAR AGENDA

- 5.1 Accept the Statement of Revenues and Expenditures for the Period Ending March 31, 2020. APPROVED

Director Beach asked where the special financial counsel is in the budget. Derek Hansel responded that it is funded in the consultant line item in budget, but if desired, that cost can be funded as part of the cost of issuance of the bond.

Director Papan asked there were a separate line item for JPA legal services. Derek Hansel responded that there is a separate line item for legal counsel provided from the County Counsel.

Director Papan **MOVED** to approve item 5.1. Director Medina **SECONDED**. Roll call was taken. **MOTION CARRIED 6-0-0**

- 5.2 Presentation and update on the US 101 Express Lanes Project. INFORMATION

The SMCEL-JPA Board received a presentation on the US 101 Express Lanes Project from Leo Scott of Gray Bowen Scott. The presentation consists of construction progress, COVID-19 impact, and public outreach.

Director Papan asked if there were community impacts from pile driving and if the pile driving was only during the day. Leo Scott replied that it is only daytime pile driving between 8am-5pm, and that the project has communicated with neighbors and adjacent businesses.

Director Horsley asked if pile driving causes vibration. Leo Scott replied that it can depending on the specifics of the soil and machinery. The project took a visual survey of properties in advance of construction to be able to monitor any changes.

Chair Aguirre asked if there were any cost or productivity losses because of the Covid Crisis? Leo Scott replied that as of now, there is none.

Director Papan asked if the project was using social media. Leo Scott confirmed that the project uses Facebook, Twitter, Nextdoor, other email distribution lists, and weekly newsletters.

Director Medina asked if the outreach was being translated into languages other than English? Leo Scott replied that translation was provided in Spanish and Chinese as part of the radio announcements.

5.3 Presentation of the Preliminary Fiscal Year 2021 JPA Budget. INFORMATION

The SMCEL-JPA Board received a presentation from Derek Hansel on the San Mateo County Express Lanes JPA FY21 Preliminary Budget. SMCTA and CCAG will provide loans to the SMCEL-JPA for FY 2021 operations, to be repaid after the San Mateo Express Lanes generate revenues. For Fiscal Year (FY) 2021, C/CAG's share of the advance is \$917,244 and SMCTA's share of the advance is \$1,270,463. Those amounts are based on the assumption that each agency will loan funds to cover its own staff support and its own internal administrative costs, while other non-labor costs such as consultant costs are provided by equal amount of loans from CCAG and SMCTA.

Director Beach: How much staff time is represented in the draft budget? Are there multiple FTEs working partial time?

Sandy Wong noted that C/CAG has 4 staff working part of their time on JPA activities. Derek Hansel noted that the TA has 8-10 staff from multiple departments working part of their time on the JPA activities.

5.4 Informational Update on Amendment #1 of the Toll System Cooperative Agreement. INFORMATION

The SMCEL-JPA Board received a brief update from Samantha Soules of HNTB. Samantha Soules presented the context of the existing 4-Party Coop Agreement for approximately \$3 million for the design of the toll system and the need to prepare an amendment for the approximately \$45 million equipment installation portion. The amendment will incorporate the two-phase openings. Other topics include cost sharing between the SMCEL-JPA and BAIFA, cost and schedule controls, liquidated damages, and indemnification.

Director Papan asked if the liquidated damages were with contractor? Samantha Soules answered that the amendment would allow the JPA to share liquidated damages from the Toll System Integrator hired by BAIFA to perform the work.

6.0 REPORTS

a) Chairperson Report.

None.

b) Member Communication.

None.

c) Executive Council Report.

Jim Harnett reported that at the May TA board meeting, there was a discussion on an information item related to the potential loan from the TA to this JPA. TA staff presented the TA Board with two options that can be pursued in connection with funding for the Equity Program as part of the terms of the loan. He also mentioned that the JPA finance committee will be discussing it in the next couple of weeks. The goal is to derive a common set of terms that could be approved by the Board on the next June meeting.

Sandy Wong informed the board that in accordance with the Joint Exercise of Powers Agreement, the Board will need to elect a Chair and Vice Chair at the next meeting in June. In addition, the Chair and Vice Chair shall rotate between the two member agencies. An item will come forward to the next month meeting.

d) Policy/Program Manager Report.

Matt Click reported out on the equity study that it was successfully negotiated a scope of work, final budget and schedule with ARUP. They will proceed with the work next week. There is significant regional interest in our Equity Study. Also, we are going to be creating the equity study advisory group and would like one member from this board.

Chair Aguirre volunteered to sit on the advisory group.

7.0 WRITTEN COMMUNICATIONS

None.

8.0 NEXT REGULAR MEETING

June 12, 2020

ADJOURNMENT – 10:01 a.m.

San Mateo County Express Lanes Joint Power Authority

Agenda Report

Date: June 12, 2020

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

From: Executive Council

Subject: Accept the Statement of Revenues and Expenditures for the Period Ending April 30, 2020
(For further information or questions, contact Derek Hansel, CFO, at 650-508-6466)

RECOMMENDATION

That the SMCEL-JPA Board accept and enter into the record the Statement of Revenues and Expenditures for the Period Ending April 2020.

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

BACKGROUND

Year to Date Revenues: As of April year-to-date, the Total Revenue is \$250,000, which represents the first installment of the loan amount under the two operating loan agreements between the SMCEL-JPA, the San Mateo County Transportation Authority and the City/County Association of Governments.

Year to Date Expenditures: As of April year-to-date, the Total Expenditures are \$518,349. Major expenses are in Staff Support \$248,198, Administrative Overhead \$44,696 and Consultant \$185,678.

Budget Amendment:

There are no budget amendments for the month of April 2020.

ATTACHMENT

1. Statement of Revenues and Expenditures Fiscal Year 2020 (April 2020)

SAN MATEO COUNTY EXPRESS LANE JPA
STATEMENT OF REVENUES AND EXPENDITURES
Fiscal Year 2020
April 2020

	ACTUAL		BUDGET
	7/1/2019 To 4/30/2020	TOTAL SINCE INCEPTION	ADOPTED BUDGET
REVENUES:			
Advance from San Mateo County Transportation Authority and City/County Association of Governments of San Mateo County			
1	250,000	250,000	1,744,911
2	250,000	250,000	1,744,911
EXPENDITURES:			
3	248,198	248,198	610,276
4	44,696	44,696	53,635
5	-	-	3,000
6	377	377	3,000
7	-	-	5,000
8	20,595	20,595	50,000
9	185,678	185,678	880,000
10	5,384	5,384	-
11	13,421	13,421	140,000
12	518,349	518,349	1,744,911
13	(268,349)	(268,349)	-
14	-	-	-
15	(268,349)	(268,349)	-

**San Mateo County Express Lanes Joint Powers Authority
AGENDA REPORT**

Date: June 12, 2020

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

From: Executive Council

Subject: Review and approval of Resolution SMCEL 20-07 authorizing the San Mateo County Express Lanes Joint Powers Authority Chair to execute Amendment No. 1 to the Agreement with the Office of County Counsel of San Mateo County for general legal services for Fiscal Year 2020-21 for an amount not to exceed \$60,000.

(For further information or questions, contact Van Dominic Ocampo at 650-599-1460)

RECOMMENDATION

That the Board of Directors for the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) review and approve Resolution SMCEL 20-07 authorizing the San Mateo County Express Lanes Joint Powers Authority Board Chair to execute Amendment No. 1 to the Agreement with the Office of County Counsel of San Mateo County for general legal services for Fiscal Year 2020-21 for an amount not to exceed \$60,000.

FISCAL IMPACT

Fiscal Impact is in an amount not to exceed \$60,000 for general legal services covering the period of July 1, 2020 through June 30, 2021.

SOURCE OF FUNDS

The funds are included in the proposed Fiscal Year 2020-21 budget.

BACKGROUND

The Joint Exercise of Powers Agreement for the San Mateo County Express Lanes (JEPA) was approved by the City/County Association of Governments (C/CAG) Board of Directors and the San Mateo County Transportation Authority (SMCTA) Board of Directors at their board meetings of April 11, 2019 and May 2, 2019, respectively. The agreement became effective on June 1, 2019.

The JEPA specifies that legal counsel services for the SMCEL-JPA would be contracted through the Office of the County Counsel of the County of San Mateo County. The County Counsel provides general legal services not only to county offices but also other local agencies such as joint powers

agencies.

On June 6, 2019 SMCEL-JPA Board, through the approval of Resolution 19-02, authorized the Chair to execute the agreement with the Office of the County Counsel to provide general legal services to SMCEL-JPA for the period of June 1, 2019 to June 30, 2020. The attached Amendment No. 1 to the Agreement will retain the Office of the County Counsel to provide general legal services to the SMCEL-JPA from July 1, 2020 to June 30, 2021 (FY2020-21), with services to be billed monthly at specified rates in Amendment No. 1 to the Agreement and for a total amount not to exceed \$60,000.

Additionally, because the County Counsel's Office provides general legal services to C/CAG, a member of the SCMEL-JPA that will be providing a variety of services to the SMCEL-JPA, the County Counsel's Office is requesting signature on a notice and waiver of potential conflicts, attached as Exhibit A to Amendment No. 1 to the Agreement. Although County Counsel is not aware of any actual conflicts or a significant risk that representation of either client will be materially limited by counsel's responsibility to or relationship with the other client at this time, the waiver allows County Counsel to represent the SMCEL-JPA and C/CAG despite potential conflicts that may arise in its representation of both entities, as described further in Exhibit A. County Counsel will request a similar waiver from C/CAG to permit the concurrent representation.

ATTACHMENT

1. Resolution SMCEL 20-07
2. Amendment No. 1 to the Agreement between the Office of County Counsel of San Mateo County and San Mateo County Express Lanes Joint Powers Authority for general legal services for Fiscal Year 2020-21.

RESOLUTION SMCEL 20-07

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) AUTHORIZING THE SMCEL-JPA CHAIR TO EXECUTE AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE OFFICE OF THE COUNTY COUNSEL OF SAN MATEO COUNTY AND THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY FOR THE PROVISION OF GENERAL LEGAL SERVICES FOR THE PERIOD JULY 1, 2020 THROUGH JUNE 30, 2021 FOR AN AMOUNT NOT TO EXCEED \$60,000

BE IT RESOLVED by the Board of Directors of the San Mateo County Express Lanes Joint Powers Authority; that

WHEREAS, the Joint Exercise of Powers Agreement (JEPA) for the San Mateo County Express Lanes was approved by the C/CAG Board of Directors and the SMCTA Board of Directors at their respective board meetings on April 11, 2019 and May 2, 2019; and

WHEREAS, the SMCEL- JPA requires legal advice in the performance of its duties and functions and the JEPA specifies that legal counsel services would be contracted through the County Counsel of the County of San Mateo (“County Counsel”); and

WHEREAS, County Counsel provides general legal services, not only to county offices and entities, but also to other local agencies, and County Counsel is willing and able to provide such services to the SMCEL-JPA; and

WHEREAS, in order to procure services, the SMCEL-JPA and County Counsel must enter into an agreement outlining and explaining the rights and duties of each party to the Agreement, the scope of the relationship between the SMCEL-JPA and County Counsel as well as the parameters of representation including, but not limited to, the duration of the Agreement and the applicable hourly rates; and

WHEREAS, on June 6, 2019, the SMCEL-JPA Board adopted Resolution SMCEL 19-02 authorizing the Express Lanes Joint Powers Authority Chair to execute the Agreement between the County Counsel of the County of San Mateo and the Express Lanes Joint Powers Authority for the Provision of General Legal Services for the period June 1, 2019 through June 30, 2020; and

WHEREAS, Amendment No. 1 to the Agreement between the Office of the County Counsel of San Mateo County and San Mateo County Express Lanes Joint Powers Authority will renew the said agreement for the Provision of General Legal Services covering the period beginning July 1, 2020 through June 30, 2021 for a Not to Exceed amount of \$60,000; and

WHEREAS, it is the desire of the SMCEL-JPA to renew the agreement for the Provision of General Legal Services with County Counsel covering the said period for the said Not to Exceed amount.

NOW THEREFORE BE IT RESOLVED, by the Board of Directors of the SMCEL-JPA that the Chair is authorized to execute Amendment No. 1 to the Agreement Between the Office of the County Counsel of San Mateo County and the San Mateo County Express Lanes Joint Powers Authority for the Provision of General Legal Services for the Period of July 1, 2020 through June 30, 2021 and for an Amount Not to Exceed \$60,000 on behalf of the SMCEL-JPA, subject to approval of the SMCEL-JPA Annual Budget for FY2020/21.

PASSED, APPROVED, AND ADOPTED, THIS 12TH DAY OF JUNE 2020.

Alicia Aguirre, Chair

**AMENDMENT No. 1 to the AGREEMENT
BETWEEN
THE OFFICE OF THE COUNTY COUNSEL OF SAN MATEO COUNTY
AND
THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY
FOR THE PROVISION OF GENERAL LEGAL SERVICES
FOR FISCAL YEAR 2020/2021**

THIS AMENDMENT No. 1 to the AGREEMENT is entered into this 12th day of June 2020, by and between the OFFICE of the COUNTY COUNSEL OF THE COUNTY OF SAN MATEO, hereinafter referred to as "County Counsel", and the San Mateo County Express Lanes Joint Powers Authority, hereinafter referred to as "SMCEL-JPA".

WITNESSETH:

WHEREAS, The Joint Exercise of Powers Agreement for the San Mateo County Express Lanes (JEPA) was approved by the City/County Association of Governments (C/CAG) Board of Directors and the San Mateo County Transportation Authority (SMCTA) Board of Directors at their board meetings of April 11, 2019 and May 2, 2019, respectively. Said agreement is effective on June 1, 2019; and

WHEREAS, the JEPA specifies that legal counsel services for the SMCEL-JPA would be contracted through the Office of the County Counsel of the County of San Mateo County; and

WHEREAS, the County Counsel provides general legal services not only to county offices but also other local agencies such as joint powers agencies.

WHEREAS, on June 6, 2019 the SMCEL-JPA Board, authorized the Chair to execute the agreement with the County Counsel to provide general legal services to SMCEL-JPA for the period of June 1, 2019 to June 30, 2020.

WHEREAS, the County Counsel is ready and able to provide legal service and advice to SAMCEL-JPA, and SMCEL-JPA wishes to retain the County Counsel to perform legal services with respect to certain matters beginning July 1, 2020 through June 30, 2021 (FY 2020/21); and

WHEREAS, it is reasonable and necessary to set forth the various obligations and responsibilities of the parties in light of SMCEL-JPA's payment for the County Counsel's legal services;

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

County Counsel shall perform legal services and legal representation, including the handling of litigation, as may be requested by SMCEL-JPA. Litigation services shall not include litigation for which SMCEL-JPA has insurance coverage.

1. The parties understand that County Counsel has been retained to represent the interests of

the SMCEL-JPA as a whole, and County Counsel shall render such legal advice to SMCEL-JPA as may be requested by SMCEL-JPA and/or its designated representative(s). Attendance of counsel at meetings of the SMCEL-JPA Board shall be upon request of SMCEL-JPA. SMCEL-JPA is retaining the office of County Counsel, not any particular attorney, and the attorney services to be provided to SMCEL-JPA will not necessarily be performed by a particular attorney.

2. County Counsel shall periodically update SMCEL-JPA on legal issues and shall be available to provide training as is mutually agreed upon.
3. This Amendment No. 1 to the Agreement is for a term of twelve months commencing July 1, 2020 and extending through June 30, 2021. This Agreement may be terminated by mutual agreement of the parties at any time, provided that SMCEL-JPA has previously given ninety (90) days advance written notice of its intention to terminate the Agreement. County Counsel may withdraw at any time as permitted under the Rules of Professional Conduct of the State Bar of California.
4. SMCEL-JPA shall pay for services rendered between July 1, 2020 through June 30, 2021, at an attorney hourly rate of \$242 and a paralegal hourly rate of \$133. Additionally, SMCEL-JPA shall pay the actual costs of any out-of-pocket and extraordinary regular costs incurred by County Counsel in connection with the provision of its legal services, e.g., filing fees, extraordinary mailing costs, deposition costs, transcript costs, etc. The total amount to be paid by the SMCEL-JPA pursuant to this Amendment No. 1 shall not exceed \$60,000.
5. Charges for services rendered pursuant to the terms and conditions of this Amendment No. 1 shall be billed one month in arrears. Time will be billed in tenth-hour increments, rounded off for each particular activity to the nearest tenth-hour. The minimum charged for any particular activity will be one tenth-hour. Payment shall be made by SMCEL-JPA within thirty (30) days of the invoice date.
6. SMCEL-JPA understands that the County of San Mateo is the County Counsel's primary client. Should there be a conflict between SMCEL-JPA and the County in a matter, SMCEL-JPA hereby consents to the County Counsel's withdrawal of representation of SMCEL-JPA in order for the County Counsel to represent the County in any such matters, unless such waiver is inconsistent with state law.

SMCEL-JPA understands that County Counsel serves as general counsel to the City/County Association of Governments of San Mateo County ("C/CAG") and had executed the Notice and Waiver of Conflict attached hereto as **Exhibit A**, incorporated herein by this reference, so that County Counsel may continue to represent C/CAG and the SMCEL-JPA in the absence of actual conflict, as described more fully in **Exhibit A**.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

COUNTY COUNSEL OF SAN MATEO COUNTY:

By: John C. Beiers, County Counsel

Date:

SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY:

By: Alicia Aguirre, Chair

Date:

EXHIBIT A

Notice and Waiver of Conflict

This waiver of conflict is requested by the Office of the County Counsel of San Mateo County (the "County Counsel") in connection with the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors' consideration of the agreement with the County Counsel to provide legal services to the SMCEL-JPA.

The County Counsel also serves as general counsel for the City/County Association of Governments of San Mateo County ("C/CAG"), a member of the SMCEL-JPA and signatory to the Joint Exercise of Powers Agreement for the San Mateo County Express Lanes (SMCEL-JPA Agreement). It is County Counsel's understanding that the SMCEL-JPA, both under the SMCEL-JPA Agreement itself and pursuant to anticipated future contracts, has or shall enter into a number of arrangements with C/CAG (collectively, the "Matters"), including: (1) a loan/advancement of funds from C/CAG to the SMCEL-JPA; (2) the negotiation and execution of certain contract(s) for staffing support from C/CAG; (3) ongoing executive and staffing support from C/CAG to the SMCEL-JPA, as provided in the SMCEL-JPA Agreement; (4) certain indemnity/hold harmless obligations pursuant to the SMCEL-JPA Agreement; and (5) certain actions that may be taken by the SMCEL-JPA that require review or approval by C/CAG pursuant to the SMCEL-JPA Agreement.

In accordance with Rule 1.7 of the Rules of Professional Conduct, this Notice and Waiver informs you of the implications of the County Counsel representing both the SMCEL-JPA and C/CAG in connection with the Matters and to seek the SMCEL-JPA's consent to such representation. In County Counsel's opinion, the SMCEL-JPA and C/CAG are not presently directly adverse to each other. In addition, we believe the County Counsel can concurrently represent both clients without significant risk that the representation of either client will be materially limited by counsel's responsibilities to or relationships with the other client.

It is conceivable, however, that the interests of the SMCEL-JPA and C/CAG could become directly adverse to one another in the future. Potential conflicts include, for example, the following:

- Either of you could request contract or other terms in connection with the Matters that adversely impact the other;
- The SMCEL-JPA and C/CAG's interests may diverge in connection with the Matters;
- A dispute could arise over the application or interpretation of terms of an existing agreement or the SMCEL-JPA Agreement;
- As a result of new information, facts, law, rules, or any other circumstances, the County Counsel believes that its representation of one client will materially limit its ability to represent the other client; and/or
- Either of you could request that material information regarding the representation or Matters be kept confidential from the other.

To the last point above, because County Counsel would be representing the SMCEL-JPA and C/CAG jointly, we must inform each client of significant developments relating to the Matters and may not withhold information provided by one client from the other. Moreover, under California Evidence Code Section 962 and California case law, in cases of joint representation there is no attorney-client privilege between or among joint clients so that you may not claim your communications with County Counsel are privileged or confidential as to the other client with respect to the Matters.

At this time, we believe that our office is able to represent both the SMCEL-JPA and C/CAG and to fulfill County Counsel's ethical obligations to each client. Aside from the potential conflicts described above, we see no actual conflicts between you, nor has either informed us of any actual conflict. During the joint representation of the SMCEL-JPA and C/CAG, whenever County Counsel identifies any significant areas or issues, in addition to those described above, that have the potential to create a conflict of interest, County Counsel will point them out to both of you and, if necessary, advise you both on the need for separate counsel as to any such issues. You should consider any concern about the effect of such a limitation on County Counsel's representation of you. You should also consider whether you want to obtain the advice of an independent attorney concerning our ability to represent your interests adequately in view of these limitations.

By executing this letter where indicated below, you confirm on behalf of the SMCEL-JPA that you have been fully informed as to the nature of the potential conflicts resulting from the joint representation of both C/CAG and the SMCEL-JPA; that you have been provided a reasonable opportunity to seek the advice of independent counsel of your choice regarding these potential conflicts and waiver thereof; and that you understand that a conflict may arise in the future which may require an additional disclosure and waiver by you, or, alternatively, County Counsel's withdrawal from representation of one or both of you.

Additionally, you confirm that you will take the opportunity to retain independent counsel in the event you have any reservations regarding the joint representation, the issues arising from that representation, and/or the waiver of the potential conflict of interest. Assuming the foregoing accurately reflects your agreements, please sign and date where indicated below, and return the executed Waiver of Conflict to the Office of the County Counsel to the attention of Timothy Fox, Deputy County Counsel.

Waiver of Conflict

I, *Alicia Aguirre*, Chair of the Board, on behalf of the SMCEL-JPA, hereby acknowledge that I have carefully read the foregoing letter, informing me that the SMCEL-JPA's interests may potentially be in conflict with those of C/CAG in connection with the County Counsel's representation of the SMCEL-JPA's and C/CAG's interests in connection with the Matters.

I expressly acknowledge that the concurrent representation by the County Counsel of the SMCEL-JPA's and C/CAG's interests constitutes the representation of potentially conflicting interests, to the extent that SMCEL-JPA's and C/CAG's interests are potentially adverse.

I nevertheless knowingly and voluntarily consent on behalf of the SMCEL-JPA to such concurrent representation by the County Counsel. I further expressly acknowledge that the

SMCEL-JPA has been advised that the SMCEL-JPA has the right to seek independent legal counsel in connection with the advisability of waiving said conflict, and that the SMCEL-JPA has had a reasonable opportunity to do so.

SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY:

By: Alicia Aguirre, Chair

Date

ATTEST:

By: Mima Guilles, Secretary of the Board

Date:

San Mateo County Express Lanes Joint Powers Authority AGENDA REPORT

Date: June 12, 2020

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

From: Executive Council

Subject: Review and approval of Resolution SMCEL 20-08 authorizing the Chair to execute the First Amended and Restated Cooperative Agreement between the Bay Area Infrastructure Financing Authority (BAIFA), San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA), San Mateo County Transportation Authority (SMCTA) and City/ County Association of Governments of San Mateo County (C/CAG).

(For further information and questions, contact Van Dominic Ocampo at 650-599-1460)

RECOMMENDATION

That the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors review and approve Resolution SMCEL 20-08 authorizing the Chair to execute the First Amended and Restated Cooperative Agreement between the Bay Area Infrastructure Financing Authority (BAIFA), San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA), San Mateo County Transportation Authority (SMCTA) and City/ County Association of Governments of San Mateo County (C/CAG) to include the installation, testing and implementation of the toll system for the San Mateo County US 101 Express Lanes Project.

FISCAL IMPACT

There is no Fiscal Impact to SMCEL-JPA's budget. The estimated \$42 million cost of the First Amended and Restated Cooperative Agreement is funded through the overall US 101 Express Lanes Project budget.

SOURCE OF FUNDS

MTC is contributing a total of \$95 million to the overall San Mateo County Express Lanes project. The \$3 million for toll system design as approved by the original Cooperative Agreement, and the \$42 million for toll system installation, testing, and implementation as requested in this First Amended and Restated Cooperative Agreement, come from the MTC contribution.

BACKGROUND

In May of 2019, both C/CAG and SMCTA Boards approved the Joint Exercise of Powers Agreement that created the SMCEL-JPA, pursuant to the California Joint Exercise of Powers Act, to oversee the operations and administration of the Project and to jointly exercise the Project ownership rights of C/CAG and SMCTA.

The San Mateo County US 101 Express Lanes Project (Project) is jointly sponsored by California Department of Transportation (Caltrans), C/CAG and SMCTA. Construction of the Project is managed by Caltrans. When the Project is completed, it will result in the creation of 44 miles (22 miles in each direction) of new express lanes along the US 101 corridor in San Mateo County between the San Mateo - Santa Clara County Line and Interstate 380 (I-380) in South San Francisco.

The Project has two components; the civil work, which involves the roadway infrastructure, and the toll system integration, which involves tolling hardware and software. Construction of the civil component is well underway with the southern segment, from the San Mateo/Santa Clara County Line to Whipple Avenue in Redwood City, at 91% complete and the northern segment, from Whipple Avenue to Interstate 380 (I-380) in South San Francisco, at 15% complete. Toll system design, installation, testing and implementation are being undertaken by BAIFA, the party that will be responsible for the operations of the Project.

On September 12, 2019, C/CAG Board, through the approval of Resolution 19-56, authorized the Chair to execute the Cooperative Agreement with BAIFA, SMCEL-JPA and SMCTA for BAIFA to provide the toll system design services for the Project at the cost of up to \$3 million. These funds are from the regional bridge toll revenue contribution, which is part of the project's overall funding plan. The toll system design for the southern segment is now at 95% complete.

The attached First Amended and Restated Cooperative Agreement will cover the installation and testing of toll equipment, integration with the FasTrak® Customer Service Center, implementation of the backhaul communications network, and expansion of the Regional Operating Center (ROC) to accommodate the SM 101 corridor, as well as contingency for known and unknown risks for the amount of \$42 million.

ATTACHMENTS

1. Resolution SMCEL 20-08
2. First Amended and Restated Cooperative Agreement between Bay Area Infrastructure Financing Authority, San Mateo County Express Lanes Joint Powers Authority, San Mateo County Transportation Authority and City/County Association of Governments of San Mateo County to include toll system installation, testing and implementation for the San Mateo County US 101 Express Lanes Project.

RESOLUTION SMCEL 20-08

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) AUTHORIZING THE CHAIR TO EXECUTE THE FIRST AMENDED AND RESTATED COOPERATIVE AGREEMENT WITH THE BAY AREA INFRASTRUCTURE FINANCING AUTHORITY (BAIFA), SAN MATEO COUNTY TRANSPORTATION AUTHORITY (SMCTA), AND THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY (C/CAG) TO INCLUDE TOLL SYSTEM INSTALLATION, TESTING AND IMPLEMENTATION FOR THE SAN MATEO COUNTY US 101 EXPRESS LANES PROJECT

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

The SMCEL-JPA Board of Directors authorizes the Chair to execute the First Amended and Restated Cooperative Agreement between BAIFA, SMCEL-JPA, SMCTA and C/CAG to include the installation, testing and implementation of the toll system for the San Mateo County US 101 Express Lanes Project.

WHEREAS, the Project will address congestion and improve mobility on Highway 101 by creating an express lane in each direction between the Santa Clara County Line and Interstate 380 in San Bruno, and will incentivize the use of public transit, carpools, and other shared-ride options, while also creating a new revenue stream from individuals willing to pay a fee to drive in the express lanes, which will be available to fund additional transportation enhancements in the corridor; and

WHEREAS, on April 11, 2019 and May 2, 2019 the C/CAG Board and SMCTA Board respectively, approved the Joint Exercise of Powers Agreement for the SMCEL-JPA, which took effect on June 1, 2019; and

WHEREAS, the Project design is comprised of two components 1) the civil work, which involves the roadway infrastructure, and 2) the toll system integration, which involves tolling hardware and software; and

WHEREAS, C/CAG and the SMCTA desire that BAIFA, and its consultant, be responsible for design and installation of the toll system; and;

WHEREAS, BAIFA is a funding partner and has budgeted \$95 million of bridge toll revenue for the Project as part of its Fiscal Year 2020 Budget; and

WHEREAS, on September 12, 2019, C/CAG Board authorized the execution of the Cooperative Agreement between BAIFA, SMCEL-JPA, SMCTA and C/CAG for the design of tolling infrastructure on US 101; and

WHEREAS, BAIFA allocated up to \$3 million of the aforementioned budget to fund the cost of the toll system design with the balance of being made available for the implementation phase of the Project; and

WHEREAS, BAIFA agrees to spend up to \$42 million of the aforementioned \$95 million for the toll system implementation phase which includes, amongst others, capital and support for toll equipment and testing, integration with the FasTrak® Customer Service Center, implementation of the backhaul communications network, and expansion of the Regional Operating Center (ROC) to accommodate the SM 101 corridor, as well as contingency for known and unknown risks; and

NOW THEREFORE BE IT RESOLVED, by the Board of Directors of the San Mateo County Express Lanes Joint Powers Authority that the SMCEL-JPA Chair is authorized to execute the First Amended and Restated Cooperative Agreement between Bay Area Infrastructure Financing Authority, San Mateo County Express Lanes Joint Powers Authority, San Mateo County Transportation Authority and the City/County Association of Governments of San Mateo County for the Toll System Design to include Installation, Testing and Implementation for the San Mateo County US 101 Express Lanes Project. Be it further resolved that the SMCEL-JPA Executive Council is authorized to negotiate the final terms of said First Amended and Restated Cooperative Agreement prior to its execution by the SMCEL-JPA Chair, subject to approval as to form by SMCEL-JPA Legal Counsel.

PASSED, APPROVED, AND ADOPTED, THIS 12TH DAY OF JUNE 2020.

Alicia Aguirre, Chair

**FIRST AMENDED AND RESTATED
COOPERATIVE AGREEMENT**

Between

**BAY AREA INFRASTRUCTURE FINANCING AUTHORITY,
SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY,
SAN MATEO COUNTY TRANSPORTATION AUTHORITY,**

and

CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY

for

**TOLL SYSTEM DESIGN, TO INCLUDE INSTALLATION, TESTING, AND
IMPLEMENTATION FOR THE SAN MATEO COUNTY US 101 EXPRESS LANE
PROJECT**

This COOPERATIVE AGREEMENT (“Agreement”) entered into and effective as of June 26, 2019, and amended and restated in its entirety, effective on _____, 2020 is between the BAY AREA INFRASTRUCTURE FINANCING AUTHORITY (referred to herein as “BAIFA”), the SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (referred to herein as “SMCELJPA”), the SAN MATEO COUNTY TRANSPORTATION AUTHORITY (referred to herein as “SMCTA”) and the CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY (referred to herein as “C/CAG”), together herein referred to as “PARTIES.”

RECITALS

- A. WHEREAS, the San Mateo County US 101 Express Lanes Project (“PROJECT”), a jointly sponsored project by the SMCTA, C/CAG and Caltrans, as defined in the three-party Cooperative Agreements, 04-2687 and 04-2733, dated July 11, 2018 and June 6, 2019, respectively, is designed to alleviate congestion and increase person throughput on US 101 in San Mateo County by (1) converting an existing HOV lane to an Express Lane from the Santa Clara County line to Whipple Avenue in San Mateo County, and (2) constructing a new Express Lane from Whipple Avenue in San Mateo County to Interstate 380 in San Mateo County; and
- B. WHEREAS, the PROJECT is consistent with applicable transportation plans and policies, including Plan Bay Area 2040 and the current 2019 Transportation Improvement Program (TIP); and
- C. WHEREAS, the SMCELJPA was created, pursuant to the California Joint Exercise of Powers Act, consisting of Sections 6500 through 6599.2 of the California Government Code, to oversee the operations and administration of the PROJECT, and exercise the PROJECT ownership rights; and

- D. WHEREAS, BAIFA is a Joint Powers Authority between the Metropolitan Transportation Commission (MTC) and the Bay Area Toll Authority (BATA) created in 2006, also created pursuant to the California Joint Exercise of Powers Act; and
- E. WHEREAS, the California Transportation Commission (CTC) authorized MTC to develop and operate toll lanes as described in the “Bay Area Express Lanes Public Partnership Application for High Occupancy Toll Lanes” on September 28, 2011; and
- F. WHEREAS, pursuant to California Streets and Highways Code Sections 143 and 149.7, MTC Resolution No. 4807, approved on March 27, 2013, and BAIFA Resolution No. 4, approved on April 24, 2013, MTC was authorized to delegate and BAIFA authorized to accept MTC’s CTC-granted authority to develop and operate toll lanes; and
- G. WHEREAS, on August 14, 2019, CTC granted SMCELJPA approval under Streets and Highway Code Section 149.7, as amended by Assembly Bill (AB) 194, to build and own the San Mateo County US 101 express lanes; and
- H. WHEREAS, an integrated project delivery team consisting of SMCTA, C/CAG, and Caltrans staff and consultants is designing and delivering the civil PROJECT components; and
- I. WHEREAS, the PARTIES desire that BAIFA and (i) its TOLL SYSTEM INTEGRATOR (TSI) for design, installation, and testing of the TOLL SYSTEM and (ii) its TOLL SYSTEM MANAGER for management of the TOLL SYSTEM INTEGRATOR, be responsible for design, installation, and testing of the TOLL SYSTEM and the planning, administrative tasks, and oversight required for implementation (as defined in Appendix A) for the PROJECT; and
- J. WHEREAS, the Southern Segment of the PROJECT (converting an existing HOV lane to an Express Lane from the Santa Clara County line to Whipple Avenue in San Mateo County) is scheduled for toll commencement prior to the toll commencement on the Northern Segment of the PROJECT (constructing a new Express Lane from Whipple Avenue in San Mateo County to Interstate 380 in San Mateo County), as shown in Appendix B, Table 2, *PROJECT Schedule (Estimated)*; and
- K. WHEREAS, this Agreement is effective through toll commencement of the entire PROJECT; and
- L. WHEREAS the PARTIES agree to cooperate in the development of an Operations and Maintenance Agreement; and
- M. WHEREAS, the PARTIES desire that SMCELJPA will approve tolling and violation policies that provide for seamless experience by travelers and consistency with the operations of the other Express Lanes in the region, including the Santa Clara Valley

Transportation Authority (VTA), Alameda County Transportation Commission (ACTC), and BAIFA facilities, as stated in SMCELJPA's CTC Application.

NOW, THEREFORE, the PARTIES agree as follows:

I. SMCELJPA, SMCTA and C/CAG AGREE

1. SMCTA and C/CAG shall each work with Caltrans to ensure the civil designer and civil contractor coordinates with the TSI for successful design of the TOLL SYSTEM by providing civil design, including design updates and change orders, express lane infrastructure; and all necessary owner insurance requirements.
2. SMCTA and C/CAG shall each be responsible for the design of the corridor fiber optic network that will run along US 101 connecting communications hubs, including fiber optic trunk line, pull boxes, cabinets, and conduit for the TOLL SYSTEM. SMCTA and C/CAG shall also include, in the design, the network equipment required to connect to the corridor fiber optic network to the HOST via the BACKHAUL NETWORK COMMUNICATIONS long-haul leased communication services.
3. SMCTA, C/CAG, and SMCELJPA each certify that there is no legal impediment to their engagement with BAIFA in this Agreement, and that there is no pending or threatened litigation which might in any way adversely affect the PROJECT or the ability of SMCTA, C/CAG, or SMCELJPA to deliver the PROJECT or their respective portions thereof.
4. SMCTA, C/CAG and SMCELJPA shall each comply with any and all applicable laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of such government, including but not limited to BAIFA, that relate to or in any manner affect SMCTA's, C/CAG's, and SMCELJPA's performance of their obligations under this Agreement. SMCTA, C/CAG, and SMCELJPA agree to procure all necessary licenses and permits to operate as contemplated in this Agreement. BAIFA may request, and SMCTA, C/CAG, and SMCELJPA shall provide to BAIFA, evidence of the licenses and permits at any time.
5. SMCTA, C/CAG, and SMCELJPA shall each cooperate with BAIFA and Caltrans in the development and execution of any necessary or appropriate agreements to support the effective planning, development, approval and completion of work hereunder.
6. SMCTA and C/CAG shall each assist on resolving any potential issues between BAIFA's TSI, and other parties, including the PROJECT's civil construction contractor, during design, installation, and testing the TOLL SYSTEM.

7. SMCTA and C/CAG shall each cooperate with SMCELJPA as necessary and appropriate in carrying out their respective duties and obligations pursuant to this Agreement.
8. SMCELJPA shall be responsible for the cost of any HOST or ROADSIDE SYSTEM DESIGN CHANGES that are solely for the benefit of SMCELJPA (including but not limited to equity programs, custom reports, etc.). SMCELJPA shall review BAIFA's toll and violation policies, business requirements, the TSI agreement and change orders relevant to the PROJECT, and supporting design documents and provide concurrence by the date specified in Appendix B, Table 2.
9. SMCELJPA shall be responsible for the cost of any testing specific to the PROJECT for HOST or ROADSIDE SYSTEM DESIGN CHANGES that are not caused by SMCELJPA or BAIFA but are caused by an external party to this Agreement and deemed necessary by the PARTIES.
10. SMCELJPA shall have the authority to direct BAIFA to negotiate incentive payment(s) with the TSI to accelerate the toll commencement date after the baseline schedule has been approved by the SMCELJPA.

II. BAIFA AGREES

1. BAIFA shall provide project management services for the design, installation, and testing, and implementation of the PROJECT's TOLL SYSTEM.
2. BAIFA shall require that the TSI coordinates with the civil design contractor to facilitate successful PROJECT design.
3. BAIFA shall require TSI to name SMCELJPA, SMCTA, and C/CAG as additional insureds on TSI's insurance policies required by the TSI agreement with respect to work TSI performs on the PROJECT.
4. BAIFA shall provide all documentation to the SMCTA, C/CAG, and the SMCELJPA for the TOLL SYSTEM and BACKHAUL NETWORK COMMUNICATIONS design. BAIFA will consider comments from SMCTA, C/CAG, and the SMCELJPA on TOLL SYSTEM and BACKHAUL NETWORK COMMUNICATIONS documentation if provided within a reasonable time based on the project schedule. PARTIES agree to discuss in good faith any issues with respect to cost and schedule presented by the comments.
5. BAIFA shall provide the PROJECT's BACKHAUL NETWORK COMMUNICATIONS (as defined in Appendix A) design support and configuration design for the backhaul networking equipment, the installation and testing, and the leasing of a long-haul communications connection from the corridor fiber optic network to the HOST during installation and testing.

6. BAIFA shall require the TSI to design, install and test the TOLL SYSTEM to communicate with the BATA Regional FasTrak® system through the interface that is active at the time of tolling commencement.
7. BAIFA shall review the TSI's design and obtain Caltrans approval, and manage the TOLL SYSTEM installation and testing. BAIFA shall provide the TSI's TOLL SYSTEM test reports and test report comment logs, as part of the Monthly Report required in Section II (10) of the Agreement during installation and testing, per the TSI's testing schedule.
8. BAIFA shall comply with any and all applicable laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of such government including but not limited to the other PARTIES that relate to or in any manner affect BAIFA's performance of its obligations under this Agreement. BAIFA agrees to procure all necessary licenses and permits to fulfill BAIFA's obligations as contemplated in this Agreement. Any of the PARTIES may request, and BAIFA shall provide to the PARTIES, evidence of the licenses and permits at any time.
9. BAIFA shall perform the scope of work identified in Appendix A, *San Mateo County US-101 Express Lane Project Scope of Work*, attached hereto and incorporated herein by this reference. In the event SMCELJPA, SMCTA, or C/CAG request software changes, PARTIES agree to negotiate in good faith and execute an amendment to this Agreement, if needed, with respect to costs. BAIFA shall provide the technical specification and a cost estimate which PARTIES must agree upon before the work is performed.
10. BAIFA shall provide a Monthly Report (in a format and with content mutually agreed upon by the PARTIES) and supporting documentation to substantiate status, progress (percent complete), budget and activity-based expenditures, quality management, risk management, and other practices or processes used by BAIFA to plan, design, deliver, operate and maintain the TOLL SYSTEM. The current version of the TSI project schedule, as approved by BAIFA, shall be provided or referenced in the Monthly Report.
11. BAIFA shall notify SMCELJPA of any HOST or ROADSIDE SYSTEM DESIGN CHANGES. BAIFA shall be responsible for the cost of any HOST or ROADSIDE DESIGN CHANGES that are at the request of BAIFA.
12. If BAIFA and SMCELJPA mutually desire to pursue liquidated damages for delays of toll commencement of either segment of the PROJECT (as agreed to in the approved baseline schedule), BAIFA shall exhaust all reasonable means to enforce the provision of the BAIFA and TSI agreement for liquidated damages, using the daily amount assigned in the BAIFA and TSI agreement, for each day the PROJECT is delayed after the toll commencement date agreed to by the PARTIES in the baseline schedule. Payment(s) received for damages will be split; BAIFA will receive 25% and SMCELJPA will receive 75%.

III. IT IS MUTUALLY AGREED

1. This Agreement shall commence on the date it is executed by all PARTIES and shall remain in effect until the PROJECT design, installation, testing, and implementation is complete, and Caltrans has issued a toll system implementation encroachment permit for BAIFA and the TSI. PARTIES agree to negotiate in good faith and execute an amendment to this Agreement to add in TOLL SYSTEM installation, testing, and implementation tasks before Caltrans issues said encroachment permit.
2. Any PARTY shall have the right to terminate this Agreement at any time for convenience upon sixty (60) days advance written notice to the other PARTIES. All outstanding items of performance relating to this Agreement shall be settled and transitioned within one year of the effective date of termination.
3. BAIFA shall be responsible for the TOLL SYSTEM's design and PROJECT start-up for a maximum allotment of \$3,000,000 as shown in Appendix B, Table 1A of this Agreement, attached hereto and incorporated herein by reference. Any design line item funds deemed by BAIFA to be in excess of the necessary funds to fulfill the obligations of the Agreement shall be transferred to Toll System Contingency / Risk Reserve established by the inclusion of Appendix B, Table 1A to this Agreement.
4. BAIFA shall be responsible for the TOLL SYSTEM's installation, testing, and implementation for a maximum allotment of \$38,840,000 as shown in Appendix B, Table 1A to this Agreement. Any line item funds deemed by BAIFA to be in excess of the necessary funds to fulfill the obligations of the Agreement shall be transferred to Toll System Contingency / Risk Reserve established by the inclusion of Appendix B, Table 1A to this Agreement.
5. Funds from the Toll System Contingency/Risk Reserve shall not be used towards cost overruns on other line items in Appendix B, Table 1A until actions consistent with the Change Management Board have been undertaken as specified elsewhere in this Agreement.
6. SMCTA shall perform those tasks identified in Appendix B, Table 1B in cooperation with BAIFA and invoice BAIFA monthly, in mutually agreed upon format, for reimbursement of the related expenditures.
7. BAIFA shall reimburse SMCTA for the performance of tasks with a maximum allotment of **\$3,160,000** as shown in Appendix B, Table 1B.
8. The tasks identified in Appendix B, Table 1C shall be funded up to a maximum allotment of **\$1,813,508** with local funds provided through the SMCTA to whichever PARTY to this Agreement incurs the cost to perform them. Upon initial execution of this Agreement, the responsible agency for these tasks shall be the SMCTA.

9. The maximum allotment of funding provided for the PROJECT under this Agreement is **\$46,813,508**, as shown in Appendix B, Table 1D.
10. Each PARTY shall ensure the coordination between their respective contractors to facilitate successful installation, testing, and implementation of the TOLL SYSTEM by providing all necessary documentation that impacts the express lane infrastructure, including but not limited to shop drawings, redlines, as-builts, change orders, etc.; and all necessary owner insurance requirements. BAIFA shall require the TSI to be responsible for providing its own lane closures, and coordinate with the civil contractor when possible to maximize the value of the lane closures. Each PARTY agrees to complete checklists for site readiness before turning over each PROJECT site to another party, and each PARTY agrees to document and coordinate requests and responses for information during construction in a timely manner.
11. If there are excess funds, as shown in Appendix B , Tables 1A and 1B, remaining upon completion of the PROJECT, the PARTIES may negotiate on spending excess funds on other related San Mateo US 101 Express Lane tasks, including but not limited to those shown in Appendix B, Table 1C, capitalized operations and maintenance expenses, or relief of debt related to the San Mateo US 101 Express Lane.
12. All PARTIES agree to establish a Project Management Team (PMT) comprised of the Deputy Director, Project and Program Management of Caltrans District 4, the C/CAG Executive Director, the Chief Officer of SMCTA and the MTC Director, Field Operations and Asset Management. The PMT will convene as required to monitor progress and address the issue(s) at hand. The role of the PMT will be to coordinate technical, policy, and funding aspects of the project. The PMT will serve as an intermediary between the implementation staff and the already established Executive Steering Committee (ESC) for the 101 Corridor. PMT responsibilities will include:
 - Review scope, cost, schedule, and risk changes as requested by the implementation staff and the Project Managers and to present changes to the ESC as appropriate.
 - Ensure adherence to the defined scope, schedule and budget.
 - Identify budget overruns early to secure funding, if needed, so as to not adversely impact schedule.
 - Negotiate and determine new funding sources for cost overruns.
 - Approve the PROJECT's baseline schedule and toll commencement dates.
 - Approve changes to the scope (including DESIGN CHANGES), budget and schedule.
 - Ensure the Project Managers are appropriately resourced and that resources are properly utilized.

- Reallocate funds between Tables 1A and 1B, as shown in Appendix B to this Agreement, based on revised responsibilities for scope, including but not limited to customer education.
13. All PARTIES agree to establish a Change Management Board (CMB) with at least one representative from each PARTY to fulfill the responsibilities as established by the PMT. The CMB shall meet no less frequently than once per month to monitor progress, report on changes, and ensure changes are being resolved at the lowest level. The CMB shall manage the reallocation of the contingency fund to and from the Toll System Contingency / Risk Reserve line item (Appendix B, Table 1A), and such changes will be reported to the PMT.
 14. All PARTIES acknowledge that certain changes may be elevated by the CMB to the PMT when matters of the baseline scope, schedule, and cost are at risk, including DESIGN CHANGES and changes to toll commencement dates, supplements to line item budgets and Toll System Contingency/Risk Reserve, or any change to public facing policies.
 15. All PARTIES agree to cooperate with one another to accomplish the purposes of this Agreement, and to confer in advance on policy matters and proposed changes in PROJECT scope, cost and schedule as it relates to this Agreement.
 16. Each PARTY agrees to respond timely to all reasonable requests from another PARTY for any rights, material, and information as may be required by the requesting PARTY to successfully perform its obligations under this Agreement. Each PARTY further agrees to promptly provide documentation, reports, and information pursuant to such reasonable requests. Notwithstanding this commitment, the PARTIES may withhold material and information subject to any claims of privilege or limitations any PARTY may have as a result of agreements with other persons or entities.
 17. Any substantive material changes in the activities to be performed under this Agreement, or in the terms thereof, shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by each PARTY's Executive Director/Executive Officer, or a designated representative.
 18. No PARTY nor any board member, commissioner, officer, agent or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by the other PARTIES and/or their agents under or in connection with any work, authority, or jurisdiction conferred upon the PARTIES under this Agreement.
 19. It is understood and agreed that each PARTY will fully defend, indemnify, and save harmless the other PARTIES and all of their board members, commissioners, officers, agents, and employees from all claims, suits, or actions of every name, kind, and

description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by the indemnifying PARTY and/or its agents under this Agreement.

20. Except as specifically provided herein, nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement.
21. No PARTY shall assign this Agreement, or any part thereof without the other PARTIES' prior written consent; any attempts to assign this Agreement without the other PARTIES' prior written consent shall be void and unenforceable.
22. All notices or other communications to any PARTY(IES) by another shall be deemed given when made in writing and either physically delivered, mailed, or e-mailed as an attachment to such PARTY(IES) at their respective addresses as follows. Formal notice may not be provided by email alone. Any PARTY may revise or update its addressee information provided in this Section by providing notice pursuant to this Section.

To BAIFA: Attention: Jim Macrae
Bay Area Infrastructure Financing Authority
375 Beale Street, Suite 800
San Francisco, CA 94105
Email: jmacrae@bayareametro.gov
Phone: (415) 778-6714

To SMCTA: Attention: Joseph Hurley
San Mateo County Transportation Authority
1250 San Carlos Ave.
San Carlos, CA 94070
Email: hurleyj@samtrans.com
Phone: (650) 508-7942

To C/CAG: Attention: Van Dominic Ocampo
City/County Association of Governments of San Mateo County
555 County Center, 5th Floor
Redwood City, CA 94063
Email: vocampo@smcgov.org
Phone: (650) 599-1460

To SMCELJPA: Attention: SMCELJPA Policy Program Manager
San Mateo County Express Lanes Joint Powers Authority
555 County Center, 5th Floor
Redwood City, CA 94063

Email: vocampo@smcgov.org
Phone: (650) 599-1460

With a copy to: Attention: SMCELJPA Executive Council
San Mateo County Express Lanes Joint Powers Authority
555 County Center, 5th Floor
Redwood City, CA 94063
Email: slwong@smcgov.org and chana@samtrans.com
Phone: Sandy Wong: (650) 599-1409
and April Chan: (650) 508-6228

23. The PARTIES may amend this Agreement for future phases of PROJECT.
24. Any PARTY's failure to exercise or delay in exercising any right or remedy under this Agreement shall not constitute a waiver of such right or remedy or any other right or remedy set forth herein. Any PARTY's waiver of any right or remedy under this Agreement shall not be effective unless made in a writing duly executed by an authorized officer of the PARTY, and such waiver shall be limited to the specific instance so written and shall not constitute a waiver of such right or remedy in the future or of any other right or remedy under this Agreement.
25. In case of a dispute over the meaning or performance of this Agreement, the PARTIES will first attempt to resolve such dispute at the PROJECT team level. If they cannot resolve the dispute themselves, the Executive Director / Executive Officer of each of the PARTIES will attempt to negotiate a resolution. If the PARTIES do not reach a resolution, the PARTIES' legal counsel will initiate mediation. The PARTIES agree to participate in mediation in good faith and will share equally in its costs.
- Neither the dispute nor the mediation process relieves PARTIES from full and timely performance of the Agreement's scope in accordance with its terms. However, if any PARTY stops fulfilling its obligations, any other PARTY may seek equitable relief to ensure that the work continues.

Except for equitable relief, no PARTY may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

The PARTIES maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.

26. This Agreement, including all attachments, constitutes the complete agreement between the PARTIES and supersedes any prior written or oral communications. The PARTIES represent that in entering into the Agreement they have not relied on any previous representations, inducements, or understandings of any kind or nature. This Agreement may be modified or amended only by written instrument signed by all of the PARTIES.

In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

27. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, but shall remain binding and effective as against the PARTIES.
28. This Agreement shall be governed by the laws of the State of California.
29. Each individual executing this Agreement on behalf of a PARTY represents and warrants that he or she is duly authorized to execute this Agreement on behalf of said PARTY and that this Agreement is binding upon the PARTY in accordance with its terms.

This Agreement constitutes the entire agreement of the PARTIES and there are no other oral or extrinsic understandings of any kind. This Agreement may not be altered, amended or modified in any manner except by a subsequent written instrument duly executed by all of the PARTIES.

IN WITNESS WHEREOF, this Agreement has been executed by the PARTIES hereto on the date first above written.

**BAY AREA INFRASTRUCTURE AND
FINANCING AUTHORITY**

Therese W. McMillan
Executive Director

Date: _____

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

Alicia C. Aguirre
Chair

Date: _____

**SAN MATEO COUNTY
TRANSPORTATION AUTHORITY**

Jim Hartnett
Executive Director

Date: _____

**CITY/COUNTY ASSOCIATION OF
GOVERNMENTS OF SAN MATEO
COUNTY**

Marie Chuang
Chair

Date: _____

APPENDIX A

San Mateo County US-101 Express Lane Project Scope of Work

DEFINITIONS

Unless the context otherwise specifies or requires an alternate meaning, for the purposes of this Appendix and the associated Agreement (AGREEMENT), the following terms shall have the meaning as set forth below:

BACKHAUL NETWORK COMMUNICATIONS is the fiber optic-based communications network utilized by the express lanes to transport data within express lane corridors, between express lanes corridor and HOST data centers. The network is made up of two parts: i) the corridor fiber optic network that runs along US 101 connecting to communication hubs; and ii) BAIFA's long-haul leased communication services (e.g. BART fiber and AT&T lease lines) connecting the corridor fiber optic network to the HOST. The PARTIES agree to negotiate in good faith and execute an amendment to this Agreement with respect to the ownership of the corridor's backhaul network infrastructure, including fiber optic trunk line, pull boxes, cabinets, and network equipment within cabinets, upon acceptance and completion. Leased services to BAIFA, HOST and Regional Operation Center data centers are not included. BAIFA owns all associated backhaul software and network monitoring system licenses.

DESIGN CHANGES are changes made to the TOLL SYSTEM during the implementation phase that require deliberate planning and work on the part of BAIFA and TSI to manage the potential impacts to core services, risk, cost, and schedule.

HOST includes all computer systems, software, and servers that process traffic data from the ROADSIDE SYSTEM to determine the toll and post transactions to FasTrak® customer accounts and run all system reports. The HOST shall be owned by BAIFA.

ROADSIDE SYSTEM are all systems located along the roadside in the express lane corridor that are required to support tolling, namely the system or systems specifically installed to collect tolls electronically and monitor the flow of traffic and/or communicate with motorists. ROADSIDE SYSTEM includes Automatic Vehicle Identification system, Automatic Vehicle Detection, Violation Enforcement System (VES), Variable Toll Message Sign (VTMS) system; and is comprised of inventory such as readers, lane controllers, software, lateral fiber, conduits, cameras, toll-related sign panels/structures, Variable Toll Message Signs (VTMS), gantries, and UPS cabinets and service enclosures added specifically for toll-related operations.

ROADSIDE SYSTEM does not include the fixed non-toll related signage, such as, traffic signs, delineators, and road markings. The PARTIES agree to negotiate in good faith and execute an amendment to this Agreement with respect to ownership of the ROADSIDE SYSTEM.

TOLL SYSTEM are all systems (including HOST and ROADSIDE SYSTEM) specifically installed to collect tolls electronically and monitor the flow of traffic and/or communicate with motorists. TOLL SYSTEM includes Automatic Vehicle Identification system, Automatic Vehicle Detection, Violation Enforcement System (VES), Variable Toll Message Sign (VTMS) system; and is comprised of inventory such as readers, computer systems, software, and servers that process and post transactions to FasTrak[®] customer accounts, cameras, toll-related sign panels/structures, controller and universal power supply cabinets and service enclosures added specifically for toll-related operations. TOLL SYSTEM does not include the fixed non-toll related signage, such as, traffic signs, delineators, and road markings.

TOLL SYSTEM INTEGRATOR (TSI) is BAIFA's contractor responsible for designing, developing, installing, testing, and maintaining the TOLL SYSTEM. All applicable terms of the agreement between BAIFA and TransCore, LP for Express Lane Network Toll System Integration & Maintenance, executed August 25, 2014, including change orders and amendments, are conveyed through BAIFA on behalf of SMCELJPA.

TOLL SYSTEM MANAGER is the consultant responsible for systems planning and TOLL SYSTEM oversight as specified in Sections 1.1, 1.2, and 1.3 below. All applicable terms of the agreement between BAIFA and WSP for Express Lanes Program Advisor, executed March 15, 2018, including change orders and amendments, are conveyed through BAIFA on behalf of SMCELJPA.

The following tasks represent BAIFA's scope of work under the AGREEMENT:

1. Express Lane Design

Task 1 includes all the staff time for project start-up, planning and administrative tasks and delivery of TOLL SYSTEM design phase. This includes both BAIFA and their consultant's time. This Scope and accompanying budget are for the project start-up, planning and administrative tasks and for the design phase of work along with execution of BART agreement and FCC license.

1.1. Systems Manager

1.1.1. Systems Planning & Project Start-up

This task addresses project support provided by BAIFA for contracts and agreements and early planning. Specific tasks to be performed are as follows:

- Review and support CTC Application, Concept of Operations, and Systems Engineering Management Plan being completed by SMCELJPA
- Perform project management tasks including budgeting, schedule review, etc.
- Review & support of Caltrans longitudinal variance
- Participate in the development of agreements including but not limited to: Backhaul Operation and Maintenance, Caltrans Toll System Oversight needed for design right of way and TOLL SYSTEM construction phases of work
- Support the effort to secure BAIFA encroachment permit from Caltrans and rider for the TSI
- Negotiate TSI Contract change order to design the TOLL SYSTEM
- Implement contract amendment and task order for Toll System Manager (TSM)
- Review of TOLL SYSTEM Design and coordination amongst stakeholders
- Coordinate with SMCTA, C/CAG and SMCELJPA staff and contractors including attendance at meetings and conference calls, to inform design and project management
- Attend PROJECT meetings as needed
- Provide Monthly Progress Reports which include schedule, expenditure, and budget updates

1.1.2. Toll System Oversight

This work specifically addresses support of the express lanes TOLL SYSTEM. It includes: TOLL SYSTEM strategic advice, TSI management, final design and project controls support for TSI activities.

1.1.2.1. Strategic Advice

This task covers, as-needed, technical and strategic advice to support SMCTA, C/CAG and SMCELJPA with the planning and design of express lanes. Strategic advice may take the form of proactive or reactive advice – proactive advice shall be in the form of recommendations of concepts and implementation techniques and reactive advice shall be in response to issues raised by SMCTA, C/CAG and SMCELJPA.

1.1.2.2. Design

This work includes verification of TOLL SYSTEM requirements and applicability to the PROJECT, design review, and validation for the addition of new express lane segments and

TOLL SYSTEM design changes for both HOST and ROADSIDE SYSTEM. It includes review of TSI's requirements traceability matrix for thoroughness and accuracy.

1.1.2.3. TSI Controls

1. Cost – Develop and analyze engineer's estimates and other types of cost estimates;
2. Schedule – Develop detailed project schedule closely coordinating with the civil contract, validate reasonability and risk; monitor progress; make recommendations;
3. Change – Analyze the impact of proposed changes to the TOLL SYSTEM in context of the budget, the schedule and other factors;
4. Risk – Identify, assess and manage/mitigate risks related to the PROJECT's schedule and costs;
5. Quality – Provide quality assurance review for TSI-prepared deliverables;
6. Documents/deliverables – Maintain and coordinate a review/approval process; maintain task log and assign/track assignments, maintain logs to manage TSI deliverables and team activities, review and provide feedback on all draft and final documents/deliverables, provide detailed comments as requested; lead issue resolution; track completion according to contract, schedule and other requirements; manage version control and official records-keeping, and maintain Box account.

1.2. BACKHAUL DESIGN

This task addresses support for BACKHAUL NETWORK COMMUNICATIONS design. This task is for staff time only. The specific tasks include:

- Corridor fiber optic logical design and backup support during the Design Phase
- Oversight of corridor fiber optic network integration during the Civil Construction Phase
- Execute the Millbrae to Oakland BART fiber agreement or third-party arrangement for the long-haul leased communications network between BAIFA and BART
- Design logical communications network connecting corridor fiber optic network to HOST

1.3. Amendment/Contract Development

This task includes BAIFA contract staff time to support the TSI change order and task orders for the Design and Start-up Phases.

2. TOLL SYSTEM Design

Task 2 includes all work by TSI and necessary support for the TOLL SYSTEM design.

2.1. Project Management

This task includes management of TOLL SYSTEM Design by TSI and continual coordination activities, meetings and communications with the SMCELJPA, C/CAG and SMCTA project team and contractors. TSI will file for the necessary Federal Communications Commission (FCC) site licenses in order to operate automatic vehicle identification equipment to read FasTrak[®] transponders.

2.2. Design

This task includes the TOLL SYSTEM design by TSI for the project, specifications, and estimate (PS&E) for submission to Caltrans to secure the required permit(s) for implementation, constructions, and installation.

Minor DESIGN CHANGES may be accommodated as part of this scope at the request of SMCELJPA, if contingency funds are available.

3. Express Lane Installation, Testing, and Implementation

Task 3 includes all the staff time for installation and testing, and administrative tasks for implementation and delivery of TOLL SYSTEM installation and testing phase. This includes both BAIFA and their consultant's time.

3.1. Toll System Oversight

This task covers the continued scope of Task 1.1.2 through TOLL SYSTEM testing and installation.

3.1.1. Testing

Prepare, support and oversee TOLL SYSTEM testing including regression testing, site commissioning testing, new segment end to end testing, segment operations testing, system acceptance, and any system retests as necessary. Coordinate and lead meetings to review test protocols, give feedback on test plans, and verify that individual design requirements are adequately tested. Support the TSI to create sample data sets that comprehensively test TOLL SYSTEM functionality.

3.1.2. Customer Education

This task includes support for and reviews of the Customer Education effort. It is assumed that the Customer Education will be led by SMCELJPA. BAIFA will provide any preexisting customer education material to SMCELJPA. Once the level of effort is determined for BAIFA's support of customer education, the CMB shall allocate funds from Table 1B to Table 1A in Appendix B.

3.1.3. Operations Planning

This task includes work that supports operational readiness when opening new express lanes or preparing for the implementation of significant changes in tolling technology or business requirements.

3.1.4. Toll Systems Construction Management

This task includes oversight of the Toll System field implementation, including overseeing the overall construction schedule, facilitating inspection, assisting SMCELJPA, SMCTA, and C/CAG with any change order review and development, claims analysis, and coordination of the systems integration work with ongoing construction contracts. Specific tasks to be performed include:

- Monitor contractor's operations
- Identify, negotiate and resolve potential conflicts, issues and adverse impacts to the contract
- Discuss design and specification changes with BAIFA and obtain concurrences
- Monitor contractor's construction schedule
- Assist in administering the traffic control plans
- Manage construction management team field inspection efforts
- Coordinate with project stakeholders and ongoing projects
- Attend weekly Caltrans Coordination meetings on behalf of BAIFA and TSI
- Provide inspection services for toll system infrastructure construction and equipment installation, as well as for communications network and power tie-ins to the TOLL SYSTEM.
- Ensure that the TSI follows installation plans and meets quality standards.
- Track and report progress, identify issues and coordinate and recommend solutions.

4. Express Lane Capital Cost

4.1. TSI Contract

This task includes the TSI project management, equipment, installation commissioning and testing through Toll Commencement. BAIFA will provide the final change order with the TSI for the PROJECT to SMCELJPA.

4.2. Backhaul

This work includes the ancillary hardware and early operating cost for deployment of Backhaul, including:

- Backhaul Network design and installation support
- 3rd party communications infrastructure and services (Millbrae to Oakland BART fiber, AT&T special construction fees, wireless out of band service)
- Storage upgrade for Regional Customer Service Center (RCSC) file transaction server

4.3. RCSC Start Up

The RCSC, though a contract with Conduent, is responsible for processing all express lane transactions and posting to customer accounts or issuing violations. During the installation, testing, and implementation phase, integration into the RCSC system and associated costs and services will be negotiated by BAIFA on behalf of SMCELJPA to bring the PROJECT online, including:

- Registration of new Clean Air Vehicles
- Training of RCSC Staff
- Website updates
- Conduent Software configuration
- End-to-end testing of integration (as defined in the interface control document) between the TOLL SYSTEM and the RCSC system
- Sample documentation for RCSC performance, customer, and revenue reports

BAIFA shall provide the draft and final change order negotiated with BATA/Conduent for the PROJECT.

4.4. Regional Operations Center Upgrades

The Regional Operations Center is where operators monitor the Express Lane Operations. The capital cost includes the addition of video monitors and workstations to support the PROJECT.

APPENDIX B

**San Mateo County US-101 Express Lane Project Estimated Budget and Schedule for
 Project Start-up, Design, Installation, Testing, and Implementation**

Table 1A – PROJECT (Estimated) Budget for Start-up and Design, and Installation, Testing, and Implementation

Scope Area	BAIFA Estimate
1. Express Lane Design	\$ 1,175,000
1.1 Systems Manager (includes BAIFA Staff)	\$ 853,237
1.2 Backhaul Design	\$ 200,000
1.3 Amendment/Contract Development	\$ 121,763
2. Toll System Design	\$ 1,825,000
Total Design	\$ 3,000,000
3. Express Lane Installation and Testing	\$ 3,673,196
3.1 Systems Manager (includes BAIFA Staff)	\$ 3,673,196
4. Express Lane Capital Cost	\$ 35,166,804
4.1 TSI Contract	\$ 29,828,895
4.2 Backhaul	\$ 1,340,000
4.3 RCSC Start Up	\$ 1,200,000
4.4 Regional Operations Center Upgrades	\$ 100,000
4.5 Toll System Contingency / Risk Reserve	\$ 2,697,909
Total Installation and Testing Amendment 1	\$ 38,840,000
Total	\$ 41,840,000

Table 1B – PROJECT Budget for Scope funded by BAIFA and Administered by SMCELJPA

Scope Area	Budget
1. Customer Education	\$ 1,160,000
2. Before and After Study	\$ 800,000
3. TSI COZEEP	\$ 1,200,000
Total	\$ 3,160,000

Table 1C – PROJECT Budget for Items funded with local funds and yet to determined which PARTY administers.

Scope Area	Budget
1. Caltrans Oversight	\$ 1,100,000
2. Toll System Contingency / Risk Reserve	\$ 513,508
3. AT&T and PG&E Start Up Costs	\$ 200,000
Total	\$ 1,813,508

Table 1D – Total Four-Party Agreement Budget

Referenced Table	Budget
1. Table 1A	\$ 41,840,000
2. Table 1B	\$ 3,160,000
3. Table 1C	\$ 1,813,508
Total	\$ 46,813,508

Table 2 – PROJECT Schedule (Estimated)

Task	Start	Finish
BAIFA, SMCELJPA_C/CAG and SMCTA Agreement	May-19	Oct-19
Toll System Manager Contract Amendment	Jun-19	Sept-19
TSI Contract Amendment for Design	Jun-19	Oct-19
TSI Design – Southern Segment	Sept-19	Feb-20
TSI Design – Northern Segment	Feb-20	Jul-20
SMCELJPA, C/CAG, and SMCTA concur with BAIFA policies, business requirements, and TSI requirements per Section I (8) of this Agreement	Jun-20	Sept-20
TSI Toll Commencement – Southern Segment		Sep-21
TSI Toll Commencement – Northern Segment		Dec-22

**San Mateo County Express Lanes Joint Powers Authority
AGENDA REPORT**

Date: June 12, 2020

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

From: Derek Hansel, Chief Financial Officer

Subject: Public Hearing: Approval of Resolution SMCEL 20-09 adopting the Fiscal Year 2021 SMCEL-JPA Budget

(For further information or questions, contact Derek Hansel at 650-508-6466)

RECOMMENDATION

Staff recommends the Board conduct public hearing and approve Resolution SMCEL 20-09 adopting the proposed Fiscal Year (FY) 2021 Budget of \$2,187,707.

FISCAL IMPACT

Adoption of the FY2021 Budget would provide the SMCEL-JPA budget authority for \$2,187,707 in anticipated expenditures in the upcoming fiscal year.

SOURCE OF FUNDS

SMCTA and CCAG local funds to be advanced to the SMCEL-JPA and repaid after the San Mateo express lanes generate revenues. For Fiscal Year (FY) 2021, C/CAG's share of the advance is \$917,244 and SMCTA's share of the advance will be \$1,270,463. Each agency will advance its own staff support and its own internal costs (Attachment A - lines 5 through 9). Non labor costs (lines 10 through 14) are split equally between CCAG and SMCTA.

PUBLIC HEARING REQUIREMENTS & PROCESS

Section 131266 of the California Public Utilities Code requires the SMCEL-JPA to hold a public hearing before adoption an annual budget. Notice of the time and place of the public hearing must be published at least once, 15 days prior to the hearing.

Notice of this public hearing appeared in the San Mateo Daily Journal on May 28, 2020. The notice also was posted in the lobby of 1250 San Carlos Ave, San Carlos, where the SMCEL-JPA's agendas also are posted for public viewing. As of the date of publication of this staff report, no written comments has been received.

Staff recommends the Board:

1. Open the public hearing;
2. Receive an oral staff report and presentation on the proposed budget;
3. Ask staff to answer any Board member questions;
4. Accept public comment;
5. Close the public hearing;
6. Conduct Board discussion; and
7. Adopt the proposed budget.

BACKGROUND

In the development of the Fiscal Year (FY) 2021 Proposed Budget, staff focused on the following tasks and priorities in the upcoming fiscal year:

- On-going contracts for the Policy/Program Management, and the US101 Express Lanes Equity Study;
- Develop recommendations for toll policy, equity program and enforcement policy; and
- Marketing and communication activities including website development, branding materials and hosting public outreach/education plan for South Segment Opening.

Sources of Funds (line 2):

The source of funds will be advanced by the TA and CCAG to be repaid upon the generation of toll funds from the 101 Managed Lanes. Terms and conditions of such advance are being negotiated, and it is anticipated that the CCAG and SMCTA boards will consider the advance of funds at their July 2020 Board meetings, and these terms and conditions will be presented to the SMCEL-JPA Board at the June SMCEL-JPA meeting along with an amendment to the Operating Loan.

Uses of Funds:

Staff support (line 5)

The staff support budget of \$814,700 includes staff wages and benefits to administer the SMCEL-JPA. The total of 3.58 full time equivalents is made up of time from City/County Association of Governments (C/CAG) and San Mateo County Transit District (District) staff.

Administrative Overhead (line 6)

Administrative overhead cost of \$53,415 reflects the cost of financial system support and other agency overhead costs to the SMCEL-JPA. District currently uses a simplified methodology of determining this cost, which is recommended by the District's internal cost allocation consultant.

Business Travel (line 7)

This budget of \$3,000 is for meeting travel and expenses. Business travel includes meeting attendance in and around the region regarding express lanes business, as well as meetings with the State, such as California Department of Transportation (Caltrans) and the California Transportation Commission (CTC).

Office Supplies (line 8)

This budget of \$3,000 is for communication marketing and board meeting supplies and expenses.

Printing and Information Services (line 9)

This budget of \$5,000 is for the cost of printing packets for communication marketing and board

meeting.

Promotional Advertising (line 10)

The requested budget of \$50,000 is for marketing promotional advertising services.

Audit and Related Services (line 11)

The requested budget of \$17,160 is for the annual audit service and audit related GFOA subscription and application

Legal Services (line 12)

The requested budget of \$60,000 is for the contracted legal services provided by the San Mateo County Counsel Office.

Consultant (line 13)

The budget of \$1,171,432 is to support consulting services for the following: Public outreach, Program policy management, Equity study and allowance for technical studies.

Miscellaneous (line 14)

The budget of \$10,000 is for compensation and expense reimbursement to the Board and other potential unanticipated costs.

ATTACHMENT

Attachment 1: Resolution SMCEL 20-09

Attachment 2: Proposed FY2021 SMCEL-JPA Budget.

RESOLUTION SMCEL 20-09

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) ADOPTING THE SMCEL-JPA BUDGET FOR FISCAL YEAR 2021 IN THE AMOUNT OF \$2,187,707

BE IT RESOLVED by the Board of Directors of the Express Lanes Joint Powers Authority (SMCEL-JPA); that

WHEREAS, Section 131265(a) of the California Public Utilities Code requires the SMCEL-JPA Board of Directors to adopt an annual budget; and

WHEREAS, in accordance with Section 131266 of the California Public Utilities Code, the Authority conducted a public hearing concerning the annual budget at its meeting on June 12th, 2020; and

WHEREAS, the Board of Directors has been presented for its consideration and approval a proposed budget of \$2,187,707 for fiscal year 2021 which includes: Staff Support in the amount of \$814,700, Administrative Overhead in the amount of \$53,415, Business Travel in the amount of \$3,000, Office Supplies in the amount of \$3,000, Printing and information services in the amount of \$5,000, Promotional Advertising in the amount of \$50,000, Audit and Related Services in the amount of \$17,160, Legal Services in the amount of \$60,000, Consultants in the amount of \$1,171,432 and Miscellaneous expenditures in the amount of \$10,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the SMCEL-JPA adopts the budget for Fiscal Year 2021, a copy of which is attached and incorporated herein as Attachment A.

PASSED, APPROVED, AND ADOPTED, THIS 12TH DAY OF JUNE 2020.

Alicia Aguirre, Chair

San Mateo County Express Lanes JPA

FY21 Proposed Budget

	FY2020 Adopted Budget	FY2021 Proposed Budget	FY21 Proposed vs. FY20 Adopted Budget	Percentage change	
1 SOURCES OF FUNDS					1
2 Advance from SMCTA and CCAG	1,744,911	2,187,707	442,796	25.4%	2
3					3
4 USES OF FUNDS					4
5 Staff Support	610,276	814,700	204,424	33.5%	5
6 Administrative Overhead	53,635	53,415	(220)	-0.4%	6
7 Business Travel	3,000	3,000	-	0.0%	7
8 Office Supplies	3,000	3,000	-	0.0%	8
9 Printing and Information Svcs	5,000	5,000	-	0.0%	9
10 Promotional Advertising	-	50,000	50,000	100.0%	10
11 Audit and Related services	-	17,160	17,160	100.0%	11
12 Legal Services	50,000	60,000	10,000	20.0%	12
13 Consultant	880,000	1,171,432	291,432	33.1%	13
14 Miscellaneous	140,000	10,000	(130,000)	-92.9%	14
15 TOTAL USES OF FUNDS	1,744,911	2,187,707	442,796	25.4%	15

**San Mateo County Express Lanes Joint Powers Authority
AGENDA REPORT**

Date: June 12, 2020

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

From: Executive Council

Subject: Election of a Chairperson and a Vice Chairperson.
(For further information or questions, contact Sean Charpentier at 650-599-1462)

RECOMMENDATION

That the San Mateo County Express Lanes Joint Powers Authority (SMCEL-JPA) Board of Directors take the following actions:

- a) Elect a Chair and Vice-Chair to serve one-year terms, effective July 1, 2020.

FISCAL IMPACT

None

SOURCE OF FUNDS

N/A

BACKGROUND

The Joint Exercise of Powers Agreement (JEPA) for the San Mateo County Express Lanes, Article IV Section 4.6 states the Board will elect a Chair and Vice-Chair from among its members.

Chairperson and Vice Chairperson

The Chair and Vice-Chair will serve one-year terms and must be appointees of different Members (Members are the City/County Association of Governments of San Mateo County (C/CAG) and the San Mateo County Transportation Authority (TA)). Further, the Chair and Vice-Chair positions must be held by appointees of alternating Members in alternating years (e.g., in Year 1, one of Member A's appointees will be the Chair and one of Member B's appointees will be the Vice-Chair; the opposite will be true in Year 2). This rotation and the term of office may be altered as designated in rules or bylaws established by the Board.

On June 6, 2019, the SMCEL-JPA appointed Redwood City Councilmember Alicia Aguirre (C/CAG) as the Chair, and San Mateo County Supervisor Don Horsley (TA) as the Vice-Chair.

Staff recommends that the election of the Chairperson precedes the election of the Vice Chairperson.

The Chair will preside over all meetings of the board and will sign all contracts on behalf of the SMCEL-JPA, except contracts that the Board may authorize an officer or agent, or employee of the SMCEL-JPA to sign. The Chair will perform such other duties as may be imposed by the Board in accordance with law and the JEPA.

The Vice-Chair will act, sign contracts, and perform all of the Chair's duties in the absence of the Chair.

Voting

In accordance with the JEPA, voting on the Chair and Vice-Chair will require five (5) Board members to be present, and requires the affirmative vote of at least four (4) Board members.

ATTACHMENTS

None



April 20, 2020

To the Governing Board of
San Mateo County Express Lanes Joint
Power Authority
San Carlos, California

This letter is provided in connection with our engagement to audit the financial statements of San Mateo County Express Lanes Joint Power Authority (JPA) as of and for the year ended June 30, 2020. Professional standards require that we communicate with you certain items including our responsibilities with regard to the financial statement audit and the planned scope and timing of our audit.

Our Responsibilities

As stated in our engagement letter dated April 20, 2020, we are responsible for conducting our audit in accordance with auditing standards generally accepted in the United States of America for the purpose of forming and expressing an opinion about whether the financial statements that have been prepared by management, with your oversight, are prepared, in all material respects, in accordance with accounting principles generally accepted in the United States of America. Our audit does not relieve you or management of your respective responsibilities.

Planned Scope of the Audit

Our audit will include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. Our audit is designed to provide reasonable, but not absolute, assurance about whether the financial statements as a whole are free of material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations. Because of this concept of reasonable assurance and because we will not examine all transactions, there is a risk that material misstatements may exist and not be detected by us.

Our audit will include obtaining an understanding of the entity and its environment, including its internal control, sufficient to assess the risks of material misstatement of the financial statements and as a basis for designing the nature, timing, and extent of further audit procedures. However, we will communicate to you at the conclusion of our audit, significant matters that are relevant to your responsibilities in overseeing the financial reporting process, including any material weaknesses, significant deficiencies, and violation of laws or regulations that come to our attention.

What inspires you, inspires us. | eidebailly.com

260 Sheridan Ave., Ste. 440 | Palo Alto, CA 94306-2011 | T 650.462.0400 | F 650.462.0500 | EOE

We expect to begin our audit on approximately May 4, 2020 and issue our report in approximately October 2020.

This information is intended solely for the information and use of the Governing Board and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a series of smaller, connected strokes.

Palo Alto, California