

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

Board of Directors Meeting Notice

Meeting No. 34

Date: Friday, February 11, 2022	Join by Zoom: https://us02web.zoom.us/j/88300903546?pwd=ejRMYTJHeFFWR0R1VzJNMW1wRHJ1QT09
Time: 9:00 A.M.	Meeting ID: 883 0090 3546 Password: 021122 Join by Phone: (669) 900-6833

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

On September 16, 2021, the Governor signed AB 361, which amended certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings remotely via telephonically or by other electronic means under specified circumstances. Thus, pursuant to Government Code section 54953(e), the C/CAG Board meeting 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 mcrume@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 Review and approval of Resolution 22-07 finding that, as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, meeting in person would present imminent risks to the health or safety of attendees. ACTION p. 1
- 4.2 Approval of the minutes of Board of Directors regular business meeting No. 32 dated January 14, 2022. ACTION p. 6
- 4.3 Accept the Sources and Uses of Funds for the FY22 Period Ending December 31, 2021. ACTION p. 10
- 4.4 Review and approval of Resolution SMCEL 22-08 of the SMCEL-JPA's Fiscal Year 2022 and Fiscal Year 2023 Property and Liability Insurance Program and approving a cost of not to exceed \$151,026 for a term not more than 16 months for Property Liability and 4 months for General Liability. ACTION p.12

5.0 REGULAR AGENDA

- 5.1 Receive an update on the San Mateo 101 Express Lanes Project opening schedule for the southern segment from Whipple Avenue to the Santa Clara County line. (Verbal update provided at meeting). INFORMATION

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

None.

8.0 NEXT REGULAR MEETING

March 11, 2022

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 Crume at mcrume@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 Crume 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 mcrume@smcgov.org.
2. Your email should include the specific agenda item on which you are commenting or note that your comment concerns an item that is not on the agenda.
3. Members of the public are limited to one comment per agenda item.
4. 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 SMCELJPA Board members, made publicly available on the Express Lanes website along with the agenda. 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” and if you joined the meeting by phone, dial *9 to raise your 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 Crume, Secretary - (650) 599-1406

San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: February 11, 2022

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

From: Executive Council

Subject: Review and approval of Resolution 22-07 finding that, as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, meeting in person would present imminent risks to the health or safety of attendees.

(For further information please contact Timothy Fox at tfox@smcgov.org)

RECOMMENDATION

Review and approval of Resolution 22-07 finding that, as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, meeting in person would present imminent risks to the health or safety of attendees.

FISCAL IMPACT

There is no Fiscal Impact associated with this item.

SOURCE OF FUNDS

None.

BACKGROUND

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021 for public agencies to transition back to public meetings held in full compliance with the Brown Act. The original Executive Order provided that all provisions of the Brown Act that required the physical presence of members or other personnel as a condition of participation or as a quorum for a public meeting were waived for public health reasons. If these waivers fully sunset on October 1, 2021, legislative bodies subject to the Brown Act would have to contend with a sudden return to full compliance with in-person meeting requirements as they existed prior to March 2020, including the requirement for full physical public access to all teleconference locations from which board members were participating.

On September 16, 2021, the Governor signed AB 361, a bill that formalizes and modifies the teleconference procedures implemented by California public agencies in response to the Governor's Executive Orders addressing Brown Act compliance during the COVID-19 emergency. AB 361 allows a

local agency legislative body to continue to use teleconferencing under the same basic rules as provided in the Executive Orders when certain circumstances occur or when certain findings have been made and adopted by the legislative body.

AB 361 provides that Brown Act legislative bodies must return to in-person meetings on October 1, 2021, unless they choose to continue with fully teleconferenced meetings because a specific declaration of a state or local health emergency is appropriately made. AB 361 allows legislative bodies to continue to conduct virtual meetings as long as there is a gubernatorially-proclaimed public emergency in combination with (1) local health official recommendations for social distancing or (2) adopted findings that meeting in person would present an imminent risk to health or safety. AB 361 is effective immediately as urgency legislation and will sunset on January 1, 2024.

AB 361 also requires that, if the state of emergency remains active for more than 30 days, the legislative body must make findings by majority vote every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules. Specifically, the legislative body must find that the need for teleconferencing persists due to risks posed by the ongoing state of emergency. Effectively, this means that local agencies must either agendaize a Brown Act meeting once every thirty days to make these findings, or, if a local agency has not made such findings within the prior 30 days, the local agency must re-adopt the initial findings if it wishes to conduct a remote meeting.

Public Agencies that want to continue with the option for remote meetings due to the COVID-19 emergency are preparing to bring findings to their elective bodies. The San Mateo County Board of Supervisors approved a similar resolution on consent at the September 28, 2021 meeting. On October 8, 2021, the SMCEL-JPA approved resolution 21-15 making the findings necessary for remote meetings; the Board has subsequently adopted similar resolutions making findings to continue remote meetings.

DISCUSSION

The County's high vaccination rate, successfully implemented local health measures (such as indoor masking), and best practices by the public (such as voluntary social distancing) have proven effective, in combination, at controlling the local spread of COVID-19.

However, reducing the circumstances under which people come into close contact remains a vital component of the County's COVID-19 response strategy. While local agency public meetings are an essential government function, the last 18 months have demonstrated that conducting such meetings virtually is feasible.

Public meetings pose high risks for COVID-19 spread for several reasons. These meetings bring together people from throughout a geographic region, increasing the opportunity for COVID-19 transmission. Further, the open nature of public meetings makes it difficult to enforce compliance with vaccination, physical distancing, masking, cough and sneeze etiquette, or other safety measures. Moreover, some of the safety measures used by private businesses to control these risks may be less effective for public agencies.

These factors combine to make in-person public meetings imminently risky to health and safety.

Because local rates of transmission of COVID-19 are in the "high" tier as measured by the Centers for Disease Control as of the date of this report, we recommend that the Board avail itself of the provisions of AB 361 allowing continuation of remote meetings by adopting findings to the effect that conducting

in-person meetings would present an imminent risk to the health and safety of attendees. A resolution to that effect, and directing staff to take such other necessary or appropriate actions to implement the intent and purposes of the resolution, is attached hereto.

ATTACHMENTS

1. Resolution SMCEL 22-07

RESOLUTION SMCEL 22-07

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY (SMCEL-JPA) FINDING THAT, AS A RESULT OF THE CONTINUING COVID-19 PANDEMIC STATE OF EMERGENCY, MEETING IN PERSON FOR MEETINGS OF THE SMCEL-JPA BOARD OF DIRECTORS WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES.

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

WHEREAS, on March 4, 2020, pursuant to California Government Code section 8550, *et seq.*, Governor Newsom proclaimed a state of emergency related to the COVID-19 novel coronavirus, and subsequently, the San Mateo County Board of Supervisors declared a local emergency related to COVID-19, and the proclamation by the Governor and declaration by the Board of Supervisors remain in effect; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions in the California Open Meeting law, Government Code section 54950 *et seq.* (the “Brown Act”), related to teleconferencing by local agency legislative bodies, provided certain requirements were met and followed; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended provisions of Executive Order N-29-20 that waive otherwise-applicable Brown Act requirements related to remote/teleconference meetings by local agency legislative bodies through September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 into law, and AB 361 that provides that a local agency legislative body subject to the Brown Act may continue to meet without complying with the otherwise-applicable requirements in the Brown Act related to remote/teleconference meetings by local agency legislative bodies, provided that a state of emergency has been declared and the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and provided that the legislative body makes such findings at least every thirty (30) days during the term of the declared emergency; and

WHEREAS, on January 5, 2022, the Governor issued Executive Order N-1-22, which suspended the original sunset date of AB 361 from January 31, 2022 to March 31, 2022, allowing local agencies to continue to conduct meetings via teleconference under modified rules of AB 361 as the pandemic continues; and

WHEREAS, the SMCEL-JPA Board of Directors concludes that there is a continuing threat of COVID-19 to the community, and that Board meetings have characteristics that give rise to risks to health and safety of meeting participants (such as the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to participate fully in public governmental meetings, and the challenges with fully ascertaining and ensuring compliance with vaccination and other safety recommendations at such meetings); and

WHEREAS, the California Department of Public Health (“CDPH”) and the federal Centers for Disease Control and Prevention (“CDC”) caution that the Omicron variant of COVID-19, currently the dominant strain of COVID-19 in the country, is much more transmissible than prior variants of the virus and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations; and

WHEREAS, the CDC has established a “Community Transmission” metric with four tiers designed to reflect a community’s COVID-19 case rate and percent positivity; and

WHEREAS, the County of San Mateo currently has a Community Transmission metric of “high” which is the most serious of the tiers; and

WHEREAS, the SMCEL-JPA Board of Directors has an important governmental interest in protecting the health and safety of those who participate in its meetings; and

WHEREAS, on October 8, 2021, the SMCEL-JPA Board of Directors approved Resolution 21-15 making the findings necessary to continue remote meetings and invoked the provisions of AB 361; and

WHEREAS, at subsequent meetings, the SMCEL-JPA Board of Directors has adopted subsequent resolutions making the findings necessary to continue remote meetings for SMCEL-JPA Board of Directors; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the SMCEL-JPA Board of Directors deems it necessary to find that meeting in person would present imminent risks to the health or safety of attendees, and thus intends to continue to invoke the provisions of AB 361 related to teleconferencing;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that

1. The recitals set forth above are true and correct.
2. The SMCEL-JPA Board of Directors has reconsidered the circumstances of the state of emergency caused by the spread of COVID-19.
3. The SMCEL-JPA Board of Directors finds that holding meetings of the SMCEL-JPA Board of Directors would present imminent risks to the health or safety of attendees.
4. Staff is directed to take such other necessary or appropriate actions to implement the intent and purposes of this resolution.

PASSED, APPROVED, AND ADOPTED, THIS 11TH DAY OF FEBRUARY 2022.

Diane Papan, Chair

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

Meeting No. 32
January 14, 2022

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

1.0 CALL TO ORDER/ ROLL CALL

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

Members Present:

C/CAG Members:

Diane Papan, Maryann Moise Derwin, Alicia Aguirre

SMCTA Members:

Rico Medina, Emily Beach

Members Absent:

Don Horsley

Staff Present:

Sean Charpentier – Executive Council

Carter Mau – Executive Council

Mima Guilles – Clerk

Tim Fox – Legal Counsel

Van Ocampo – C/CAG staff supporting SMCEL-JPA

April Chan, Derek Hansel, SMCTA staff supporting SMCEL-JPA

Samantha Soules, Lacy Vong, Matt Click, Christa Cassidy – HNTB

Other members of staff and the public were in attendance.

2.0 BRIEF OVERVIEW OF TELECONFERENCE MEETING PROCEDURES

- 3.0 Review and approval of Resolution 22-01 finding that, as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, meeting in person would present imminent risks to the health or safety of attendees.

APPROVED

Director Aguirre MOVED to approve the consent agenda. Director Beach SECONDED. Roll call was taken. **MOTION CARRIED 5-0-0**

Clerk of the Board Mima Crume reported there was no public comment submitted before the meeting. There was no public comment.

4.0 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.

Clerk of the Board Mima Crume reported there was no public comment submitted before the meeting. There was no public comment.

5.0 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.

5.1 Approval of the minutes of Board of Directors regular business meeting No. 30 dated December 10, 2021. APPROVED

5.2 Review and Approval of Resolution SMCEL 22-02 authorizing the SMCEL-JPA Chair to sign the License Agreement with the City of Palo Alto for Express Lanes Toll facilities within City Rights of Way. APPROVED

5.3 Accept the Sources and Uses of Funds for the FY22 Period Ending November 30, 2021. APPROVED

5.4 Review and Approval of Resolution SMCEL 22-03 authorizing the SMCEL-JPA Chair to execute an Agreement with Eide Bailly LLP for Financial Audit Services for an amount not to exceed \$48,500 through January 31, 2027. APPROVED

5.5 Approval of the minutes of the Board of Directors Special Meeting No. 31 dated December 23, 2021. APPROVED

Director Aguirre MOVED to approve the consent agenda. Director Derwin SECONDED. Roll call was taken. **MOTION CARRIED 5-0-0**

6.0 REGULAR AGENDA

6.1 Receive an update on the logo for the San Mateo County Express Lanes Equity Program. INFORMATION

The Board received a brief presentation on the logo for the San Mateo County Express Lanes Equity Program.

Board of Director Beach gave feedback and said that it looks great. The language is accessible and explains what we're trying to do.

- 6.2 Receive an update on the San Mateo 101 Express Lanes Project opening schedule for the southern segment from Whipple Avenue to the San Mateo/Santa Clara border, along with status update on the negotiation of the Caltrans Operations & Maintenance (O&M) Agreement, and the BAIFA and BATA O&M Agreements.

INFORMATION

Joe Hurley, SMCTA staff gave an update on the San Mateo 101 Express Lanes Project opening schedule for the southern segment from Whipple Avenue to the San Mateo/Santa Clara border. He has added that the physical infrastructure work is nearly complete, and the only remaining portion in the southbound direction is the striping-in and the stenciling of the express lane in the roadway itself. As far as the toll facility equipment is concerned it has both the hardware and the software all installed. It has been tested with positive results. They have been meeting with VTA staff weekly making sure that they're on track for a coordinated opening. The VTA has an added challenge with their project being that they have an existing electronic toll facility which they are going to have to cutover to the new electronic toll facility. The cutover is scheduled January 25th. The San Mateo County's first Express Lanes project will go live next month.

Board of Director Aguirre asked about the work on the northbound portion.

Joe Hurley said the work is moving forward, the toll facility installation has begun. The team is coordinating with PG&E to make sure that the system is powered to be able to test the toll facility equipment. As far as the condition of the roadway, they are aware and have communicated back to Caltrans in terms of some of the potholes that have occurred in particular the northbound 101 in the proximity north of Ralston and through 3rd Ave. They're just looking for those windows of opportunity to go ahead and take corrective measures

Sam Soules gave an update on the negotiation of the Caltrans Operations & Maintenance (O&M) Agreement, and the BAIFA and BATA O&M Agreements. We're at the final stage of fine tuning some of the terms in the cooperative agreement between BAIFA and JPA for operations and maintenance and expecting to come back around the 28th and be able to get approval ahead of the opening. There is less fine tuning to do with the BATA agreement but it is still under review between the two agencies.

7.0 CLOSED SESSION

- 7.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Cal. Gov't Code § 54956.8)
Property: No. 1 lanes on US 101 N/S from Santa Clara/San Mateo County Line to I-380 interchange

Agency Negotiator: SMCEL-JPA Executive Council
Negotiating Parties: SMCEL-JPA; California Department of Transportation
Under Negotiation: Price and terms of payment for leasehold interest

Clerk of the Board Mima Crume reported there was no public comment before closed session.

Chair Papan reported out that closed session was held, and a discussion was held in the closed session.

8.0 REPORTS

a) Chairperson Report.

None.

b) Member Communication.

None.

c) Executive Council Report - Executive Council Verbal Report.

Sean Charpentier did not have anything to report out.

Carter Mau reported that on the January 6th Transportation Authority Board meeting, the Alternative Congestion Relief and Transportation Demand Measurement Plan was adopted. In addition to adopting that plan the TA board approved a Measure A Alternative Congestion Relief funds were allocated to the San Mateo County Express Lanes JPA US 101 Express Lanes Equity Program for \$400K.

d) Policy/Program Manager Report.

Matt Click reported that they are moving forward and working to get the transponders and the clipper cards in house for distribution. Staff has been working with Samaritan House and we will be doing a two train the trainer sessions next week with them.

9.0 WRITTEN COMMUNICATIONS

None.

9.0 NEXT REGULAR MEETING

February 11, 2022

10.0 ADJOURNMENT

10:16 a.m.

San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: February 11, 2022

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

From: Executive Council

Subject: Accept the Sources and Uses of Funds for the FY22 Period Ending December 31, 2021

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

RECOMMENDATION

That the SMCEL-JPA Board accept and enter into the record the Sources and Uses of Funds for the FY22 Period Ending December 31, 2021.

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

BACKGROUND

Year to Date Sources of Funds: As of December year-to-date, the Total Sources of Funds are \$1,721,985 which represent the loan advances for FY22 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 Uses of Funds: As of December year-to-date, the Total Uses of Funds are \$755,478. Major expenses are in Consultant \$264,995, Staff Support \$252,744, and Insurance \$137,275.

Budget Amendment:

The Board approved amendments to the FY22 Budget in its December 10, 2021 board meeting. Total revenue was increased by \$5,804,000 and the expenditure budget was increased by \$3,850,025 for a net increase of \$1,953,975. The amendments resulted in an increase in the sources over uses balance by \$1,953,975.

Other Information:

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

ATTACHMENT

1. Sources and Uses of Funds Fiscal Year 2022 (December 2021)

SAN MATEO COUNTY EXPRESS LANE JPA
SOURCES AND USES OF FUNDS
Fiscal Year 2022
December 2021

	<u>ACTUAL</u>		<u>BUDGET</u>	
		<u>As of 12/31/2021</u>		<u>Annual</u>
SOURCES OF FUNDS:				
1 Toll Revenue	\$	-	\$	5,300,000
2 Allocated Bond Funds		-		504,000
Advance from the City/County Association of				
3 Governments of San Mateo County		736,946		1,314,045
Advance from the San Mateo County Transportation				
4 Authority		985,039		1,407,115
5 TOTAL SOURCES OF FUNDS	\$	1,721,985	\$	8,525,160
USES OF FUNDS:				
6 Staff Support	\$	252,744	\$	689,030
7 Administrative Overhead		37,232		45,540
8 Seminar/Training & Business Travel		2,557		10,000
9 Audit and Related Service		-		16,160
10 Office Supplies		-		3,000
11 Printing and Information Svcs		-		5,000
12 Legal Services		15,391		60,000
13 Consultant		264,995		1,779,707
14 Maintenance		-		222,400
15 Toll Operations and Maintenance		-		2,161,500
16 Fastrak Customer Service		-		680,000
17 Express Lane Enhanced Enforcement		-		125,000
18 Equity Program Administration and Costs		-		504,000
19 Insurance		137,275		186,648
20 Miscellaneous		45,284		83,200
21 TOTAL USES OF FUNDS	\$	755,478	\$	6,571,185
22 EXCESS (DEFICIT)	\$	966,507	\$	1,953,975
Additional Information:				
Loan payables to the City/County Association of				
Governments of San Mateo County	\$	2,136,873		
Loan payables to the San Mateo County Transportation				
Authority	\$	2,768,268		

San Mateo County Express Lanes Joint Powers Authority Agenda Report

Date: February 11, 2022

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

From: Executive Council

Subject: Review and approval of Resolution SMCEL 22-08 of the SMCEL-JPA's Fiscal Year 2022 and Fiscal Year 2023 Property and Liability Insurance Program and approving a cost of not to exceed \$151,026 for a term not more than 16 months for Property Liability and 4 months for General Liability.

(For further information please contact Joseph Hurley, Director, San Mateo County Transportation Authority Program at hurleyj@samtrans.com)

RECOMMENDATION

That the SMCEL-JPA Board review and approve Resolution SMCEL 22-08 of the SMCEL-JPA's Fiscal 2022 and Fiscal Year 2023 Property and Liability Insurance Program and approve a cost not-to-exceed \$152,026 for a term not more than 16 months for Property insurance and 4-months for General Liability insurance.

Phase One property and liability insurance program went into effect March 1, 2021 when certain assets were transferred from the contractor to the SMCEL-JPA and license agreements with affected cities necessitated insurance coverage. The term was for 12 months and it expires on March 1, 2022.

In an effort to realign expiration and renewal dates with the beginning of the fiscal year on July 1, staff recommends renewing Property insurance on a 16-month term through June 30, 2023 and extend the current General Liability policy 4-months through June 30, 2022. With an anticipated 22% increase in premium from the incumbent liability carrier, staff recommends remarketing the liability program for competitive quotes for FY23. The recommended 16-month premium for Property insurance and 4-month extension for General Liability insurance is \$152,026, inclusive of the following:

- Commercial General Liability insurance with \$10 million in combined single limits for bodily injury and property damage to others with a 4-month policy term through June 30, 2022 and a premium of \$34,402, subject to a \$100,000 self-insured retention; and
- Property insurance at replacement cost with policy limits of \$5 million per occurrence and \$30,696,439 in total insurable values for a 16-month policy term through June 30, 2023 and a premium of \$115,424, subject to a \$50,000 deductible; and

- Boiler & Machinery equipment breakdown insurance with total insurable limits of \$30,696,439 for a 16-month policy term through June 30, 2023 and a premium of \$2,200, subject to a \$1,000 deductible.

Two types of Property coverages are recommended, Real Property and Equipment Breakdown, commonly referred to as Boiler and Machinery. Real Property insurance covers against perils of damaged equipment due to the fault of others, vandalism, fire and theft. Coverage extends to underground equipment. Boiler & Machinery extends to communication computer equipment, as well as fiber optic. This policy provides additional coverage against perils that property insurance and equipment warranties typically exclude, including power surges, electrical shorts and arcing, mechanical breakdowns and motor burnout.

FISCAL IMPACT

With the anticipated completion of Phase Two (Whipple Avenue to I-380) of the San Mateo U.S. 101 Express Lanes Project, there is increased exposure to the JPA for liability and loss to real property, including roadway infrastructure specific to the express lanes and tolling equipment. It will be necessary to add Phase Two property equipment statement of values (SOV) to the property insurance program as the JPA assumes these assets FY23. Additional premium to cover increased property values is expected FY23.

The SMCEL-JPA’s current FY 2022 insurance program also affords coverage for Public Officials Liability (POL) with limits of \$3 million that is due that is to expire June 30, 2022. Competitive quotes for public officials liability will be obtained and brought to the July Board, along with a 12-month term for General Liability.

A comparison and view of recommended Property and Liability coverages FY 2022 and FY 2023 with limits and policy terms are as follows:

<u>Principal Program</u>	<u>Limits</u>	<u>3/1/21-3/1/22 Premium</u>	<u>3/1/22-7/1/22 (4 Mos) Premium</u>
Commercial General Liability	\$10 million	\$103,000	\$34,402
<u>Principal Program</u>	<u>Limits</u>	<u>3/1/21-3/1/22 Premium</u>	<u>3/1/22-7/1/23 (16 Mos) Premium</u>
Real Property	\$5 million	\$82,032	\$115,424
Boiler & Machinery	\$30 million	<u>\$1,616</u>	<u>\$2,200</u>
TOTAL		\$186,648	\$152,026

USI Insurance Services is the existing insurance broker for the SMCEL-JPA and is the recommended broker to bind the JPA’s Property and Liability Insurance program.

USI obtained three options for the liability program: (1) a 12-month term from March to March at a premium of \$125,000, an approximate 22 percent increase; (2) a 12-month term from March to March with a flat premium of \$103,000, but with an increased self-insured-retention from \$100,000 to \$250,000; and (3) being presented for approval, an extension of the existing policy for 4 months through June 30, 2022 at a premium of \$34,402. The intent is to extend the current policy through June 30, 2022 and remarket the liability program for competitive quotes for FY23. The recommended liability carrier for 4 months is Vantapro, a subsidiary of Allied Public Risk (APR), and has an AM Best Rating of AXV. Terrorism Insurance Recovery Act (TRIA) is included in the premium.

Two options were presented for Real Property coverage, a 12-month term from March to March with a premium of \$86,525, and a 16-month policy term through fiscal year 2023 at a premium of \$115,424. The recommended carrier is Travelers Insurance with an AM Best Rating of A++ XV. TRIA coverage is included in the premium.

Two Options were presented for Boiler & Machinery, a 12-month term from March to March with a premium of \$1,648, and a 16-month policy term through fiscal year 2023 at a premium of \$2,200. The recommended carrier is Travelers Insurance with AM Best Rating of A++ XV. TRIA coverage is included in the premium.

SOURCE OF FUNDS

Funds to underwrite the recommended property and liability elements of the program are included in the FY 2022 budget and will be included in the proposed FY 2023 Budget.

BACKGROUND

California Department of Transportation (Caltrans), in partnership with the San Mateo County Transportation Authority (SMCTA) and City/County Association of Governments of San Mateo County (C/CAG) is constructing express lanes on U.S. 101. The project is being constructed in two phases. During Phase One, Caltrans is converting the existing carpool lanes into express lanes from the San Mateo County/Santa Clara County Line to Whipple Avenue in Redwood City. During Phase Two, Caltrans is adding a lane to northbound and southbound U.S. 101 from Whipple Avenue to just north of I-380 in South San Francisco. The project will ultimately create twenty-two (22) miles of express lanes in both directions of U.S. 101 within San Mateo County and provide a seamless transition to the express lanes being constructed in Santa Clara County. The expected lane opening of Phase One from the San Mateo County/Santa Clara County Line to Whipple Avenue is February 2022. The expected lane opening of Phase Two from Whipple Avenue to I-380 is late 2022.

ATTACHMENTS

1. Resolution SMCEL-22-08

RESOLUTION SMCEL 22-08

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MATEO COUNTY EXPRESS LANES JOINT POWERS AUTHORITY AUTHORIZING THE FISCAL YEARS 2022-2023 PROPERTY AND LIABILITY INSURANCE PROGRAM

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

WHEREAS, Staff of the TA have, in their capacity of serving as finance staff of SMCEL-JPA, considered options for obtaining insurance to cover liability and property exposures associated with the ownership and operations of Phase One assets by the SMCEL-JPA; and

WHEREAS, after such consideration, Staff recommends the binding of Property and Liability Insurance policies with the following significant elements:

- Commercial General Liability with \$10 million combined single limits for bodily injury and property damage to others for a 4-month policy term through 7/1/22 and a premium of \$34,402, subject to a \$100,000 self-insured retention; and
- Property insurance at replacement cost with policy limits of \$5,000,000 per occurrence and \$30,696,439 in total insurable values for a 16-month policy term through 7/1/23 and a premium of \$115,424, subject to a \$50,000 deductible; and
- Boiler and Machinery equipment breakdown property insurance with total insurable limits of \$30,696,439 for a 16- month policy term through 7/1/23 and a premium of \$2,200, subject to a \$1,000 deductible

WHEREAS, the insurance policies shall be a part of a comprehensive risk management program associated with the ownership and operations of assets by SMCEL-JPA.

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

NOW THEREFORE BE IT RESOLVED, that the SMCEL-JPA Board of Directors approve the Chief Financial Officer's binding of the SMCEL-JPA's Fiscal 2022 and 2023 Property and Liability Insurance Program and approve a cost of not to exceed \$152,026 for a term of 4-months General Liability and 16-months Real Property and Boiler and Machinery.

PASSED, APPROVED, AND ADOPTED, THIS 11TH DAY FEBRUARY 2022.

Diane Papan, Chair