

**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 FOR THE SAN MATEO COUNTY HIGHWAY 101  
EXPRESS LANE PROJECT**

This COOPERATIVE AGREEMENT (“Agreement”) entered into and effective as of \_\_\_\_\_, 2019 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 “SMCJPA”), 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 101 Express Lanes Project (PROJECT) is a joint project of the SMCTA and C/CAG that 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 SMCJPA 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 to jointly exercise the Project ownership rights of the SMCTA and C/CAG; 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 in 2011 the development and operation of toll lanes as described in the “Bay Area Express Lanes Public Partnership Application for High Occupancy Toll Lanes” dated 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 SMCJPA approval under Streets and Highway Code Section 149.7, as amended by Assembly Bill (AB) 194, to build and own the San Mateo County Highway 101 express lanes; and
- H. WHEREAS, an integrated project delivery team consisting of consultants to SMCTA and Caltrans is designing and delivering the civil Project components; and
- I. WHEREAS, the PARTIES desire that BAIFA, and its consultant TransCore, be responsible for design of the TOLL SYSTEM (as defined in Appendix A) for the PROJECT.

NOW, THEREFORE, the PARTIES agree as follows:

**I. SMCJPA, SMCTA and C/CAG AGREE**

- 1. SMCTA and C/CAG, in cooperation with Caltrans, shall provide the following for the successful design of the TOLL SYSTEM: coordination with the civil design contract and this Agreement, civil design for express lane infrastructure, and all necessary owner insurance requirements.
- 2. SMCTA and C/CAG, in cooperation with Caltrans, shall design the corridor fiber optic network that will run along Highway 101 connecting communications hubs, including fiber optic trunkline, pull boxes, cabinets, and conduit for the TOLL SYSTEM. SMCTA and C/CAG shall also include, in the design that network equipment required to connect to BAIFA’s long-haul leased communication services, including but not limited to those related to BART or third-party fiber and AT&T lease lines. The long-haul leased communication services connect the TOLL SYSTEM to BAIFA’s TOLL SYSTEM’s computer system (HOST).
- 3. SMCTA, C/CAG, and SMCJPA certify that there is no legal impediment to their engagement with BAIFA in this cooperative agreement, and that there is no pending or threatened litigation which might in any way adversely affect PROJECT or the ability of SMCTA, C/CAG, or SMCJPA to deliver PROJECT or their respective portions thereof.

4. SMCTA and C/CAG 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 BAIFA, that relate to or in any manner affect SMCTA's and C/CAG's performance of their obligations under this Agreement. SMCTA and C/CAG agree to procure all necessary licenses and permits to operate as contemplated in this Agreement. BAIFA may request, and SMCTA and C/CAG shall provide to BAIFA, evidence of the licenses and permits at any time.
5. SMCTA, C/CAG, and SMCJPA shall 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 assist on resolving any potential issues between BAIFA's Toll System Integrator (TSI), and other parties, including the PROJECT'S civil construction contractor, during design of the TOLL SYSTEM.
7. SMCTA and C/CAG shall cooperate with SMCJPA, as the ultimate owner of the TOLL SYSTEM, as necessary and appropriate in carrying out their respective duties and obligations pursuant to this Agreement.

## **II. BAIFA AGREES**

1. BAIFA shall provide project management services for the design of the PROJECT's TOLL SYSTEM.
2. BAIFA shall provide the PROJECT's BACKHAUL NETWORK COMMUNICATIONS (as defined in Appendix A) design support and configuration design for the backhaul networking equipment, and the leasing of a long haul communications connection from the corridor fiber optic network to the HOST.
3. BAIFA shall design the TOLL SYSTEM to enable itself to provide for the integration of the TOLL SYSTEM with the BATA Regional FasTrak® system.
4. 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 operate 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.

5. BAIFA shall perform the scope of work identified in Appendix A, *San Mateo County Highway-101 Express Lane Project Scope of Work*, attached hereto and incorporated herein by this reference.

### **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 TOLL SYSTEM is complete to the satisfaction of all PARTIES.
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 perform the TOLL SYSTEM's design and start-up costs for an initial allotment of \$3M. Unless PROJECT assumptions change, the total costs for design and implementation of the TOLL SYSTEM shall not exceed the total budget amount in Appendix B, Table 1, *San Mateo County 101 Express Lane Toll System Delivery Estimated Budget*, attached hereto and incorporated herein by this reference. The budget includes BAIFA and consultant staff, including costs for FY 2019 to be paid out of the \$3M start-up budget, for system management, backhaul design, amendment/contract development, toll system design.
4. The PROJECT design and any other work conducted under this Agreement will be the joint property of each of the PARTIES.
5. The PARTIES shall confer in advance on policy matters and proposed changes in PROJECT scope, cost and schedule as it relates to this Agreement. The PARTIES shall provide one another promptly with all documentation, reports, and information which another PARTY may reasonably request in order to fulfill its obligations under this Agreement, subject to any claims of privilege or limitations any PARTY may have as a result of agreements with other persons or entities.
6. 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.
7. No PARTY nor any officer 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.
8. It is understood and agreed that each PARTY and/or its agents will fully defend, indemnify, and save harmless the other PARTIES and all of their officers 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.

9. 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.
10. 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.
11. All notices or other communications to any PARTY(IES) by another shall be deemed given when made in writing and delivered or mailed to such PARTY(IES) at their respective addresses as follows:

To BAIFA:                      Attention: Jim Macrae  
Bay Area Infrastructure Financing Authority  
375 Beale Street, Suite 800  
San Francisco, CA 94105  
Email:  
Phone:

To SMCJPA:                    Attention: SMCJPA PM  
San Mateo County Express Lanes Joint Powers Authority  
Address  
City, State Zip  
Email:  
Phone:

To SMCTA:                    Attention: Joseph Hurley  
San Mateo County Transportation Authority  
1250 San Carlos Ave.  
San Carlos, CA 94070  
Email:  
Phone:

To C/CAG:                    Attention: Jean Higaki  
City/County Association of Governments of San Mateo County  
555 County Center, 5th Floor  
Redwood City, CA 94063  
Email:  
Phone:

12. The PARTIES may amend this Agreement for future phases of PROJECT.

13. 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.

14. 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.

15. 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.

16. 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.

17. This Agreement shall be governed by the laws of the State of California.

18. 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**

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

---

Therese W. McMillan  
Executive Director

---

Alicia C. Aguirre  
San Mateo County Express Lanes Joint Power  
Authority, Chair

**SAN MATEO COUNTY  
TRANSPORTATION  
AUTHORITY**

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

---

Jim Hartnett  
Executive Director

---

Sandy Wong  
Executive Director

J:\CONTRACT\Contracts-New\Con BAIFA\San Mateo I-101 COOP\I-101 San Mateo COOPERATIVE AGREEMENT\_draft.docx

## 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:

**TOLL SYSTEM** are all systems 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<sup>®</sup> customer accounts, cameras, toll-related sign panels/structures, digital message signs, 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 shall be owned by SMCJPA.

**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.

**BACKHAUL NETWORK COMMUNICATIONS** is the fiber optic-based communications network utilized by the express lanes to transport data within express lane corridors and 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 Highway 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 option network to the Host.

**REGIONAL OPERATIONS CENTER (ROC) EQUIPMENT** is equipment used by BAIFA third-party staff to monitor toll roadway operations and includes computer workstations and video wall monitors purchased by SMCJPA.

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 is 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:

- Draft agreement between BAIFA, SMCJPA, C/CAG and SMCTA
- Review and support CTC Application being completed by SMJPA
- 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.
- Obtain BAIFA encroachment permit from Caltrans and rider for the (TSI)
- Lead TSI Contract Negotiation resulting in a contract change order to install the TOLL SYSTEM
- Implement contract amendment and task order for Toll System Manager (TSM)
- Review of TOLL SYSTEM Design and coordination amongst stakeholders
- Attendance at SMCJPA 101 Coordination Meetings
- 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.

#### **Strategic Advice**

This task covers, as-needed, technical and strategic advice to support SMCJPA 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 SMCJPA.

#### **Design**

This work includes verification of toll system requirements and applicability to the 101 Corridor, design review, and validation for the addition of new express lane segments and TOLL SYSTEM enhancements for both HOST and ROADSIDE SYSTEM. It includes review of TSI's requirements traceability matrix for thoroughness and accuracy.

#### **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 BAIFA's delivery of the TOLL SYSTEM and related tasks on BACKHAUL NETWORK COMMUNICATIONS;
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, 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.

TSI Contract

### **Project Management**

This task includes management of TOLL SYSTEM Design by TSI and continual coordination activities, meetings and communications with the SMCJPA 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<sup>®</sup> transponders.

### **Design**

This task includes the TOLL SYSTEM design by TSI for the field drawings for submission to Caltrans as well as the software design updates.

DRAFT

**APPENDIX B**

**San Mateo US-101 Express Lane Project Estimated Budget and Schedule for Project Start-up and Design**

**Table 1 – San Mateo US 101 Express Lane TOLL SYSTEM for Project Start-up and Design Delivery Estimated Budget**

Scope Area	BAIFA Estimate
<b>1. Express Lane Design</b>	<b>\$ 1,175,000</b>
1.1 Systems Manager (includes BAIFA Staff)	\$ 853,237
1.2 Backhaul Design	\$ 200,000
1.3 Amendment/Contract Development	\$ 171,763
<b>2. Toll System Design</b>	<b>\$ 1,825,000</b>
<b>Total</b>	<b>\$ 3,000,000</b>

**Table 2 – San Mateo 101 Express Lane TOLL SYSTEM for Project Start-up and Design Delivery Estimated Schedule**

Task	Start	Finish
BAIFA, SMCJPA_C/CAG and SMCTA Agreement	May-19	Sept-19
Toll System Manager Contract Amendment	Jun-19	Sept-19
Toll System Integrator (TSI) Contract Amendment for Design	Jun-19	Sept-19
TSI Design	Jul-19	Dec-19