

San Mateo County Express Lanes Joint Powers Authority (JPA)

City/County Association of Governments of San Mateo County ❖ San Mateo County Transportation Authority

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Date: June 28, 2021 (Posting Date)

TO: ALL INTERESTED PARTIES:

RE: Request for Proposal for Fiscal Agent
July 23, 2021 (Proposals Due Date)

The San Mateo County Express Lane Joint Powers Authority (“SMCELJPA”) is seeking the services of a California financial institution for Fiscal Agent Services to fulfill the terms of the bond-funded Loan Agreement (LA) between the San Mateo County Transportation Authority (TA), the Lender, and SMCELJPA, the Borrower, dated September 1, 2020. The Lender issued \$100 million in short-term variable rate tax-exempt bonds secured by other Lender revenue sources. The Lender then loaned the \$100 million to the Borrower to fund a portion of the cost to install and equip approximately 22 miles of managed lanes in both directions on US 101 from the San Mateo/Santa Clara County line to Interstate 380 in San Bruno (“Project”).

The selected financial firm will serve as the Borrower’s fiscal agent, carrying out the terms of the Loan Agreement (LA).

Solicitation Timeline:

Activity	Date
RFP Issued	June 28, 2021
Questions and Requests for Clarifications (RFCs) Due	July 12, 2021
Agency’s Response to and RFCs	July 16, 2021
Proposals Due	July 23, 2021
Interviews	August 6, 2021
SMCEL-JPA BOD Approval	September 10, 2021

The Interview date is set for August 6, 2021. Please plan accordingly.

The Project

The Project, which is under construction, generally consists of a single High Occupancy Toll (HOT) lane in each direction of US 101, by converting the existing HOV lane between the Santa Clara County line and Whipple Avenue in Redwood City to a managed lane (“Southern Segment”) and adding a new managed lane between Whipple Avenue and Interstate 380 in San Bruno (“Northern Segment”). The overall cost of the Project is estimated at approximately \$581 million, of which approximately \$100 million comes from the LA, with the remaining funding coming from Regional bridge tolls, Federal and State grants, and local and private sector funds.

The Project construction is sponsored by the TA and the City/County Association of Governments of San Mateo County (C/CAG). Upon completion, the Project will be owned and operated by SMCELJPA, which was formed on June 1, 2019 through a Joint Exercise of Powers Agreement between the TA and C/CAG.

Caltrans manages and oversees the construction and, upon completion, Bay Area Infrastructure Financing Authority (“BAIFA”), a joint powers authority formed by the Metropolitan Transportation Commission (“MTC”) and the Bay Area Toll Authority (“BATA”), will operate the express lanes on behalf of SMCELJPA, and collect revenues.

The Final Environmental Impact Report for the Project was completed in October 2018. Civil construction on the Southern Segment commenced in March 2019, with construction of the Northern Segment scheduled to begin in January of 2020. Opening of the Southern Segment is anticipated in December 2021, and October 2022 for the Northern Segment. The Project is expected to begin generating revenue in late 2021/early 2022.

Repayment of the Loan

The SMCELJPA is recruiting a Fiscal Agent to implement the flow of funds described in the LA. The purpose of the Fiscal Agent Agreement resulting from this RFP, is to fulfill the terms of the existing LA. Specifically, Section 8 (xii) of the LA, which states:

“The funds or accounts established hereunder to be held and maintained by the Borrower shall be held and maintained on behalf of the Borrower by a bank, trust company or other financial institution selected by the Borrower serving as the Borrower’s fiscal agent under a fiscal agent agreement to be negotiated between the Borrower and such fiscal agent and entered into within twelve months following the Effective Date. Such fiscal agent agreement shall obligate the fiscal agent to hold all of the funds and accounts contemplated by this Agreement and to administer amounts described in this Agreement consistent with the restrictions and requirements set forth herein. “

Section 8 of the LA, which is provided in its entirety as Attachment A to this RFP, describes the requirement for the establishment of funds and accounts. The funds include:

- i. Express Lanes Revenue Fund
- ii. Operation and Maintenance Fund
- iii. Equity Program Fund
- iv. Rebate Fund
- v. Operating Loan Interest Fund, and within the Operating Loan Interest Fund, the Operating Loan (Lender) Interest Account, and the Operating Loan (C/CAG) Interest Account
- vi. Bond Loan Interest and Costs Account
- vii. Operating Reserve Fund
- viii. Revenue Stabilization Reserve Fund
- ix. Repair and Rehabilitation Reserve Fund
- x. Equipment Replacement Reserve Fund
- xi. Revenue Sharing Fund, and within the Revenue Sharing Fund, the Operating Loan (C/CAG) Retirement Account, the Operating Loan (Lender) Retirement Account, and the Bond Loan Retirement Account
- xii. Insurance and Condemnation Proceeds Account.

These funds and accounts are required to be held and maintained on behalf of the Borrower by a bank, trust company, or other financial institution, under a Fiscal Agent Agreement.

Scope of Services Requested

SMCELJ PA expects the selected firm to perform a scope of services that includes but is not limited to the following:

- a) Review documentation, including the LA and other documents necessary for the performance of the responsibilities as the fiscal agent to the SMCELJPA, and clarify any requirements, as necessary, with SMCELJPA staff and Board.
- b) Establish funds and accounts as provided in the LA.
- c) Distribute revenues to the funds and accounts in a timely manner, as provided in the LA.
- d) Provide monthly fund and account statements, provide written or verbal reports, and attend SMCELJPA Board or Finance Committee meetings as requested by SMCELJPA staff.
- e) Maintain records consistent with all applicable accounting and legal standards and SMCELJ PA document retention policies.
- f) Notify SMCELJPA staff of any issues or concerns related to fulfillment of the Fiscal Services responsibilities.

- g) Staff seek an initial 5-year term, with an optional up to 5-year extension, to be exercised by the SMCELJPA Executive Council. The LA is expected to be repaid over a period of 10 to 20 years depending on the generation of total revenue.

Proposal Process

Questions and Requests for Clarifications and Responses

Questions and Requests for Clarifications must be emailed to Kim Springer: kspringer@smcgov.org by 5:00 p.m. on July 12, 2021. Questions or Requests for Clarifications emailed after that time will not be responded to. Please include in the Subject line: "Fiscal Agent RFP Clarifications".

Staff will respond to questions and requests for clarifications by posting a document on the C/CAG website, at the following link: <https://ccag.ca.gov/opportunities/rfpsrfgs/>, by 5:00 p.m. on July 15, 2021.

Proposals to this RFP must be received by email to kspringer@smcgov.org **NO LATER THAN July 23, 2021 at 5:00 p.m. PST.** Please include in the Subject line: "Fiscal Agent RFP Submittal".

Written Proposal Content

Please provide a proposal, which should not exceed 10 pages in length, not including tables and resumes or statement and reports, or required disclosures addressing the items set out below.

Complete proposals must include three (3) separate documents: one (1) Proposal Document, length described above, one (1) Cost Proposal document, and one (1) Levine Act Disclosure.

1. **Firm Profile and Description**

Provide a description of the firm and qualifications to provide fiscal services to the SMCELJPA. Include individual proposer and firm name, address, telephone, years in business, form of organization, location of firm's main California office, and a brief description of resources and numbers of individuals in the office providing related services.

Include a statement that the firm is properly licensed to perform the services as a fiscal agent in California. Proposers must hold and maintain during the course of the Agreement appropriate professional licenses to perform the work specified in this RFP.

2. **Assigned Personnel**

Provide the name and brief background of the firms' designated contact, engagement manager (if different), and names of other key team members, who will be the primary fiscal services providers. Include only those persons who are actually expected to work on the engagement. Provide résumés for each participating team member.

3. Fiscal Agent Experience.

Provide an overview of your firm's relevant experience in serving fiscal agent related to similar loan agreements between local governments or other public entities.

4. Insurance Coverage

Provide description of insurance coverage, in terms of account balances. It is anticipated that there could be up to \$30M held in accounts during the term of the agreement.

5. Sample Documents and Statements

Provide samples of monthly statements and/or reports provided by your firm to clients under similar engagements

6. Rationale for Selection.

Provide a brief discussion as to value that your firm will bring to the SMCELJPA for this engagement.

7. Potential Conflicts of Interest.

Identify any engagements that would present a conflict of interest in serving the SMCELJPA.

8. Cost Proposal (in separate document).

Provide your proposed fee to serve as fiscal agent to the SMCELJPA. Indicate the structure of the fees (direct and indirect, one-time, ongoing, percentage, time and materials, flat fee). Please include the first 5 years of fee structure and the methodology for fee escalation, if any, in a subsequent year's extension.

9. References.

Provide the contact information for five public agency references in California for which your firm provided services consistent with the experience described in item 3 above.

10. Confirmation of Contract.

Confirmation of receipt of the standard contract (Attachment B) and associated provisions and acknowledgement of ability to comply with the terms or requested

exceptions. (Note: the SMCELJPA will consider but is not obligated to modify contract language to meet Proposer's exceptions and that the final contract form is still to be determined.)

Submission Requirements/RFP Questions

The submittal must be received by email NO LATER THAN July 23, 2021 at 5:00 p.m. PST.

Please submit your Proposal VIA email to: kspringer@smcgov.org. Include in the Subject line: "Fiscal Agent RFP Submittal".

Evaluation Procedures

Proposals will be evaluated based on experience, professional qualifications, demonstrated understanding of the services requested, and cost. The SMCELJA may choose to interview firms as part of the final selection process and the interview panel may include parties outside the SMCELJPA. Proposers should be prepared to give a presentation on the date listed on the Solicitation Timeline on page one of this RFP.

This RFP does not commit the SMCELJPA to awarding a contract. Proposers shall bear all costs incurred in the preparation of the proposal and participating in the proposal process. The SMCELJPA reserves the right to reject any and all proposals, the right in its sole discretion to accept the proposal it considers most favorable to the SMCELJPA's interest, and the right to waive minor irregularities. The SMCELJPA further reserves the right to reject all proposals and seek new proposals when such procedure is reasonable and in the best interest of the SMCELJPA. The SMCELJPA reserves the right to cancel the procurement in whole or in part, at its sole discretion, at any time before the Agreement is fully executed and approved on behalf of the SMCELJPA.

Form of Professional Services Agreement

The firm selected by the SMCELJPA to perform the services outlined in this RFP will be required to execute an Agreement for Professional Services, the draft of which is provided as Attachment B.

Conflict of Interest

By submitting a proposal, your firm represents and warrants that no director, officer or employee of the SMCELJPA, C/CAG or TA is in any manner interested directly or indirectly in the proposal or in the contract that may be made under it or in any expected profits to arise therefrom, as set forth in Article 4, Division 4, Title I (commencing with Sec. 1090) of the Government Code of the State of California. Your firm warrants and represents that it presently

has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code Sections 1090 et seq. or Sections 87100 et seq. during the performance of Services under this Agreement. Your firm further covenants that it will not knowingly employ any person having such an interest in the performance of this contract. Violation of this provision may result in this contract being deemed void and unenforceable.

Ex-Parte Communications

Proposers and proposers' representatives must communicate in the manner set forth in this RFP. All such communication shall be directed to Kim Springer at kspringer@smcgov.org. There shall be no communication with any officer, director, employee, or agent of the SMCELJPA, C/CAG or the TA.

Proposers and proposers' representatives may not communicate with the SMCELJPA's, C/CAG's or TA's Board members except in writing and if the communication is made public.

Confidentiality

All responses to this RFP become property of the SMCELJPA and will be kept confidential until a recommendation for award of a contract has been announced. Thereafter, submittals are subject to public inspection and disclosure under the California Public Records Act (Cal. Govt. Code Sections 6250 et seq.). Therefore, unless the information is exempt from disclosure by law, the content of any proposal, request for explanation, exception, or substitution, response to these specifications, protest, or any other written communication between the SMCELJPA and any proposer regarding the procurement, shall be available to the public.

If proposer believes any communication contains trade secrets or other proprietary information that the proposer believes would cause substantial injury to the proposer's competitive position if disclosed, the proposer shall request that the SMCELJPA withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. By submitting a proposal with portions marked "confidential", a proposer represents it has determined such portions qualify for exemption from disclosure under the California Public Records Act. A proposer may not designate its entire Proposal as confidential nor may a proposer designate its Cost Proposal as confidential. The SMCELJPA will not honor such designations and will disclose submittals so designated to the public.

If proposer requests that the SMCELJPA withhold from disclosure information identified as confidential, and the SMCELJPA complies with the proposer's request, proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless C/CAG, the TA, and the SMCELJPA from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the proposer information), and pay any and all costs and expenses related to the withholding of proposer information. Proposer shall not make a claim, sue, or maintain any legal action against the SMCELJPA or

its directors, officers, employees, or agents concerning the withholding from disclosure of proposer information. If proposer does not request that the SMCELJPA withhold from disclosure information identified as confidential, the SMCELJPA shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the SMCELJPA.

SMCELJPA Rights

If there is any evidence indicating that two or more proposers are in collusion to restrict competition or are otherwise engaged in anti-competitive practices, the proposals of all such proposers shall be rejected, and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by the SMCELJPA.

Levine Act

The Levine Act (Government Code 84308) is part of the Fair Political Practices Act. The Levine Act prohibits any SMCELJPA Board Member from participating in or influencing the decision on awarding a contract with the SMCELJPA to anyone who has contributed \$250 or more to the Board Member within the previous twelve months. The Levine Act also requires a member of the SMCELJPA Board who has received such a contribution to disclose the contribution on the record of the proceeding. In addition, SMCELJPA Board Members are prohibited from soliciting or accepting a contribution from a party applying for a contract while the matter of awarding the contract is pending before the SMCELJPA or for three months following the date a final decision concerning the contract has been made.

Proposers must complete and submit with their proposal the California Levine Act Statement (Attachment C).

Non-Discrimination Policy

The SMCELJPA is committed to non-discrimination in the award and administration of all contracts and to create a level playing field on which all firms can compete fairly for contracts and subcontracts relating to the SMCELJPA's construction, procurement, and Professional Services activities. To this end, the SMCELJPA has developed procedures to remove barriers to the proposal and award process. In connection with the performance of this contract, the consultant will cooperate with the SMCELJPA to ensure non-discrimination.

As a material term of any contract with the SMCELJPA, the consultant hereby makes the following assurance and agrees to include this assurance in any contracts it makes with subconsultants in the performance of this contract:

“The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Failure by the Consultant or subconsultant to

carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the SMCELJPA deems appropriate.”

The SMCELJPA implements its Non-Discrimination Policy in accordance with DOT regulations. Proposers shall cooperate with the SMCELJPA in meeting its commitments and objectives with regard to ensuring non-discrimination in the award and administration of SMCELJPA contracts and shall use its best efforts to ensure that barriers do not exist.

Attachments

Attachment A: Loan Agreement (LA) between San Mateo County Express Lanes Joint Powers Authority and San Mateo County Transportation Authority

Attachment B: Standard Professional Contract and Insurance Requirements

Attachment C: California Levine Act Statement