



**BOARD OF DIRECTORS
REGULAR MEETING AGENDA**

July 19, 2017 – 1:30 PM

5401 Old Redwood Highway, 1st Floor
Petaluma, CA 94954

1. Call to Order
2. Approval of the June 21, 2017 Board Meeting Minutes
3. Public Comment on Non-agenda Items
4. Board Member Announcements
5. General Manager's Report
6. Consent
 - a. Approval of Monthly Financial Reports
 - b. Approval of Denno Enterprises Contract Amendment No. 8
 - c. Approval of Burke, Williams and Sorensen, LLP Contract Amendment No. 4
7. Approve Resolutions of Local Support for Grants to Construct SMART Pathway Segments: (1) with the Metropolitan Transportation Commission for One Bay Area Grant Program funds to construct the SMART Pathway – Payran Street to South Point Boulevard Segment and (2) with the California Natural Resources Agency for Urban Greening funds to construct the SMART Pathway – Golf Course Drive to Todd Road Segment.
8. Approve a Resolution approving SMART'S Disadvantaged Business Enterprise Program for Federal Fiscal Years 2018-2020
9. Closed Session
 - a. Conference with General Manager, Farhad Mansourian, pursuant to California Government Code Section 54956.8 regarding real estate property negotiations
Property: APN(s): 007-131-003; 007-131-004 and 137-061-019
D Street and Corona Road, Petaluma, CA
Negotiating Parties: Farhad Mansourian – Lomas Partners

- b. Conference with General Manager, Farhad Mansourian, pursuant to California Government Code Section 54956.8 regarding real estate property negotiations
Property: Sonoma-Marín Area Rail Transit District
Santa Rosa property located at 2 W. 3rd Street and 34 W. 6th Street
APN(s): 010-171-019 and 010-166-003
Negotiating Parties: Farhad Mansourian – ROEM Corporation
 - c. Conference with Legal Counsel regarding exposure to potential litigation pursuant to California Government Code Section 54956.9(d)(3): Number of cases: 1
 - d. Conference with Legal Counsel regarding litigation pursuant to California Government Code Section 54956.9; Paul Goldstone, Trustee, et al. v. Sonoma-Marín Area Rail Transit District, et al. Marin County Superior Court, Case No. CIV 1600010.
10. Report Out of Closed Session
11. Next Regular Meeting Board of Directors, August 16, 2017 – 1:30 PM – 5401 Old Redwood Highway, 1st Floor, Petaluma, CA 94954
12. Adjournment

DISABLED ACCOMMODATION: If you have a disability that requires the agenda materials to be in an alternate format or that requires an interpreter or other person to assist you while attending this meeting, please contact SMART at least 72 hours prior to the meeting to ensure arrangements for accommodation. Please contact the Clerk of the Board at (707) 794-3072 or dial CRS 711 for more information.

DOCUMENTS: Documents distributed by SMART for its monthly Board meeting or committee meetings, and which are not otherwise privileged, may be inspected at SMART's office located at 5401 Old Redwood Highway, Suite 200, Petaluma, CA 94954 during regular business hours. Documents may also be viewed on SMART's website at: www.sonomamarintrain.org. Materials related to an item on this Agenda submitted to SMART after distribution of the agenda packet are available for public inspection at the SMART Office. For information about accessing SMART meetings by public transit, use the trip planner at www.511.org



**BOARD OF DIRECTORS
REGULAR MEETING MINUTES**

June 21, 2017 - 1:30 PM

5401 Old Redwood Highway, 1st Floor
Petaluma, CA 94954

1. Call to Order

Chair Fudge called the meeting to order at 1:30 PM. Directors Arnold, Eddie, Lucan, Mackenzie, Pahre, Rabbitt, Russell, and Sears were present. Directors Hillmer and Phillips arrived later; Director Zane absent.

2. Approval of the June 7, 2017 Board Meeting Minutes

MOTION: Director Mackenzie moved approval of June 7, 2017 minutes as presented. Director Russell second. The motion carries 9-0-0 (Directors Hillmer and Phillips arrived later; Director Zane absent).

3. Public Comment on Non-Agenda Items

Chuck (Penngrove Resident) voiced his concerns about the installed fence near the Penngrove tracks.

Director Hillmer arrived 1:32PM

4. Board Member Announcements

Director Rabbitt thanked General Manager Mansourian and Chief Engineer Bill Gamlen for meeting at the Penngrove site where the fence was installed. Director Rabbitt stated that California Public Utility Commission (CPUC) approvals are in pending to install a sidewalk and include pedestrian gates, however an interim solution will occur to create a safe crossing for pedestrians.

Chair Fudge stated that the Penngrove Parade on July 2nd start at 11am and recommends the public arrive 60 minutes early.

Director Phillips arrived at 1:35PM

5. General Manager's Report

Mr. Mansourian announced that SMART was awarded a Certificate of Achievements for Excellence in Financial Reporting by the Government Finance Office Association.

He announced that Chief of Police Welch has completed her Masters' Degree in Transportation Management from San Jose State University and received her diploma on Saturday, June 17th from former US Secretary of Transportation Mineta.

Mr. Mansourian stated that the Federal Railroad Administration (FRA) team arrived on June 11th and concluded their final multi-discipline audit by June 15th. He thanked the FRA Regional Administrator and CPUC and their team of 30 people who reviewed every single documentation and procedure. SMART received very high marks in many areas; however, a list of items was provided that need to be completed prior to start of passenger service. The main items are as follows: 1) the FRA requires an ultrasonic test to be performed to detect if there are any rail defects, zero defects were found; 2) adjustment transitions with two of the bridges; 3) conduct freight testing for all routes at each station; and 4) verify crossing warning signs according to a specific method required by FRA. Mr. Mansourian will meet on Friday, June 23rd with FRA staff to report the successes and the results of all the testing.

Directors' Comments

Director Phillips stated that the report is very encouraging news, however he asked if there is an anticipated soft opening date. Mr. Mansourian responded that SMART has not received a date, however once all required documents are approved a date will be issued by FRA. Director Phillips asked for clarification on the flush coolant out of Diesel Multiple Unit. Operations Manager Duane Sayers responded that coolant system was flushed to determine that the Automatic Vehicle Locator and Wi-Fi electricity was not affecting the coolant.

Director Arnold stated that it's very important for SMART to start passenger service in the safest way. The Denver train started passenger service early and has had many problems.

Director Mackenzie asked for clarification if the Clipper services and machines with SMART were operational as of June 17th. Programming and Grants Manager Joanne Parker responded that the Clipper machines are not active, however the sale of SMART's 31-day pass area available through all Clipper channels, including retail sales, website and at transit operator office sales terminals.

Director Lucan asked for a status on Positive Train Control (PTC). Mr. Mansourian responded that PTC component is being reviewed by Federal Railroad Administration Headquarters at this time. SMART will be the first new passenger service to have PTC and it is a very complicated system. It is very rewarding to think we are almost at the finish line.

6. Consent
 - a. Approval of Monthly Financial Reports

Chair Fudge asked for Board and public comments on the proposed Consent Agenda.

MOTION: Director Arnold moved approval of the Consent Agenda as presented. Director Lucan second. The motion carried 11-0-0 (Director Zane absent)

7. Authorize the General Manager to Execute Nine (9) Contract Amendments Totaling \$595,116 for the Start of Fiscal Year 2017-18

Chief Financial Officer Erin McGrath stated that there are a number of ongoing contracts that we are requesting authority to extend. Funding for the contract extension are included in the FY 2017-18 budget proposal.

MOTION: Director Eddie moved approval to Authorize the General Manager to Execute Nine (9) Contract Amendments Totaling \$595,116 for the Start of Fiscal Year 2017-18 as presented. Director Mackenzie second. The motion carried 11-0-0 (Director Zane absent).

8. Approve LTK Engineering Services Contract Amendment No. 15 to Contract No. VS-PS-09-001 in an amount of \$711,500

Chief Engineer Bill Gamlen stated that LTK has been providing expert staff resources for the day-to-day management of the SMART passenger train. They have provided key support in the following areas: 1) train signaling; 2) Positive Train Control; 3) train communications; and 4) vehicle procurement.

The proposed amendment is a continuation of this work as SMART test and commissions the vehicles and trains signaling system as we enter into passenger service.

MOTION: Director Mackenzie moved to Approve LTK Engineering Services Contract Amendment No. 15 to Contract No. VS-PS-09-001 in an amount of \$711,500 as presented. Director Arnold second. The motion carried 11-0-0 (Director Zane absent).

9. Authorize the General Manager to execute an agreement with Maze & Associates for Independent Year-End Audit services for an initial three-year term with two options to extend for an amount of \$221,566

Chief Financial Officer Erin McGrath stated that over the last five years, SMART has utilized an independent auditor to conduct audit services. The contract term has expired and SMART entered into a new procurement process for auditing services this year. SMART received a number of proposals and have chosen Maze and Associates as the most qualified responsive and competitive firm. They currently provide audit services for transit agencies in the Bay Area.

Directors' Comments

Director Arnold mentioned that it's important to change auditors after a few years. Ms. McGrath responded that it's most common practice to change auditors or the audit teams.

Director Phillips asked for clarification of the contract amount, Exhibit B "Schedule and Rates", says \$350,384 vs. \$221,566 on the staff report. Ms. McGrath responded that the contract amount is \$221,566, Exhibit B will be revised to reflect the correct contract amount.

MOTION: Director Phillips moved to Authorize the General Manager to execute an agreement with Maze & Associates for Independent Year-End Audit services for an initial three-year term with two options to extend for an amount of \$221,566 as presented. Director Arnold second. The motion carried 11-0-0 (Director Zane absent).

10. Approve RailPros, Inc. Contract Amendment No. 3 to Contract No. CV-PS-15-005 for Construction Support for the Construction of the Larkspur Extension Project in an amount of \$369,342

Chief Engineer Bill Gamlen stated that RailPros has been providing professional engineering design services to SMART on the Larkspur Extension project. They have prepared technical documents for the design-build contract.

This contract amendment will authorize RailPros to provide support during design and construction of the Larkspur Extension Project.

MOTION: Director Phillips moved to Approve RailPros, Inc. Contract Amendment No. 3 to Contract No. CV-PS-15-005 for Construction Support for the Construction of the Larkspur Extension Project in an amount of \$369,342 as presented. Director Arnold second. The motion carried 11-0-0 (Director Zane absent).

11. Approve Resolution Authorizing the Award of Contract CV-DB-16-001 to Stacy and Witbeck/ Herzog, Joint Venture for the Construction of the Larkspur Extension Project for an amount of \$36,300,000
 - a. Authorize the General Manager to spend up to five (5) percent of the contract amount (\$1,815,000) to serve as contingency for unanticipated costs
 - b. Direct the General Manager to issue a Limited Notice-to-Proceed not-to-exceed \$16,765,514.70 until the Federal Transit Administration (FTA) funding grant has been executed
 - c. Approve a Resolution Authorizing the General Manager to execute a Memorandum of Understanding with the City of San Rafael for the Larkspur Extension Project

Chief Engineer Bill Gamlen stated that the Larkspur Extension Project ("Project") is funded through Federal, Regional and local SMART funding. The Project is a 2.2 mile

extension of our passenger rail system from Downtown San Rafael to Larkspur. Also, SMART and the City of San Rafael will enter into a Memorandum of Understanding for the implementation of the Project. He gave a PowerPoint presentation of the project. Highlights included:

- Major Project Elements:
 - Larkspur Station – The proposed station will have a center platform between two tracks.
 - Cal Park Tunnel – The tunnel was reopened and rehabilitated in 2010 to accommodate a multi-use pathway and future rail service.
 - Anderson Drive Crossing – The City of San Rafael has requested that SMART construct the crossing as part of the Project. The City has developed construction documents.
 - Francisco “Flip” – It eliminates two at-grade crossings: Francisco Blvd and Irwin Street. This improves safety, and supports the City in its application for an at-grade crossing at Anderson Drive in San Rafael.
 - Transit Center – SMART and Golden Gate Transit have developed modifications of the Transit Center in order to maintain all of the current functionality within the existing area.
 - Two New Bridges; One Rehabilitation – The two bridges are over San Rafael Creek; and the existing bridge is over Auburn Street.

Thus, staff is recommending approvals for the following: 1) Awarding the Design-Build for an amount of \$36.3M; 5% Contingency Authority and Limited Notice to Proceed in an amount of \$16.7M; and 2) Authorize the General Manager to execute the San Rafael Memorandum of Understanding for the Larkspur Extension Project.

Directors’ Comments

Director Phillips acknowledge and thanked General Manager Mansourian, Chief Engineer Gamlen and everyone who has worked on this project to get to this point.

Director Mackenzie asked for status on the federal funding to complete the Project. Mr. Mansourian responded that SMART is confident and comfortable with the allocated funds for the Project. However, the final agreement with FTA has not been signed yet but will continue to work with them to obtain the final signed agreement.

Mr. Mansourian thanked the two qualified Contractors for their proposals, Chief Engineer Bill Gamlen, Assistant Engineer Ahmed Thieiji who assisted in the reconfigured designed of the Transit Center. He also asked Mayor Phillips to ask the CPUC to expedite the Anderson Drive at-grade crossing application process. SMART has been working with the FTA to obtain a “Letter of No Prejudice” which will allow SMART to spend money and get reimburse at a later time.

Director Pahre thanked everyone who made this project get to this point.

Director Hillmer thanked General Manager Mansourian and staff for all their work on this project.

MOTION: Director Hillmer moved to Approve a Resolution Authorizing the Award of Contract CV-DB-16-001 to Stacy and Witbeck/Herzog, Joint Venture for the Construction of the Larkspur Extension Project for an amount of \$36,300,000: a) Authorize the General Manager to spend up to five (5) percent of the contract amount (\$1,815,000) to serve as contingency for unanticipated costs; b) Direct the General Manager to issue a Limited Notice-to-Proceed not-to-exceed \$16,765,514.70 until the Federal Transit Administration (FTA) funding grant has been executed; c) Approve a Resolution Authorizing the General Manager to execute a Memorandum of Understanding with the City of San Rafael for the Larkspur Extension Project as presented. Director Phillips second. The motion carried 11-0-0 (Director Zane absent).

12. Approval and Adoption of Fiscal Year 2016-17 Year-End Financial Report, Proposed Preliminary Fiscal Year 2017-18 Budget and Ratify the Annual Appropriation Limit for Fiscal Year 2017-18

Chief Financial Officer Erin McGrath stated that shifts between budgets years, minor changes in expenditures due to year end operational needs, and recommended additional staffing for operations. SMART has lost a number of staff since hiring due to the cost of housing here in North Bay. Highlights since last month's report included:

- Revenue Changes – Shift of \$200,00 to Fiscal Year 2017-18 for reimbursement-based revenue for the Jennings Crossing construction project in Santa Rosa
- Increase of \$656,293 in salaries and benefits to cover one new Signal Technician, one new Track Maintainer, two additional Vehicle Maintenance Technicians, and two additional Engineer-Conductors. Table 4 is updated accordingly.
- Reclassify Junior Engineers to Assistant Engineers

Directors' Comments

Director Phillips thanked Ms. McGrath for an outstanding job in preparing the budget. He asked since SMART is staffed very thin with Engineer-Conductors what the reserve fall is. Mr. Mansourian responded that the Controller/Supervisors can technically can perform as Engineer-Conductors.

MOTION: Director Phillips moved to Approve a Resolution to adopt the Revised Fiscal Year 2016-17 budget (Financial Report), the Fiscal Year 2017-18 Proposed Budget including annual position authorization and the Investment Policy for Fiscal Year 2017-18 as presented. Director Arnold second. The motion carried 11-0-0 (Director Zane absent).

MOTION: Director Russell moved to Approve a Resolution to Ratifying the Annual Appropriation Limit for Fiscal Year 2017-18 as presented. Director Eddie second. The motion carried 11-0-0 (Director Zane absent).

13. Next Regular Meeting Board of Directors, July 19, 2017 – 1:30 PM – 5401 Old Redwood Highway, 1st Floor, Petaluma, CA 94954

14. Adjournment – Meeting adjourned at 2:26PM

Respectfully submitted,

Leticia Rosas-Mendoza
Clerk of the Board

Approved on: _____



Debora Fudge, Chair
 Sonoma County Mayors and
 Councilmembers Association

July 19, 2017

Kathrin Sears, Vice Chair
 Marin County Board of Supervisors

Judy Arnold
 Marin County Board of Supervisors

Sonoma-Marin Area Rail Transit Board of Directors
 5401 Old Redwood Highway, Suite 200
 Petaluma, CA 94954

Jim Eddie
 Golden Gate Bridge,
 Highway/Transportation District

SUBJECT: Monthly Financial Reports

Dan Hillmer
 Marin Council of Mayors and
 Councilmembers

Dear Board Members:

Eric Lucan
 Transportation Authority of Marin

RECOMMENDATION: Information Item

Jake Mackenzie
 Sonoma Mayors and Councilmembers
 Association

SUMMARY:

As of June 30, 2017, SMART ended the month with an unrestricted cash balance of \$51,567,960 and bond fund investments totaling \$22,155,314. Gross Sales Tax Revenue received through the month of June is \$30,943,239, which represents 10 of the 12 months of sales tax for the year. Spending is currently below overall budgetary authority as approved by the Board. This report reflects the revised year-end budget numbers which were approved by your Board in June but does not include final year-end closing transactions that will occur during the month of July. Also attached this month is a quarterly project report reflecting expenditures through June on the Phase 1 project.

Barbara Pahre
 Golden Gate Bridge,
 Highway/Transportation District

Gary Phillips
 Transportation Authority of Marin

David Rabbitt
 Sonoma County Board of Supervisors

Carol Russell
 Sonoma Mayors and Councilmembers
 Association

Shirlee Zane
 Sonoma County Board of Supervisors

Very truly yours,

Erin McGrath
 Chief Financial Officer

Farhad Mansourian
 General Manager

 5401 Old Redwood Highway
 Suite 200
 Petaluma, CA 94954
 Phone: 707-794-3330
 Fax: 707-794-3037
 www.sonomamarintrain.org

Attachment(s): Monthly Financial Report
 Contract Summary
 Quarterly Project Report

SMART
Monthly Financial Report
As of June 2017

	FY 2016-17 Budget	YTD Actuals	Remaining Budget
Revenues			
Sales/Use Taxes	36,286,428	30,943,239	5,343,189
Interest Earnings	473,957	547,571	-
Rent - Real Estate	487,197	434,799	52,398
Federal - FHWA	1,511,627	1,151,427	360,199
Other Governments	2,881,949	2,332,201	549,748
Measure M	10,000	33,440	-
MTC - RM2	5,949,012	1,787,421	4,161,592
Charges For Services	51,287	153,602	-
State Grants	469,683	8,071	461,611
Federal FTA Funds	6,758,340	809,328	5,949,012
Miscellaneous Revenue	334,573	433,114	-
Revenue Total	55,214,053	38,634,214	16,877,749
Expenditures			
Administration			
Salaries & Benefits	4,199,937	3,998,397	201,540
Services & Supplies	6,120,569	4,536,238	1,584,331
Other Charges	18,791,927	12,991,714	5,800,213
Machinery & Equipment	63,210	63,208	2
	29,175,644	21,589,558	7,586,086
Capital			
Salaries & Benefits	1,096,770	995,249	101,521
Services & Supplies	317,703	239,500	78,203
Other Charges	172,636	62,636	110,000
Land	574,181	409,169	165,012
Machinery & Equipment	14,157,885	2,898,538	11,259,347
Infrastructure	22,873,906	20,709,592	2,164,315
Intangible Assets	2,000	2,000	-
	39,195,080	25,316,683	13,878,398
Operations			
Salaries & Benefits	10,311,865	9,310,078	1,001,787
Services & Supplies	4,435,173	2,788,137	1,647,036
Buildings & Capital Improvements	1,109,811	943,984	165,827
Appropriations for Contingencies	492,290	-	492,290
	16,349,139	13,042,199	3,306,940
Expenditure Total	84,719,863	59,948,439	24,771,425

Investment Report

	As of June 2017
Bond Reserve Fund	
Sonoma County Treasury Pool	17,072,500
Interest Fund	
Sonoma County Treasury Pool	2,678,546
Project Fund	
Sonoma County Treasury Pool	321,324
Principal Fund	
Sonoma County Treasury Pool	2,082,944
SMART Fund Balance	
Bank of Marin	12,852,399
Sonoma County Treasury Pool	38,715,561
	73,723,274



Contract Summary

Active Contracts as of June 30, 2017

Contractor	Scope	Fiscal Year 16-17 Projected	Fiscal Year 16-17 Actuals-To-Date
A.J. Janitorial Service	Janitorial Services for the ROC, Fulton, and Roblar	\$22,148	\$17,055
Adobe Associates Inc.	Real Property Support Services	\$12,000	\$0
Alcohol & Drug Testing Services, LLC	DOT Drug and Alcohol Testing	\$24,875	\$11,648
Alliant Insurance Services	Insurance Brokerage & Risk Management Services	\$69,000	\$0
Aramark Uniform Services	Employee Uniform Provider and Cleaning Service	\$17,987	\$7,439
Area West Environmental, Inc	Environmental Compliance Support Services	\$50,000	\$22,559
Barbier Security Group	Security Guard/Patrol Services	\$69,000	\$41,857
Bender Rosenthal, Inc.	Real Estate Support Services for Larkspur Extension	\$125,000	\$89,017
Bernadette Lambert	Right of Way Acquisition Legal Services	\$4,500	\$0
Bettin Investigations	Background Investigations	\$11,930	\$11,930
Big Cat Advertising	Digital Advertisement Services	\$18,000	\$18,000
BKF Engineers Inc.	Real Property Support Services	\$10,000	\$0
Burke, Williams & Sorensen, LLP	Litigation Support Services	\$150,000	\$119,809
Cal Accessibility, Inc.	ADA Compliance Support Services for CP4	\$25,000	\$7,252
CALOPPS - City of Foster City	Internet Employment Website - CALOPPS	\$2,000	\$2,000
Cascade Training Center	AED Program Management	\$1,750	\$1,750
Century Urban	Real Estate Advisory Services	\$18,513	\$14,138
Certified Employment Group	Temporary Staffing Services	\$40,467	\$40,467
CIH Services Inc.	Industrial Hygiene Testing and Related Services	\$12,000	\$7,737
Cinquini & Passarino, Inc.	Land Surveying and Related Services	\$5,000	\$0
Coates Field Service, Inc.	Real Estate Acquisition and Relocation Services	\$25,000	\$7,574
Conservation Corps North Bay	ROW Maintenance & Weed Abatement	\$40,000	\$7,669
CSW/Stuber-Stroeh Engineering Group	Real Property Services	\$18,000	\$0
David Rzepinski & Associates	Transit Market, Fare Analysis, Coordination	\$25,000	\$18,900
David Tattersall & Co.	Real Estate Appraisal Services	\$10,000	\$0
David Tattersall & Co. Real Estate Advisory Service	Real Estate Appraisal Services for Larkspur Extension	\$32,000	\$26,500
Dennis Waitther	Electrical Service Design Review	\$5,200	\$5,200
Denno Enterprises	ROW Maintenance & Weed Abatement	\$5,640	\$5,640
Diego Truck Repair	Towing, Recoveries, Demolition, and Related Services	\$8,000	\$1,365
Dr. Mark Clementi	Pre-Employment Psychological Evaluations	\$34,250	\$23,290
eLock Technologies, LLC	Station Bike Lockers and Maintenance Services	\$274,941	\$274,941
Empire Cleaners	Uniform Dry-Cleaning, Laundering, and Related Services	\$8,465	\$1,127
Emtec Consulting Services, LLC	Oracle Accounting System Support Services	\$64,761	\$57,329
ENSCO RAIL, INC.	Track Geometry, Track Strength, Rail Profile, and Related Testing Services	\$40,000	\$12,600
ePath Learning, Inc.	Cloud-Based Training / Learning Management Software	\$6,000	\$6,000
George Hills Company, Inc.	Third Party Claims Administration Services	\$16,645	\$6,463
GHD, Inc.	SWPP Compliance, AutoCAD Management, Traffic and Hydraulic Analysis for CP4	\$168,778	\$94,240
GP Crane & Hoist Services	Cal/OSHA Crane Inspection Services	\$900	\$900
Granicus, Inc.	Media Streaming & Internet Broadcasting Services	\$8,000	\$7,860
Hanson Bridgett LLP	Legal Services	\$170,000	\$142,590
HDR Engineering, Inc.	Movable Bridge Support	\$1,245	\$1,244
Holland Company	Testing and Measuring Track Geometry, Track Strength, Rail Profile, and Related Services	\$24,000	\$24,000
Hulcher Services, Inc.	Derailment & Hazmat Services	\$40,000	\$0
ICF Jones & Stokes, Inc.	Environmental Permitting Management and Support Services	\$210,000	\$204,617
Intelligent Technology Solutions, Inc.	Maximo MMS Implementation and Support Services	\$314,857	\$305,063
Interwest Consulting Group	Acquisition and Relocation Services	\$3,749	\$1,330
Irwin Inc.	Construction Contract Document Preparation	\$20,000	\$0

Contractor	Scope	Fiscal Year 16-17 Projected	Fiscal Year 16-17 Actuals-To-Date
James Flageollet	Legal Services	\$159,180	\$149,520
John Zanzi	Fire and Life Safety Planning	\$20,000	\$11,226
Kathy Wood & Associates	Acquisition and Relocation Services	\$36,252	\$0
Krebs Construction Services, Inc	Project Cost Management Services	\$1,000	\$683
Kurland Digital	Website Hosting and Support Services	\$700	\$700
LTK Engineering Services	Vehicle and Systems Design and Construction Management Services	\$2,894,583	\$2,323,391
Macias Gini & O'Connell LLP (MGO)	Financial Audit Services	\$44,401	\$44,401
Maggiola & Ghilotti, Inc.	Non-Motorized Pathway E. Cotati Ave to Golf Course Drive	\$1,169,955	\$1,167,830
Managed Health Network	Employee Assistance Program (EAP) Services	\$1,910	\$1,856
Masabi LLC	SMART Mobile Ticketing Pilot Project	\$135,000	\$0
MGrödner, LLC	Project Management Services	\$52,199	\$52,199
Moore Iacofano Goltsman, Inc.	Marketing Implementation and Website Design	\$39,500	\$39,500
Nelson\Nygaard Consulting Associates, Inc.	Bicycle Parking Investment Plan	\$2,351	\$2,351
Netspeed Solutions, Inc.	Avaya IP Office Support and Professional Services at Roblar	\$10,823	\$10,815
Netspeed Solutions, Inc.	Avaya IP Office Support and Professional Services at Petaluma, ROC, and MOW	\$5,300	\$5,300
Netwoven Inc.	Design Information Architecture for Document and Project Management Technology	\$62,664	\$56,705
North Bay SAP Services	Substance Abuse Professional Services	\$5,000	\$0
Nossaman LLP	Legal Services - Railroad Regulatory Issues & Transit D-B Projects	\$201,955	\$131,631
Occupational Health Centers of CA	Pre-Employment Evaluation Services	\$21,950	\$15,691
Oracle	Fusion Enterprise Resource Planning (ERP) Software & Hosting Services	\$47,880	\$46,587
Parks Electric	Installation of Power Circuits and Related Electrical Work at the Roblar Facility	\$2,775	\$2,775
Parodi Investigative Solutions	Pre-Employment Background Investigation Services	\$24,600	\$20,250
Paychex	Payroll Processing Services	\$23,617	\$23,617
PGH Wong Engineering	Construction Management Support Services	\$87,970	\$87,970
Platinum Advisors, LLC	State Legislative Advocacy Services	\$120,000	\$120,000
Portola Systems, Inc.	SMART Station Network Configuration Services	\$298,534	\$291,984
Public Financial Mangement, Inc.	Arbitrage Rebate Compliance Services	\$2,000	\$0
Public Financial Management, Inc.	Financial Advisory Services	\$5,000	\$0
RailPros, Inc.	Professional Engineering Services for Larkspur Extension	\$761,653	\$731,220
Reforestation Services, Inc.	Vegetation Control Services	\$23,206	\$20,579
ServPro of Lake Mendocino and Sonoma County	Biohazard Clean-Up and Hazmat Services	\$24,360	\$0
Shimmick Construction Co, Inc.	D/B Construction of IOS2, Haystack, OMF, Station Finishes and Pathway	\$6,549,511	\$4,261,731
SPTJ Consulting	Network Infrastructure, Security, Migration and Setup Services	\$389,880	\$274,793
Stacy and Witbeck/Herzog, JV	Design/ Build Construction of Civil, Track & Structures Improvements of IOS-1	\$11,362,311	\$10,418,015
State Water Resources Control Board	Mira Monte Site Cleanup Program	\$6,400	\$3,582
Steve Taylor Excavation	Vehicle Detector Loop Installation Services	\$12,323	\$12,323
STV, Inc.	On-Call Railroad Bridge Inspection Services	\$100,000	\$89,587
Sumitomo Corporation	Manufacture & Delivery of Vehicles	\$12,435,634	\$1,333,396
Summit Signal, Inc.	Track and Signal Inspections	\$85,110	\$76,896
Summit Signal, Inc.	ISTEA - Constructing Black Point Bridge Automation Project	\$194,250	\$194,250
Summit Signal, Inc.	Emergency Call-Out Services for Track and Signals	\$60,000	\$26,960
Swiftly, Inc.	AVL Mobile Application and Website Interface	\$9,900	\$9,900
The GBS Group	Internet Connectivity (Wi-Fi) for SMART Trains	\$844,500	\$822,799
Utah Transit Authority	DMU Wheel Truing Services	\$3,262	\$0
Van Scoyoc Associates	Federal Legislative Advocacy Services	\$48,000	\$48,000
WBE	TDX Live View Implementation	\$9,103	\$0
WBE	Design and Installation of Security Equipment	\$292,072	\$246,984

Contractor	Scope	Fiscal Year 16-17 Projected	Fiscal Year 16-17 Actuals-To-Date
Xentrans, Inc.	DMU WiFi Development Services	\$54,090	\$54,090
Zeba Consulting, Inc.	Marketing and Advertising Consultant Services	\$24,536	\$24,536
	Totals	\$41,031,801	\$24,905,723

*Actuals-To-Date includes invoices that have been approved as of June 30, 2017, but may not have been processed in SMART's Financial System.

Quarterly Project Report

June 2017

Phase 1 Project Budget:

The project budget is \$448.2 million for all Phase 1 costs. Phase 1 is defined as all commuter rail costs between Downtown San Rafael and Santa Rosa Airport Boulevard. Phase 1 also includes a number of adjacent bike path segments, some of which are funded by other entities.

Project Revenues to Date:

Of the \$448.2 million in project revenues necessary to complete the project, 98% have been received.

PROJECT REVENUES TO DATE: As of June 30, 2017			
	Budget	Actual	% Received
Sales Tax and Other Local	\$141.6 million	\$141.6 million	100%
Bond Sale	\$180.0 million	\$180.0 million	100%
Grant Funds	\$126.5 million	\$117.3 million	93%
Total*	\$448.2 million	\$439.0 million	

Project Expenditures to Date:

Of the \$448.2 million budgeted expenditures, \$403.8 million (or 91% of the total) have been expended.

PROJECT EXPENDITURES TO DATE: As of June 30, 2017			
	Budget	Actual	% Spent
Construction Contracts	\$ 361.2 million	\$324.7 million	90%
Design/Construction Mgmt./Other	\$ 49.1 million	\$47.0 million	96%
SMART Agency costs (incl. labor)	\$ 38.0 million	\$37.9 million	100%
Total*	\$ 448.2 million	\$409.5 million	

Current Project Status

Although SMART has begun to carry passengers, there are still payments to be made to contractors, including most significantly, the rail car builder. In addition the project is still incurring costs related to signal activation and regulatory review. Finally, there are still some pathway segments pending construction that were delayed in the permitting process.

**Sums may vary slightly due to rounding.*



Debora Fudge, Chair
Sonoma County Mayors' and
Councilmembers Association

Kathrin Sears, Vice Chair
Marin County Board of Supervisors

Judy Arnold
Marin County Board of Supervisors

Jim Eddie
Golden Gate Bridge,
Highway/Transportation District

Dan Hillmer
Marin County Council of Mayors and
Councilmembers

Eric Lucan
Transportation Authority of Marin

Jake Mackenzie
Sonoma County Mayors' and
Councilmembers Association

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gary Phillips
Transportation Authority of Marin

David Rabbitt
Sonoma County Board of Supervisors

Carol Russell
Sonoma County Mayors' and
Councilmembers Association

Shirlee Zane
Sonoma County Board of Supervisors

Farhad Mansourian
General Manager

5401 Old Redwood Highway
Suite 200
Petaluma, CA 94954
Phone: 707-794-3330
Fax: 707-794-3037
www.sonomamarintrain.org

July 19, 2017

Sonoma-Marín Area Rail Transit Board of Directors
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954

SUBJECT: Approve Denno Enterprises Contract Amendment No. 8 to Contract No. LM-PS-10-005

Dear Board Members:

RECOMMENDATION: Authorize the General Manager to execute Amendment No. 8 to Contract No. LM-PS-10-005 with Denno Enterprises in the amount of \$40,000, for a total not-to-exceed contract amount of \$497,400, and extend the contract through December 2017.

SUMMARY: SMART is responsible for the maintenance and removal of hazardous vegetation along the entire rail corridor. This is a large annual task along the 42+ miles of SMART owned right of way and requires the assistance of contract manpower and equipment.

In June of 2010, SMART Board approved Staff's recommendation to contract with Denno Enterprises to provide weed abatement, debris removal, facilities maintenance and related services in SMART's right-of-way.

SMART owns right of way from Corte Madera to central Healdsburg. The wet winter stimulated an extreme volume of vegetation growth. Now that the weeds and grass have gone dormant for the summer they have the potential to create fire hazards. The amount of mowing, cutting, and removal cannot be accomplished by SMART staff alone in a reasonable amount of time and creates the need for contracted assistance.

No changes shall be made to existing labor rates established in original contract. Amendment No. 8 increases the contract amount by \$40,000, for a total not-to-exceed contract amount of \$497,400.

FISCAL IMPACT: Funding for Amendment No. 8 is budgeted in the Board approved FY 2018 Budget.

REVIEWED BY: [x] Finance  [x] Counsel 

Very truly yours,

Duane Sayers
Operations Manager

Attachment(s): Denno Enterprises Contract Amendment No. 8

**EIGHTH AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
AND DENNO ENTERPRISES**

This Eighth Amendment dated as of _____, 2017 (the “Eighth Amendment”), to the Agreement for Consultant Services by and between Denno Enterprises (hereinafter referred to as “CONSULTANT”) and the Sonoma-Marín Area Rail Transit District (hereinafter referred to as “SMART”), dated as of June 16, 2010 (the “Original Agreement,” as amended and supplemented by the First, Second, Third, Fourth, Fifth, Sixth, Seventh Amendments, and now this Eighth Amendment, the “Agreement”).

RECITALS

WHEREAS, SMART and CONSULTANT previously entered the Original Agreement on June 16, 2010 to provide weed abatement, debris removal, facilities maintenance and related services in SMART’s right-of-way; and

WHEREAS, SMART and CONSULTANT previously entered into various Amendments to the Agreement between May 1, 2012 and July 1, 2017, to amend the insurance requirements, update the scope of services, increase the not-to-exceed amount, and extend the term of the Agreement; and

WHEREAS, SMART desires to amend the Agreement to increase the not-to-exceed amount by \$40,000, for a total not-to-exceed amount of \$497,400.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **“ARTICLE 5. PAYMENT”** Article 5 of the Agreement is amended as follows:

In addition to the not-to-exceed amount set forth in the Original Agreement, the contract amount shall be increased by an amount not-to-exceed \$40,000 for the provisions of the services, for an aggregate not-to-exceed amount of \$497,400 for the Agreement.

2. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with all supplements, amendments and exhibits thereto is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to, modify, invalidate, or otherwise affect any provision of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Eighth Amendment as of the date first set forth above.

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: _____

By _____
Farhad Mansourian, General Manager

DENNO ENTERPRISES

Dated: _____

By _____
Todd Denno, Consultant

APPROVED AS TO FORM:

Dated: _____

By _____
District Counsel



Debora Fudge, Chair
 Sonoma County Mayors' and
 Councilmembers Association

Kathrin Sears, Vice Chair
 Marin County Board of Supervisors

Judy Arnold
 Marin County Board of Supervisors

Jim Eddie
 Golden Gate Bridge,
 Highway/Transportation District

Dan Hillmer
 Marin County Council of Mayors and
 Councilmembers

Eric Lucan
 Transportation Authority of Marin

Jake Mackenzie
 Sonoma County Mayors' and
 Councilmembers Association

Barbara Pahre
 Golden Gate Bridge,
 Highway/Transportation District

Gary Phillips
 Transportation Authority of Marin

David Rabbitt
 Sonoma County Board of Supervisors

Carol Russell
 Sonoma County Mayors' and
 Councilmembers Association

Shirlee Zane
 Sonoma County Board of Supervisors

Farhad Mansourian
 General Manager

 5401 Old Redwood Highway
 Suite 200
 Petaluma, CA 94954
 Phone: 707-794-3330
 Fax: 707-794-3037
 www.sonomamarintrain.org

July 19, 2016

Sonoma-Marín Area Rail Transit Board of Directors
 5401 Old Redwood Highway, Suite 200
 Petaluma, CA 94954

SUBJECT: Approval of Burke Williams & Sorenson Contract Amendment No. 4

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to execute Amendment No. 4 with Burke, Williams & Sorenson, LLP for legal support services in the amount of \$150,000, for a contract not-to-exceed the amount of \$550,000.

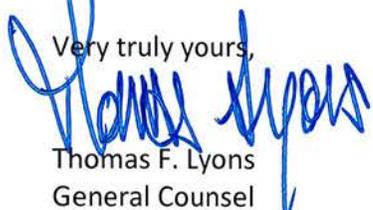
SUMMARY:

Since 2015 Burke, Williams & Sorenson, LLP has assisted SMART in a number of real estate negotiations and litigation matters. Burke, Williamson & Sorenson, LLP has specialized legal expertise in a variety of real estate, transportation, joint powers authorities and local governmental agencies matters. The District anticipates the continued need for Burke, Williams & Sorenson, LLP's Litigation support and specialized experience in real estate negotiations, litigation and transactions.

Staff recommends that the District continue to retain the services of Burke, Williams & Sorensen, LLP for supplemental specialized legal support on an as-needed basis. Contract Amendment No. 4 provides for an additional 12-month term extension, not to exceed the amount of \$150,000.

Fiscal Impact: Funding for the contract is included in the proposed legal services budget for the 2017-2018 fiscal year.

REVIEWED BY: [x] Finance 

Very truly yours,

 Thomas F. Lyons
 General Counsel

Attachment(s): Burke, Williams & Sorensen, LLC Contract Amendment No. 4

**FOURTH AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
AND BURKE, WILLIAMS & SORENSEN, LLP**

This FOURTH AMENDMENT dated as of _____, 2017 (the "FOURTH Amendment") to the Legal Services Agreement by and between the SONOMA-MARIN AREA RAIL TRANSIT DISTRICT ("SMART") and BURKE, WILLIAMS & SORENSEN, LLP ("CONSULTANT"), dated as of April 1, 2015 (the "Original Agreement," and as supplemented and amended by the First Amendment, Second Amendment, Third Amendment, and this Fourth Amendment, the "Agreement").

RECITALS

WHEREAS, SMART and CONSULTANT previously entered into the Original Agreement to provide specialized legal services on April 1, 2015; and

WHEREAS, SMART and CONSULTANT previously entered various amendments between September 15, 2015 and September 1, 2016 to increase the not-to-exceed amount and extend the term of the Agreement;

WHEREAS, SMART desires to amend the Agreement to increase the not to exceed amount of the Agreement by \$150,000 for a total not-to-exceed amount of \$550,000, and extend the term to June 30, 2018.

NOW, THEREFORE, in consideration of the recitals set forth above and the covenants contained herein, it is mutually agreed by and between the parties that:

AGREEMENT

1. "**ARTICLE 5. LEGAL FEES AND BILLING PRACTICES**" the last paragraph in Article 5 is hereby replaced in its entirety with the following:

“This engagement is subject to a Not to Exceed cap in the amount of \$550,000. Should additional fees or costs be contemplated, this agreement can be amended by mutual agreement of the parties”;

2. "**ARTICLE 19. TERM**" is hereby added to the Agreement, per the following:

“The term of this Agreement shall remain in effect until June 30, 2018. Notwithstanding any other provision of this Agreement, at any time and without cause, both parties shall have the right, at their sole discretion, to terminate this Agreement by giving 30 days written notice to the other party.”

3. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with all supplements, amendments and exhibits thereto is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to, modify, invalidate, or otherwise affect any provision of the Agreement.

-----THIS SPACE INTENTIONALLY LEFT BLANK-----

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as set forth below.

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: _____

By _____
Farhad Mansourian, General Manager

APPROVED AS TO FORM:

Dated: _____

By _____
District Counsel

BURKE, WILLIAMS & SORENSEN, LLP

Dated: _____

By _____
Benjamin L. Stock, Esq.



July 19, 2017

Debora Fudge, Chair
 Sonoma County Mayors' and
 Councilmembers Association

Kathrin Sears, Vice Chair
 Marin County Board of Supervisors

Judy Arnold
 Marin County Board of Supervisors

Jim Eddie
 Golden Gate Bridge,
 Highway/Transportation District

Dan Hillmer
 Marin County Council of Mayors and
 Councilmembers

Eric Lucan
 Transportation Authority of Marin

Jake Mackenzie
 Sonoma County Mayors' and
 Councilmembers Association

Barbara Pahre
 Golden Gate Bridge,
 Highway/Transportation District

Gary Phillips
 Transportation Authority of Marin

David Rabbitt
 Sonoma County Board of Supervisors

Carol Russell
 Sonoma County Mayors' and
 Councilmembers Association

Shirlee Zane
 Sonoma County Board of Supervisors

Farhad Mansourian
 General Manager

5401 Old Redwood Highway
 Suite 200
 Petaluma, CA 94954
 Phone: 707-794-3330
 Fax: 707-794-3037
www.sonomamarintrain.org

Sonoma-Marina Area Rail Transit Board of Directors
 5401 Old Redwood Highway, Suite 200
 Santa Rosa, CA 94954

SUBJECT: Resolutions of Local Support for Grants to Construct SMART Pathway Segments

Dear Board Members:

RECOMMENDATION:

Staff recommends that your Board approve resolutions and authorize the General Manager to submit necessary application documents and enter into necessary agreements for grant funds with the following agencies to construct the following SMART Pathway segments:

- (1) Adopt Resolution No. 2017-07; with the Metropolitan Transportation Commission (MTC) for One Bay Area Grant Program (OBAG) funds to construct the SMART Pathway – Payran Street to South Point Boulevard Segment and
- (2) Adopt Resolution No. 2017-08; with the California Natural Resources Agency (CNRA) for Urban Greening funds to construct the SMART Pathway – Golf Course Drive to Todd Road Segment.

BACKGROUND:

Staff continues to successfully compete for construction grant funding for SMART Pathway projects. Each grant program is restricted to projects fulfilling particular criteria and staff seeks to maximize the chances of receiving grant funds by tailoring requests to the individual grant source. In addition, each grant program follows a different process, with some requiring specific language in resolutions of local support from the applicant's governing body at different times during the application submittal process.

The SMART Pathway – Payran Street to South Point Boulevard Project in Petaluma has a cost estimate of \$3.31 million. As you recall, your Board awarded an engineering design contract for the project on June 7, 2017, for \$325,000 to be paid for with secured Sonoma County Transportation Authority (SCTA) Measure "M" funds. The project construction funding plan includes \$725,000 in Measure Q funds and the following three discretionary grants:

- 1. On October 14, 2014, the Sonoma County Agricultural Preservation and Open Space District programmed \$400,000 in Matching Grant Program funds for construction.

2. On December 8, 2016, the California Transportation Commission programmed \$1,461,000 in Active Transportation Program funds for construction.
3. On May 8, 2017, the SCTA programmed \$400,000 in One Bay Area Grant Program funds to the project for construction and requested MTC implement the programmed action. To continue through the implementation process with the MTC for these funds, your Board is requested to approve the attached Resolution of Local Support.

Each of the approved fund sources above is programmed in different Fiscal Years and SMART staff will continue to work with our partners to align the various fund availability times and attempt to advance the project as quickly as possible.

The SMART Pathway – Golf Course Drive to Todd Road project between Rohnert Park and Santa Rosa has an estimated construction cost of \$4.2 million. SMART submitted an application to the CNRA Urban Greening Program in early May 2017 requesting just over \$2.1 million for construction. Decisions on that request will be announced in October 2017. The balance of the funding for the project is anticipated to come from a combination of Measure M, grant savings realized on the SMART Pathway project to the south (Golf Course Drive to Southwest Boulevard), and from development fees collected by the City of Rohnert Park for investment in regionally significant environmentally sensitive transportation infrastructure. As part of the initial application process to CNRA, staff was advised that sufficient documentation existed authorizing the submittal of the grant request. Subsequently a request from CNRA staff was received for a resolution of local support from SMART utilizing CNRA’s specific standard language and that resolution is attached for your consideration. As with the prior project, SMART staff will continue to work with our partners on the various matching funds to attempt to advance this SMART Pathway – Golf Course Drive to Todd Road project as quickly as possible.

FISCAL IMPACT: Measure Q funds in the amount of up to \$725,000 have been reserved for the SMART Pathway – Payran Street to South Point Boulevard Project.

REVIEWED BY: Finance  Counsel 

Very truly yours,


Joanne Parker
Programming and Grants Manager

Attachment(s): Resolution No. 2017-07 - Local Support for One Bay Area Grant Funds
Resolution No. 2017-08 - Local Support for Urban Greening Funds

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO THE METROPOLITAN TRANSPORTATION COMMISSION AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCES TO COMPLETE THE SMART PATHWAY – PAYRAN STREET TO SOUTH POINT BOULEVARD PROJECT

WHEREAS, Sonoma-Marín Area Rail Transit District (SMART) is submitting an applications to the Metropolitan Transportation Commission (MTC) for \$400,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as Regional Discretionary Funding) for the SMART Pathway – Payran Street to South Point Boulevard Project (herein referred to as PROJECT) for the CMAQ Program (herein referred to as PROGRAM); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality (CMAQ) Program (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, SMART is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- that SMART has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and
- in the case of a transit project, the PROJECT will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; and
- in the case of an RTIP project, state law requires PROJECT be included in a local congestion management plan, or be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and

WHEREAS, that SMART is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to SMART making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of SMART to deliver such PROJECT; and

WHEREAS, SMART authorizes its General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the SMART District:

1. Approves the filing and execution of applications for the SMART Pathway –Payran to South Point Project for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and
2. Will provide any required matching funds; and
3. Understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the SMART from other funds, and that SMART does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
4. Understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and SMART has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by SMART; and

Resolution No. 2017-07
Sonoma-Marín Area Rail Transit District
July 19, 2017

5. Will implement the PROJECT as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and
6. Has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
7. Will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and
8. Agrees to comply, in the case of a transit project, with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and
9. Agrees, in the case of an RTIP project, to have the PROJECT included in a local congestion management plan, or be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and
10. Acknowledges SMART is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and
11. Provides assurances that SMART is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and
12. Provides assurances that there is no legal impediment to SMART making applications for the funds; and
13. Provides assurances that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of SMART to deliver such PROJECT; and
14. Authorizes SMART's General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and
15. Will transmit a copy of this resolution to the MTC in conjunction with the filing of the application; and
16. Requests that the MTC support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

Resolution No. 2017-07
Sonoma-Marín Area Rail Transit District
July 19, 2017

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 19th day of July, 2017, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Debora Fudge, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

Leticia Rosas-Mendoza, Clerk of Board of Directors
Sonoma-Marín Area Rail Transit District

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL
TRANSIT DISTRICT AUTHORIZING THE APPLICATION FOR GRANT FUNDS FOR
CALIFORNIA CLIMATE INVESTMENTS URBAN GREENING PROGRAM FOR THE SMART
PATHWAY – GOLF COURSE DRIVE TO TODD ROAD PROJECT**

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the California Natural Resources Agency has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the California Natural Resources Agency require a resolution certifying the approval of application by the Sonoma-Marin Area Rail Transit District (SMART District) Board before submission of said application to the State; and

WHEREAS, the SMART District, if selected, will enter into an agreement with the State of California to implement the funded project.

NOW, THEREFORE, BE IT RESOLVED THAT THE Board of Directors of the SMART District:

1. Approves the filing of applications for the SMART Pathway – Golf Course Drive to Todd Road Project; and
2. Certifies that the SMART District understands the assurances and certification in the application; and
3. Certifies that the SMART District will have sufficient funds to operate and maintain the project consistent with the land tenure requirements; and
4. Certifies that the SMART District will comply with the provisions of Section 1771.5 of the State Labor Code; and
5. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, environmental laws and, that prior to commencement of construction, all applicable permits will have been obtained; and

Resolution No. 2017-08
Sonoma-Marín Area Rail Transit District
July 19, 2017

6. Certifies that the SMART District will work towards the Governor's State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1; and
7. Appoints the General Manager of the SMART District, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 19th day of July, 2017, by the following vote:

DIRECTORS:

AYES:

NOES:

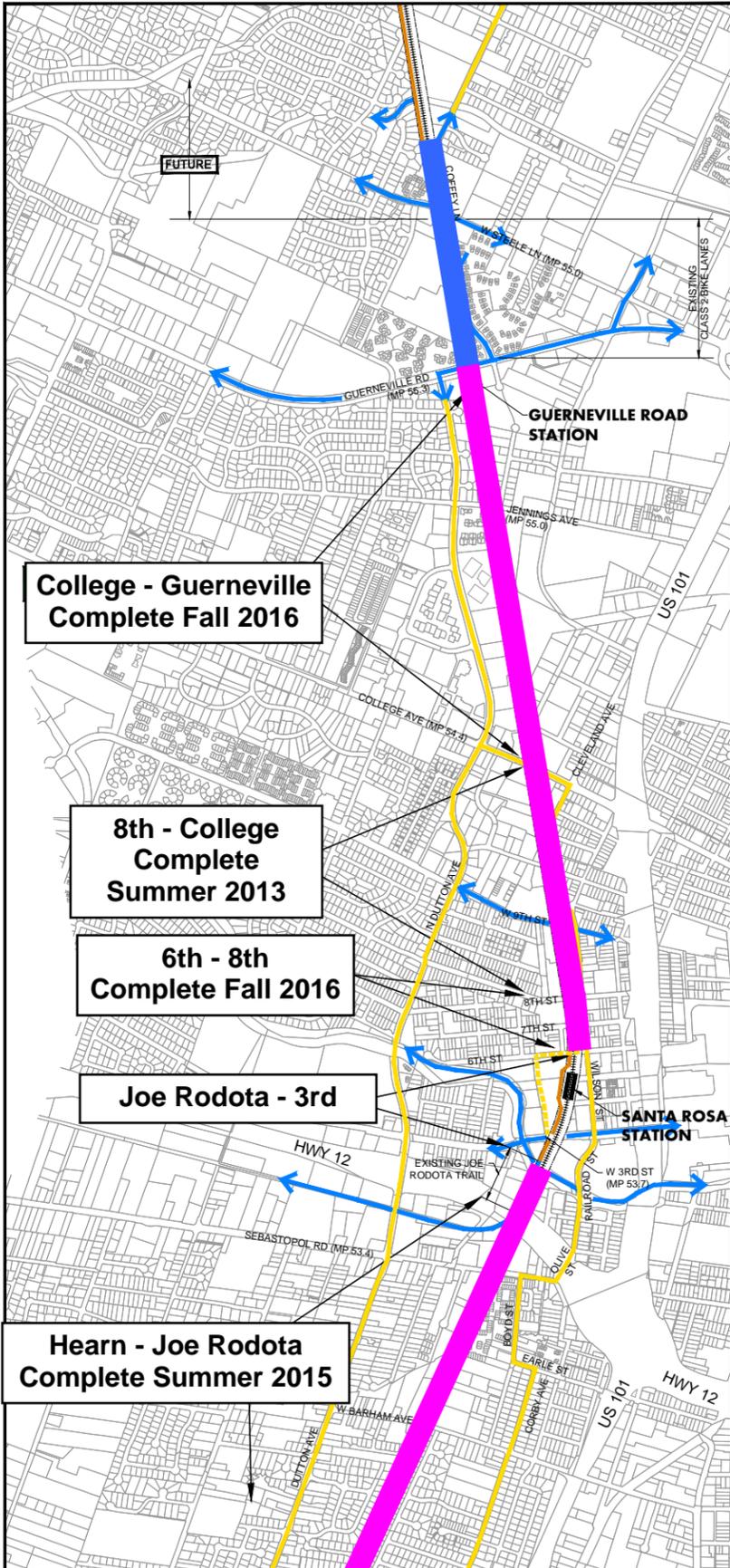
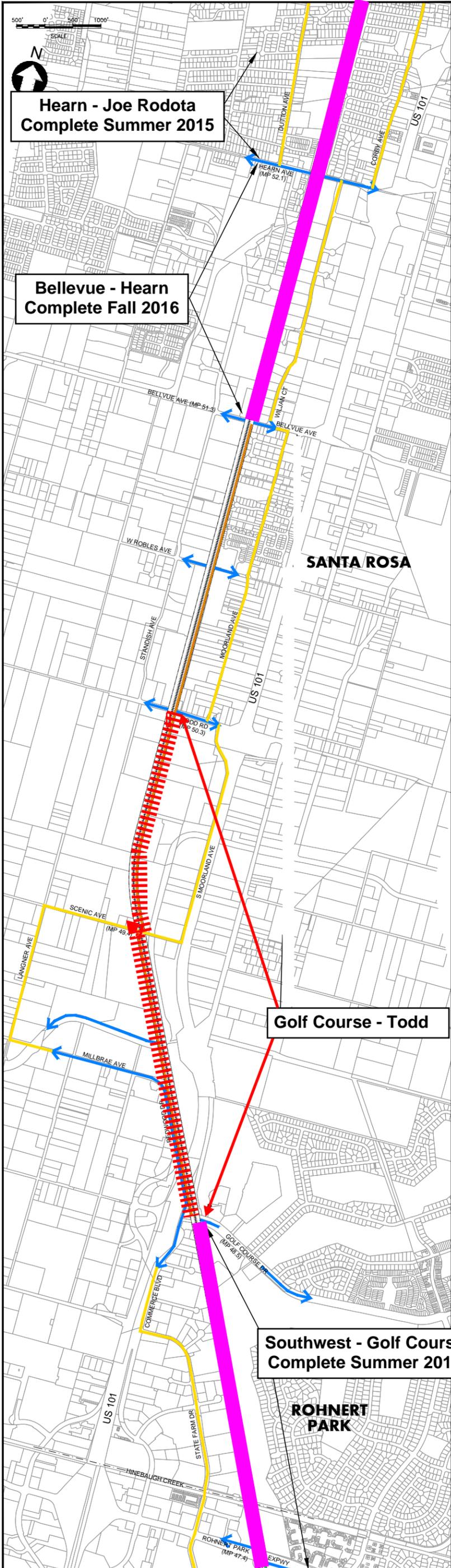
ABSENT:

ABSTAIN:

Debora Fudge, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

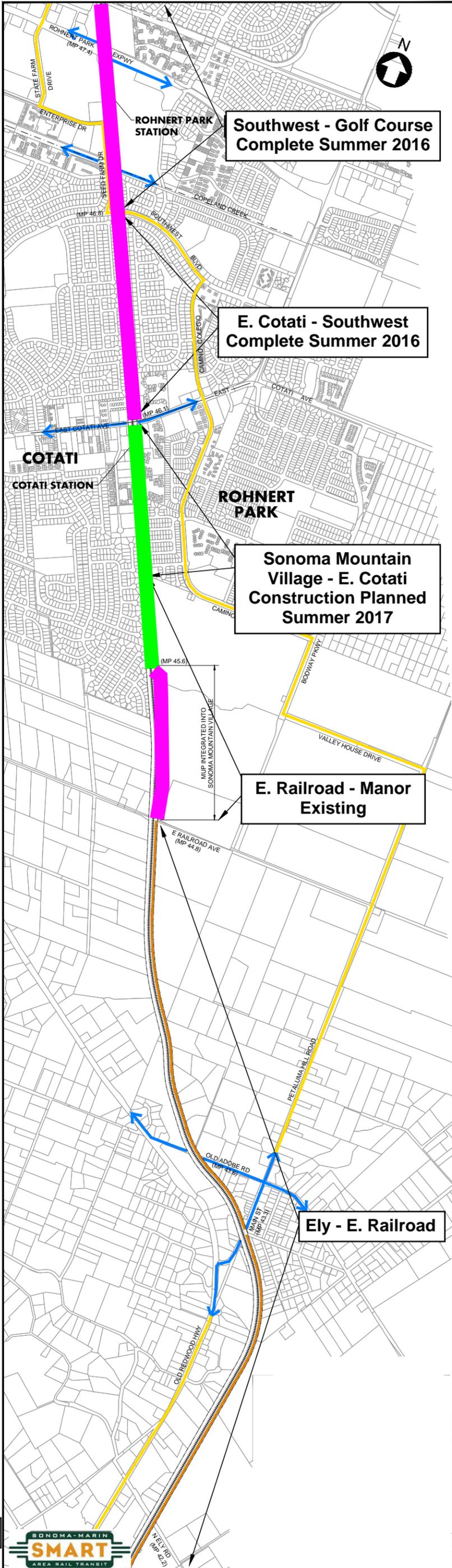
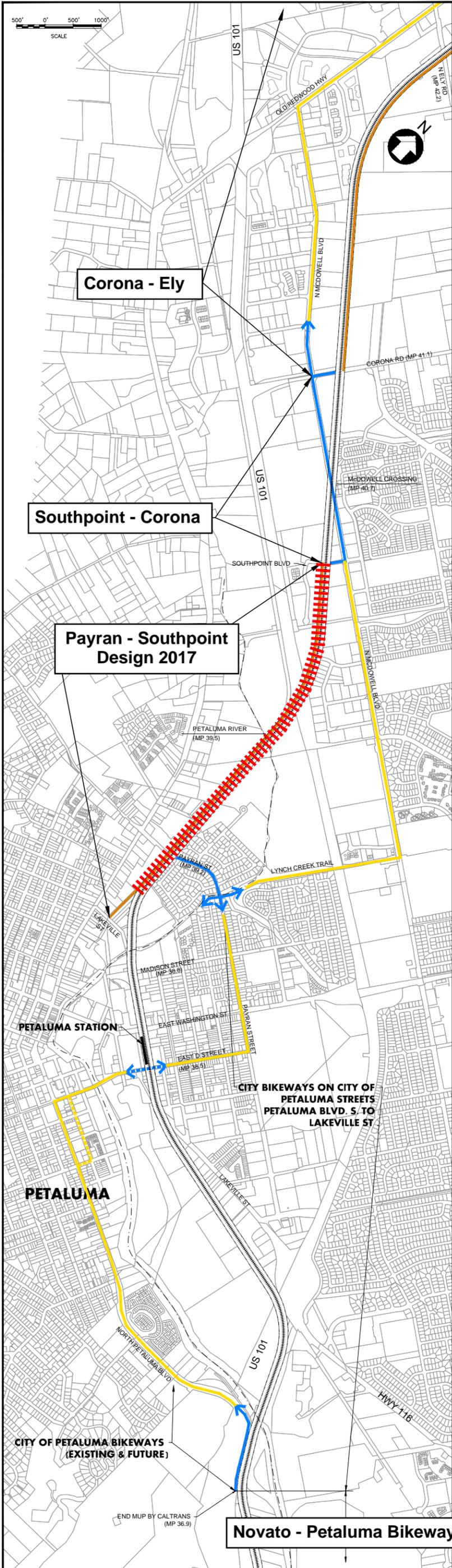
ATTEST:

Leticia Rosas-Mendoza, Clerk of Board of Directors
Sonoma-Marín Area Rail Transit District



	Existing
	Completed
	Requests for Funding sent out
	Construction Ready Funded - Pending Permit
	Design
	Existing Bikeways/Connections
	Existing Parallel Bike Route





End Novato to Petaluma Bikeway Built by Caltrans



- Debora Fudge, Chair**
Sonoma County Mayors and Councilmembers Association
- Kathrin Sears, Vice Chair**
Marin County Board of Supervisors
- Judy Arnold**
Marin County Board of Supervisors
- Jim Eddie**
Golden Gate Bridge,
Highway/Transportation District
- Dan Hillmer**
Marin Council of Mayors and Councilmembers
- Eric Lucan**
Transportation Authority of Marin
- Jake Mackenzie**
Sonoma Mayors and Councilmembers Association
- Barbara Pahre**
Golden Gate Bridge,
Highway/Transportation District
- Gary Phillips**
Transportation Authority of Marin
- David Rabbitt**
Sonoma County Board of Supervisors
- Carol Russell**
Sonoma Mayors and Councilmembers Association
- Shirlee Zane**
Sonoma County Board of Supervisors

Farhad Mansourian
General Manager

5401 Old Redwood Highway
Suite 200
Petaluma, CA 94954
Phone: 707-794-3330
Fax: 707-794-3037
www.sonomamarintrain.org

July 19, 2016

Sonoma-Marín Area Rail Transit Board of Directors
5401 Old Redwood Highway, Suite 200
Santa Rosa, CA 94954

SUBJECT: Approval of 2017 Disadvantaged Business Enterprise (“DBE”) Program.

Dear Board Members:

RECOMMENDATION:

Adopt Resolution No. 2017-09 approving SMART’s Disadvantaged Business Enterprise (“DBE”) Program for Federal Fiscal Years 2018-2020.

SUMMARY:

In 2015 SMART became a Federal Transit Administration (“FTA”) direct grantee which allows us to work directly with the FTA to receive grant funds for Larkspur and future projects. As part of that process, we established a DBE Program that affects procurement and tracking activities related to any FTA grant funds. The purpose of this policy is to ensure nondiscrimination in the award and administration of our federally funded contracts. Over the past two years we have been utilizing that program and have achieved our established goal of 3.99% DBE participation in FTA-funded contracts.

The proposed DBE Program before you is an update to that program that will govern our activities over the next three years. The policy itself is unchanged from the 2015 policy your Board approved. The only change is in our analysis of our program goal, which is increased from 3.99% to 4.4%. This number, which is based on an analysis contained in Attachment 4 examines on the availability of DBE firms for the type of work that SMART will be doing. The calculation makes adjustments for limiting factors such as the specialized nature of rail work and the limited federally-funded procurement activities SMART will be undertaking in the coming three years. The program will continue to allow SMART to achieve as much of its overall DBE goal as possible by using race neutral efforts at outreach and participation. The overall participation goal of 4.4% applies only to FTA assisted contracts in Fiscal Years 2018 through 2020.

Very truly yours,



Erin McGrath
Chief Financial Officer

Attachment(s): Resolution No. 2017-09

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT ADOPTING A DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

WHEREAS, the Board of Directors has been granted the statutory power to determine the means to finance SMART’s rail transit facilities and bicycle and pedestrian pathways; and

WHEREAS, the Board of Directors desires to apply for and utilize Federal grants to generate revenue to augment SMART’s operating budget; and

WHEREAS, the Federal Transportation Agency and other Federal grant and funding sources require that recipients of grant funds adopt and implement a Disadvantaged Business Enterprise Program (“DBE”).

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Sonoma-Marín Area Rail Transit District hereby adopts the DBE Program attached to this Resolution as Exhibit A.

This resolution shall be and is hereby declared to be in full force and effect from and after the date of its passage.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 19th day of July 2017, by the following vote:

Directors:

AYES:

NOES:

ABSENT:

ABSTAIN:

Debora Fudge, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

Leticia Rosas-Mendoza, Clerk of the Board of Directors
Sonoma-Marín Area Rail Transit District



SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

Submitted To:

FEDERAL TRANSIT ADMINISTRATION
SAN FRANCISCO FEDERAL BUILDING
90 7TH STREET, SUITE 15-300
SAN FRANCISCO, CA 94103
UNITED STATES

Effective: August 1, 2017

Table of Contents

I.	Statement of Policy	4
II.	Objectives.....	4
III.	Applicability.....	4
IV.	Responsibility for DBE Program Implementation and Administration	5
	A. Board of Directors.....	5
	B. General Manager	5
	C. Liaison Officer	5
	D. Office of the General Counsel.....	6
V.	Administrative Requirements	6
	A. DBE Financial Institutions	6
	B. CUCP DBE Directory	6
	C. Overconcentration.....	6
	D. Race & Gender Neutral Efforts to Attain DBE Goals	7
	E. Small Business DBE Program Elements.....	7
	F. DBE Outreach.....	7
	G. Hearing Officer.....	8
	H. Unified Certification Program	8
	I. Transit Vehicle Manufacturer Certification	8
VI.	Triennial DBE Goals.....	8
VII.	Contract-Specific DBE Goals.....	9
VIII.	DBE Eligibility	9
	A. Disadvantaged Business Enterprise	9
	B. Small Business Concern	9
	C. Socially and Economically Disadvantaged Individuals.....	9
	D. Personal Net Worth	10
	E. Non-Residence Certification	10
IX.	Procedures to Ascertain Eligibility and Utilization of DBEs	11
	A. DBE Certification	11
	B. Termination.....	11
	C. Remedies for Non-Compliance	12
	D. Counting and Tracking DBE Participation	12
X.	Required Contract Provisions.....	13
	A. Nondiscrimination Assurance	13
	B. Prompt Payment Policy and Provisions	13
XI.	Contract Compliance and Reporting	14
	A. Bidders List.....	14
	B. Reporting to the US Department of Transportation.....	14
	C. Other Reporting Requirements	14
XII.	Miscellaneous	14
	A. Program Review	14
	B. Severability.....	14
XIII.	Special Requirements for Design/Build Contracts Under Public Contract Code.....	15
	A. Category of Work Goals	15
	B. DBE Participation Credit for Second Tier Subcontractors.....	15
	C. Bonding Waiver for Subcontracts	15
	D. DBE Cost-Loaded Schedule	15
	E. Phased Goals.....	15

Attachment 1 Organization Chart 17
Attachment 2 DBE Directory 18
Attachment 3 Monitoring and Enforcement 20
Attachment 4 Overall Goal Calculation 19
Attachment 5 Breakout of Estimated Participation 27
Attachment 6 Forms for Demonstration of Good Faith Efforts..... 28
Attachment 7 Certification of Application Forms 30
Attachment 8 Procedures of Removal of DBE’s Eligibility31
Attachment 9 Regulations34

I. Statement of Policy

It is the policy of the Sonoma-Marín Area Rail Transit District ("SMART") to ensure nondiscrimination on the basis of race, color, sex, or national origin in the award and administration of federally funded contracts. It is the intention of SMART to create a level playing field on which a Disadvantaged Business Enterprise ("DBE") or Small Business ("SB") can compete fairly for federally funded agreements, contracts and subcontracts, including but not limited to construction, procurement and proposal contracts, professional and technical services agreements and purchase orders.

As a recipient of federal funds, SMART is committed to carrying out all requirements of 49 CFR Part 26, establishing and maintaining SMART's DBE Program (the "DBE Program" or "Program"). SMART will implement its DBE Program in good faith and shall not permit the use of race or gender conscious quotas or set-asides in its administration.

SMART has disseminated this policy statement to the SMART Board of Directors and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT- assisted contracts and is posted on our website: www.SonomaMarinTrain.org.

This DBE Program is intended to implement the federal requirements pertaining to the DBE Program, including, but not limited to, 49 CFR Part 26 as amended. In the event of any inconsistencies between the terms of SMART's DBE Program and the terms of 49 CFR Part 26 as amended, the latter shall prevail.

II. Objectives

The objectives of this DBE Program are to:

1. Ensure nondiscrimination in the award and administration of federally funded contracts;
2. Create a level playing field on which DBEs and SBs can compete fairly for federally funded contracts;
3. Help remove barriers to DBE and SB participation in the bidding, award and administration of District contracts;
4. Assist in the development of DBE and SB firms that can compete successfully in the market place outside of the DBE Program;
5. Ensure that only firms that fully meet the eligibility standards of 49 CFR Part 26 are permitted to participate as DBEs;
6. Ensure that the DBE Program is narrowly tailored in accordance with applicable law.
7. Identify business enterprises that are qualified as DBEs or SBs and are qualified to provide SMART with materials, equipment, supplies and services; and to develop a good rapport with the owners and management of those enterprises;

III. Applicability

Pursuant to 49 CFR Sections 26.3 and 26.21, SMART, as a recipient of federal financial assistance from the Federal Transit Administration ("FTA") of the United States Department of Transportation ("DOT"), is required to implement a DBE Program in accordance with 49 CFR Part 26. The DBE Program outlined herein applies to all SMART contracts that are funded, in whole or in part, by the DOT.

Subrecipients are responsible for adhering to SMART's DBE Program and to 49 CFR Part 26 in its entirety.

In the administration of the DBE Program, SMART will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of this DBE Program with respect to individuals of a particular race, color, sex or national origin.

IV. Responsibility for DBE Program Implementation and Administration

A. Board of Directors

The Board of Directors is responsible for establishing DBE policy.

B. General Manager

SMART's General Manager is responsible for adherence to this DBE Program and has overall responsibility for directing development and implementation of this Program.

C. Liaison Officer

The General Manager shall designate the Liaison Officer as referenced in 49 CFR Part 26.25. The Liaison Officer shall be responsible for overseeing the DBE Program, recommending DBE policy, developing and implementing a written DBE program and internal and external communication procedures. Pursuant to 49 CFR Part 26.25, the Liaison Officer shall have adequate staff to administer SMART's DBE Program and shall have direct and independent access to the General Manager.

The Liaison Officer shall be responsible for all aspects of the DBE Program as outlined in this document, and he or she will work closely with operating divisions and other departments and consultants of SMART, including the Office of the General Counsel, the Contracts/Procurement Coordinator and Engineering, and other departments which are responsible for making decisions relative to SMART's agreements, contracts and subcontracts, including but not limited to construction, procurement and proposal contracts, professional and technical services agreements and purchase orders.

The specific duties and responsibilities of the Liaison Officer or his/her designee(s) shall include but not be limited to the following:

1. Gathering and reporting statistical data and other information as required by FTA and the Board of Directors;
2. Working with appropriate departments to establish overall DBE goals;
3. Ensuring timely notification to the DBE community of bid and contract opportunities;
4. Identifying and implementing race-neutral methods of achieving DBE participation and evaluating the success of such methods, including race-neutral SB participation;
5. Analyzing and assessing the available resources and evidence for the establishment and achievement of an overall DBE participation goal;
6. Analyzing SMART's progress toward DBE goal attainment, and identifying ways to improve progress;
7. Monitoring overall DBE participation, adjusting overall goals and means of achievement, and reporting to SMART, the Board and FTA as needed;

8. Participating in the contract bid and award process including establishing contract-specific DBE goals where appropriate, reviewing contract specifications, attending pre-bid, pre-proposal and pre-construction meetings to explain the DBE Program, to respond to questions from contractors and proposers and evaluating bids for contractor responsiveness, responsibility and good faith efforts;
9. Advising the General Manager and Board of Directors on DBE matters;
10. Maintaining and updating the DBE Directory in accordance with 49 CFR Section 26.31;
11. Maintaining and updating the Bidders List in accordance with 49 CFR Section 26.11;
12. Providing outreach to DBEs and community organizations with advice on DBE Program issues and contract opportunities;
13. Determining all initial certification actions for DBE and small businesses elements, including certifications, annual updates, denials and removals;
14. Participating in the implementation of a statewide Unified Certification Program in accordance with 49 CFR Section 26.81;
15. Maintaining all necessary records and documentation of the DBE Program.

D. Office of the General Counsel

The Office of the General Counsel is responsible for advising the Board of Directors, the General Manager, and the DBE Liaison Officer in the implementation of the DBE Program.

V. Administrative Requirements

A. DBE Financial Institutions

Pursuant to 49 CFR Section 26.27, the Liaison Officer will identify and explore the range of services offered by banks and other financial institutions that qualify as DBEs in the Counties of Marin and Sonoma and determine areas in which SMART may reasonably utilize their services. SMART will also encourage its prime contractors to use the services of DBE financial institutions.

B. CUCP DBE Directory

SMART is a member of the California Unified Certification Program (CUCP), which maintains the DBE directory pursuant to 49CFR 26.81 that identifies all firms that are eligible to participate as DBEs in this Program. SMART uses the DBE directory as a resource in developing overall and contract-specific DBE participation goals and conducting outreach and other programs for DBEs and SBs.

C. Overconcentration

Pursuant to 49 CFR Section 26.33, if the Liaison Officer determines that DBE participation is so over-concentrated in certain types of work or contracting opportunities that it unduly burdens the participation of non-DBEs in that type of work, the Liaison Officer will develop appropriate measures to address the overconcentration. The Liaison Officer will seek approval from the FTA. Once approved, the measures will become part of this Program.

Measures to address DBE overconcentration in a particular field may include, but are not limited to the following:

1. Developing ways to assist DBEs to move into nontraditional areas of work;
2. Varying the use of contract-specific DBE goals;

3. Working with prime contractors to find and use DBEs in other industry areas;

D. Race & Gender Neutral Efforts to Attain DBE Goals

Pursuant to 49 CFR Section 26.51, SMART will achieve as much of its overall DBE goal as possible by using race neutral efforts to facilitate DBE participation. Race-neutral efforts may include, but are not limited to, the following:

1. Arranging solicitations, times for presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small businesses participation;
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Providing technical assistance and other similar services;
4. Providing information and communication programs on contracting and business procedures as well as specific contract opportunities;
5. Ensuring distribution of SMART's DBE data base through print and electronic means to the widest feasible range of potential prime contractors;
6. Conducting internal training seminars to facilitate better understanding among project managers and engineers regarding the DBE Program objectives;
7. Maintain a website containing information on DBE certification, DBE Program, DBE procedures and a database of DBE firms;
8. Ensuring that SMART's SB Elements are open and available to all small businesses, including DBE's.

E. Small Business DBE Program Elements

In accordance with 49 CFR Section 26.39, SMART will establish Small Business DBE Program Elements ("SB Elements") as part of its DBE Program. DBEs are SBs and thus having an active and effective SB element to its DBE Program will assist SMART in achieving as large a portion of its overall goal as possible through race-neutral means. The SB Elements will include all reasonable steps to eliminate obstacles to small business participation on SMART's contracts. This includes, but is not limited to:

1. Race neutral SB goals on DOT funded contracts;
2. Contract set asides for SBs on DOT funded contracts;

As a component of the SB Elements SMART shall establish a means to certify small businesses and track information on the certified small businesses. SMART shall develop procedures to gather and report statistical data on the SB Elements of its DBE Program.

The Liaison Officer will ensure that the SB Elements integrate with and complement the District's other race-neutral DBE Program efforts. The Liaison Officer shall work in conjunction with all projects at the earliest stages of project development to ensure that the projects have, to the fullest extent feasible, been developed in a way that encourages DBE or SB participation.

F. DBE Outreach

One method of providing race-neutral efforts for DBE and SB participation will be through SMART's DBE Outreach Program (the "Outreach Program"). The Liaison Officer shall be responsible for identifying the most effective type(s) of outreach and implementing outreach. Outreach includes but is not limited to contract-specific outreach, general outreach and outreach to community based organizations (CBOs) and contractor or business groups.

G. Hearing Officer

In accordance with 49 CFR Sections 26.53(d)(2) and 26.87(e) and as described more fully in appendices E and F, all proceedings by SMART in connection with the removal of certification or reconsideration of a determination that a bidder has not met the DBE goal or used good faith efforts will be heard by an outside independent hearing officer selected in accordance with SMART's procedures.

The party or individual requesting the reconsideration or hearing shall equally bear the burden of payment of any fees or costs associated with the independent hearing officer with SMART.

H. Unified Certification Program

A Memorandum of Agreement (the "MOA") for a Statewide Unified Certification Program has been developed by California transportation agencies that are recipients of federal funds in accordance with 49 CFR Part 26. The MOA was accepted by the Secretary of the U.S. Department of Transportation and is effective as of January 1, 2002. There are two certifying clusters in California: Northern and Southern. SMART is among the certifying agencies within the Northern California cluster.

I. Transit Vehicle Manufacturer Certification

Each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 CFR Section 26.49, including the establishment of an annual overall DBE participation goal that has been submitted to the FTA and either approved, or not disapproved, by that agency. SMART shall not include the amount of FTA assistance used in transit vehicle procurements in the base amount from which SMART's overall annual goal is established. Alternatively, SMART may establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying with the remaining sections of 49 CFR Section 26.49, subject to approval from the FTA.

VI. Triennial DBE Goals

Pursuant to 49 CFR Section 26.45, the Liaison Officer will establish a triennial overall DBE goal ("Triennial Goal") according to the procedures expressed in Appendix B, subject to the approval of the Board of Directors, for the participation of DBEs in all projected contracts utilizing DOT financial assistance for a period covering three fiscal years. The Triennial Goal will be expressed as a percentage of the total amount of DOT funds the District anticipates expending in three-year period covered by the triennial goal. A report outlining the steps and calculations used to establish SMART's Triennial Goal ("Triennial Goal Report") will be submitted to the appropriate operating administration for review no later than October 31 for each three fiscal year period to be covered by the Triennial Goal.

The Liaison Officer will track and evaluate its goal on a quarterly basis. This tracking is for informational purposes only and to ensure that SMART is meeting the largest feasible portion of the Triennial Goal through race neutral means. In the event that SMART amends its Triennial Goal, it shall be submitted to the appropriate operating authority in a manner consistent with 49 CFR Section 26.45.

SMART's overall goal is reflective of the amount of ready, willing and able DBEs that are available to participate in contracting opportunities and is reflective of the amount of DBE participation SMART would expect absent the effects of discrimination. SMART intends to meet this goal, to the fullest

extent feasible, through the race-neutral measures. Where race-neutral measures are inadequate to meet the annual overall goal, SMART will establish contract-specific goals for particular projects with subcontracting opportunities. Contract-specific goals will be established in accordance with the findings of District's disparity study ("Disparity Study"), or any subsequent updates to the Disparity Study.

Overall project goals may be set for design-build, turnkey and/or multi-year projects consistent with the requirements of 49 CFR Part 26, as outlined in Section XIV.

VII. Contract-Specific DBE Goals

In accordance with the procedures expressed in Appendix C, SMART will establish contract-specific DBE goals on construction contracts with subcontracting opportunities to the extent that SMART cannot achieve its annual overall DBE goal with race-neutral measures. Where a contract-specific DBE goal has been established, the bidder or proposer must meet the contract-specific goal or demonstrate that it made good faith efforts to do so. The bidder shall be entitled to a hearing if the bidder fails to show either that it met the goal or that it made good faith efforts to meet the goal. All proceedings by SMART in connection with good faith efforts will be held by an outside independent hearing officer selected in accordance with District procedures. A bidder or proposer will be ineligible for award if it does not meet the goal or demonstrate good faith efforts. Contract specifications will provide that contract award is conditioned on meeting these requirements.

A contract specific goal shall only be established where supported by the findings of SMART's Availability and Utilization Study or an update to that study.

VIII. DBE Eligibility

A. Disadvantaged Business Enterprise

A Disadvantaged Business Enterprise (DBE) is a for-profit, small business concern: 1) that is at least fifty-one percent (51 %) owned by one or more individuals who are socially and economically disadvantaged or, in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and 2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

B. Small Business Concern

A small business concern is an existing small business, as defined by Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121), whose average annual gross receipts for the previous three years does not exceed \$22.41 million (or as adjusted for inflation by the Secretary of DOT) pursuant to 49 CFR Section 26.65(b).

C. Socially and Economically Disadvantaged Individuals

There is an assumption that an individual is both socially and economically disadvantaged if he or she is a citizen or lawfully admitted permanent resident of the United States and is:

1. Black American (including persons having origins in any of the Black racial groups of Africa);
2. Hispanic American (including persons of Central or South American, Cuban, Dominican,

- Mexican, Puerto Rican, or other Spanish or Portuguese culture or origin, regardless of race);
- 3. Native American (including persons who are Aleuts, American Indians, Eskimos, or Native Hawaiians);
- 4. Asian-Pacific American (including persons whose origins are from Brunei, Burma (Myanmar), Cambodia (Kampuchea), China, the Commonwealth of the Northern Marianas Islands, the Federated States of Micronesia, Fiji, Guam, Hong Kong, Indonesia, Japan, Juvalu, Kiribati, Korea, Laos, Macao, Malaysia, Nauru, the Philippines, Samoa, Taiwan, Thailand, Tonga, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), or Vietnam);
- 5. Subcontinent Asian American (including persons whose origins are from Bangladesh, Bhutan, India, the Maldives Islands, Nepal, Pakistan, or Sri Lanka); A Woman; or
- 6. A member of any additional group that is designated as socially and economically disadvantaged by the Small Business Administration.

SMART will require each individual owner of a firm applying to participate as a DBE and whose ownership interest is relied upon for DBE certification to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged. SMART will also require each individual owner of a firm applying to participate as a DBE and whose ownership interest is relied upon for DBE certification to submit a sign, notarized statement of personal net worth with appropriate supporting documentation.

Additionally, any individual may demonstrate, by a preponderance of evidence on a case-by-case basis, that he or she is socially and economically disadvantaged. SMART will follow governmental requirements, including 49 CFR Section 26.67 and the guidelines in 49 CFR Part 26, Appendix E, for determining social and economic disadvantage.

D. Personal Net Worth

Personal Net Worth (PNW) means the value of the assets of an individual remaining after total liabilities are deducted. As defined more specifically and limited in 49 CFR Part 26, an individual's personal net worth does not include:

- 1. The individual's ownership interest in an applicant or participating DBE firm;
- 2. The individual's equity in his or her primary place of residence;

An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse. An individual owner of a firm whose ownership and control are relied on for DBE certification cannot be determined to be economically disadvantaged if he or she has a personal net worth exceeding \$1.32 million.

E. Non-Residence Certification

SMART's market area consists of Marin, Sonoma and Solano counties (the "Market Area"). In order for a firm with a principal place of business located outside of the Market Area to be eligible to benefit from the race and gender conscious program, the firm must show that it has attempted to do business in the three-county area. All firms whose primary place of business is located in or is domiciled within the Market Area are presumptively assumed to meet the following requirements. The requirements may include but are not be limited to:

- 1. Currently or previously a party to a construction contract to do work in one of the three

counties.

2. Attendance at a SMART sponsored outreach meeting, including pre-bid meetings, town hall meetings and/or Board of Directors' meetings.
3. Any form of communication with SMART, including purchasing contract documents, requesting information from SMART and attending or registering to attend SMART sponsored outreach events.

IX. Procedures to Ascertain Eligibility and Utilization of DBEs

In order to ensure that the DBE Program benefits firms actually owned and controlled by socially and economically disadvantaged individuals, SMART has established certification procedures for DBEs and joint ventures involving DBEs and will abide by the procedures contained in Appendix E.

A. DBE Certification

The California Unified Certification Program (CUCP), is governed by the terms of the Memorandum of Agreement (MOA) for a Unified Certification Program, effective January 1, 2002. The CUCP provides "one-stop shopping" to applicants for certification in California. An applicant need only apply once and the certification will be honored by all recipients in the State.

SMART adopts the CUCP Procedures. Prospective DBE firms may obtain the requisite DBE application forms from SMART's web site at www.sonomamarintrain.org or by contacting the Liaison Officer directly.

DBE firms certified pursuant to the Unified Certification Program (UCP) will be counted towards a bidder's DBE participation goal unless successfully challenged under this DBE Program. Pursuant to 49 CFR Section 26.81(c), all certifications by the CUCP shall be pre-certifications, i.e., certifications that have been made final before the due date for bids on a contract on which a firm seeks to participate as a DBE. Only firms that are certified as eligible DBE's may participate as DBE's in the Program.

Certifying agencies of the CUCP will not process a new application for DBE certification from a firm having its principal place of business in another state unless the firm has already been certified in the other state.

When processing an application from a firm that has been certified by the SBA as a small business, SMART has two choices. It may either accept the SBA certification decision, subject to SMART's own on-site review, or it may use the firm's SBA application package in lieu of requiring completion of SMART's own application form (in which case the District will still have to complete an on-site review, but will make its own decision). Certification procedures, including those applicable to initial certification, removal (decertification), and certification appeals, are set forth in Appendix E.

B. Termination

Termination of DBE firms shall only be for good cause, as determined by SMART in accordance with 49 CFR Section 26.53 (f). Any termination of a DBE must be essential to the contract and not merely discretionary, advantageous or for the convenience of the contractor. A contractor must immediately notify the Liaison Officer of a DBE's inability to perform, and must provide documentation to substantiate any claim of non-performance. In order to terminate a DBE firm, the contractor must receive prior, written approval from SMART.

In the event that SMART approves the termination of the DBE, the contractor will be required to make good faith efforts to substitute the terminated DBE subcontractor with another certified DBE. The contractor will be required to provide copies of new or amended subcontract agreements.

C. Remedies for Non-Compliance

Non-compliance consists of failure or refusal to implement, meet or satisfy the applicable governmental requirements related to DBE participation, including but not limited to 49 CFR Part 26 and related federal guidelines or the applicable requirements of SMART's DBE Program and/or District contracts related to DBE participation.

SMART may impose any remedies for non-compliance authorized by the federal, state and local regulations and District contract specifications, including withholding of progress payments, liquidated damages and termination of the contract in whole or in part.

D. Counting and Tracking DBE Participation

Only the work actually performed by a DBE will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the prime contractor or its affiliate) may also be counted.

DBE participation will not be counted toward the prime contractor's achievements or the overall goal until the DBE has been paid. In accordance with 49 CFR Section 26.51(g), The Liaison Officer will track the participation of DBEs in contract-specific goal contracts separately from the participation of DBEs in contracts without contract goals. The Liaison Officer will not count towards the overall goal that portion of a DBEs participation that is achieved after the certification of the DBE has been removed during the performance of a contract. If the DBE's ineligibility is caused solely by its having exceeded the applicable size standard during the performance of the contract, SMART will continue to count its participation on that contract toward overall and contract goals.

Expenditures may only be counted if the DBE is performing a commercially useful function on the contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating prices, determining quality and quantity, ordering the material, and installing and paying for the material itself to determine whether a DBE is performing a commercially useful function, the District will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, as well as other relevant factors.

A DBE does not perform a commercially useful function if its role in the contract is limited to that of an extra participant through which funds are passed in order to obtain the appearance of DBE participation. If the DBE does not perform or exercise responsibility for at least 51 % of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the DBE is presumed not to be performing a commercially useful function

If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost will be counted. If the materials and supplies are purchased from a DBE regular dealer, 60 percent of the cost will be counted. If the materials and supplies are purchased from a DBE broker or a manufacturer's representative, the entire amount of the fees or commissions charged for assistance in the procurement of the materials or supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site will be counted towards the DBE goal provided that the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

Trucking will be counted in accordance with the provisions of 49 CFR Section 26.55

X. Required Contract Provisions

SMART will include the following provisions in federally funded contracts, where appropriate.

A. Nondiscrimination Assurance

Each federally funded contract SMART signs with a contractor, and each subcontract the prime contractor signs with a subcontractor, will include the following statement:

"The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor 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 SMART deems appropriate as specified in the contract."

B. Prompt Payment Policy and Provisions

Each federally funded contract SMART signs with a contractor will include the following provisions:

"The contractor shall promptly pay any and all subcontractors by an instrument that guarantees availability of funds immediately upon deposit of said instrument. The contractor shall include, in its monthly invoice submission to SMART, amounts to pay for all subcontractors' acceptable invoices, no later than 30 days after receipt of such invoices. Unless otherwise approved in writing by SMART, the contractor shall, within ten (10) days after receipt of the payment made by SMART, pay to each of its immediate subcontractors for satisfactory performance of its contract, the amounts to which they are entitled, after deducting any prior payments and any amount due and payable to the contractor by those subcontractors. Any delay or postponement of such payment may take place only for good cause and with SMART's prior written approval. If the contractor determines the work of the subcontractors to be unsatisfactory, the contractor must immediately notify in writing SMART (with a separate notice to the Liaison Officer if the subcontractor is a DBE) and state the reasons. Failure by the contractor to comply with this requirement will be construed to be breach of contract and may be subject to sanctions as specified in the contract."

"Should SMART make incremental inspections and, upon approval of the contractor's work at various stages of the contract, pay a portion of the retainage, the contractor shall promptly, within 30 days after SMART has made such payment, pay to the subcontractor who has satisfactorily completed all of its work and whose work is covered by SMART's inspection and approval, all retainage owed to the subcontractor. SMART's incremental inspections, approval or

release of a portion of the retainage under this section shall not constitute acceptance."

For the purposes of this section, a subcontractor's work is satisfactorily completed when the prime contractor certifies to SMART that all the tasks called for in the subcontract have been accomplished.

XI. Contract Compliance and Reporting

SMART will implement appropriate mechanisms to ensure compliance with the DBE Program by all program participants under federal, state and local law. This includes establishing contract monitoring and enforcement provisions consistent with 49 CFR Section 26.37(b).

A. Bidders List

Pursuant to 49 CFR Section 26.11(c), SMART will create and maintain a bidders list consisting of all firms bidding on prime contracts and bidding or quoting subcontracts on federally funded projects. For every firm, the following information will be included: firm name, firm address and firm's status as a DBE or non-DBE. SMART may also request additional information from bidders such as the age of the firm, the annual gross receipts of the firm and the ethnicity and gender of the owners, although this information is not required to be provided by any bidders.

B. Reporting to the US Department of Transportation

Pursuant to 49 CFR Section 26.11(b), SMART will continue to report DBE participation and Triennial Goal setting methods to the FTA as directed. In addition, SMART shall maintain prescribed statistical data.

C. Other Reporting Requirements

SMART will track the amount awarded the DBE, the amount paid to the DBE as stated by the prime contractor, and the amount paid to the DBE as verified by the DBE. Pursuant to 49 CFR section 26.37 (b), SMART will certify in writing that any work committed to DBE firms is performed by the DBE firm to which the work has been committed.

The Liaison Officer will report the actual amount paid to DBEs to FTA. Contractors performing work on SMART's DOT assisted contracts are required to separately report the DBE participation of their contracts achieved through race-neutral and through race-conscious means.

XII. Miscellaneous

A. Program Review

The DBE Program will be reviewed by the Liaison Officer every five (5) fiscal years, or more frequently as necessary at the sole discretion of the Board, to ensure that elements of the DBE Program are tailored to address any discrimination that may exist in the industries relevant to SMART's contracting activities and to ensure that the DBE Program does not disproportionately impact any particular group.

B. Severability

Should any part, term, provision or element of this DBE Program be decided by the courts to be illegal or in conflict with any law of the United States or of the State of California or otherwise rendered

unenforceable or ineffective, the validity of the remaining parts, terms, provisions, or elements shall not be affected.

XIII. Special Requirements for Design/Build Contracts Under Public Contract Code

In addition to the terms, conditions and provisions described above in Sections I through XIII, the following terms, conditions and provisions are applicable to design- build contracts awarded by SMART under the authority of Public Contract Code Sections 20209.5 et seq.:

A. Category of Work Goals

On any Design-Build contract with subcontracting opportunities, SMART shall establish Category-of-Work goals of a type and level appropriate to meet either the contract goal or the race-conscious portion of the project overall goal. The Category-of-Work goals will address contracting activities in various areas of work throughout the life of the contract. As more fully described in Section XIV.E, below, a bidder must commit to meet each of the Category-of-Work DBE goal(s) or demonstrate that it could not meet said Category-of-Work DBE goal(s) despite its good faith efforts.

B. DBE Participation Credit for Second Tier Subcontractors

DBE participation by second-tier subcontractors will be counted toward the DBE goal subject to ensuring that record keeping and enforcement provisions for DBE participation are passed down to the second-tier subcontractor.

C. Bonding Waiver for Subcontracts

SMART, in its discretion and on a contract-by-contract basis, may require a prime contractor to eliminate bonding requirements for subcontracts under a certain size or which meet a specific criteria.

D. DBE Cost-Loaded Schedule

SMART, in its discretion and on a contract-by-contract basis, may require a prime Contractor to provide a DBE Cost-Loaded Schedule.

E. Phased Goals

Where a Category-of-Work goal has been set that is applicable to an initial project phase (e.g., design and professional services), a bidder shall identify at bid all DBE firms, their participation level and type of work to meet the initial Category-of-Work goal(s) or shall demonstrate good faith efforts to meet such goal(s). In addition, where Category-of-Work goals have been set that are applicable to subsequent project phases (e.g., construction), a bidder at bid shall commit to meet each subsequent Category-of-Work goal identified in the Design-Build documents or shall demonstrate good faith efforts to meet such goal(s). Notwithstanding a bidder's commitment at bid to meet a specific level of DBE participation for Category-of-Work goals applicable to later project phases, a bidder shall not be required to identify at bid the DBE firms it will use for this work. Rather, the bidder's commitment will be monitored during performance of the contract in a number of ways, including but not limited to the following:

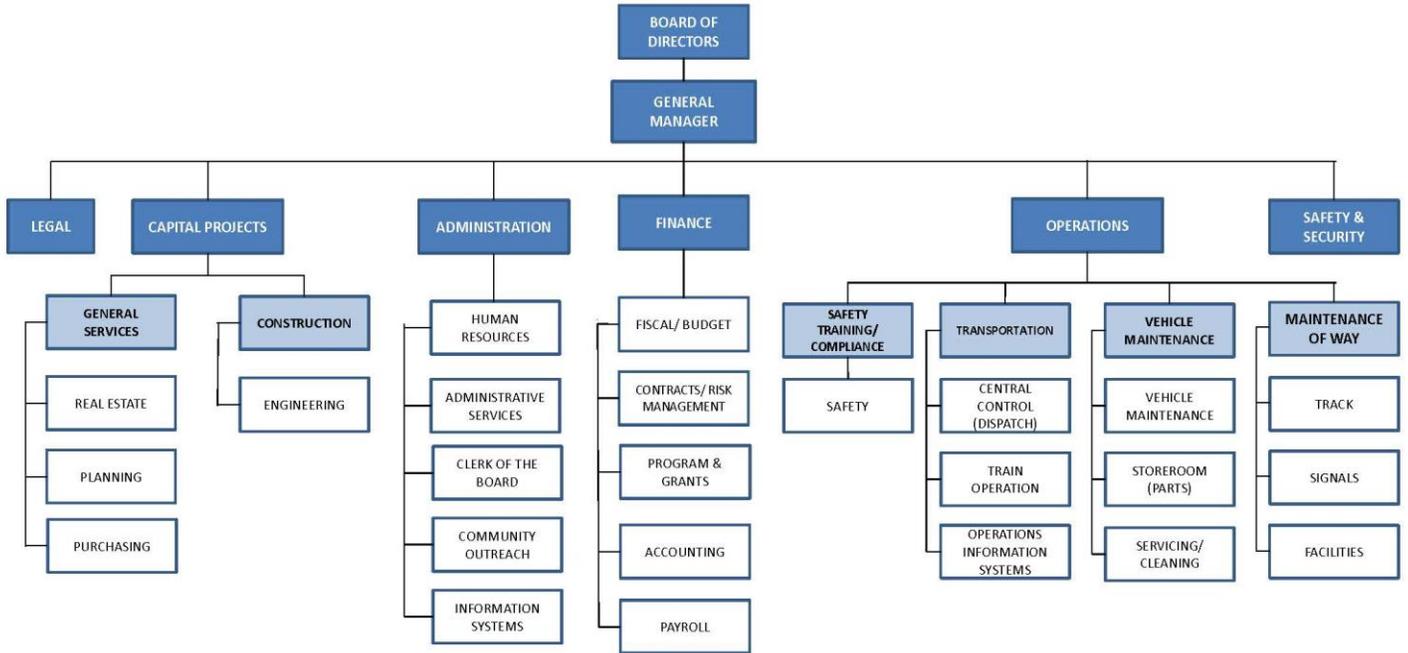
1. Prior to commencement of work by the DBE, the contractor shall submit a monthly DBE Participation Form identifying the DBE firm, its participation level and type of work to be

performed, along with a copy of the subcontract with the DBE. No credit shall be given the contractor for participation by any DBE that has not been approved by the District.

2. The contractor shall file monthly DBE Utilization Reports.
3. If required, the contractor shall periodically submit a DBE cost-loaded schedule.
4. SMART shall undertake regular evaluation of the contractor's progress regarding DBE participation and may request corrective action plans as appropriate.
5. In accordance with current regulations, all DBEs that are to participate on the project must be certified prior to bid. Moreover, subcontracts with DBEs are governed by the requirements of Public Contract Code Section 20209.10 (c).

Attachment 1 Organization Chart

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT Organization Chart



May 2016

Attachment 2

DBE Directory

See the CUCP directory, found at: http://www.dot.ca.gov/hq/bep/find_certified.htm

SMART encourages prime contract bidders to search this directory when seeking subcontractors that are certified as a DBE. SMART will provide a hard copy of such directory upon request.

Attachment 3

Monitoring and Enforcement Mechanisms

SMART has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to California Civil Code §3300, et seq.;
3. Any other enforcement mechanism in law or equity allowable in California.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001.

Attachment 4
Section 26.45 - Overall Goal Calculation

SUMMARY

Sonoma-Marín Area Rail Transit District (SMART) has completed its goal setting and methodology study for its three-year Disadvantaged Business Enterprise (DBE) overall goal for contracting opportunities funded by the Federal Transit Administration (FTA), in accordance with 49 CFR Part 26. SMART has determined a race-neutral triennial goal for Federal Fiscal Years (FFY) 2018-2020 of 4.40%.

The goal has been established based on an anticipated total of \$29,338,079 of FTA dollars to be executed into a single grant in the coming three years. The individual fund sources and amounts are listed in Table 1. Of the total anticipated FTA funds, 91.4% or \$26,817,279 are expected to be awarded into contracts for work associated with SMART’s Small Starts Project (San Rafael to Larkspur Extension).

Table 1

Anticipated FTA Funds	Amount
Section 5309	\$20,033,000
CMAQ Transfer to 5307	\$ 6,100,000
CMAQ Transfer to 5307	\$ 3,205,079
TOTAL ANTICIPATED FTA FUNDS	\$29,338,079

In the event of increased FTA funding for other projects or activities, SMART will evaluate the changes to determine whether the current goal needs to be adjusted. It is also worth noting that most of the funding that SMART will receive from the FTA in the three years covered by this FFY 2018-20 DBE Goal has been obligated through pre-award authority into a contract awarded in June 2017 under SMART’s pre-existing FFY 2015-17 DBE goal.

The DBE goal developed for SMART’s FTA-assisted activities identify the relative availability of DBEs, based on evidence of ready, willing, and able DBEs in relationship to comparable businesses that are likely to compete for SMART’s FTA-assisted contracts. The goal reflects SMART’s determination of the level of DBE participation that would be expected, absent the effects of discrimination.

DATA CONSULTED

SMART examined all evidence in its jurisdiction to determine which sources might be considered for its DBE goal-setting methodology.

➤ **Census Bureau’s County Business Patterns (CBP) Database**

SMART used the CBP database to obtain the number of all firms, including non-DBE and DBE, that are ready, willing, and able to bid on SMART’s FTA-assisted contract(s). This data is used in Step One of the goal-setting process.

➤ **California Unified Certification Program (CUCP) Database**

SMART used the CUCP database to determine the number of certified DBEs that are ready, willing, and able to bid on SMART’s FTA-assisted contract(s). This data is used in Step One of the goal-setting process.

➤ **Past DBE Participation in FTA-Assisted Contracts**

The United States Department of Transportation (USDOT) suggests that an agency may adjust its DBE goal by averaging its base figure with the past median DBE participation. However, SMART did not use this as an adjustment factor for its goal period because of insufficient relevant data. SMART is a new rail transit agency with limited FTA contract participation to date.

➤ **Data from Disparity Studies**

The United States Department of Transportation (USDOT) suggests that federal aid recipients examine evidence from disparity studies conducted within their jurisdiction. Due SMART's size, it is not feasible to conduct an independent disparity study. SMART reviewed the Bay Area Rapid Transit's (BART) disparity study, conducted by Miller³ Consulting dated January 12, 2017. The study did find evidence of barriers for minorities and women owned businesses in obtaining significant contracts with BART. Because SMART shares some of the same business census area as BART, we assume that there is some disparity in the business climate from which SMART's draws its bidders.

➤ **Bidders List**

SMART does maintain a list of all bidders on SMART contracts (DBE and non-DBE), as required by 49 CFR Part 26.11. However, data collected on FTA-funded projects thus far is limited and wouldn't serve as sufficient quantifiable evidence of DBE's demonstrated interest and capacity.

➤ **DBE Goals of Other Agencies**

SMART reviewed the goal methodologies and DBE goals of several neighboring FTA-recipients. These goals were factored into Step Two of the goal-setting process.

➤ **Other Evidence**

SMART did not receive anecdotal evidence about discrimination in various public and private sectors or data on firm formation that would affect adjustments. However, an adjustment was warranted due to the highly specialized nature of SMART's FTA-assisted contract(s), which significantly limits the number of qualified firms able to bid on the contract. This adjustment is reflected in Step Two of the goal-setting process. We also note the difficulty of setting or adjusting the goal when the largest FTA-funded contract anticipated by SMART in the coming years has already been awarded after a six-month procurement process under the pre-existing SMART DBE goal.

FTA ASSISTED CONTRACTS

A total of \$26,817,279 of FTA dollars are anticipated for the FTA-assisted contract(s) during the goal period. Table 2 represents SMART's defined FTA-assisted contracting program used for preparing its overall annual DBE goal-setting analysis for FFY 2018-20. Project costs include only contract-related costs, SMART staff, right-of-way and utility costs have been removed.

Table 2

Contract Description	Estimated Contract Cost	Estimated Federal Transit Administration Dollar Share
Larkspur Extension Project Civil Design-Build	\$36,300,000	\$23,844,791
Larkspur Extension Project Engineering	\$7,465,610	\$2,972,488
SUBTOTAL FTA FUNDS CONTRACTED		\$26,817,279
Larkspur Extension Project FTA Participating Costs Non-Contract	N/A	\$2,520,800
TOTAL ANTICIPATED FTA FUNDS		\$29,338,079

A design-build construction contract for the Larkspur Extension was awarded to Stacy and Witbeck/ Herzog, Joint Venture (SWH) on June 21, 2017. SWH is not a DBE, but has committed to a 3.99% DBE participation, which was SMART’s approved DBE goal at the time of procurement. In good-faith effort, SWH notified 127 disadvantaged business entities of subcontracting opportunities. Construction is expected to begin Fall 2017 and continue through most of the FFY 2018-20 DBE goal period. SMART followed the mandated State Public Contracting Code process for transit agencies conducting design-build procurements, including the required bidder pre-qualification process. SMART did consider unbundling this contract into smaller contracts, due to the highly specialized and complicated nature of constructing a brand-new rail, signal, and communications system that must seamlessly connect to the existing systems.

STEP ONE: CALCULATION OF SMART’S BASE FIGURE (49 CFR 26.45)

Step One of the goal-setting process is to determine the base figure for the relative availability of DBEs based on evidence of ready, willing, and able DBEs in relationship to all comparable businesses able to compete for FTA-assisted contracts.

Base figures were calculated based on the specialty areas using the North American Industrial Classification System (NAICS) codes. SMART identified two NAICS codes relevant for FTA-assisted contract(s). Table 3 provides a summary of those categories of work, with an estimated cost breakdown for each.

Table 3

Category of Work / Description	NAICS	Estimated Federal Dollar Share	Percentage of Federal Funding by NAICS
Other heavy and civil engineering construction	237,990	\$23,844,791	88.92%
Engineering services	541,330	\$2,972,488	11.08%
Total		\$26,817,279	100.00%

Market Area: SMART’s local market area was determined by assessing where the substantial majority of contractors and subcontractors who have bid on SMART contracts are located, and where the majority of SMART’s federal contracting dollars are spent. In addition, SMART reviewed the market areas of neighboring transit agencies. For the purpose of this goal-setting analysis, SMART’s local market area is defined as California Department of Transportation District 4 which includes the following counties: Sonoma, Napa, Solano, Marin, Contra Costa, Alameda, San Francisco, Santa Clara, and San Mateo. This is an expansion from our last goal setting process which had a more limited area.

Number of All Firms: To determine the number of all firms (DBE and non-DBE) in SMART’s market area, SMART searched the most recent CBP database for all firms specializing in the NAICS codes identified as relevant for the contract. The numbers of all firms are summarized in Column C of Table 4 below.

Number of DBEs: To determine the number of DBEs in SMART’s nine-county market area, SMART searched the CUCP database for DBEs that are certified in the NAICS codes identified for the contract. The numbers of DBE’s identified are summarized in Column D of Table 4 below.

Relative Availability of DBE Firms: Relative availability is derived by dividing the number of DBEs available in a particular NAICS code by the number of all firms in that NAICS code. This is summarized in Column E of Table 4 below. This number is then multiplied by the federal share factor for the weighted base figure.

Base Figure: A base figure of 36.64% was determined based on the analysis of relative DBE availability as applied to the weight of FTA-assisted contract expenditures dollars, as shown in Table 4.

Table 4

A. Description	B. NAICS	C. CBP	D. DBE	E. Base Figure	F. % Federal Share	G. Weighted Base Figure
Other heavy and civil engineering construction	237,990	64	26	40.63%	88.92%	36.12%
Engineering services	541,330	2,252	105	4.66%	11.08%	0.52%
	Total	2,316	131	45.29%	100.00%	36.64%

STEP TWO: ADJUSTMENTS (49 CFR 26.45(D))

In adjusting SMART’s Step One Base Figure of 36.64%, SMART examined the estimated availability of successful prequalifying heavy railroad contractors and engineers in the NAICS 237990 and 541330 categories, the DBE goals of neighboring transit agencies, and the specialty nature of the remaining contracts funded by the FTA in SMART’s work plan for the coming three years.

Availability of Rail Specialty Companies: SMART examined all available NAICS codes and determined the Other Heavy and Civil Engineering Construction and Engineering Services categories to be the most closely related to SMART’s future FTA-assisted contract(s). However, these categories do not divide the categories further into specialties, namely railroad and signal construction and engineering. Furthermore, DBEs in these categories may not have the specialty knowledge and experience to successfully prequalify for rail and signal construction under the California State Department of Industrial Relations design/build prequalification process. Therefore, SMART’s weighted base figure of

36.64% is likely to overstate the qualified firms with rail-specific knowledge. In late 2015 SMART executed an FTA-assisted contract with Rail Pros, Inc., for engineering and engineering support services associated with the Larkspur Extension project. That contract was executed under SMART’s FFY 2015-17 DBE Goal period of 3.99%, with contract DBE goal of 3.99%. The original contract award total was \$1,426,793 and the FTA share was 80%. Subsequent amendments have brought the current contract amount to \$2,195,426. SMART has reported to the FTA on this contract’s DBE performance directly and via the City of Petaluma’s pass-through grant to SMART (CA-03-0817). SMART’s contractor has met the contract goals for this contract. The professional service nature of the rail engineering support contract, while specialized, does not capture the extra specialization required for the remaining FTA-assisted contract to be awarded associated with the Larkspur Extension Project.

In addition, based on our experience to date with responses to non-FTA assisted rail design-build construction contract solicitations over the past five years, we have found that only a small number of firms have submitted the State-required prequalification information to SMART (on average 5 firms have prequalified for SMART projects to-date). We thus have projected that only 15% of the DBEs listed in the CUCP database are qualified and experienced in heavy rail civil and signal engineering. SMART has adjusted the weighted base figure accordingly. See Table 5 below for a summary of adjustments.

Table 5

A. Description	B. NAICS	C. CBP	D. DBE	E. Estimated Rail Specialty DBE	F. Updated Base Figure	G. % Federal Share	H. Updated Weighted Base Figure
Other heavy and civil engineering construction	237,990	64	26	4	6.09%	88.92%	5.42%
Engineering services	541330	2,252	105	16	0.70%	11.08%	0.08%
Total	2,316	131	131	20	6.79%	100.00%	5.50%

DBE Goals of Other Agencies: Because SMART is a relatively new agency, with limited historical data to draw upon, it has examined the DBE goals of neighboring transit agencies and used them as a factor to adjust its base figure. Using the USDOT’s formula recommendation for adjustment based on past participation, SMART averaged its base figure with the median DBE goal of its neighboring transit agencies. SMART focused on transit agencies who operate in Marin and Sonoma counties, with DBE goal data available. These agencies include San Francisco Bay Area Ferry, Golden Gate Bridge, Highway, and Transportation District, Marin Transit, Sonoma County Transit, and Santa Rosa City Bus. The current median goal for these agencies is 3.30%.

SMART adjusted its updated base figure of 5.50% by comparing it to the 3.30% median of local transit agencies, resulting in an adjustment in SMART’s DBE goal to 4.40%.

$$(Updated\ Base\ Figure\ 5.50\% + Local\ Agency\ Median\ 3.30\%) \div 2 = 4.40\% \text{ New DBE Goal}$$

This new goal is higher than SMART’s current goal of 3.99%, primarily due to the inclusion of a larger market area that is more inclusive and due to our past bidding experience.

RACE-CONSCIOUS AND RACE NEUTRAL METHODS

Regulations require that the maximum feasible portion of the overall DBE goal be achieved through race-neutral measures. In addition, SMART does not currently have sufficient evidence of discrimination or its effects in our bidding process and will therefore continue to meet its overall goal using race-neutral means of facilitating DBE participation. In an effort to expand race-neutral outreach, SMART has recently joined the Business Outreach Committee (BOC), a consortium of Bay Area transit and transportation agencies formed in order to maximize outreach efforts.

In addition to participating in the educational and outreach activities through the BOC, SMART will continue race-neutral activities in its contracting opportunities, including:

1. Arranging solicitations, times for presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small businesses participation;
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Providing technical assistance and other similar services;
4. Providing information and communication programs on contracting and business procedures as well as specific contract opportunities;
5. Ensuring distribution of SMART's DBE data base through print and electronic means to the widest feasible range of potential prime contractors;
6. Maintain a website containing information on DBE certification, DBE Program, DBE procedures and a database of DBE firms.

SMART will carefully monitor participation during the course of the goal period. At the conclusion of the goal period, SMART will reevaluate the effectiveness of the race-neutral methods and determine if it is necessary to institute a race-conscious portion and contract specific goals.

PUBLIC PARTICIPATION

Since its first DBE goal was created and submitted to the FTA, SMART has taken a number of steps to implement more public participation in its goal setting and DBA participation in general. First and foremost, in its first major FTA procurement begun in 2016, SMART was successful in holding a general public meeting for comments and participation on participation in bidding on the design-build project. That meeting, on March 31, 2016, included advertising and invitations to over 2,000 website registrants, two major newspapers and the local Builders Exchange. At that time SMART's DBE goals were discussed and no issues were raised that led SMART to adjust its existing goals. SMART's FFY 2015-17 DBE goal of 3.99% has been committed to by the current contractor for the FTA-assisted contract awarded in June 2017.

As mentioned earlier, SMART also has recently joined the Business Outreach Committee, which is a consortium of 20 government agencies who host outreach and business events throughout the year, as well as a Newsletter identifying contracting opportunities to all interested contractors. This has allowed us the ability to reach out to other local agencies to learn best practices and procedures to encourage public participation in our processes and procedures.

SMART published a notice regarding its overall DBE goal on the Contracts and Procurement page on SMART's public website www.SonomaMarinTrain.org on July 12. A hard copy was made available at SMART's Petaluma Administrative office as well. Notification of the proposed FFY 18-20 DBE goal and request for public comment was also distributed to local trade and news publications in early July.

Finally, SMART put its updated policy, including this goal methodology on the public meeting agenda for the July 19, 2017, SMART Board of Directors meeting. Also, as discussed earlier, SMART awarded a contract at the June 21, 2017, Board of Directors meeting that will utilize a significant portion of the FTA funds to be awarded to SMART in the coming three years. That contract award was under the existing FFY 2015-17 DBE goal period and the successful bidder for the contract notified 127 DBE firms of subcontracting opportunities. Attachment A (to be added prior to finalizing document) includes documentation of the proposed goal website posting, the local advertisements requesting public comment, evidence of SMART's enrollment in the Business Outreach Committee and the recently awarded design-build contractor's good faith effort solicitation of DBE firm subcontractor participation. Before submitting the final FFY 2018-20 DBE goal to the FTA, SMART will evaluate whether any modifications are needed based on comments and input received during the month of July.

Attachment 5
Breakout of Estimated
Race-Neutral & Race Conscious
Participation

SMART will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation, as required by Section 26.51(a).

SMART uses the following race-neutral means to increase DBE participation:

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
- (2) Providing technical assistance and other services;
- (3) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- (4) Providing access to services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency; and
- (5) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

We estimate that, in meeting our overall goal of 4.40%, we will obtain 4.40% from race-neutral participation. Given the fact that SMART does not have sufficient data to narrowly tailor a program with race-conscious participation, SMART opts to use only race-neutral participation at this time.

In order to ensure that our DBE Program will be implemented to overcome the effects of discrimination in the future, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith

Efforts [Forms 1 and 2 should be provided as part of the solicitation documents.] **FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____The bidder/offeror is committed to a minimum of _____% DBE utilization on this contract.

_____The bidder/offeror (if unable to meet the DBE goal of _____%) is committed to a minimum of _____% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____ State _____

Registration No. _____

By _____ Title _____

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____ Address: _____

City: _____ State: _____ Zip: _____ Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$_____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____ Title _____

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)

Attachment 7
Certification Application
Forms

The certification application forms for the CUCP are found at:

http://www.caltrans.ca.gov/hq/bep/downloads/pdf/UCP_Application_Package_Rev_06_2009.pdf

This application package includes an affidavit of personal net worth.

Attachment 8

Procedures for Removal of DBE's Eligibility

SMART will follow the procedures set forth in Section 26.87 for the removal of a DBE's eligibility, as set forth below. At this time, SMART is not a certifying agency under the CUCP.

Ineligibility Complaints

Any person may file a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. SMART is not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in §26.109(b).

SMART will review its records concerning the firm, any material provided by the firm and the complainant, and other available information. SMART may request additional information from the firm or conduct any other investigation that SMART deems necessary.

If SMART determines, based on this review, that there is reasonable cause to believe that the firm is ineligible, SMART will provide written notice to the firm that SMART proposes to find the firm ineligible, setting forth the reasons for the proposed determination. If SMART determines that such reasonable cause does not exist, SMART will notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

Recipient-Initiated Proceedings

If, based on notification by the firm of a change in its circumstances or other information that comes to SMART's attention, SMART determines that there is reasonable cause to believe that a currently certified firm is ineligible, SMART will provide written notice to the firm that SMART proposes to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

DOT Directive to Initiate Proceeding

If the concerned operating administration determines that information in SMART's certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm SMART certified does not meet the eligibility criteria of this part, the concerned operating administration may direct SMART to initiate a proceeding to remove the firm's certification.

The concerned operating administration must provide SMART and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information. In such an event, SMART will immediately commence and prosecute a proceeding to remove eligibility as provided below.

Hearing

When SMART notifies a firm that there is reasonable cause to remove its eligibility, as provided in paragraph herein, SMART will give the firm an opportunity for an informal hearing, at which

the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified. In such a proceeding, SMART bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

SMART will maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under §26.89, SMART will provide a transcript of the hearing to DOT and, on request, to the firm. SMART will retain the original record of the hearing. SMART may charge the firm for the cost of copying the record.

The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, SMART bears the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as SMART would during a hearing.

Separation of Functions

SMART will ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions. The decision maker must be an individual who is knowledgeable about the certification requirements of the DBE Program and this part.

Grounds for Decision

SMART will not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the recipient at the time of its certification of the firm. SMART may base such a decision only on one or more of the following:

- Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;
- Information or evidence not available to SMART at the time the firm was certified;
- Information that was concealed or misrepresented by the firm in previous certification actions by a recipient;
- A change in the certification standards or requirements of the DOT since SMART certified the firm; or
- A documented finding that SMART's determination to certify the firm was factually erroneous.

Notice of Decision

Following SMART's decision, SMART must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of the decision and of the availability of an appeal to the Department of Transportation under §26.89. SMART must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed SMART to initiate the proceeding.

Status of Firm During Proceeding

A firm remains an eligible DBE during the pendency of SMART's proceeding to remove its eligibility. The firm does not become ineligible until the issuance of the notice provided for in this section.

Effects of Removal of Eligibility

When SMART removes a firm's eligibility, SMART must take the following action:

When a prime contractor has made a commitment to using the ineligible firm, or SMART has made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before SMART issues the decertification notice provided for herein, the ineligible firm does not count toward the contract goal or overall goal. SMART must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to SMART that it has made a good faith effort to do so.

If a prime contractor has executed a subcontract with the firm before SMART has notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where SMART has let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after SMART issued the notice of its ineligibility shall not count toward SMART's overall goal, but may count toward the contract goal.

Exception: If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, SMART may continue to count its participation on that contract toward overall and contract goals.

Availability of appeal

When SMART makes an administratively final removal of a firm's eligibility, the firm may appeal the removal to the DOT under §26.89.

Attachment 9
Regulations: 49 CFR Part 26

Please refer to: http://www.ecfr.gov/cgi-bin/text-dx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl