



BOARD OF DIRECTOR MEETING AGENDA

October 18, 2023 - 1:30 PM

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

The SMART Board of Directors will facilitate using a dual format with listening and participation available through Zoom and in-person. SMART provides several remote methods for viewing the SMART Board Meetings and providing Public Comment.

HOW TO WATCH THE LIVE MEETING USING THE ZOOM

<https://sonomamarintrain-org.zoom.us/j/86117249784?pwd=TzBvYW15b1VLejVndFA4enN4M21MZz09>

Webinar ID: 861 1724 9784

Passcode: 742217

TELECONFERENCE

Members of the public wishing to participate via teleconference can do so by dialing in the following number the day of the meeting: (669) 900-9128; Access Code: 861 1724 9784; Passcode: 742217.

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HOW TO PROVIDE COMMENTS ON AGENDA ITEMS

Prior To Meeting:

Technology limitations may limit the ability to receive verbal public comments during the meeting. If you wish to make a comment you are strongly encouraged to please submit your comment to Board@SonomaMarinTrain.org by 5:00 PM on Tuesday, October 17, 2023.

During the Meeting:

The SMART Board Chair will open the floor for public comment during the Public Comment period on the agenda. Please check and test your computer settings so that your audio speaker and microphones are functioning. Speakers are asked to limit their comments to two (2) minutes. The amount of time allocated for comments during the meeting may vary at the Chairperson's discretion depending on the number of speakers and length of the agenda.



BOARD OF DIRECTOR MEETING AGENDA

October 18, 2023

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

1. Call to Order
2. Approval of the September 20, 2023 Board Meeting Minutes
3. Board Member Announcements
4. General Manager's Report
5. Public Comment on Non-Agenda Items

Consent Calendar

- 6a. Accept Monthly Ridership Report – September 2023
- 6b. Approval of Monthly Financial Reports – July/August 2023
- 6c. Approve Resolutions authorizing the General Manager to submit any required documents for two Affordable Housing Sustainable Communities (AHSC) grants from the State of California Strategic Growth Council and Department of Housing and Community Development and authorizing entering into Agreements with project parties
- 6d. Approve a Resolution Authorizing the Board Chair to Execute First Amendment to Grant of Easement with Syufy Enterprises to clarify rights and duties including providing pedestrian and bicycle access for multi-use pathway users and providing access for SMART's rail passengers to and from the Larkspur Station
- 6e. Approve a Resolution Authorizing the General Manager to execute all Restricted Grant Agreements, and any amendments thereto, with the California Department of Transportation (Caltrans) for the Clean California Transit Grant Program Funds

Regular Calendar

7. Strategic Marketing Communications and Public Outreach Plan – *Presented by Communications and Marketing Manager, Julia Gonzalez*
8. Pathway Wayfinding Update – *Presented by Senior Planner, Zoe Unruh*
9. SMART's Disadvantaged Business Enterprise (DBE) Plan and Goals for Federal Fiscal Years 2024-2026 – *Presented by Chief Financial Officer McKillop*
10. Approve a Resolution to Amend SMART's Schedule of Fees – *Presented by Chief Financial Officer McKillop*

11. Approve a Resolution Authorizing the General Manager to Execute a Funding Agreement with the City of Petaluma to include paving work in the Petaluma North Station Platform, Grade Crossing Reconstruction and Pathway Contract – *Presented by Chief Engineer, Bill Gamlen*
12. Approve a Resolution to Amend the Fiscal Year 2024 Adopted Budget to budget additional funds for the Petaluma North Station, the McDowell Crossing, and two Sonoma County Pathway Segments Project - *Presented by Chief Financial Officer McKillop*
13. Approve a Resolution Authorizing the General Manager to Execute Construction Contract No. CV-BB-23-004 with Stacy and Witbeck/Ghilotti Bros, A Joint Venture in the amount of \$32,569,404 for the construction of a new SMART passenger rail station in Petaluma and two segments of pathway and the reconstruction of McDowell Boulevard at-grade crossing – *Presented by Chief Engineer, Bill Gamlen*

Closed Session

14. Conference with Legal Counsel regarding existing litigation pursuant to California Government Code Section 54956.9(a): Number of Cases (3)
 - 1) James Duncan v. Sonoma-Marin Area Rail Transit; City of Santa Rosa, Real Party in Interest; County of Sonom, Real Party in Interest; Sonoma County Superior Court Case No. SCV-266092
 - 2) James Duncan v. SMART; CPUC No. C.21-06-011
 - 3) Application of City of Santa Rosa for a Crossing at Jennings Avenue; CPUC No. A.15-05-014
15. Report Out Closed Session
16. Next Board of Directors Meetings: **November 8, 2023 and November 15, 2023** at 1:30PM – 5401 Old Redwood Highway, 1st Floor, Petaluma, CA 94954. **Please Note:** An additional Regular Board of Directors Meeting has been scheduled to be held on November 8, 2023.
17. Adjournment

DISABLED ACCOMODATIONS: Upon request, SMART will provide for written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, to enable individuals with disabilities to participate in and provide comments at/related to public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, service, or alternative format requested at least two (2) days before the meeting. Requests should be emailed to *Leticia Rosas, Clerk of the Board* at lrosas@sonomamarintrain.org or submitted by phone at (707) 794-3072. Requests made by mail SMART's, 5401 Old Redwood Highway, Suite 200, Petaluma, CA 94954 must be received at least two days before the meeting. Requests will be granted whenever possible and resolved in favor of accessibility.



**BOARD OF DIRECTORS
REGULAR MEETING MINUTES**

September 20, 2023 – 1:30 PM
5401 Old Redwood Highway, 1st Floor
Petaluma, CA 94954

1. Call to Order

Chair Lucan called the meeting to order at 1:30pm. Directors Bagby, Coursey, Farac, Fudge, Garbarino, Pahre, Paulson, Rabbitt and Sackett were present; Directors Colin and Rogers absent.

2. Approval of the August 16, 2023, Board Meeting

MOTION: Director Pahre moved approval of the August 16, 2023 Board Meeting Minutes as presented. Director Farac second. The motion carried 10-0 (Directors Colin and Roger absent).

3. Board Members Announcements

None

4. General Manager's Report

General Manager Cumins provided a brief overview on the following:

- Contracts/Procurements over \$100k
- Ridership
- Pathway Counts
- Three-Car Train Threshold
- Free Youth Summer Program
- Pathway Wayfinding Update
- Caltrans Planning Grant
- SMART Rider Alerts
- SMART Connect Update
- Questions

Contracts/Procurements over \$100k

- DeAngelo Contracting Services Amendment No. 2 was executed for vegetation control services along SMART's right-of-way for an increase of \$72,000 for a new total contract not-to-exceed amount of \$175,000.

- Ghilotti Bros Change Order 001 was executed for work related to the construction of the non-motorized pathway from McInnis Parkway to Smith Ranch Rd project for an increase of \$53,475 for a new total contract not-to-exceed amount of \$3,490,399.

Ridership

- Ridership Recovery (June 2019 vs. June 2023) – SMART had the highest ridership recovery ratio in the Bay Area for the fifth (5) month in a row.
- North Bay Monthly Ridership (July 2023) – Total boarding for July and Marin Transit had the highest number of boardings.
- North Bay Passenger Miles (Estimate) – comparison July 2023 Passenger Miles
- August Average Weekday ridership: 2,707; 14% higher than August 2019
- September Average Weekday ridership to date: 2,874; 10% higher than September 2019
- Average Weekend Ridership: 1,447 Saturday; 1,214 Sunday
- August Pathway Count Users: 72,171; 1,587,762 passenger miles; up 49% over August 2022 and 10% over August 2019
- Ridership Recovery

Pathway Counts

- August 2023: 76,045 pathway users
- Over 660,000 counted for the 12-month period.

Three-Car Train Threshold

- SMART monitors train loads daily
- Threshold for adding a 3rd car
 - 61 seated + 20 standees per car
 - 162 total for 2-car train
 - 12 bikes per car
 - Crowding > 50% of trips in 30 days
- 6:06am Southbound train
 - Average 13 bikes per car
 - Average 97 passenger peak (2-car)
 - Max load of 123 passengers
 - Does not meet threshold

Free Youth Summer Program

- SMART carried 31,573 youth riders on the Free Summer Youth Program, over 150% higher than last summer and the summer pre-COVID
- Summer Youth Ridership for partner agencies
 - Sonoma County Transit – 24,854 youth riders, up 78% over 2022
 - Santa Rosa CityBus – 82,503 youth riders, up 16% over 2022 (free fares), 49% over 2019
 - Marin Transit – 104,897 youth riders, 5% up over 2022; most youth already ride free

Pathway Wayfinding

Staff have been meeting with stakeholders and partners, including bicycle and pedestrian advisory committees in both counties as well as the Great Redwood Trail, to discuss this project and to gather their feedback. Staff have been working on design concepts that have been shaped by all the feedback gathered. We are getting ready to bring designs to the public for input.

Caltrans Planning Grant

SMART's Economic Impact and Quality of Life Assessment was awarded \$400,000 in Caltrans Sustainable Transportation Planning Grant Funds. Work will begin in January 2024.

SMART Rider Alerts

In addition to Nixle, SMART now provides rider alerts regarding incidents or delays on Google Maps, Apple Maps, and the Transit App

- When riders plan a trip on Google/Apple, or select SMART on the Transit App, they can see information about delays, incidents, holidays, schedule changes, etc.
- This information is also posted on Twitter

SMART Connect Update

- New Bus Stop signs at Sonoma County Airport
- Banner Ads in the Press Democrat and Marin Independent Journal sites
- New video Ad playing at the Sonoma County Airport Baggage Claim
- Featured on the September issue of the Harvest Magazine Ad

Comments

Director Coursey mentioned Director Rogers had utilized the SMART Connect shuttle to celebrate his birthday. Director Coursey stated that the Charles Schultz Museum was interested in improving the wayfinding from the Santa Rosa North Station to the Museum.

Director Paulson asked if the pathway utilization numbers represented unique individuals or if there were people double counted. Principal Planner, Emily Betts responded they are not necessarily unique individuals, however, they are counted like riders on public transit. She said they have survey data that shows the average trip length is less than 3-4 miles, and with the average spacing of pathway counters being 2-7 miles, which indicates most people on the pathway are not double counted.

Director Paulson asked if SMART staff would report on the overall capacity of trains on specified trips.

Eris Weaver stated that she is happy to see the progress on the pathway. She said that there needs to be a way to fit more bicycles on the trains. She suggested using the food host area for more bicycles. Once you turn bicycles you turn away riders.

Mark Birnbaum stated that there is a pathway built between Hannah Ranch Road and Belmer and Keys. He suggested that this segment be fixed and made rideable at the same time construction between Hannah Ranch Road and Vintage Oaks Shopping area is completed.

Carolyn Jorgensen submitted public comments. She suggested having better transparency regarding all the pathway segments. The interactive map needs more detail.

Jack Swearngen stated that SMART should consider assisting the Senior Community to get on the train and provide areas with walker space.

General Manager Cumins stated that the train does have areas where the seats fold up and can accommodate walkers.

5. Public Comment on Non-Agenda Items

Mathew Hartzell stated that many people who use the new segment pathway will also use the old segments. It is unclear who maintains the “old” pathway and suggested that SMART staff reach out to the relevant agencies who could own them to make improvements.

Carolyn Jorgensen stated that there is no signage in the San Marin Bell Keys area.

Tarquin Haussermann said he understands that there is a threshold for the third car train. He suggested having a trial period during the Giants games as it would encourage more riders.

General Manager Cumins stated that staff will continue to monitor ridership for the third train car.

6. Consent

- a. Accept Monthly Ridership Report – August 2023
- b. Approval of Monthly Financial Status Report – June 2023
- c. Approve a Resolution to Revise and Adopt Policy HRM-007, Drug and Alcohol Free Workplace Policy, effective September 20, 2023
- d. Approve a Resolution Authorizing the General Manager to Enter into Agreements with California Department of Transportation for SMART’s Quality of Life and Economic Impact Assessment

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

MOTION: Director Pahre moved approval of Consent Agenda as presented. Director Fudge second. The motion carried 10-0 (Directors Colin and Rogers absent).

7. Approve October Service Changes; Adding one weekend round trip and suspension of the Starlighter Service to maintain Ferry Connections – *Presented by Emily Betts*

Principal Planner, Emily Betts, provided a brief overview presentation which is located on SMART’s website. Highlights include:

October 2023 Service Changes

- Weekend Service Background
 - August 2017 – 10 weekend trips
 - March 2020 – 0 trips (pandemic cuts)
 - May 2021 – 12 Saturday trips
 - May 2022 – 12 Sunday trips
 - May 2023 – 14 Saturday trips with Starlighter
- Weekend Ridership
 - Ridership up 30% over pre-COVID
 - Higher productivity - 55% more boardings per train on weekends over weekdays

- Crowding is more frequent on weekends
- Nearly 20% of boardings at Larkspur
- Larkspur Ferry Connection - Weekend Larkspur-SF Ferry:
 - 2019: 4 ferries each way
 - 2020: 9 ferries each way
 - 2023: 5 ferries each way
 - 2023 proposed: 9 ferries each way
- *Key changes:*
 - Six high-speed catamarans
 - Morning weekend ferry service from SF to Larkspur
 - Substantial changes needed to SMART weekend schedule to maintain good ferry connections
- Starlighter Performance
 - May 2023 – launched Starlighter service
 - Has not met ridership goals
 - October 2023 – ferry changes breaking Starlighter connection
 - Staff recommends suspending the Starlighter, with the potential to return as a seasonal service in 2024
- Proposed Service Changes
 - Prioritize connections to the higher speed ferries
 - Meet growing weekend demand with additional service
 - Increase weekend service from 12 to 14 trips
 - Change all existing weekend service times
 - Suspend Starlighter service on Fridays and Saturdays
 - Move last weekday trip later to provide evening service and meet last northbound ferry from San Francisco

Staff recommend the addition of one round trip on the weekends, the suspension of the Starlighter service, and schedule changes needed to maintain ferry connections.

Comments

Director Paulson asked what the goals of the Starlighter were and if SMART meets the goals of the program. Ms. Betts responded that the overall number of riders per train was thirty-eight and the projections were 70 riders per train. General Manager Cumins stated that the Starlighter pilot program has decreased in riders in the last two weeks and will be suspended during the Winter but can be revisited in the Spring 2024. Director Paulson asked for clarification on the Larkspur/Ferry connection. Ms. Betts responded that the goal is to provide 25 minute transfer time and the average person takes 10-15 minutes.

Director Rabbitt stated that the Ferry was 98% down during the pandemic. He is glad that SMART is adding more ferry connections; having 25-minute transfer time is comfortable, which allows fast and slow walkers to meet the connection.

Vice Chair Bagby stated that she is happy to see that the ferry has increased ridership. She thanked staff for adjusting the schedule to accommodate additional ferry connections.

Director Farac stated that SMART will meet up with 14 of the 18 ferry connections. She asked what process was used to determine those 14. Ms. Betts responded that it was prioritized by the fast ferries (30-minutes).

Director Fudge stated that all the train schedule changes have been very responsive to the public and she is looking forward to shorter trips to San Francisco. She also thanked Golden Gate Bridge for adding ferries back to service. She is pleased to see the communications between SMART and Golden Gate Bridge.

Vice Chair Bagby asked if the additions/changes were prioritized during commute hours. Ms. Betts responded that it was based on boarding peaks.

Director Pahre stated that the public does not like to take the slower ferries. She thanked SMART and Golden Gate Bridge staff.

Eris Weaver asked how many SMART riders use other transit systems. Ms. Betts responded that in August there was an average of 235 weekend boardings. The Golden Gate Ferry is the biggest transfer connection in the SMART system.

MOTION: Director Paulson moved to Approve October Service Changes; Adding one weekend round trip and suspension of the Starlighter Service to maintain Ferry Connections as presented. Director Sackett second. The motion carried 10-0 (Directors Colin and Rogers absent).

8. Authorize the General Manager to Execute a Funding Agreement with the Town of Windsor for a Pedestrian Undercrossing for the Windsor Extension Project – *Presented by Bill Gamlen*

Chief Engineer, Bill Gamlen stated that the item before the Board is to authorize the General Manager to execute a funding agreement with the Town of Windsor for a pedestrian undercrossing.

During the design of the Windsor Extension project, the Town of Windsor requested that a safe path of travel from the west side of Windsor High School to the Town be included into the project. SMART incorporated an undercrossing beneath the track as part of the design of the bicycle and pedestrian pathway. SMART also secured approval from the California Public Utilities Commission for the new grade separated crossing.

The Town is committing \$1,500,000 towards the construction of the pedestrian undercrossing. This amount will construct the concrete undercrossing box and retaining walls to support the tract structure. SMART and the Town of Windsor developed a funding agreement that commits the funding for the construction of the undercrossing structure. The Town of Windsor Council approved the funding agreement on September 6, 2023.

Staff recommends authorizing the General Manager to execute the Funding Agreement with the Town of Windsor.

Comments

Director Fudge stated that the area is a direct route for Windsor High students. This is a safety measure for the Town of Windsor to give students and the public a safe route to cross the track.

MOTION: Director Fudge moved to Authorize the General Manager to Execute a Funding Agreement with the Town of Windsor for a Pedestrian Undercrossing for the Windsor Extension Project as presented. Vice Chair Bagby second. The motion carried 10-0 (Directors Colin and Rogers absent).

9. Accept the Fiscal Year 2023 Year End Investment Report - *Presented by Chief Financial Officer McKillop*

Chief Financial Officer McKillop stated that the Citizens Oversight Committee reviewed the Investment report and provided feedback. She provided an overview PowerPoint presentation, which is located on SMART's website. Highlights include:

Fiscal Year 2023 Year End Investment Report

- Investment Policy Requirements
- Investment Policy Objectives
 - Safety of Principal
 - Liquidity
 - Return on Investment
- SMART Funds Held By
 - Bank of Marin
 - Sonoma County Treasurer
- Types of Investments – SCTP
- Quarterly Yield Comparison – SCTP
- Cash on Hand – June 30, 2023

Comments

Director Paulson asked for clarification regarding the federal and Sonoma County rate and if staff have explored other options for a higher return. Chief Financial Officer McKillop responded that SMART would need to hire an Investment Advisor, however the fees would be higher than what SMART is paying currently. Director Paulson asked for clarification of taxes, like the bonds. Chief Financial Officer McKillop said that SMART does not pay taxes, however interest is being paid for the outstanding bonds.

MOTION: Director Garbarino moved to Accept the Fiscal Year 2023 Year End Investment Report as presented. Director Paulson second. The motion carried 10-0 (Directors Colin and Rogers absent).

10. Authorize the General Manager to Issue a Right-of-Entry, License and Maintenance Agreement with Golden Gate Museum – *Presented by General Manager Cumins*

General Manager Cumins provided a PowerPoint presentation, which is located on SMART's website. Highlights include:

Cloverdale Railbike Excursion Proposal

- Background
- Mission
- Rail Bike Description
- Rail Bike Operation
- Map of Description Area
- Insurance
- Benefits to SMART

Therefore, staff recommends authorizing the General Manager to issue a right-of-entry and negotiate a licensing and maintenance agreement with GGRM to license a portion of the out of service railroad right-of-way north of the Cloverdale Station for rail bike excursions.

Comments

Director Pahre asked if there is a License Agreement. General Manager Cumins responded that will be developed later and the action today is for the Board to approve the concept.

Director Farac asked for clarification of the liability insurance. District Counsel Lyons responded that they will be primary liability, and SMART would not be contributory. Director Farac asked if they provided projections. General Manager Cumins responded that they currently don't know since it is a startup business, however, there is a huge interest in Mendocino County.

Director Garbarino said she was concerned about the sun exposure, since it can get hot in the summer months. She asked if there somewhere else that they have done this? General Manager Cumins responded that there are various places that have this type of excursion. Staff have talked with the Federal Railroad Administration and there are no specific regulations on the rail bikes currently.

Director Coursey asked how the rail bikes turn around. General Manager Cumins responded that they have a turn table at the end which flips the rail bikes.

Director Fudge stated that her friend rode these types of bikes in Iowa. Since there is no train on weekends, they ride bikes on active tracks during the weekend.

Director Rabbitt asked how it will work at grade crossings. General Manager Cumins responded that flaggers could be needed, and staff will evaluate other grade crossings in the proposed area.

Steve Birdleough stated that he is pleased to hear about this, and he thinks people will get acquainted with the railroad in the northern part of the County.

Timothy Dulin from Golden Gate Railroad Museum stated on behalf of our President, Jason Davis, and Vice President Scott Bodish, their Board staff and volunteers thanked the Board and SMART staff for this wonderful opportunity that is being considered today. They would also like to send a special thanks to the community and city government officials of Cloverdale for their support and guidance. "It has been a true honor and a great pleasure to partner with such greatness and devotion" he added. The Golden Gate Railroad Museum has a long history of railroad preservation and education and hopes that these next steps will plant the seeds for something

great to grow in and around the great City of Cloverdale.

David Kelley, City Manager for the City of Cloverdale stated that the Golden Gate Railroad Museum has been actively involved with the city and the City Council since February. The City Council did express support for this concept. There is a benefit of the proposed project, including promoting rail and activating the train station/depot, supporting the city's economic development efforts, and providing a connection to the planned Great Redwood Trail. He thanked the Board and SMART Staff for moving forward on this project. He mentioned that there might be opportunities to expand the proposal later.

Vice Chair Bagby stated that the Golden Gate Museum has been very proactive with the community. She was excited about this project. She saw them zooming through Downtown Fort Bragg. She looks forward to continuing a great partnership with the City and Golden Gate Museum.

MOTION: Director Bagby moved to Authorize the General Manager to Issue a Right-of-Entry, License and Maintenance Agreement with Golden Gate Museum as presented. Director Farac second. The motion carried 10-0 (Directors Colin and Rogers absent).

11. Review Scope of Work for Sales Tax Extension Consultant - *Presented by General Manager Cumins*

General Manager Cumins stated that one of the recommendations from the Marin County Civil Grand Jury was for the Board to consider hiring a consultant to help evaluate the feasibility of the Tax Measure. Staff prepared a scope of work based on the feedback received. He provided a PowerPoint presentation, which is located on SMART's website. Highlights include:

Scope of Work – Tax Measure

- Scope of Work
 - Public Opinion Polling and Analysis
 - Gap Analysis (current vs. ideal) to inform 2024 Strategic Plan
 - Develop strategy for innovative collaboration/partnership with key stakeholders
 - Development of marketing and public outreach plan

Comments

Director Coursey stated that a lot can fit in the presented scope, which is good. He recommended changing the title, to reflect more on the scope of work, rather than that the Sales Tax Extension Consultant, since it goes beyond tax extension.

Director Garbarino stated she endorses the idea of doing the polling. "You get a refreshing glimpse into what people are thinking" she commented.

Director Pahre stated that when SMART hires a Strategic person, they will ask the Board for feedback and direction when needed.

Chair Lucan asked for clarification of the timing and next steps. General Manager Cumins responded that the next steps would be the procurement process and return to the Board in November.

Director Coursey asked if the final written scope will need Board approval. General Manager Cumins responded that all the feedback received today will be added for the procurement process. Staff will bring the contract to the Board for approval in October/November.

Director Pahre asked if there are any thoughts on the Board calling a special board meeting to get it started.

General Manager Cumins responded that there is a possibility of having an additional Board meeting in early November, since we have construction contracts that will require approval.

Chair Lucan thanked General Manager Cumins for bringing this to us so quickly in response to the Marin County Civil Grand Jury.

Steve Birdlebough said that the Air Resources Board is asking for doubling of transit in the next 7 years by 2030. They want to reduce vehicle miles traveled by 25% by 2030. We need to educate the public about the need to do it.

12. Response to Marin County Grand Jury Report, entitled “SMART at a Crossroads – Here Today, Gone Tomorrow?” – Recommendation No. 1 – *Presented by Chief Financial Officer McKillop*

Marin County Civil Grand Jury – Recommendation No. 1

- Responses to Recommendation No. 1
- Scenarios
 - Base Plan
 - Scenario #1
 - Scenario #2
- Revenues
 - Base Plan - FY 30
 - Scenario #1 – FY 30
 - Scenario #2 – FY 30
- Expenditures
 - Base Plan - FY 30
 - Scenario #1 – FY 30
 - Scenario #2 – FY 30
- Reserves and Fund Balance
 - Base Plan - FY 30
 - Scenario #1 – FY 30
 - Scenario #2 – FY 30
- Next Steps
 - Feedback
 - Additional Scenarios
 - Timeline

Chief Financial Officer McKillop stated that the Base Plan Scenario lines up with SMART’s Mission and Vision. Scenarios 1 and 2 show where SMART could be if the voters do not approve the sales tax. There was a comment made that the State of California would step in, however \$60 million dollars is a lot of money for the State. General Manager Cumins said that there is a possibility for

some agency to step in and help for a short period. He said that the question from the Marin County Civil Grand Jury was what other ways SMART could continue operation without a sales tax. We can look at this from multiple different angles, and we can run different scenarios, but at the end of the day this indicates that SMART absolutely must have a sales tax to continue to operate.

Chair Lucan asked for clarification as to why 2027 is an important year. Chief Financial Officer McKillop responded that an assumption is that grant agencies will either stop giving grants and SMART will not have the matching funds for grants since it will need to continue to operate passenger service until 2029.

Director Coursey stated that this is a tough conversation and bad for employee morale. However, we have multiple opportunities to go to the voters over the next few years. SMART is doing good things to convince the voters that this is a good project, and its viable for the foreseeable and unforeseeable future. He asked how Freight service fits into the scenarios. Chief Financial Officer McKillop responded that the focus is on the passenger rail because freight will continue to operate whether SMART passenger rail does not. General Manager Cumins said that SMART is the common carrier, however a short-line freight operator could take over freight and continue to operate.

Director Coursey asked for clarification of the term dissolution and disposition. Chief Financial Officer McKillop apologized for the inconsistency; the terms are the same.

General Manager Cumins said that there is also thought that another agency can run passenger rail. He clarified to the Board and the public that there must be a sales tax to subsidize passenger rail in this area.

Director Sackett asked for clarification of the comment made that to dissolve SMART it needs to go to the voters. Chief Financial Officer McKillop responded that there are provisions in SMART's Statute that say, if SMART wants to dissolve it can be done in two ways; 1) through an initiative process; and/or 2) the Board has to take action by passing an Ordinance and placing it on the ballot for the Agency to dissolve. These options will need to be evaluated and researched in more detail.

Director Garbarino stated that this is why polling information is especially important. As someone who has lived in Marin County a long time, she cannot imagine finding the courage anywhere to come up with \$60 million dollars for a community that is so affluent and didn't think about the next generation enough to want to give it a sustained form of mass transit. We cannot ignore the needs and the wishes of the next generation. We need to get the right message across during the campaign.

Director Rabbitt stated that is especially important as we consider this serious topic. The Sales Tax Measure Extension is the way that this organization is going to go off into the future and needs to educate the public. There is no transit agency in this entire nation that is not subsidized. We need to make generational investments going forward. The idea that someone would come in with \$60 million a year is not going to happen. He thanked staff for providing this information.

Director Pahre stated that the Board and staff need to prepare for a segment of the population having misinterpreted information.

Vice Chair Bagby stated that the State and agencies like California Environmental Protection Agency (CARB) set greenhouse gas emissions reduction goals. However, they are not providing money to do that. It is up to agencies like SMART to interpret and figure out how to solve greenhouse gas reduction goals in our region. She appreciated the way the information was presented and 2027 is approaching fast. The voters know that climate change is real, and we must address vehicles, mile vehicle miles traveled, and greenhouse gas emission.

Chair Lucan stated that for all riders who depend on SMART and for SMART employees, it could be a somber moment to hear this news. The urgency is that the year 2027 is approaching fast and the Board is taking this very seriously and is working hard to ensure that we have the long-term sustainability of SMART well into the future. He thanked all SMART employees for all the work this past year, and the leadership that General Manager Cumins has brought to the team. He looked at all the accomplishments like keeping fares at a reasonable rate, building pathway segments, expanding service, ridership records that are being set almost daily, being the number one agency in ridership recovery; we have a tremendous amount of momentum as a Board and want to continue to build on that to ensure that we have long-term sustainability as an agency. It is important that we also educate the community.

General Manager Cumins said that he and Chief Financial Officer McKillop met with all the employees last week to discuss this topic prior to releasing the staff report. He also said that he received good news, which he will report and share soon.

Steve Birdlebough stated he appreciates the SMART staff and it is important to face reality.

13. Next Regular Meeting Board of Directors, October 18, 2023 – 1:30 PM – 5401 Old Redwood Highway, 1st Floor, Petaluma, CA 94954
14. Adjournment – Meeting adjourned at 3:13pm

Respectfully submitted,

Leticia Rosas
Clerk of the Board

Approved on : _____



October 18, 2023

Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

Mary Sackett
Marin County Board of Supervisors

Eddy Cumins
General Manager

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www.SonomaMarinTrain.org

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

SUBJECT: Monthly Ridership Report – September 2023

Dear Board Members:

RECOMMENDATIONS: Accept Monthly Ridership Report

SUMMARY:

We are presenting the monthly ridership report for activity for the month of September 2023. This report shows trends in ridership for SMART by tracking Totals, Average Weekday riders, and Average Saturday riders, Average Sunday/Holiday riders, as well as bicycles and mobility devices.

With the transition to the Automatic Passenger Counter (APC) in October 2022, SMART now has a highly accurate method of tracking boardings and alightings at stations that does not depend on manual counts by the conductors. The APC system has been tested and validated at a 99% accuracy level, and has been certified for passenger count use by the Federal Transit Administration (FTA). Both APC-based ridership and fare-based collection rider counts are shown in the attached report to give a full picture of ridership. APC-based ridership captures all riders, including riders with passes who neglect to tag on or off, riders who fail to activate their mobile app tickets, as well as categories of riders such as children under five years old.

This report compares the most recent month to the same month during the prior year, as is standard industry practice for tracking trends over time. These reports also note relevant details associated with fare program discount usage and trends in riders bringing bicycles onboard as well as riders who use mobility devices.

SMART's ridership data through September 2023 is posted on the SMART website (<https://sonomamarintrain.org/RidershipReports>).

FISCAL IMPACT: None

REVIEWED BY: [x] Finance /s/ [x] Counsel /s/

Respectfully,

 /s/
Emily Betts
Principal Planner

Attachment(s): Monthly Ridership Report – September 2023

SEPTEMBER 2023 SMART RIDERSHIP REPORT

September 2023 saw a continued increase in ridership, with average weekday ridership at 2,812, up 4% from last month. Saturday saw a small decrease in average ridership, down 6% from the previous month, while Sunday saw a small increase in average ridership, up 5% from the previous month. Total monthly ridership was 68,506, a 39% increase over last September, and 109% over September 2019 (pre-COVID).

As a reminder, SMART modified services in March 2020 due to the COVID-19 pandemic, with weekend service annulled and weekday service reduced to 16 trips. In May 2021, SMART added back 10 weekday trips. Saturday service was restored in May 2021, and Sunday service in May 2022. In June 2022, SMART added 10 additional weekday trips, and in October 2022, SMART added 2 additional midday trips, for the current schedule of 38 trips per weekday. In May 2023, SMART added two evening trips on Friday and Saturday, known as the Starlighter. In June 2023, SMART began offering free rides for K-12 youth along with other North Bay transit agencies, which ended in August 2023. On October 2nd, SMART suspended the Starlighter service but added weekend service, running 16 trips total on Saturday and Sunday.

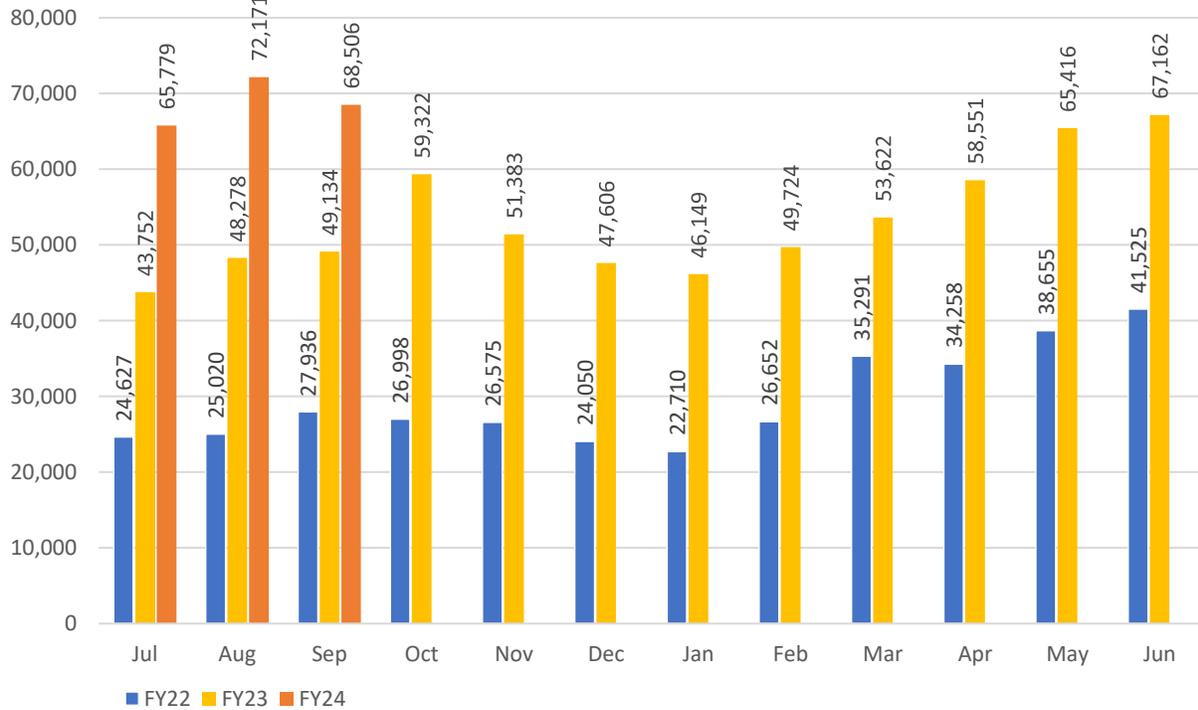
The tables below present data for September 2022 and 2023 year-over-year, and the Fiscal Year to date (July-September). Ridership for the fiscal year to date is up 89% over the same time period for FY22.

MONTHLY TOTALS YEAR-OVER-YEAR	SEP 2022	SEP 2023	% Change
Ridership	49,134	68,506	39%
Fare Payments (Clipper + App Only)	44,307	53,457	21%
Average Weekday Ridership	1,962	2,812	43%
Average Saturday Ridership	1,042	1,316	26%
Average Sunday Ridership	753	1,139	51%
Bicycles	9,033	10,453	16%
Mobility Devices	137	156	14%

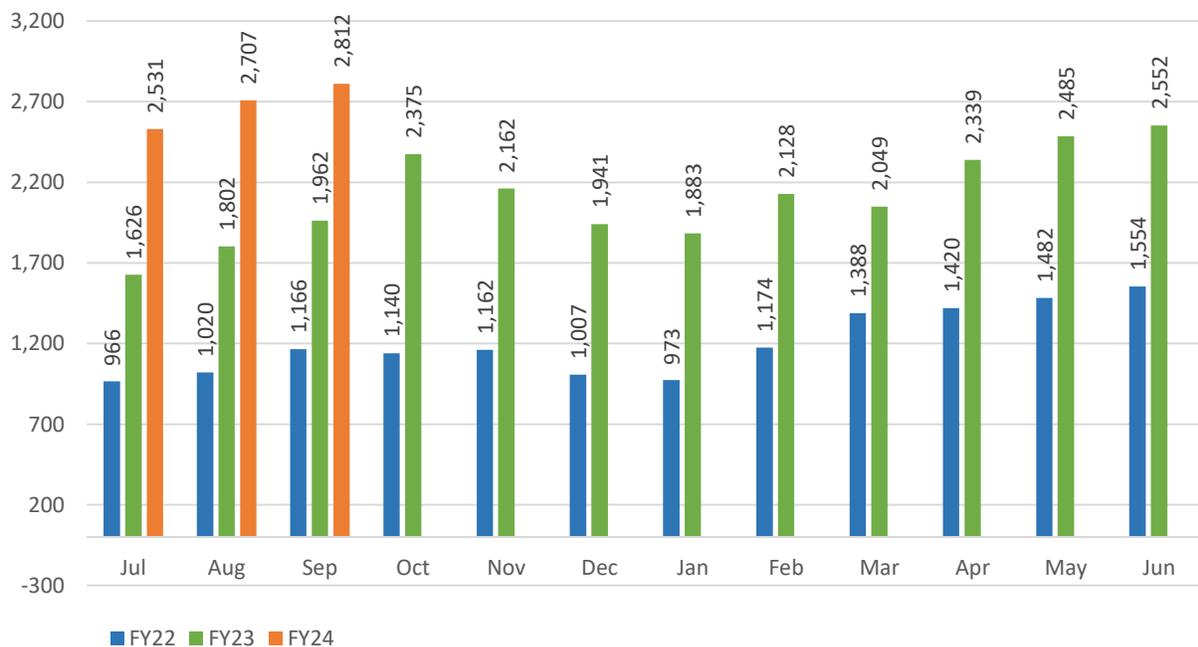
FISCAL YEAR (Jul - Sep)	Fiscal Year 2023	Fiscal Year 2024	% Change
Ridership	141,164	206,456	46%
Fare Payments (Clipper + App Only)	127,272	153,481	21%
Average Weekday Ridership	1,800	2,685	49%
Average Saturday Ridership	1,037	1,396	35%
Average Sunday Ridership	834	1,209	45%
Bicycles	25,118	31,304	30%
Mobility Devices	511	568	10%

The following charts compare the average weekday ridership and monthly totals for FY22-FY24.

SMART Monthly Ridership (FY22 - FY24)



SMART Average Weekday Ridership (FY22 - FY24)





October 18, 2023

Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

Mary Sackett
Marin County Board of Supervisors

Eddy Cumins
General Manager

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

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

SUBJECT: Monthly Financial Status

Dear Board Members:

RECOMMENDATION:

Approve Monthly Financial Reports – July and August 2023.

SUMMARY:

We have provided budgeted revenues and actual expenditures for both passenger rail and freight in separate charts in the attached document. The actual column reflects revenues and expenditures for July and August 2023 which are the first two months of Fiscal Year 2024. In addition, for passenger rail, we have shown more detail regarding sales tax and fare revenues to show current and comparative information over the last five years. As of the end of August reporting period, we had not yet received the sales and use tax payment for July or August therefore they are not yet reflected in this report.

Information on the approved budget, actual expenditures, and remaining budget have been provided. Please keep in mind that expenditures do not always occur on a straight-line basis, many large expenditures such as debt service only occur on specific intervals.

We have also included information regarding SMART's investment policy, where our funds are being held, and how much is currently being held. In addition, we have shown the current obligations, reserves, and fund balance requirements for Fiscal Year 2024.

Sincerely,

/s/
Heather McKillop
Chief Financial Officer

Attachment(s):

- 1) Monthly Financial Status Report
- 2) Contract Summary Report



**MONTHLY FINANCIAL STATUS
JULY & AUGUST 2023 (Combined)**

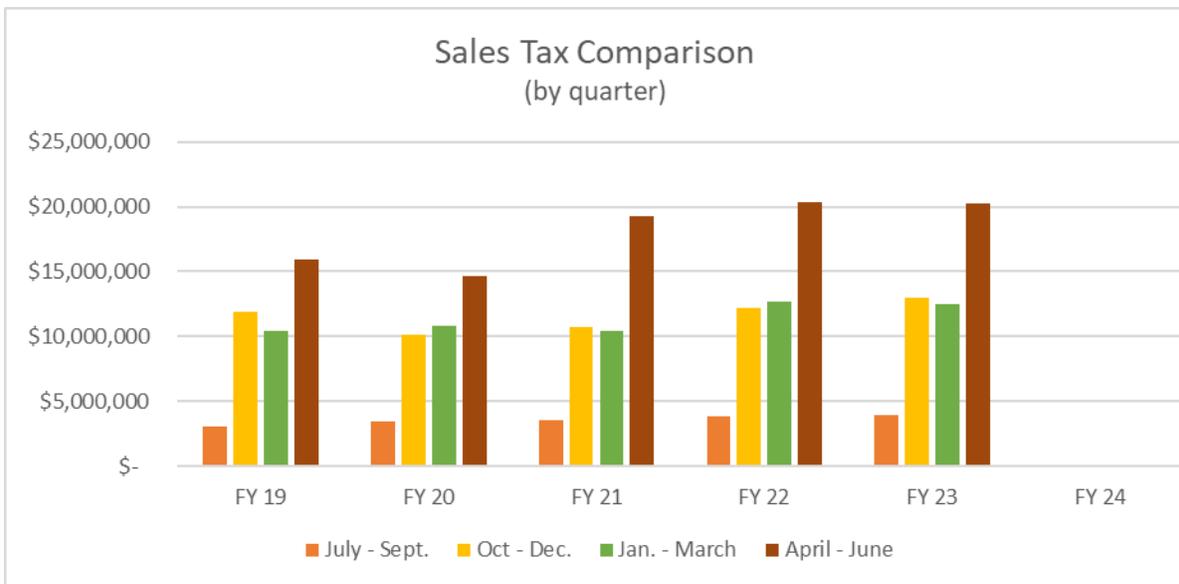
PASSENGER REVENUES

	FY 2023-24 Approved Budget	Actual	Amount Over / (Under) Budget
Revenues			
Passenger Rail			
Sales/Use Taxes	\$ 51,103,000	\$ 1,312	\$ (51,101,688)
Interest and Lease Earnings	\$ 1,121,647	\$ 121,032	\$ (1,000,615)
Miscellaneous Revenue	\$ 5,659	\$ 128,179	\$ 122,520
Passenger Fares	\$ 1,803,384	\$ 378,219	\$ (1,425,165)
Parking Fares	\$ 15,000	\$ 1,950	\$ (13,050)
State Grants	\$ 34,335,252	\$ 1,346	\$ (34,333,906)
Charges For Services	\$ 75,637	\$ 26,404	\$ (49,233)
Federal Funds (Non-COVID Relief)	\$ 7,655,641	\$ -	\$ (7,655,641)
Other Governments	\$ 2,480,108	\$ -	\$ (2,480,108)
Passenger Rail Subtotal	\$ 98,595,328	\$ 658,442	\$ (97,936,886)

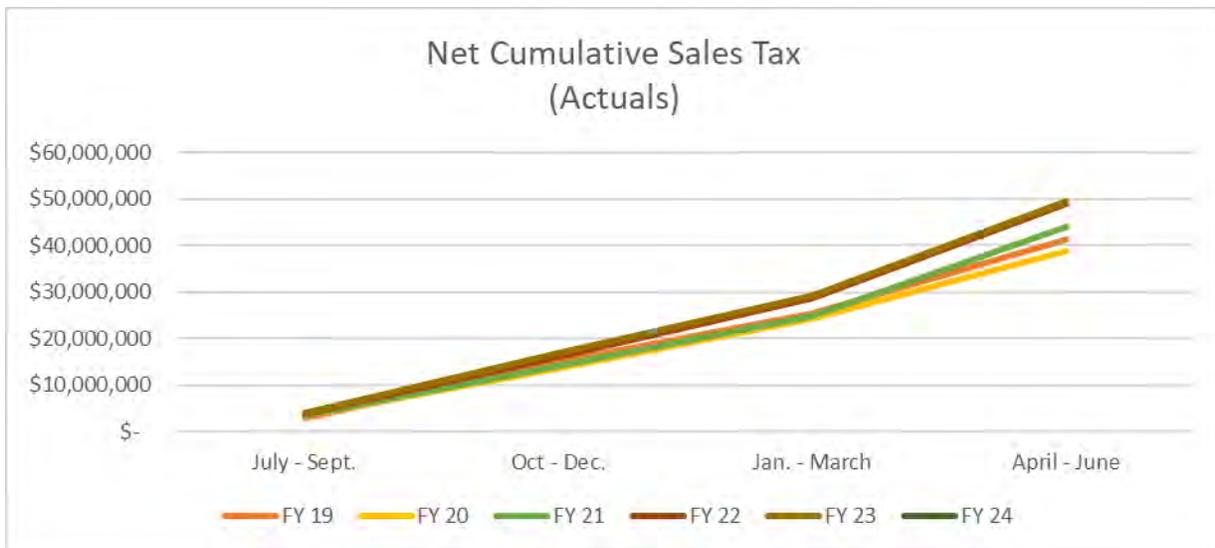
**Measure Q Sales Tax
Fiscal Year (FY) 2023/2024**

Time Period	July - Sept.	Oct - Dec.	Jan. - March	April - June
Forecasted FY 24 Budget	\$ 3,900,000	\$ 13,000,000	\$ 13,500,000	\$ 20,703,000
Actual	\$ 1,312			
Difference	\$ (3,898,688)	\$ (13,000,000)	\$ (13,500,000)	\$ (20,703,000)

**Fiscal Year 2019-2024 Net Sales Tax Comparison
(by Quarter)**



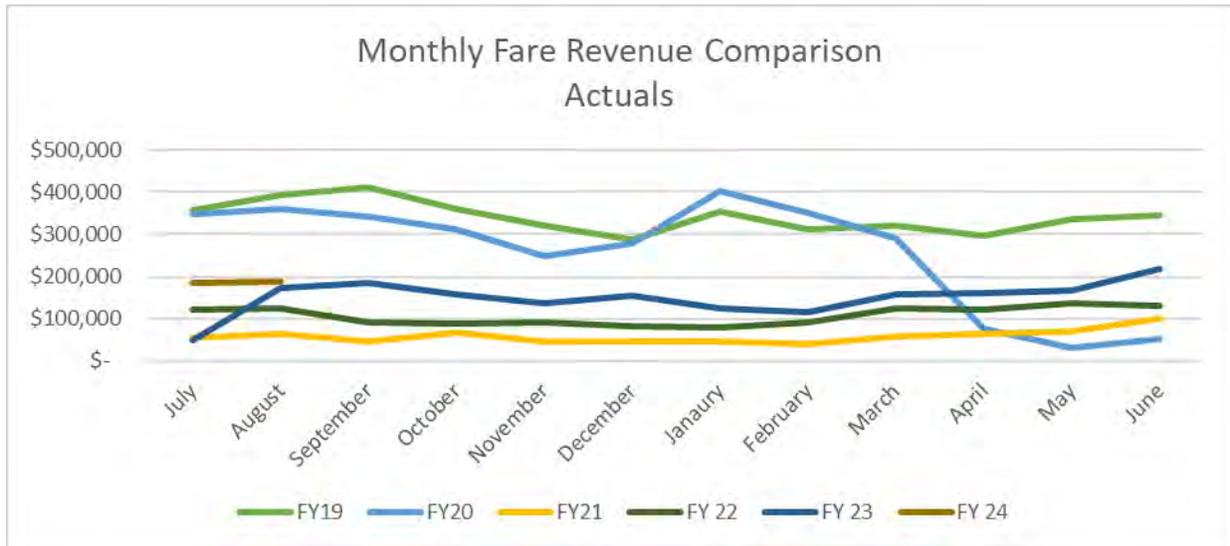
Fiscal Year 2019-2024 Net Cumulative Sales Tax Comparison



Fiscal Year 2019-2024 Fare Revenue Comparison



Fiscal Year 2019-2024 Monthly Fare Revenue Comparison



PASSENGER EXPENDITURES

	FY 2023-24 Approved Budget	Actual	Amount Over / (Under) Budget
Passenger Expenditures			
Administration			
Salaries & Benefits	\$ 6,560,493	\$ 851,321	\$ (5,709,172)
Services & Supplies	\$ 12,651,160	\$ 788,994	\$ (11,862,166)
Administration Subtotal	\$ 19,211,653	\$ 1,640,315	\$ (17,571,338)
Operations			
Salaries & Benefits	\$ 20,014,237	\$ 2,617,408	\$ (17,396,829)
Services & Supplies	\$ 6,645,752	\$ 311,692	\$ (6,334,060)
Operations Subtotal	\$ 26,659,989	\$ 2,929,100	\$ (23,730,889)
Capital			
Salaries & Benefits	\$ 366,966	\$ 180,027	\$ (186,939)
Services & Supplies	\$ 7,936,710	\$ 21,687	\$ (7,915,023)
Capital Subtotal	\$ 8,303,676	\$ 201,714	\$ (8,101,962)
Total Passenger Expenditures	\$ 54,175,318	\$ 4,771,129	\$ (49,404,189)

Passenger (Capitalized) Expenditures			
Buildings & Capital Improvements	\$ 21,732,918	\$ 1,837,477	\$ (19,895,441)
Land	\$ -	\$ -	\$ -
Machinery & Equipment	\$ 3,882,730	\$ 493,119	\$ (3,389,611)
Infrastructure	\$ 15,885,471	\$ 94,595	\$ (15,790,876)
Total Passenger (Capitalized) Expenditures	\$ 41,501,119	\$ 2,425,191	\$ (39,075,928)

Passenger Expenditures + Capitalized	\$ 95,676,437	\$ 7,196,320	\$ (88,480,117)
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FREIGHT REVENUES

	FY 2023-24 Approved Budget	Actual	Amount Over / (Under) Budget
Revenues			
Freight			
Sales/Use Taxes	\$ -	\$ -	\$ -
Interest and Lease Earnings	\$ 415,000	\$ 27,734	\$ (387,266)
Miscellaneous Revenue	\$ 239,190	\$ 250,580	\$ 11,390
Freight Traffic	\$ 1,004,800	\$ 59,599	\$ (945,201)
Parking Fares	\$ -	\$ -	\$ -
State Grants	\$ 740,000	\$ -	\$ (740,000)
Charges For Services	\$ -	\$ -	\$ -
Federal Funds (Non-COVID Relief)	\$ -	\$ -	\$ -
Other Governments	\$ -	\$ -	\$ -
Freight Subtotal	\$ 2,398,990	\$ 337,913	\$ (2,061,077)

FREIGHT EXPENDITURES

	FY 2023-24 Approved Budget	Actual	Amount Over / (Under) Budget
Freight Expenditures			
Administration			
Salaries & Benefits	\$ -	\$ -	\$ -
Services & Supplies	\$ -	\$ -	\$ -
Administration Subtotal	\$ -	\$ -	\$ -
Operations			
Salaries & Benefits	\$ 1,084,970	\$ 126,541	\$ (958,429)
Services & Supplies	\$ 1,054,333	\$ 62,999	\$ (991,334)
Operations Subtotal	\$ 2,139,303	\$ 189,540	\$ (1,949,763)
Capital			
Salaries & Benefits	\$ -	\$ -	\$ -
Services & Supplies	\$ 1,095,097	\$ 226,113	\$ (868,984)
Capital Subtotal	\$ 1,095,097	\$ 226,113	\$ (868,984)
Total Freight Expenditures	\$ 3,234,400	\$ 415,653	\$ (2,818,747)

Freight (Capitalized) Expenditures			
Buildings & Capital Improvements	\$ -	\$ -	\$ -
Land	\$ -	\$ -	\$ -
Machinery & Equipment	\$ -	\$ -	\$ -
Infrastructure	\$ -	\$ -	\$ -
Total Freight (Capitalized) Expenditures	\$ -	\$ -	\$ -

Freight Expenditures + Capitalized	\$ 3,234,400	\$ 415,653	\$ (2,818,747)
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CAPITAL PROJECTS

Capital Project Report	Aug-23				
	Total Project Budget	Expended in Prior Fiscal Years	Budgeted in FY24	Remaining to be Budgeted in Future Years	Project Status
PASSENGER RAIL PROJECTS					
Windsor Extension	\$ 70,000,000	\$ 24,256,464	\$ 10,000,000	\$ 35,743,536	Developing plans to resume construction in 2024.
Windsor to Healdsburg Extension	\$ 160,400,000	\$ -	\$ 5,000,000	\$ 155,400,000	Plan to begin work on this segment in 2024.
Sonoma County Pathway Connector Project: Petaluma to Penngrove & Rohnert Park to Santa Rosa	\$ 4,748,098	\$ 3,171,138	\$ 1,576,960	\$ -	These pathway segments have been combined with the construction of the Petaluma North Station.
Marin & Sonoma Pathway Design & Permitting	\$ 11,190,407	\$ 3,968,397	\$ 6,139,735	\$ 1,082,275	Conducting engineering design to prepare for construction and pursuing environmental permits.
McInnis Pkwy. at Bridgewater Dr. to Smith Ranch Rd. Construction	\$ 4,506,378	\$ -	\$ 4,506,378	\$ -	Construction to begin in September.
Joe Rodota to 3rd St. Design and Construction	\$ 432,803	\$ 45,788	\$ 387,015	\$ -	In design - Construction will depend on grant execution.
Hannah Ranch Rd to Vintage Way Pathway Construction	\$ 1,933,140	\$ -	\$ 246,466	\$ 2,012,806	Design and permitting are underway.
Guerneville Rd to Airport Blvd Pathway Construction	\$ 2,704,471	\$ -	\$ 1,429,430	\$ 1,275,041	Design and permitting are underway.
Puerto Suello Pathway	\$ 708,227	\$ -	\$ 708,227	\$ -	Preparing a Request for Proposal (RFP) to hire a design consultant.
Petaluma North Station	\$ 32,939,585	\$ 2,163,876	\$ 15,128,695	\$ 15,647,014	The Project is out to bid. The contract includes Sonoma County Pathway projects for construction.
Payran to Lakeville Pathway - Design & Construction	\$ 1,209,818	\$ 1,018,674	\$ 191,144	\$ -	Construction is complete.
Basalt Creek Timber Bridge Replacement	\$ 626,103	\$ 129,743	\$ 14,000	\$ 482,360	Finalizing design and working with regulatory agencies to secure environmental permits.
San Antonio Tributary Timber Trestle Replacement	\$ 1,120,110	\$ 135,478	\$ 14,000	\$ 970,632	Finalizing design and working with regulatory agencies to secure environmental permits.
FREIGHT RAIL PROJECTS					
Brazos Branch Bridge Repairs	\$ 2,035,362	\$ 934,666	\$ 1,100,696	\$ -	Construction is ongoing.

INVESTMENTS

Investments are guided by the SMART investment policy adopted each year with the budget. The policy outlines the guidelines and practices to be used in effectively managing SMART's available cash and investment portfolio. District funds that are not required for immediate cash requirements are to be invested in compliance with the California Code Section 53600, et seq.

SMART uses the Bank of Marin for day-to-day cash requirements and for longer term investments the Sonoma County Treasury Pool is used. This chart reflects a point in time versus a projection of future fund availability.

<u>Cash On Hand</u>	
Bank of Marin	\$ 27,878,220
Sonoma County Investment Pool *	\$ 88,592,397
Total Cash on Hand	\$ 116,470,617
<u>Reserves</u>	
Self-Insured	\$ 2,370,675
OPEB/ CalPERS	\$ 4,574,676
Operating Reserve	\$ 11,278,617
Capital Sinking Fund	\$ 10,625,000
Corridor Completion	\$ 7,000,000
Total Reserves	\$ 35,848,968
Cash Balance	\$ 80,621,649
Less: Current Encumbrances	\$ 36,212,851
Balance	\$ 44,408,798
Less: Estimated FY24 Year-end Fund Balance	\$ 27,833,704
Remaining Balance	\$ 16,575,094



Contract Summary

Active contracts as of July 31, 2023

PASSENGER RAIL

Contractor	Scope	Fiscal Year 23/24 Projected	Fiscal Year 23/24 Actuals
A.J. Janitorial Service	Janitorial Services for all Stations, Roblar, ROC, and Fulton	\$ 114,000	\$ 9,140
Ai-Media Technologies, LLC	Closed-Captioning Services	\$ 450	\$ -
Alcohol & Drug Testing Services, LLC	DOT and FRA-regulated Drug and Alcohol Testing Services	\$ 36,000	\$ -
Alliant Insurance Services	Insurance Brokerage and Risk Management Services	\$ 70,000	\$ 22,207
American Rail Engineers Corporation	Railroad Bridge Inspections, Bridge Engineering, and Related Services	\$ 40,000	\$ 378
Argonaut Constructors	Parking Lot Improvements at Petaluma Downtown Station	\$ 14,925	\$ 14,925
Becoming Independent	Emergency Bus Bridge Services	\$ 6,051	\$ -
BKF Engineers Inc.	Design and Engineering Services for MUP Segments in Sonoma and Marin Counties	\$ 952,426	\$ 510
Bolt Staffing Service, Inc.	Temporary Staffing Services	\$ 30,000	\$ -
Bright Star Security, Inc.	Security Patrol at SMART's Cal Park Tunnel	\$ 5,490	\$ 915
Business Training Library, LLC	Cloud-Based Learning Courses	\$ 5,431	\$ -
Code 3 Entertainment Services, LLC	Microtransit Operations and Maintenance Services	\$ 375,000	\$ -
CSW/Stuber-Stroeh Engineering Group	Design and Engineering Services for 5 MUP Segments in Marin County	\$ 979,435	\$ -
CSW/Stuber-Stroeh Engineering Group	Design and Engineering for Petaluma North Station, N. McDowell Grade Crossing, Segments 2 & 3	\$ 510,205	\$ 58,320
Demsey, Filliger, & Associates, LLC	GASB Pension Compliance Services (Actuarial Calculations)	\$ 4,750	\$ -
Doug Williams	Fire and Life Safety Consultant	\$ 2,035	\$ 135
Dr. Lance O'Connor	Occupational Health Screening Services	\$ 5,000	\$ -
Dunnigan Psychological & Threat Assessments, LLC	Employment-Related Psychological Evaluation Services	\$ 25,000	\$ -
Eide Bailly LLP	Financial Audit Services	\$ 58,300	\$ -
eLock Technologies, LLC	Station Bike Lockers - Ongoing Maintenance and Support Services	\$ 13,130	\$ -
Empire Cleaners	Operations Uniform Dry Cleaning, Laundering, and Related Services	\$ 18,000	\$ 1,033
Gary D. Nelson Associates, Inc.	Temporary Staffing and Placement Services	\$ 70,000	\$ 8,479
George Hills Company, Inc.	Third Party Claims Administration Services	\$ 40,000	\$ -
Gallagher Benefit Services, Inc.	Classification and Compensation Study Services	\$ 49,875	\$ -
Ghilotti Bros, Inc.	Construction of Non-Motorized Pathway - Lakeville to Payran	\$ 191,144	\$ 118,214
Ghilotti Bros, Inc.	Construction of NMP McInnis to Smith Ranch	\$ 3,490,399	\$ -
Golden Five, LLC	Microsoft 365 Consulting Services	\$ 49,800	\$ -
GP Crane & Hoist Services	Cal/OSHA Inspection Services	\$ 2,200	\$ -
Granicus, Inc.	Media Streaming and Internet Broadcasting Services	\$ 12,860	\$ 12,860
Hanford A.R.C.	Implementation and Monitoring, San Rafael Creek Riparian Enhancement Project	\$ 33,558	\$ 3,470
Hanford A.R.C.	Maintenance and Monitoring the the Las Gallinas Creek Watershed Riparian Enhancement Planting	\$ 16,188	\$ 1,199
Hanson Bridgett LLP	Legal Services - Union Negotiations	\$ 100,000	\$ 238
HCI Systems, Inc.	Fire Equipment Inspection and Certification	\$ 2,406	\$ -
Holland Company	Track Geometry and Measurement Services	\$ 24,000	\$ -
Hunt and Sons, Inc.	Bulk Delivery of Motor Oil (15W40)	\$ 24,000	\$ -
JMA Civil, Inc.	On-Call Civil & Rail Engineering Design Services	\$ 46,494	\$ 6,333
Khouri Consulting, LLC	California State Legislative and Advocacy Services	\$ 120,000	\$ 10,000
LC Disability Consulting	Disability Access Consulting	\$ 10,000	\$ -
LeaseQuery, LLC	Lease Software Licensing and Software Support Services	\$ 10,596	\$ -
Lisa Wolper, LCSW, SAP	Substance Abuse Professional Services	\$ 2,100	\$ -
Masabi LLC	SMART Mobile Ticketing Pilot Project	\$ 32,430	\$ 4,750
MaxAccel	Compliance Management Software Design/Implementation/Asset Management	\$ 29,295	\$ -
Mission Linen Supply	Employee Uniform Services	\$ 34,000	\$ 2,880
Modern Railway Systems, Inc.	Monitoring and Maintenance SMART's Communications Network and TDX System	\$ 94,000	\$ 7,604
MuniServices, LLC	Sales Tax Recovery Services	\$ 38,444	\$ -
North Bay Bottling (Alex Ruiz Sr.)	Drinking Water Delivery Service	\$ 2,900	\$ 108
North Bay Petroleum	Provision of Fuel for DMUS	\$ 1,316,697	\$ -
Occupational Health Centers of CA	Pre-Employment Evaluation Services	\$ 42,000	\$ -
Oil Stop, LLC	Automotive Repair and Service	\$ 4,000	\$ -
Oracle	Fusion ERP System	\$ 200,000	\$ -



Contract Summary

Active contracts as of July 31, 2023

PASSENGER RAIL

Contractor	Scope	Fiscal Year 23/24 Projected	Fiscal Year 23/24 Actuals
Parodi Investigative Solutions	Pre-Employment Background Investigation Services	\$ 25,000	\$ 150
PFM Financial Advisors, LLC	Financial Advisory Services	\$ 20,000	\$ -
Portola Systems, Inc.	SMART Station Network Maintenance and Configuration Services	\$ 260,000	\$ 13,970
Sherwood Electromotion, Inc.	Overhaul Services for SMART's Permanent Magnet Alternators	\$ 29,500	\$ -
Sierra-Cedar, LLC	Oracle Enterprise Resources Planning Software	\$ 30,000	\$ 21,130
Sonoma County Fleet Operation Division	Non-Revenue Fleet Vehicle Installation, Maintenance, and Repair Services	\$ 56,000	\$ -
SPTJ Consulting, Inc.	Network Monitoring and Support Services	\$ 202,419	\$ 16,868
Survival CPR & First Aid, LLC	First Aid and CPR Training, AED Compliance Program Management	\$ 11,300	\$ -
Swiftly, Inc.	AVL Mobile Application and Website Interface	\$ 9,702	\$ -
TDG Engineering, Inc.	Wayfinding System Planning and Design for the SMART Pathway	\$ 112,454	\$ 21,375
The Routing Company	Furnish, Implement, and Maintain a Microtransit Software Platform	\$ 45,662	\$ 2,312
Triangle Properties, Inc.	SoCo Pathway Riparian Enhancement Implementation and Monitoring	\$ 47,061	\$ -
Urban Transportation Associates, Inc.	Onboard Automatic Passenger Counter System Purchase, Install, and Software Implementation and	\$ 9,200	\$ -
Van Scoyoc Associates	Federal Lobbying Services	\$ 30,000	\$ 5,000
VenTek Transit Inc.	Fare Vending Machine Operations and Maintenance Services	\$ 30,000	\$ 21,438
Vista Broadband Networks, Inc.	Broadband Services	\$ 9,000	\$ -
W.J.C. Electric, Inc. dba Hahn Automotive	Non-Revenue Vehicle Repair and Service	\$ 15,000	\$ -
WRA, Inc.	As-Needed Environmental Consulting Services	\$ 168,185	\$ 1,551
	TOTAL	\$ 10,465,497	\$ 387,492

FREIGHT RAIL

Contractor	Scope	Fiscal Year 23/24 Projected	Fiscal Year 23/24 Actuals
American Rail Engineers Corporation	Railroad Bridge Inspections, Bridge Engineering, and Related Services	\$ 44,439	\$ 4,688
Cathcart Rail Holdco, LLC dba Cathcart Field Services, LLC	Running Repair Agent Inspection and Maintenance Services	\$ 7,884	\$ 5,307
Freight Rail Tracking Software	Freight Rail Tracking Software	\$ 5,000	\$ -
GATX Rail Locomotive Group, LLC	Freight Locomotive Lease Agreement	\$ 44,800	\$ 4,055
Hue & Cry, Inc.	Security System at Schellville Depot	\$ 3,000	\$ -
Koppers Railroad Structures, Inc.	Brazos Branch Timber Bridge Repairs - Phase I Contract	\$ 660,696	\$ 226,113
North Bay Petroleum	Provision of Fuel for DMUs	\$ 90,000	\$ -
Summit Signal, Inc.	Inspection, Testing, and Maintenance Services for Signal Equipment Along Brazos Branch	\$ 35,250	\$ -
Wine Country Sanitary, Inc.	Portable Toilet Rental and Maintenance	\$ 1,571	\$ 197
	TOTAL	\$ 892,640	\$ 240,360

Actuals-To-Date includes invoices that have been approved as of July 31, 2023, but may not have been processed in SMART's Financial System



Contract Summary

Active contracts as of August 31, 2023

PASSENGER RAIL

Contractor	Scope	Fiscal Year 23/24 Projected	Fiscal Year 23/24 Actuals
A.J. Janitorial Service	Janitorial Services for all Stations, Roblar, ROC, and Fulton	\$ 114,000	\$ 18,280.00
AI-Media Technologies, LLC	Closed-Captioning Services	\$ 450	\$ -
Alcohol & Drug Testing Services, LLC	DOT and FRA-regulated Drug and Alcohol Testing Services	\$ 36,000	\$ -
Alliant Insurance Services	Insurance Brokerage and Risk Management Services	\$ 70,000	\$ 22,207
American Rail Engineers Corporation	Railroad Bridge Inspections, Bridge Engineering, and Related Services	\$ 40,000	\$ 378
Argonaut Constructors	Parking Lot Improvements at Petaluma Downtown Station	\$ 14,925	\$ 14,925
Becoming Independent	Emergency Bus Bridge Services	\$ 6,051	\$ -
BKF Engineers Inc.	Design and Engineering Services for MUP Segments in Sonoma and Marin Counties	\$ 952,426	\$ 510
Bolt Staffing Service, Inc.	Temporary Staffing Services	\$ 30,000	\$ -
Bright Star Security, Inc.	Security Patrol at SMART's Cal Park Tunnel	\$ 5,490	\$ 1,830
Business Training Library, LLC	Cloud-Based Learning Courses	\$ 5,431	\$ -
Code 3 Entertainment Services, LLC	Microtransit Operations and Maintenance Services	\$ 375,000	\$ -
CSW/Stuber-Stroeh Engineering Group	Design and Engineering Services for 5 MUP Segments in Marin County	\$ 979,435	\$ -
CSW/Stuber-Stroeh Engineering Group	Design and Engineering for Petaluma North Station, N. McDowell Grade Crossing, Segments 2 & 3	\$ 510,205	\$ 58,320
Demsey, Filliger, & Associates, LLC	GASB Pension Compliance Services (Actuarial Calculations)	\$ 4,750	\$ -
Doug Williams	Fire and Life Safety Consultant	\$ 2,035	\$ 300
Dr. Lance O'Connor	Occupational Health Screening Services	\$ 5,000	\$ -
Dunnigan Psychological & Threat Assessments, LLC	Employment-Related Psychological Evaluation Services	\$ 25,000	\$ 1,800
Eide Bailly LLP	Financial Audit Services	\$ 58,300	\$ -
eLock Technologies, LLC	Station Bike Lockers - Ongoing Maintenance and Support Services	\$ 13,130	\$ -
Empire Cleaners	Operations Uniform Dry Cleaning, Laundering, and Related Services	\$ 18,000	\$ 2,495
Gary D. Nelson Associates, Inc.	Temporary Staffing and Placement Services	\$ 70,000	\$ 13,464
George Hills Company, Inc.	Third Party Claims Administration Services	\$ 40,000	\$ -
Gallagher Benefit Services, Inc.	Classification and Compensation Study Services	\$ 49,875	\$ 49,875
Ghilotti Bros, Inc.	Construction of Non-Motorized Pathway - Lakeville to Payran	\$ 191,144	\$ 118,214
Ghilotti Bros, Inc.	Construction of NMP McInnis to Smith Ranch	\$ 3,490,399	\$ -
Golden Five, LLC	Microsoft 365 Consulting Services	\$ 49,800	\$ -
GP Crane & Hoist Services	Cal/OSHA Inspection Services	\$ 2,200	\$ 2,200
Granicus, Inc.	Media Streaming and Internet Broadcasting Services	\$ 12,860	\$ 12,860
Hanford A.R.C.	Implementation and Monitoring, San Rafael Creek Riparian Enhancement Project	\$ 33,558	\$ 3,470
Hanford A.R.C.	Maintenance and Monitoring the the Las Gallinas Creek Watershed Riparian Enhancement Planting	\$ 16,188	\$ 2,398
Hanson Bridgett LLP	Legal Services - Union Negotiations	\$ 100,000	\$ 238
HCI Systems, Inc.	Fire Equipment Inspection and Certification	\$ 2,406	\$ -
Holland Company	Track Geometry and Measurement Services	\$ 24,000	\$ -
Hunt and Sons, Inc.	Bulk Delivery of Motor Oil (15W40)	\$ 24,000	\$ -
JMA Civil, Inc.	On-Call Civil & Rail Engineering Design Services	\$ 46,494	\$ 6,333
Khouri Consulting, LLC	California State Legislative and Advocacy Services	\$ 120,000	\$ 20,000
LC Disability Consulting	Disability Access Consulting	\$ 10,000	\$ 600
LeaseQuery, LLC	Lease Software Licensing and Software Support Services	\$ 10,596	\$ -
Lisa Wolper, LCSW, SAP	Substance Abuse Professional Services	\$ 2,100	\$ 650
Masabi LLC	SMART Mobile Ticketing Pilot Project	\$ 32,430	\$ 9,500
MaxAccel	Compliance Management Software Design/Implementation/Asset Management	\$ 29,295	\$ 2,716
Mission Linen Supply	Employee Uniform Services	\$ 34,000	\$ 5,404
Modern Railway Systems, Inc.	Monitoring and Maintenance SMART's Communications Network and TDX System	\$ 94,000	\$ 7,604
MuniServices, LLC	Sales Tax Recovery Services	\$ 38,444	\$ 6,497
North Bay Bottling (Alex Ruiz Sr.)	Drinking Water Delivery Service	\$ 2,900	\$ 270
North Bay Petroleum	Provision of Fuel for DMUs	\$ 1,316,697	\$ -
Occupational Health Centers of CA	Pre-Employment Evaluation Services	\$ 42,000	\$ 226
Oil Stop, LLC	Automotive Repair and Service	\$ 4,000	\$ -
Oracle	Fusion ERP System	\$ 200,000	\$ -



Contract Summary

Active contracts as of August 31, 2023

PASSENGER RAIL

Contractor	Scope	Fiscal Year 23/24 Projected	Fiscal Year 23/24 Actuals
Parodi Investigative Solutions	Pre-Employment Background Investigation Services	\$ 25,000	\$ 1,150
PFM Financial Advisors, LLC	Financial Advisory Services	\$ 20,000	\$ -
Portola Systems, Inc.	SMART Station Network Maintenance and Configuration Services	\$ 260,000	\$ 190,797
Sherwood Electromotion, Inc.	Overhaul Services for SMART's Permanent Magnet Alternators	\$ 29,500	\$ -
Sierra-Cedar, LLC	Oracle Enterprise Resources Planning Software	\$ 30,000	\$ -
Sonoma County Fleet Operation Division	Non-Revenue Fleet Vehicle Installation, Maintenance, and Repair Services	\$ 56,000	\$ -
SPTJ Consulting, Inc.	Network Monitoring and Support Services	\$ 202,419	\$ 16,868
Survival CPR & First Aid, LLC	First Aid and CPR Training, AED Compliance Program Management	\$ 11,300	\$ 1,386
Swiftly, Inc.	AVL Mobile Application and Website Interface	\$ 9,702	\$ -
TDG Engineering, Inc.	Wayfinding System Planning and Design for the SMART Pathway	\$ 112,454	\$ 21,375
The Routing Company	Furnish, Implement, and Maintain a Microtransit Software Platform	\$ 45,662	\$ 3,268
Triangle Properties, Inc.	SoCo Pathway Riparian Enhancement Implementation and Monitoring	\$ 47,061	\$ 8,970
Urban Transportation Associates, Inc.	Onboard Automatic Passenger Counter System Purchase, Install, and Software Implementation and	\$ 9,200	\$ 9,200
Van Scoyoc Associates	Federal Lobbying Services	\$ 30,000	\$ 5,000
VenTek Transit Inc.	Fare Vending Machine Operations and Maintenance Services	\$ 30,000	\$ 21,438
Vista Broadband Networks, Inc.	Broadband Services	\$ 9,000	\$ -
W.J.C. Electric, Inc. dba Hahn Automotive	Non-Revenue Vehicle Repair and Service	\$ 15,000	\$ -
WRA, Inc.	As-Needed Environmental Consulting Services	\$ 168,185	\$ 16,100
	TOTAL	\$ 10,465,497	\$ 679,116

FREIGHT RAIL

Contractor	Scope	Fiscal Year 23/24 Projected	Fiscal Year 23/24 Actuals
American Rail Engineers Corporation	Railroad Bridge Inspections, Bridge Engineering, and Related Services	\$ 44,439	\$ 5,039
Cathcart Rail Holdco, LLC dba Cathcart Field Services, LLC	Running Repair Agent Inspection and Maintenance Services	\$ 7,884	\$ 5,307
Freight Rail Tracking Software	Freight Rail Tracking Software	\$ 5,000	\$ -
GATX Rail Locomotive Group, LLC	Freight Locomotive Lease Agreement	\$ 44,800	\$ 8,110
Hue & Cry, Inc.	Security System at Schellville Depot	\$ 3,000	\$ -
Koppers Railroad Structures, Inc.	Brazos Branch Timber Bridge Repairs - Phase I Contract	\$ 660,696	\$ 226,113
North Bay Petroleum	Provision of Fuel for DMUs	\$ 90,000	\$ -
Summit Signal, Inc.	Inspection, Testing, and Maintenance Services for Signal Equipment Along Brazos Branch	\$ 35,250	\$ -
Wine Country Sanitary, Inc.	Portable Toilet Rental and Maintenance	\$ 1,571	\$ 197
	TOTAL	\$ 892,640	\$ 244,766

Actuals-To-Date includes invoices that have been approved as of August 31, 2023, but may not have been processed in SMART's Financial System



Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

Mary Sackett
Marin County Board of Supervisors

Eddy Cumins
General Manager

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

October 18, 2023

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

SUBJECT: Approval of Resolutions of local support for the receipt of two Affordable Housing Sustainable Communities grants from the State of California Strategic Growth Council and Department of Housing and Community Development and authorizing entering into a agreements with project parties

Dear Board Members:

RECOMMENDATIONS:

Approve Resolution No. 2023-32 and Resolution No. 2023-33, authorizing the General Manager to submit any required documents on behalf of SMART for two Affordable Housing Sustainable Communities (AHSC) Program Round 7 grants, one in partnership with Kashia Band of Pomo Indians of Stewarts Point Rancheria and the Town of Windsor and the second with the City of Petaluma and Danco Communities.

SUMMARY:

The State of California has established a grant program entitled Affordable Housing and Sustainable Communities (AHSC). The grant guidelines, application review and award processes are managed and decided by the California Strategic Growth Council (SGC). Once awarded by SGC, the administration of the grants, including all invoicing, is managed by California's Department of Housing and Community Development. Each cycle of the program has its own set of specific guidelines and project proposals require multiple housing, active transportation and transit elements to be competitive for funds within the statewide competition. The applications are scored and ranked state-wide. Awardees are required to enter into grant agreements collectively with the State (HCD) to receive funds, with a standard practice of also signing an addition separate side agreement between the individual project parties outlining roles and responsibilities within the partnership.

The State (SGC) issued a call for projects for AHSC Round 7 in January 2023 with \$750 million in new grant capacity and applications due April 2023.

SMART was requested to participate in two application partnerships, the first with the Kashia Band of Pomo Indians of Stewarts Point Rancheria and the Town of Windsor requesting a total of \$19,966,182 in grants and loans for housing and transportation project improvements, supporting 54 housing units. Of the application request, the housing loan associated with the award is \$10,246,932 to Kashia Band of Pomo Indians of Stewarts Point Rancheria.

The \$9,719,250 grant portion of the award is comprised of the following elements:

- \$5,000,000 to the Town of Windsor for bike, pedestrian and transit stop improvements,
- \$1,500,000 to SMART for SMART Windsor Transit Station Improvements,
- \$2,650,000 to Sonoma County Transit for a zero-emission bus and transit operating support for service expansion, and
- \$569,250 to Sonoma County and others for workforce development, anti-displacement support and transit passes for residents of the housing to be built.

The second application partnership is with the City of Petaluma and Danco Communities requesting a total of \$30,228,840 in grants and loans for housing and transportation improvements, supporting 131 housing units. Of the application request, the housing loan associated with the award is \$20,000,000 to Danco Communities. The \$10,228,840 grant portion of the award is comprised of the following elements:

- \$895,000 to SMART for Petaluma North Station platform and amenities construction,
- \$2,300,000 to SMART for Bicycle and Pedestrian Improvements (Path and Crossings),
- \$1,300,000 to SMART for installation of solar over Petaluma North Station parking lot,
- \$1,750,000 to City of Petaluma/Petaluma Transit for zero-emission vehicles and transit stop improvements,
- \$3,239,000 to City of Petaluma for bicycle and pedestrian and urban greening improvements, and
- \$744,840 to Sonoma County Bicycle Coalition and others for anti-displacement support, transit passes for future project residents, active transportation safety support, including \$150,000 to SMART for workforce development (intern support and operating position trainee tuition).

Of the 53 applications submitted with Round 7, 21 were funded and the full scored list can be found here: https://sgc.ca.gov/programs/ahsc/docs/20230929-Update_AppendixA.pdf. The SGC award action was taken, including funded each of the two SMART-partnership applications, on August 30, 2023.

HCD requests local governing body resolutions by November 1, 2023. With the two resolutions before you, the General Manager is being given delegated authority to execute all required documents of the AHSC Program as required by HCD and any Amendments thereto with the State and project partners which may be necessary for the completion of the SMART-sponsored project elements. The General Manager will make any further non-substantive administrative modifications to this authorizing resolution should HCD require them.

FISCAL IMPACT: None.

REVIEWED BY: [x] Finance _____ /s/ _____ [x] Counsel _____ /s/ _____

Respectfully,

/s/
Joanne Parker
Programming & Grants Manager

Attachment(s):

- 1) Resolution No. 2023-32
- 2) Resolution No. 2023-33

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AUTHORIZING APPLICATION FOR THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM

WHEREAS, the State of California, the Strategic Growth Council (SGC) and the Department of Housing and Community Development (Department) has issued a Notice of Funding Availability dated January 30, 2023, and amended March 15, 2023, (NOFA) under the Affordable Housing and Sustainable Communities (AHSC) Program; and

WHEREAS, the Sonoma-Marin Area Rail Transit District (SMART) is an eligible public agency project sponsor and may receive funding from State of California, the Department and the SGC for transportation projects; and

WHEREAS, the SGC is authorized to approve funding allocations for the AHSC Program, subject to the conditions of the NOFA, Program Guidelines, Application Package, and Standard Agreement, and the Department is authorized to administer the approved funding allocations of the AHSC Program; and

WHEREAS, SMART desires to apply for AHSC Program funds, as a Joint Applicant with Kashia Band of Pomo Indians of Stewarts Point Rancheria, Burbank Housing Development Corporation and the Town of Windsor, for the purposes of constructing the Windsor Apartment AHSC, which includes the Windsor Apartments to be implemented by Kashia Band of Pomo Indians of Stewarts Point Rancheria and Burbank Housing Development Corporation, the Town of Windsor bicycle, pedestrian and transit service improvements, along with various support programs, to be implemented by the Town of Windsor, and the SMART Windsor Transit Station Improvements to be implemented by SMART; and

WHEREAS, SMART wishes to implement the SMART Project portion of the Windsor Apartments AHSC Project; and

WHEREAS, SMART wishes to delegate authorization to submit and execute all required AHSC Program documents and any amendments thereto for the SMART Project portion of this Windsor Apartments AHSC Project to the SMART General Manager, or designee;

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

1. Authorizes the submittal made to the Department the AHSC Program application as detailed in the NOFA dated January 30, 2023, and amended March 15, 2023, for Round 7 in a total amount not to exceed \$19,966,182 for all Windsor Apartment AHSC Project components to be implemented independently by Kashia Band of Pomo Indians of Stewarts Point Rancheria, Burbank Housing Development Corporation, Town of

Resolution No. 2023-32
Sonoma-Marín Area Rail Transit District
October 18, 2023

Windsor, and SMART, as defined by the AHSC Program Guidelines adopted on December 15, 2022; and

2. Agrees, if the application is approved, SMART is hereby authorized and directed to enter into, execute, and deliver a State of California Standard Agreement (Standard Agreement) in a total amount not to exceed \$19,966,182 for all Windsor Apartments AHSC Project components, and any and all other documents required or deemed necessary or appropriate to secure the AHSC Program funds from the Department and project partners and all amendments thereto (collectively, the AHSC Documents); and
3. Agrees to comply with all terms, conditions and requirements as specified in the Standard Agreement, including identified allowable capital asset project expenditures and incorporation of the full application in the Agreement, and agrees to use the funds for eligible capital assets in the manner presented in the application as approved by the Department and in accordance with the NOFA and Program Guidelines and Application Package; and
4. Designates SMART's General Manager, or designee, to be authorized to execute all required documents of the AHSC Program as required by the Department and project partners and any Amendments thereto with the State and Department 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 18th day of October 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

Leticia Rosas, 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 APPLICATION FOR THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM

WHEREAS, the State of California, the Strategic Growth Council (SGC) and the Department of Housing and Community Development (Department) has issued a Notice of Funding Availability dated January 30, 2023, and amended March 15, 2023, (NOFA) under the Affordable Housing and Sustainable Communities (AHSC) Program; and

WHEREAS, the Sonoma-Marín Area Rail Transit District (SMART) is an eligible public agency project sponsor and may receive funding from State of California, the Department and the SGC for transportation projects; and

WHEREAS, the SGC is authorized to approve funding allocations for the AHSC Program, subject to the conditions of the NOFA, Program Guidelines, Application Package, and Standard Agreement, and the Department is authorized to administer the approved funding allocations of the AHSC Program; and

WHEREAS, SMART desires to apply for AHSC Program funds, as a Joint Applicant with Danco Communities and the City of Petaluma, for the purposes of constructing the Meridian at Corona Station AHSC Project, which includes the Meridian at Corona Station and various support programs to be implemented by Danco Communities, the City of Petaluma bicycle, pedestrian and transit service improvements, to be implemented by the City of Petaluma, and the SMART Petaluma North Station platform and amenities, SMART bicycle and pedestrian improvements, solar over SMART parking improvements and SMART workforce develop program, all to be implemented by SMART; and

WHEREAS, SMART wishes to implement the SMART Project portion of the Meridian at Corona Station AHSC Project; and

WHEREAS, SMART wishes to delegate authorization to submit and execute all required AHSC Program documents and any amendments thereto for the SMART Project portion of this Meridian and Corona Station AHSC Project to the SMART General Manager, or designee;

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

1. Authorizes the submittal made to the Department the AHSC Program application as detailed in the NOFA dated January 30, 2023, and amended March 15, 2023, for Round 7 in a total amount not to exceed \$30,228,840 for all Meridian at Corona Station AHSC Project components to be implemented independently by Danco

Resolution No. 2023-33
Sonoma-Marín Area Rail Transit District
October 18, 2023

Communities, City of Petaluma, and SMART, as defined by the AHSC Program Guidelines adopted on December 15, 2022; and

2. Agrees, if the application is approved, SMART is hereby authorized and directed to enter into, execute, and deliver a State of California Standard Agreement (Standard Agreement) in a total amount not to exceed \$30,228,840 for all Meridian at Corona Station AHSC Project components, and any and all other documents required or deemed necessary or appropriate to secure the AHSC Program funds from the Department and project partners and all amendments thereto (collectively, the AHSC Documents); and
3. Agrees to comply with all terms, conditions and requirements as specified in the Standard Agreement, including identified allowable capital asset project expenditures and incorporation of the full application in the Agreement, and agrees to use the funds for eligible capital assets in the manner presented in the application as approved by the Department and in accordance with the NOFA and Program Guidelines and Application Package; and
4. Designates SMART's General Manager, or designee, to be authorized to execute all required documents of the AHSC Program as required by the Department and project partners and any Amendments thereto with the State and Department 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 18th day of October 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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



October 18, 2023

Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

Mary Sackett
Marin County Board of Supervisors

Eddy Cumins
General Manager

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

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

SUBJECT: Approve a Resolution to Authorize Board Chair to Execute First Amendment to Grant of Easement

Dear Board Members:

RECOMMENDATION:

Approve Resolution No. 2023-34 authorizing the Board Chair to execute a First Amendment to Grant of Easement with Syufy Enterprises to clarify rights and duties including providing pedestrian and bicycle access for multi-use pathway users and providing access for SMART's rail passengers to and from the Larkspur station.

SUMMARY:

SMART currently owns and operates the railroad right-of-way, the Larkspur station, and a multi-use pathway next to property owned by Syufy Enterprises ("Syufy") in the City of Larkspur. SMART has an existing easement that was recorded in 1977, for ingress and egress purposes across a portion of property owned by Syfuy. SMART and Syufy ("the parties") wish to amend the easement to clarify the parties' rights and duties under the easement with respect to providing pedestrian and bicycle access for multi-use pathway users and providing access for SMART's rail passengers to and from the Larkspur station. The amendment to the easement will also provide SMART with vehicular access for maintenance, operation and to make improvements to SMART's property.

Staff recommends approving Resolution No. 2023-34 approving and authorizing the Board Chair to execute a First Amendment to Grant of Easement with Syufy.

FISCAL IMPACT: None.

REVIEWED BY: [x] Finance /s/ [x] Counsel /s/

Very truly yours,
/s/
Bill Gamlen, P. E.
Chief Engineer

Attachment(s): 1) Resolution No. 2023-34
2) First Amendment to Grant of Easement

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT
APPROVING AND AUTHORIZING THE BOARD CHAIR TO EXECUTE A FIRST AMENDMENT TO
GRANT OF EASEMENT**

WHEREAS, SMART is the owner of the railroad right of way, Larkspur station, and multi-use path adjacent to property owned by Syufy Enterprises (“Syufy”) in the City of Larkspur;

WHEREAS, SMART has an existing easement for ingress and egress purposes over the property owned by Syufy;

WHEREAS, SMART and Syufy (“the Parties”) wish to clarify the scope and purpose of the existing easement;

WHEREAS, the parties desire to enter into a First Amendment to the Grant of Easement attached hereto as Exhibit “A” to clarify the Parties’ rights and duties under the existing easement with respect to providing pedestrian and bicycle access for multi-use pathway users, providing access for rail passengers to and from the Larkspur station; and providing SMART with vehicular access for maintenance, operation and to make improvements to SMART’s property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Sonoma-Marín Area Rail Transit District hereby approves and authorizes the Board Chair to execute the First Amendment to the Grant of Easement attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18th day of October 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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

**RECORDING REQUESTED BY AND WHEN
RECORDED MAIL DOCUMENT TO:**

Syufy Enterprises
c/o SyWest Development LLC
150 Pelican Way
San Rafael, CA 94901
Attn: Russ Young, Esq.

Space Above This Line for Recorder's Use Only

FIRST AMENDMENT TO GRANT OF EASEMENT

THIS FIRST AMENDMENT TO GRANT OF EASEMENT (“**Amendment**”) is made as of October __, 2023, by and among **SYUFY ENTERPRISES, a California limited partnership (“Grantor”)**, and the **SONOMA-MARIN AREA RAIL TRANSIT DISTRICT (“Grantee”)**(and each a “**Party**” and collectively “the **Parties**”).

RECITALS

A. Grantor is the owner of fee title to that certain real property more particularly described and depicted on **Exhibit A**, attached hereto and incorporated herein (the “**Subject Property**”).

B. Grantee is the owner of a portion of the Northwestern Pacific Rail corridor and its rail facilities located adjacent to the Subject Property, and more particularly described and depicted on **Exhibit B**, attached hereto (the “**Benefited Property**”). Grantee has constructed and is operating on the Benefited Property a station to serve its rail passengers (“**SMART Station**”).

C. Grantee has an easement across a portion of the Subject Property for ingress and egress purposes, under that certain Grant Deed, recorded on December 1, 1977, in Book 3299, at Page 208, in the Official Marin County, California Records (the “**Existing Easement**”). Grantor and Grantee disagree regarding the scope and purpose of the Existing Easement, and therefore, enter into this Amendment, in part, to resolve that disagreement and clarify the Parties existing rights and duties under the Existing Easement.

D. Grantee and the County of Marin, a Political Subdivision of the State of California (the “**County**”) have entered into an unrecorded Cooperative Agreement, dated December 18, 2007, regarding the Benefited Property (the “**Project Agreement**”) for improvements to the California Park Hill Tunnel Rehabilitation and Multi-Use Pathway Project (the “**Project**”). Such improvements consist of building a multi-use pathway (“**MUP**”) adjacent to and near the rail facilities constructed by Grantee. The MUP will be owned by Grantee, however, pursuant to the Project Agreement, Grantee has assigned to the County, and the County has accepted from the Grantee, the right and obligations to manage, maintain, repair and replace (as necessary) the MUP until the date that Grantee notifies the County in writing (with a copy of such written notice

delivered to Grantor) that Grantee is prepared to initiate passenger rail service (the “**Rail Service Date**”). Commencing on the Rail Service Date, which the Parties agree occurred on or about December 14, 2019 and at all times thereafter, Grantee has assumed from the County such right and agreed to perform such obligations at Grantee’s sole cost and expense.

E. Subject to the terms and conditions hereinafter set forth in this Amendment, Grantor and Grantee desire to resolve any disagreement between the Parties with respect to the scope and purpose of the Existing Easement and clarify the Parties existing rights and duties under the Existing Easement moving forward.

NOW, THEREFORE, the Parties hereto hereby agree as follows:

AGREEMENTS

1. Confirmation of Existing Easement. The Parties wish to declare and confirm that the Existing Easement, as amended herein, continues in full force and effect against and burdening the Subject Property and for the benefit of the Benefited Property.

2. Grant of Easement.

(a) Effective on the date of the recording of the Existing Easement, and in consideration of Grantee’s obligations and duties set forth in this Amendment and the other terms and conditions set forth in this Amendment, the Parties confirm and clarify that Grantee, for the sole benefit of the Benefited Property, pursuant to the Existing Easement possesses a non-exclusive easement for ingress and egress on, over and across that portion of the Subject Property more particularly described in the legal description set forth in the Existing Easement (the “**Easement Area**”), and which Easement Area is depicted on **Exhibit C**, attached hereto and incorporated herein. The Parties acknowledge, understand and agree that: (i) the performance of the Parties’ respective obligations and duties under this Amendment are a material inducement to the execution of this Amendment and the covenants and agreements herein, and that (ii) Grantee shall not have the right to utilize any portion of the Subject Property outside of the Easement Area under the provisions of the Existing Easement or this Amendment.

(b) The Existing Easement is for the limited purpose of providing pedestrian and bicycle access (but specifically not vehicle access, except for vehicle access by the Grantee’s employees, agents and contractors, as set forth below) for (i) the Grantee’s employees, agents, contractors, and licensees, (ii) users of the MUP (the “**MUP Users**”) and (iii) users of the SMART Station (“**Rail Passengers**”) to and from the Benefited Property on, over and across the Easement Area (“**Permitted Uses**”).

(c) Vehicular use of the Easement Area by the Grantee’s employees, agents and contractors shall be limited to that which is necessary to conduct maintenance, operations and make improvements on the Benefited Property.

(d) Except as set forth in Section 3(a) below, the Existing Easement shall not include the right of Grantee to lay down, locate, construct, reconstruct, remove or replace any improvements (including, but not limited to, any fences, lighting, landscaping, signage,

irrigation, gates, protective barriers, fixtures or facilities) within the Easement Area (“**Improvements**”). The rights and obligations of the Parties with respect to maintenance (including without limitation the paving and striping) of the parking lot portion of the Easement Area are set forth in more detail in Section 3(i), below.

(e) Grantee shall ensure that its use of the Existing Easement and the Easement Area shall not impede access to or interfere with in any manner the use of the Subject Property by Grantor or by any occupant or permitted user of the Subject Property, including, but not limited to, Larkspur Landing Cinema, LLC (“**LL Cinema**”) or by any employee, agent, contractor, consultant, licensee, invitee or customer of Grantor, LL Cinema, or another Subject Property easement grantee.

(f) Notwithstanding anything to the contrary contained herein, Grantee shall not allow any use of the Existing Easement or the Easement Area by any employee, agent, contractor, licensee, MUP Users, and Rail Passengers of Grantee (“**Grantee’s Invitees**”) for any purpose other than Permitted Uses, and Grantee shall ensure that any such use shall comply with and be subject to all applicable permits, rules, orders, codes, regulations and laws (collectively, “**Laws**”) and all applicable Encumbrances (as defined below), with respect to the use of the Existing Easement and the Subject Property.

(g) Notwithstanding anything in this Amendment to the contrary, Grantor retains all rights to use the Easement Area, and to allow others to use the Easement Area, for all lawful purposes, so long as such uses, or any of them, do not prevent Grantee’s use of the easement rights granted hereunder and do not cause the Easement Area to not comply with any Laws. Without limitation on the foregoing, Grantor reserves the right, without obtaining the consent of Grantee, at Grantor’s sole cost and expense, to grant easements and other interests and rights in and to portions of the Easement Area or other portions of the Subject Property to third parties; provided that, in no event shall any buildings, fences or other obstructions be built by Grantor on or across the Easement Area that would prevent Grantee’s uses of the easement rights granted hereunder. Grantor shall use commercially reasonable efforts to ensure that the use of the Easement Area granted to others shall not materially impede access to or materially interfere with the Benefited Property or its use of the Easement Area by Grantee, its employees, agents, contractors, consultants, licensees, MUP Users and Rail Passengers.

(h) The easement rights granted under the Existing Easement, and as amended hereunder in this Amendment, are subject to any and all easements, covenants, conditions, encumbrances, deeds of trust, mortgages, liens, dedications, offers of dedication, restrictions, reservations and rights-of-way of record as of the date of the recordation of the Existing Easement (collectively, “**Encumbrances**”).

3. Terms and Conditions of Easement; Use, Management and Maintenance of the Easement Area; Potential Relocation of Easement Area.

(a) If Grantee wishes to construct any improvements in the Easement Area that are outside of the scope of Section 3(i), below, Grantee shall submit such plans for improvements to Grantor in writing which plans Grantor shall have the right to approve, reject, or condition in its sole and absolute discretion. If Grantor shall approve in writing any improvements to the

Easement Area, prior to such construction, Grantee shall prepare and submit to Grantor for its review and approval all construction drawings for said work. Further, Grantee shall deliver to Grantor and LL Cinema written notice of the commencement of any construction of any Improvements which are approved by Grantor, at least sixty (60) days prior to the commencement of any such construction. Said work shall be completed no later than six (6) months after Grantor's approval of the construction drawings. Said work shall minimize disruption of then-existing occupants and invitees on or adjacent to the Subject Property and shall occur only between the hours of 7 a.m. and 3 p.m., Monday through Friday unless different hours are mutually agreed to by both Parties in writing.

(b) Grantee shall maintain, repair and replace (as necessary) any Improvements made by Grantee in the Easement Area.

(c) Grantee shall be obligated to comply with all Laws applicable to the use and enjoyment of the Easement Area.

(d) The Parties agree that this Amendment confers no rights on Grantee or Grantee's Invitees to use the Subject Property outside of the Easement Area for any purpose whatsoever, including, but not limited to, parking or circulation. The Parties will reasonably cooperate to prevent any unauthorized use of the Easement Area or any use of the Subject Property outside of the Easement Area by Grantee's Invitees ("**Unpermitted Use**"). Grantee will take reasonable steps to prevent any Unpermitted Use of the Easement Area or Subject Property by Grantee's Invitees and, within 90 days after the execution of this Amendment, shall pay for the design, production and installation of signage ("**Signage**") on the Subject Property in the locations, dimensions and form set forth on **Exhibit D** hereto. The Parties hereto agree, that after execution of this Amendment, the Parties may change the number, location, language and/or dimensions of the Signage to be installed by Grantee upon the written agreement of the Parties.

(e) The Parties agree that Grantor may initiate towing of vehicles parked in violation of the Signage. Grantee agrees that Grantee's Invitees shall have no right to park or place bicycles, vehicles, or other property in or upon the Easement Area or anywhere else on the Subject Property.

(f) The Parties agree that if the measures undertaken by the Parties to prevent any Unpermitted Uses, including those agreed to herein, do not prevent parking or other Unpermitted Uses of the Subject Property by Grantee's Invitees, the Parties will meet and confer, face to face, on at least one (1) occasion, in an effort to identify and implement effective solutions before initiating legal action.

(g) The Parties agree that it is their intent that bicycle users of the Easement Area dismount before entering the parking lot located within the Subject Property. The Parties will cooperate in implementing reasonable measures to accomplish that objective, including signage, as described in Section 3(d), above, and as identified in Exhibit D, hereto.

(h) The Parties agree that upon the written notice from Grantor to Grantee, the Easement Area may be relocated on the Subject Property, at Grantor's sole expense, to one of the two alternate locations generally identified as "Future/Potential Easement" in **Exhibit E**

(“**Potential/Future Easement**”), attached hereto, or to such other location reasonably agreed to by the Parties that provides a reasonably similar level of service, access, safety and convenience with respect to Grantee, MUP Users and Rail Passengers. However, in the event that the Parties cannot come to such an agreement, the Easement Area shall be relocated to one of the two locations generally identified as “Future/Potential Easement” in Exhibit E, hereto. Upon such relocation, all obligations and rights relative to use of the Easement Area, and references herein to the Easement Area, shall apply equally to the Potential/Future Easement. Notwithstanding the above, Grantee’s obligations pursuant to the third sentence of Section 4 (Indemnity), below, shall not apply once the Easement Area has been relocated] Grantor will provide Grantee with at least one hundred eighty (180) days prior written notice of any such relocation which notice shall include identifying the relocation site. Grantor, at its sole cost, and in coordination with Grantee, shall construct and install all Improvements necessary to relocate the Easement Area. Prior to such construction, Grantor shall prepare and submit to Grantee for its review and comment all construction drawings for said work, which construction drawings shall be conclusively deemed approved by Grantee within sixty (60) days after receipt thereof by Grantee. Said work shall be completed prior to relocating the Easement Area and shall minimize disruption of Grantee’s use of the Easement Area. Further, any Improvements constructed by Grantor in the Potential/Future Easement shall be constructed in accordance with all applicable Laws and regulations.

(i) Each Party agrees to pay for the cost of repaving, restriping and repairing the Easement Area (or the Potential/Future Easement area, as the case may be) to the extent that the need for such repaving, restriping or repairing is the result of such party’s activity or use beyond normal wear and tear. With respect to normal wear and tear, the cost of repaving, restriping and/or repairing the Easement Area (or the Potential/Future Easement area, as the case may be) shall be borne by the Parties in the proportion of 75% to be borne by Grantor and 25% to be borne by Grantee, in the absence of any other written agreement. To the extent the Easement Area is relocated, the Parties may meet and confer in good faith in an effort to determine a fair and equitable proportionate cost to address normal wear and tear associated with repaving, restriping and repairing of the Potential/Future Easement area, and if such efforts result in a written agreement, the proportional amount of future sharing of such costs shall be as agreed in writing by the Parties. If the Parties cannot come to an agreement through this meet and confer process, the cost of repaving, restriping, and/or repairing the Easement Area (or the Potential/Future Easement area) shall remain 75% to be borne by Grantor and 25% to be borne by Grantee. In all events, Grantor shall cause the repaving, restriping and/or repair work (including Grantor selecting, contracting with and paying all contractors for such repaving, restriping and/or repairing of the Easement Area or the Potential/Future Easement area, as the case may be) for the Easement Area to be performed, including by its agent or designee, and Grantor shall receive a proportionate reimbursement from Grantee for such costs.

(j) In the event that Grantee fails to perform any of its obligations under the Existing Easement or this Amendment, and if Grantor notifies Grantee of such failure in writing, and if such failure continues ninety (90) days after such notice is given, Grantor shall have the right, but not the obligation, to perform such obligations at Grantee’s cost, and Grantee shall promptly reimburse Grantor for such cost upon receipt of Grantor’s written demand therefor together with reasonable backup and evidence of such cost. In the event that Grantor fails to perform any of its obligations under the Existing Easement or this Amendment, and if Grantee notifies Grantor of such failure in writing, and if such failure continues ninety (90) days after such notice is given,

Grantee shall have the right, but not the obligation, to perform such obligations at Grantor's cost, and Grantor shall promptly reimburse Grantee for such cost upon receipt of Grantee's written demand therefor together with reasonable backup and evidence of such cost. The rights and obligations hereunder shall not be construed or applied in any manner as will violate applicable Laws.

4. Indemnification. Grantor agrees to indemnify, defend and hold harmless Grantee from and to the extent of the negligence or willful misconduct of Grantor's own employees, agents and contractors. Grantee agrees to indemnify, defend and hold harmless Grantor from and to the extent of the negligence or willful misconduct of Grantee's own employees, agents and contractors. Notwithstanding the foregoing, Grantor shall have no obligation to defend, indemnify or hold Grantee harmless -- and instead Grantee shall defend, indemnify and hold Grantor harmless--for any claims of loss, damage, or injury arising out of the use of the Easement Area and which allege that the design, layout, access, or configuration of—or the presence or absence of lights, signage or traffic controls in or around—the Easement Area was inadequate or unsafe for pedestrians or cyclists coming from or going to the SMART Station or the MUP. Any and all indemnity obligations of Grantee set forth in the preceding sentence shall not apply to any claims of loss, damage or injury of any person or claimant who was not using the Easement Area for the purpose of going to or from the SMART Station or the MUP. Notwithstanding the above, the indemnity obligations set forth in this Section do not apply to any Potential/Future Easement area. Nothing set forth herein relative to indemnification shall affect, or be construed to affect, any immunities held by the Parties hereto, and specifically Civil Code 846 and Government Code 831.4, with respect to the use of the Easement Area and/or their respective properties, nor shall it be construed to give rise to any liability to third parties relating to such use.

5. Stop Notices/Liens. Grantee shall remove or bond around, indemnify and hold Grantor harmless from any Stop Notice, mechanic's liens or similar liens burdening the Subject Property arising from any work or Improvements undertaken by Grantee.

6. Independent Agents. The relationship between Grantor and Grantee is solely that of independent agents, and nothing herein shall be construed to constitute the Parties as employer/employee, partners, joint ventures, co-owners, or otherwise as participants in a joint or common undertaking. None of the Parties, nor their employees, agents, or representatives, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other Parties.

7. Governing Law. The Existing Easement and this Amendment shall be governed by and construed in accordance with the laws of the State of California without regard to conflict of law principles.

8. Covenants Run With the Land. All provisions of the Existing Easement and this Amendment relating to Grantor, including, without limitation, the burdens hereof, shall run with the Subject Property and are binding upon all Parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in, the Subject Property except for the grantees of any other easements that may burden the Subject Property. The Existing Easement and this Amendment and the other rights granted to and obligations undertaken by Grantee

hereunder are appurtenant to the Benefited Property and each portion thereof, and shall run to the benefit and burden thereof, and to the owners from time to time of the Benefited Property and each portion thereof.

9. Severance. In the event that any provision of this Amendment is held to be invalid, illegal or unenforceable by an arbitrator, court or other authority of competent jurisdiction, (a) the validity, legality and enforceability of the remaining provisions hereof shall not be affected or impaired thereby in any way, and such invalid, illegal, or unenforceable provision shall be construed by limiting such provision so as to be valid, legal and enforceable to the maximum extent permitted by Laws and (b) the Parties shall use their best efforts to enter into alternative arrangements which will grant each of the Parties the same, or as nearly the same as possible, rights and obligations as were granted under the provisions of the Existing Easement and this Amendment which were held to be invalid, illegal or unenforceable.

10. Rights of Mortgagees. No provision of the Existing Easement or of this Amendment shall in any way defeat or render invalid the lien of any mortgage, deed of trust or other security instrument entered into in good faith and for valuable consideration, whether presently in existence or hereafter executed upon any part of the Subject Property; provided, however, that if any portion of the Subject Property is purchased in connection with a foreclosure of such mortgage, deed of trust or security instrument or is conveyed to the party so secured in lieu of foreclosure, any person so acquiring or purchasing the Subject Property and his successors and assigns shall hold any and all real property so purchased or acquired subject to the provisions of the Existing Easement and this Amendment.

11. Notices. All notices, demands, requests, consents, approvals or other communications (for the purpose of this Section, collectively called “**Notices**”) required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly made or given when delivered (or if delivery is rejected) by hand or mailed first class, postage prepaid, certified mail, return receipt requested, or by overnight courier, addressed to the respective Parties as set forth below:

If to Grantor: Andrew McCullough
General Counsel
Syufy Enterprises LP
150 Pelican Way
San Rafael, CA 94901
Phone: (415) 448-8421
Fax: (415) 448-8475
andrew_mccullough@150pelican.com

With a copy to: Larkspur Landing Cinema, LLC
515 E. Washington Street
Petaluma, CA 94952
Attn: David Corkill

If to the Grantee: Sonoma-Marín Area Rail Transit District
c/o General Manager
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954

Any Party may, by Notice in accordance with this Section 11 to the other Parties, designate a different address for Notices, which shall be substituted for that specified above.

12. Further Assurances. Each Party will, whenever and as often as it shall be requested so to do by any other Party, cause to be executed, acknowledged or delivered any and all such further instruments and documents as may be necessary or proper, in the reasonable opinion of the requesting Party, in order to carry out the intent and purpose of the Existing Easement or this Amendment.

13. Successors and Assigns. The provisions of the Existing Easement and this Amendment shall bind and inure to the benefit of all successors, assigns and other parties now having or obtaining any legal or beneficial interest in the Benefited Property or the Subject Property. In no event may any Party hereto transfer the rights granted to it hereunder except upon an assignment or transfer of its rights in the respective property that it owns; provided, however, Grantee shall only have the right to assign all of its rights and obligations under the Existing Easement and this Amendment to the County or any other successor agency charged with the maintenance of the MUP and the access to the SMART Station (in which event, Grantee shall promptly deliver notice of such assignment to Grantor). If Grantee makes such an assignment of all of its rights and obligations under the Existing Easement and this Amendment, Grantee shall not retain any remaining rights under the Existing Easement and this Amendment. Any assignee of an interest hereunder shall automatically, as of the effective date of assignment, (a) succeed to all of the rights herein granted to such assignor and (b) be deemed to have assumed all of the obligations of such assignor accruing after such effective date. However, no such assignment shall be deemed to relieve such assignor of its obligations hereafter accruing under this Amendment up until the date of any such assignment.

14. No Gift or Dedication to the Public. The Existing Easement and this Amendment are not intended and shall not be construed as a dedication of the Easement Area for public use or for any public purpose whatsoever, it being the intention of the Parties hereto that this Existing Easement and this Amendment shall be limited to and for the purposes herein expressed, and each of the Parties hereto shall take whatever steps may be necessary to avoid such dedication, including but not limited to, undertaking those procedures set forth in California Code of Civil Procedure section 813 and California Civil Code section 1008. However, nothing in the immediately preceding sentence shall preclude the use of the Easement Area by Grantee's employees, agents, contractors, licensees, invitees, MUP Users and Rail Passengers for access to and from the Benefited Property on, over and across the Easement Area in accordance with the Existing Easement and this Amendment.

15. Attorneys' Fees. If any Party hereto shall institute any action or proceeding, against any of the other Parties relating to the provisions of the Existing Easement or this Amendment or any default or alleged default thereunder, then the non-prevailing party(ies) in

such action or proceeding agrees to reimburse the prevailing party(ies) for the actual expenses of attorneys' fees and disbursements incurred therein by the prevailing party(ies).

16. No Waiver. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. A waiver of any default in the performance of any provision contained in this Amendment shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other provision contained herein.

17. Entire Agreement. The Existing Easement and this Amendment, including the Exhibits attached hereto which are incorporated herein by this reference, contains the entire agreement between the Parties relating to the rights granted and the obligations hereunder assumed.

18. Written Amendments. Any oral representations or modifications concerning the Existing Easement or this Amendment shall be of no force and effect except for a subsequent modification in writing, signed by all of the Parties hereto. The Existing Easement and this Amendment cannot be altered, changed or terminated, in whole or in part, orally, and no statement or agreement shall be effective to alter, waive, change, modify, terminate or discharge the Existing Easement or this Amendment in whole or in part unless such statement or agreement is in writing signed by all of the Parties hereto.

19. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the Parties to this Amendment had executed the same counterpart.

20. No Third-Party Beneficiaries. Nothing in this Amendment shall be construed to create any right or benefit in any third party or parties, and the Parties hereto expressly disclaim any intent to create such rights, whether directly or incidentally.

21. Authority to Sign. Each individual signing this Amendment on behalf of a party warrants that the individual is duly authorized to execute this Amendment and to bind that party on whose behalf the individual is signing.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

GRANTOR

SYUFY ENTERPRISES, a California limited partnership

By: Syufy Properties, Inc.,
a California corporation
Its: General Partner

By: _____
William Vierra
Its: Senior Vice President

GRANTEE

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

By: _____
Eric Lucan
Its: Chairman, Board of Directors

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF MARIN)

On _____, before me, _____, a Notary Public, personally appeared, _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

Exhibits

Exhibit A	Description of Subject Property
Exhibit B	Description of Benefitted Property
Exhibit C	Plat of Easement Area
Exhibit D	Signage Plan
Exhibit E	Plat Showing Agreed Upon Relocation (“Future Potential Easement”) Areas

EXHIBIT A

Description of Subject Property

[See Attached]

2
①

RECORDING REQUESTED BY
CALIFORNIA LAND TITLE CO. OF MARIN

When Recorded Mail to, and Unless Otherwise Shown Below,
Send Tax Statements To

Syufy Enterprises
150 Pelican Way
San Rafael, CA 94901

98-025528

Record Fee	10.00
DTT	915.00
Check	945.00
Recorded	
Official Records	
County of	
MARIN	
IOAN C. THAYER	
Recorder	
8:00am 20 Apr 98	CLTC AR 2

Escrow or Title No 216488 -DM

MAIL ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S) DOCUMENTARY TRANSFER TAX is \$ 935-
 computed on full value of property conveyed or
 computed on full value less value of liens and encumbrances remaining at time of sale
 unincorporated area City of Larkspur

Parcel No 18-191-08
Tax Code Area 4-012

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
WestStar Real Estate, Inc., A Delaware Corporation

hereby GRANT(S) to
Syufy Enterprises, a California Limited Partnership

the following described real property in the State of California, City of Larkspur
County of Marin
PARCEL ONE:

LOT 8, as shown upon that certain map entitled, "Map of Larkspur Landing, Being a portion of that Amended Record of Survey recorded in Book 13 of Surveys, Page 60, and Record of Survey recorded in Book 4 of Surveys, Page 65, and Lands of Marin Municipal

CONTINUED
STATE OF CALIFORNIA)
COUNTY OF L.A.)

On 4-16-98 before me, the undersigned, a Notary Public in and for said County and State, personally appeared

~~WestStar Real Estate, Inc.~~ NR

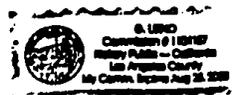
John Waterman
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

BY: [Signature]
WestStar Real Estate Inc.
a Delaware Corporation
Jeffrey Levine, President

BY: [Signature]
John Waterman, VicePres.

WITNESS my hand and official seal

Signature: [Signature]



MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE; IF NO PARTY IS SHOWN, MAIL AS DIRECTED ABOVE

NAME	STREET ADDRESS	CITY & STATE
------	----------------	--------------

Water District, (173 O.R. 501), Being a Portion of Rancho Punta De Quentin, lying within the City of Larkspur, Marin County, California, filed for record August 12, 1977 in Volume 17 of Maps, at Page 5, Marin County Records.

PARCEL TWO:

AN EASEMENT for sanitary sewer purposes described as follows:

BEGINNING at the most Easterly corner of Lot 8, as said lot is shown upon that certain map entitled "Map of Larkspur Landing, Being a portion of that Amended Record of Survey recorded in Book 13 of Surveys, Page 60, and Record of Survey recorded in Book 4 of Survey's, Page 65 and Lands of Marin Municipal Water District, (173 O.R. 501), Being a Portion of Rancho Punta De Quentin, lying within the City of Larkspur, Marin County, California, filed for record August 12, 1977 in Volume 17 of Maps, at Page 5, Marin County Records; said corner being common to the most Southerly corner of Lot 9, as shown on said map; thence along the Southwesterly line of said Lot 9, being common to the Northeasterly line of said Lot 8, Worth 62°46'12" West, 12.16 feet; thence North 57°28'02" East, 35.84 feet to a point on a line that is parallel with, and 10.00 feet Northwesterly, measured at right angles, from that certain course in the general Southeasterly line of said Lot 9, shown on said map as North 57°28'02" East, 88.00 feet; thence along said parallel line, continuing North 57°28'02" East, 88.00 feet; thence leaving said parallel line, North 73°06'57" East 44.68 feet to a point in a line that is parallel with, and 10.00 feet Northwesterly measured at right angles, from that certain course in said general Southeasterly line shown on said map as North 63°21'42" East, 269.70 feet; thence along said parallel line, North 63°21'42" East, 78.00 feet; thence at right angles, South 26°38'18" East, 10.00 feet to a point in said general Southeasterly line; thence along said general Southeasterly line, the following courses; thence South 63°21'42" West, 78.00 feet; thence South 57°28'02" West 42.00 feet; thence North 32°31'58" West 12.00 feet; thence South 57°28'02" West, 88.00 feet; thence along a tangent curve to the left, having a radius of 879.00 feet; through a central angle of 1°56'16", an arc length of 29.73 feet to the point of beginning.

EXHIBIT B

Description of Benefited Property

[See Attached]

Exhibit B - Description of Benefitted Property

Bk 21, Page 196
Recorded September 1, 1882

This Grant, made the fifth day of August in the year of our Lord one thousand eight hundred and eighty two Between David Porter of the City and County of San Francisco State of California, the party of the first part and the San Francisco and North Pacific Railroad Company, the party of the second part, Witnesseth: that the said party of the first part for and in consideration of the sum of one dollar lawful money of the United States, to him in hand paid the payment bound of is hereby acknowledged has granted bargained sold and conveyed, and by these presents does grant bargain sell and convey unto the said party of the second grant its assigns and successors in interest for the uses and purposes of a way for the Railroad of said party of the second party and for its side tracks, turn tables, depots, water tanks and other appurtenances thereto belonging, the following described tract of land situate lying and being in the County of Marin and State of California, more particularly described as follows to wit: A tract of land one hundred (100) feet in width being fifty (50) feet on each side of the located centre line of the San Francisco and North Pacific Railroad Company's projected road and for the length of said centre line described as follows: Beginning at the intersection of said center line of the San Francisco and North Pacific Railroad Company's projected road with the south line of land of Williams T. Coleman South 57 degrees East sixteen (16) feet from a gate post on graded road through Tennessee Pass running thence by the true meridian notation 16 degrees 52 minutes East South 37 degrees 30 minutes west from Four hundred and sixty six (466) feet thence by a curve of three (3 degrees) or one thousand nine hundred and ten (910) feet radius to left Four hundred thirty eight and three tenths (438 3/10) feet thence south 24 degrees 21 minutes west one thousand two hundred and fifty eight and nine tenths (1258 9/10) feet thence by a curve of 4 degrees or one thousand four hundred and thirty three (1,433) feet radius to the left eight hundred twenty two and one tenth (822 1/10) feet to the Corte Madera Creek. Containing six and eighty five hundredths (6 85/100) acres more or less. To have and to hold, the same unto the said party of the second part its assigns and successors in interest for the uses and purposes herein mentioned.

In Witness whereof, the said party of the first party has hereunto set his hand and seal. The day and year first above written.

Signed sealed and
Delivered In presence of
Robert Walkinshaw
State of California City
And County of San Francisco

David Porter (seal)

SS

On this fifth day of August A.D. one thousand eight hundred and eighty two before me 1887 before me Robert Walkinshaw a Notary Public in and for said City and County residing herein duly commissioned and sworn, personally appeared David Porter known to me to be the person described whose name is subscribed to and who executed the written instrument and he duly acknowledges to me that he has executed the same.

Seal In Witness whereof I have here unto set my hand and affixed my official seal in the City and County of San Francisco, the day and year last above written.
Robert Walkinshaw Notary Public

In consideration of the above grant, the San Francisco and North Pacific Railroad Company agrees to and with said David Porter the company will convey the water of a spring adjacent to a ravine which said road crosses to the east of said Road by suitable pipes or culverts so that the water of the same can be conveniently taken and used by said David Porter. And where the construction of said road Interfers with the wagon road of said David Porter which wagon road runs from Ross Landing to the State Prison the said Company will construct said wagon road in a good substantial manner further to the east on the marsh over which the same runs and make a good safe crossing where the same crosses the road of the Company. The company also agrees that all water tapped within fifty (50) feet of the south mouth of the tunnel to be constructed on said route shall be conveyed by suitable pipes or culvert to the south mouth of said tunnel and to the land of said Porter. The Company also agrees that they will establish a flag station on the land of said Porter near the Corte Madera Creek, where all passengers trains will stop when signaled. It is further; covenanted and agreed that In case the Company fails to build and put said road in operation within three years form this date, then it shall surrender the grant hereby made to it. In Witness whereof the said San Francisco and North Pacific Rail Road Company has caused the Its name to be hereto subscribed and its seal affixed by Its President and Secretary thereto duly authorized this fifth day of August A.D. 1882.

The San Francisco and North Pacific Rail Road Company

SEAL

P. Donahue, President

Jasm Donahue, Secretary

Filed for Record:

and recorded at request of S.F.N.P.R.R. Sept 1- A.D. at 30 minutes past one o'clock p.m.

Chass Bulson

Recorder

South 24° 21' west one thousand two hundred and fifty eight and
 nine tenths (1258 ⁹/₁₀) feet thence by a curve of 4° or one thousand
 four hundred and thirty three (1433) feet radius to the left, eight
 hundred twenty two and one tenth (822 ¹/₁₀) feet to the look
 Madera Creek. Containing six and eighty nine hundredths ⁶⁸⁹/₁₀₀
 acres more or less. To have and to hold the same unto the said
 party of the second part, its assigns and successors in interest for
 the use and purposes herein mentioned. In Witness Whereof
 the said party of the first part has hereunto set his hand and
 seal the day and year first above written.

Signed, Sealed and Delivered } David Porter
 in the Presence of Robt. Walkinshaw }

State of California }
 City and County of San Francisco }

On this fifth day of August A.D. one thousand eight hundred
 and eighty two before me Robert Walkinshaw a Notary Public
 in and for the said City and County residing therein duly
 commissioned and among personally appeared David Porter
 known to me to be the person whose name is subscribed to
 the within instrument and he duly acknowledged to me
 that he executed the same. In Witness Whereof I have here
 unto set my hand and affixed my official seal the
 day and year in this last certificate first above written.

Robt. Walkinshaw
 Notary Public

In consideration of the above grant, the San Francisco and North
 Pacific Rail Road Company agrees in and with said David Porter
 that the company will convey the water of a spring adja
 cent to a ravine which said road crosses to the east of
 said Road by suitable pipes or conduits so that the water
 of the same can be conveniently taken and used by said
 David Porter: And where the construction of said road inter
 feres with the wagon road of said David Porter which

198

road runs from the landing to the east from the said com-
 pany will construct said wagon road in a good substantial
 manner further to the east on the lands over which the
 same runs and make a good safe crossing where the same
 crosses the road of the company. The company also agrees that
 all water tapped within fifty feet of the south mouth of
 the tunnel to be constructed on said road shall be conveyed
 by suitable pipes or culverts to the south mouth of said tunnel
 and to the land of said Porter. The company also agrees that
 they will establish a flag station on the land of said Porter
 near the Lake Meade Creek, where all passenger trains will
 stop when signalled. It is further covenanted and agreed
 that in case the company fails to build and put said
 road in operation within three years from this date, then
 it shall surrender the grant hereby made to it. In witness
 whereof the said San Francisco and North Pacific Rail Road
 Company has caused its name to be hereunto subscribed and
 its seal affixed by its President and Secretary, this day
 authorized this fifth day of August A.D. 1892.

The San Francisco and North Pacific Rail
 Road Company
 P. Donahue, President
 Jas. M. Donahue, Sec.



Filed for Record:
 and removed at request of S.F. & N.P. R.R. Sept 1. 2. 1892 at
 3 o'clock past one o'clock P.M.

Chas. H. Conison

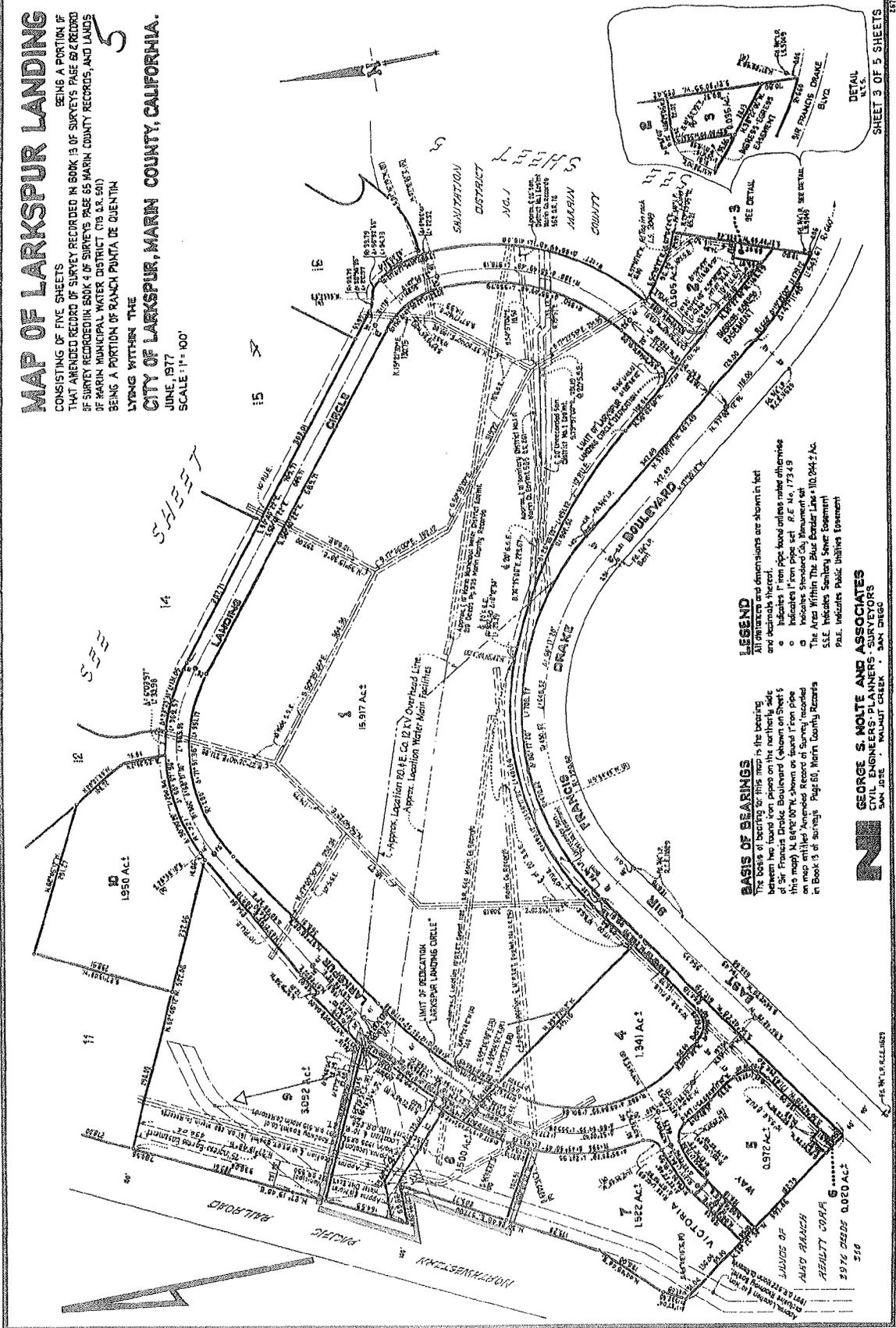
Meador

EXHIBIT C

Plat of Easement Area

[See Attached]

MAP OF LARKSPUR LANDING
 BEING A PORTION OF
 THAT AMENDED RECORD OF SURVEY RECORDED IN BOOK 13 OF SURVEYS PAGE 642 RECORDED
 IN SURVEY RECORDED IN BOOK 4 OF SURVEYS PAGE 55 MARIN COUNTY RECORDS, AND LANDS
 OF MARIN MUNICIPAL WATER DISTRICT (73 AS 50)
 BEING A PORTION OF RANCHO PUNTA DE QUENTIN
 LYING WITHIN THE
CITY OF LARKSPUR, MARIN COUNTY, CALIFORNIA.
 JUNE, 1977
 SCALE: 1" = 100'



LEGEND
 All dimensions and dimensions are shown in feet
 and decimals thereof.
 o Indicates 1" iron pipe found unless otherwise
 o Indicates 1" iron pipe shown on Sheet 5
 o Indicates 1" iron pipe shown on Sheet 6
 o Indicates 1" iron pipe shown on Sheet 7
 The Area Within The Blue Border Line is Recorded
 in Book 13 of Surveys Page 642, Marin County Records
 S.S.E. Indicates Sanitary Sewer Easement
 P.A.E. Indicates Public Utilities Easement

BASIS OF BEARINGS
 The bearings of this map is the bearing
 of the line from station on the northern side
 of the Francis Drake Boulevard (shown on Sheet 5
 of this map) N. 89° 00' 00" shown on said 1" from pipe
 on map entitled Amended Record of Survey recorded
 in Book 13 of Surveys Page 642, Marin County Records

GEORGE S. MOLTE AND ASSOCIATES
 CIVIL ENGINEERS
 SAN JOSE, CALIFORNIA

DETAIL 3 OF 5 SHEETS

EXHIBIT D

Signage Plan

[See Attached]

Exhibit D - Signage Plan

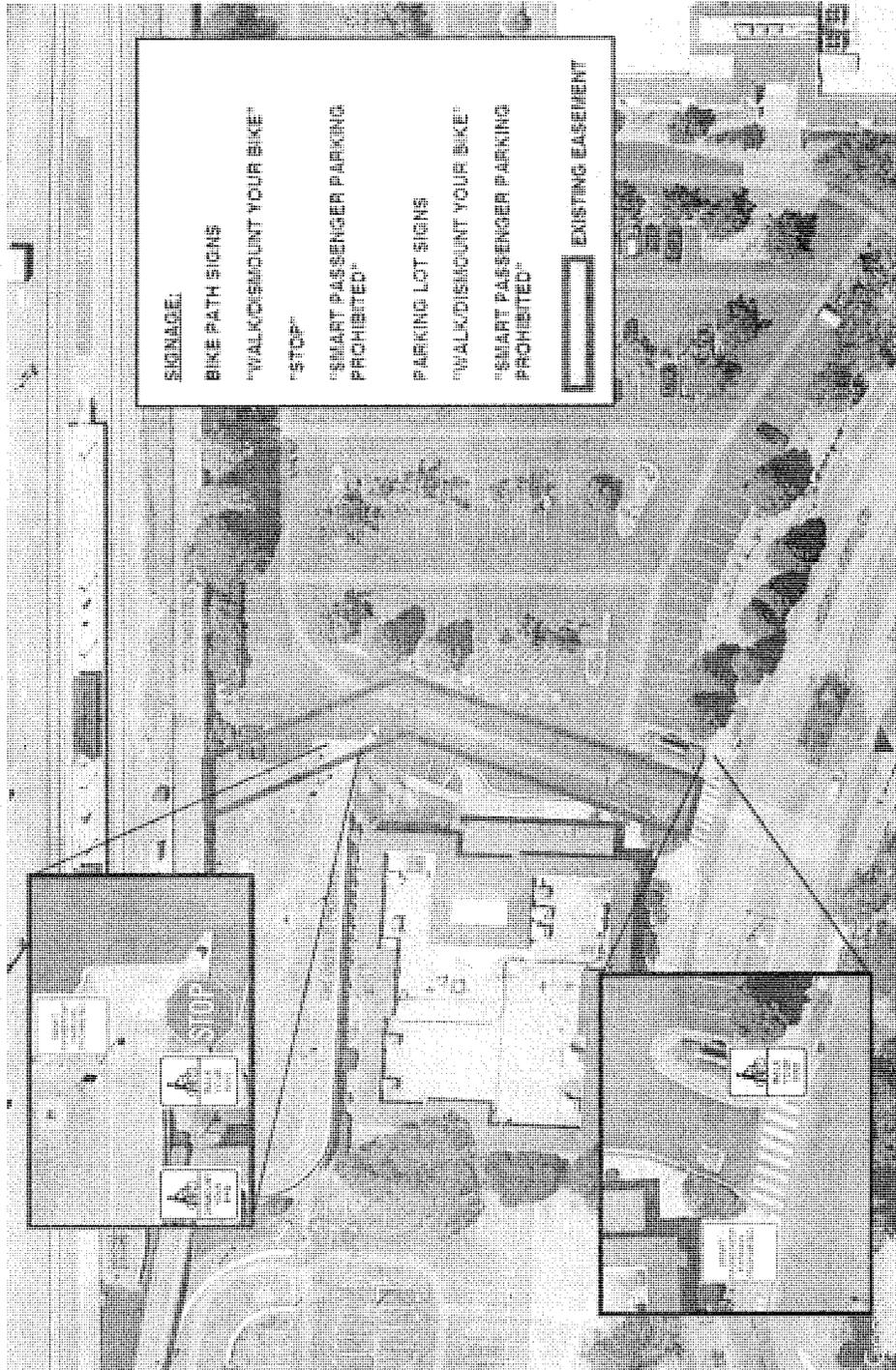
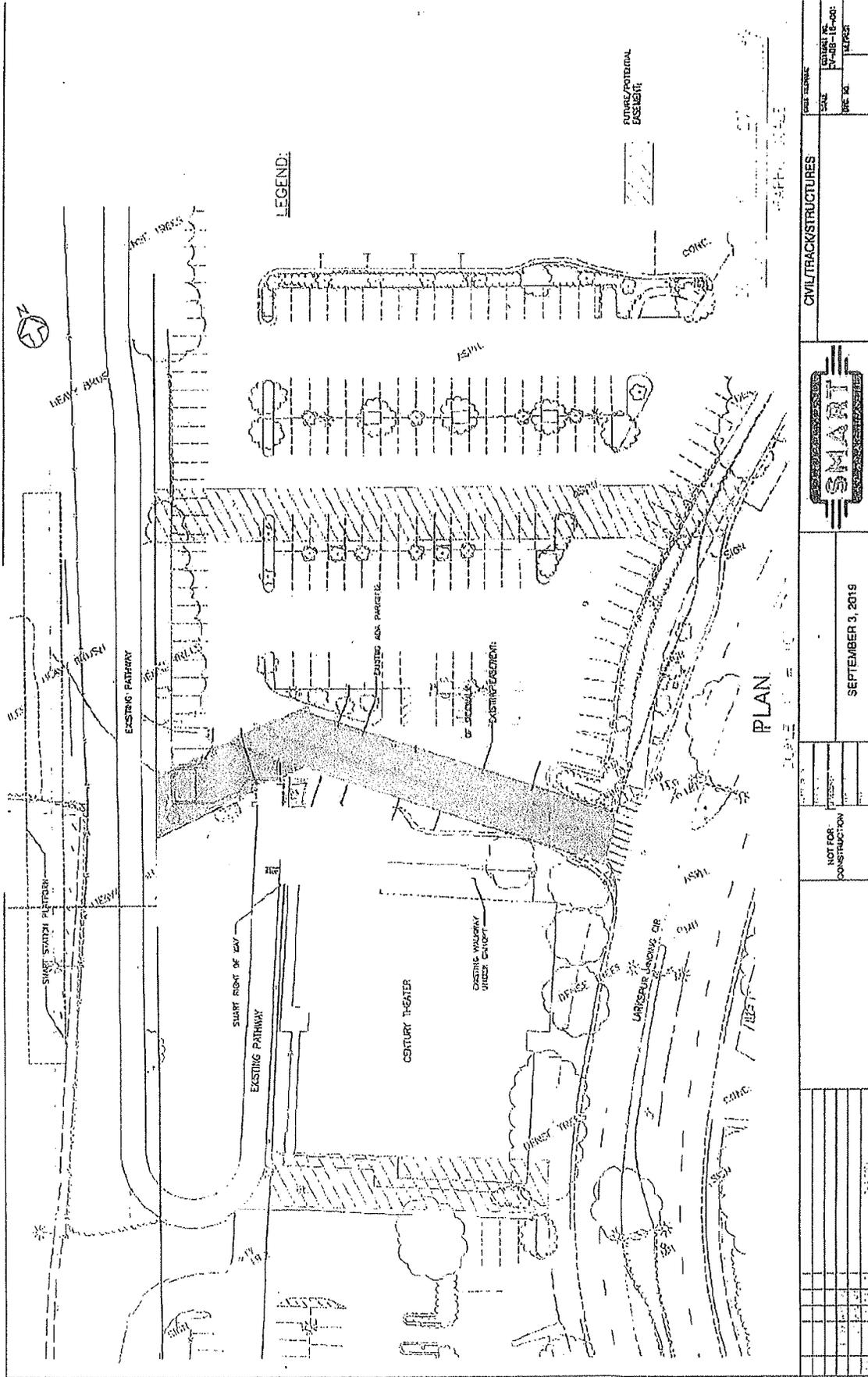


EXHIBIT E

Plat showing Agreed Upon Relocation (“Future Potential Easement”) Areas

Exhibit E - Potential/Future Easement Page 1 of 1





October 18, 2023

Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
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General Manager

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

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

SUBJECT: Approve a Resolution to authorize SMART to enter into agreements with the California Department of Transportation for the SMART Pathway Wayfinding and Rail Station Train Arrival Real Time Information Project

Dear Board Members:

RECOMMENDATIONS:

Approve Resolution No. 2023-35 authorizing the General Manager to execute all Restricted Grant Agreements, and any amendments thereto, with the California Department of Transportation (Caltrans) for the Clean California Transit Grant Program funds.

SUMMARY:

In August 2023, SMART applied to the Clean California Transit Grant Program to obtain grant funding for the installation of train arrival real-time information signage and the fabrication and installation of pathway wayfinding that is currently being developed through the Pathway Wayfinding System Plan. On October 9, 2023, SMART was notified that the project was selected for \$1,000,000 in funding.

Both of these projects had funding allocated through SMART's FY24 budget that would enable a modest and phased implementation approach. Leveraging the budgeted funds for this project helped secure this additional funding, which will allow for a more comprehensive roll-out of real-time signage and a more robust initial phase of pathway wayfinding fabrication and installation.

In order to utilize these funds, SMART must first enter into a Restricted Grant Agreement with Caltrans. Board approval of this resolution would authorize the General Manager to enter into a Restricted Grant Agreement with Caltrans, which is required before Caltrans can issue SMART a notice to proceed permitting SMART to begin the project and access the grant funding.

FISCAL IMPACT: The Fiscal Year 2024 (FY 24) budget provides \$400,000 for Pathway Wayfinding and real-time signage at the platforms. These additional dollars will leverage SMART's funds.

REVIEWED BY: [x] Finance /s/ [x]Counsel /s/

Respectfully,
/s/
Emily Betts
Principal Planner

Attachment(s): Resolution No. 2023-35

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, AUTHORIZING SMART TO ENTER INTO AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE SMART PATHWAY WAYFINDING AND RAIL STATION TRAIN ARRIVAL REAL TIME INFORMATION PROJECT

WHEREAS, the Sonoma-Marín Area Rail Transit (SMART) District (herein referred to as APPLICANT) is eligible to receive Federal and/or State funding for certain transportation related work through the California Department of Transportation (Caltrans); and

WHEREAS, the APPLICANT submitted an application for funds for the SMART Pathway Wayfinding and Rail Station Train Arrival Real Time Information Project in August 2023 and was notified in October 2023 by Caltrans that the application had been selected to receive State General Funds; and

WHEREAS, Caltrans awarded \$1,000,000 through the Clean California Transit Grant Program; and

WHEREAS, a Restricted Grant Agreement is needed to be executed with the California Department of Transportation before such funds can be claimed through the Clean California Transit Grant Program; and

WHEREAS, the APPLICANT wishes to delegate authorization to execute these agreements and any amendments thereto;

NOW, THEREFORE, BE IT RESOLVED that Board of Directors authorizes the SMART District General Manager, or SMART Chief Financial Officer, or designee to execute all Restricted Grant Agreements, and any amendments, thereto, and any assurances or other documentation, with Caltrans.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18th day of October 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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



October 18, 2023

Eric Lucan, Chair
Marin County Board of Supervisors

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Sonoma County Mayors' and
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SUBJECT: Strategic Marketing Communications and Public Outreach Plan

Dear Board Members:

RECOMMENDATION: Discussion item

BACKGROUND:

In June 2023, the Marin County Civil Grand Jury released its report "SMART at a Crossroads – Here Today, Gone Tomorrow?". The Marin County Civil Grand Jury made three recommendations. Recommendation #2 was the following:

"By December 1, 2023, SMART's Board of Directors should direct staff to develop a written strategic marketing communications and public outreach plan and budget focused on educating voters in Marin County about the community benefits derived from the continued operation of the SMART rail system."

SMART's Board of Directors agreed with this recommendation, and staff was tasked with developing a marketing, communications, and public outreach plan to inform taxpayers in Sonoma and Marin counties about the benefits SMART brings to the North Bay.

SUMMARY:

A draft Marketing, Communication, and Public Outreach plan has been developed to inform taxpayers about the advantages of SMART public transit passenger rail service, funded by a ¼ cent sales tax. The primary objectives are to emphasize the return on investment and how this transit service enhances the North Bay's economic development, mobility, quality of life, and sustainability. The Plan covers target audiences, communication channels, and promotional campaigns, all aimed at effectively reaching a broad geographical area through various communication and advertising methods. The Plan aims to inform the public about the benefits of SMART public transit passenger rail service, ultimately boosting ridership and improving the quality of life and sustainability in Sonoma and Marin counties.

Successful execution of this Plan requires a thorough understanding of the benefits SMART provides, including a comprehensive assessment of the economic, social, and environmental advantages passenger rail service offers the North Bay. SMART has recently been awarded a grant from the California Department of Transportation to conduct a Quality of Life and Economic Impact Assessment. The insights from this study will play a vital role in shaping the strategy and messaging of the Marketing, Communications, and Public Outreach Plan.

Additionally, per Marin County Civil Grand Jury Recommendation #3, SMART is procuring a consultant to study and develop a comprehensive marketing and public outreach plan to inform taxpayers in Sonoma and Marin counties about the community benefits associated with continued SMART operations. The results of this consulting contract will ultimately help inform SMART's Marketing Communications and Public Outreach Plan.

This Plan should be considered a living document that will be reviewed regularly and refined based on changing market conditions, audience feedback, and performance data.

SMART undertakes year-round promotional campaigns and marketing efforts with the primary goal of increasing awareness and growing ridership. These endeavors involve close collaborations with community stakeholders, business groups, colleges, and community organizations to create engaging promotions and collaborative marketing strategies. The draft Marketing, Communications, and Public Outreach Plan has a different focus—which is educating voters about the benefits SMART brings to the North Bay.

The marketing communications plan provides a multi-channel approach to engage target audiences and outlines the budgetary and staffing resources currently allocated to marketing efforts. Staffing and budgetary resources to execute this Plan include the SMART Communications and Marketing Team, which is comprised of three full-time staff.

- Communications and Marketing Manager
- Community Outreach and Customer Service Manager
- Community Outreach and Marketing Coordinator

2023-24 budgetary resources for advertising and marketing are currently allocated for initiatives focusing on growing ridership. Conducting an effective marketing and public outreach campaign to inform taxpayers in Sonoma and Marin counties about the benefits would require additional funding and contracted resources.

If the Board wishes staff to begin conducting marketing and public outreach activities in the current year to inform taxpayers in Sonoma and Marin counties about the benefits of SMART, staff is recommending a plan of action estimated to cost \$301,800.

Recommended marketing activities that would be accomplished in the current fiscal year if the Board approves:

- Produce and mail an informational printed piece to all business and residential addresses in Sonoma and Marin counties. This mailer would feature content from the Annual Report updating the community about District activities and highlighting the economic, environmental, and sustainable transportation benefits of SMART.
- Contract a professional videographer to produce videos highlighting the economic and environmental benefits of SMART, sustainable transportation, and the progress of completing the northern extensions.
- Secure advertising space on cable television, streaming, digital platforms, and social media.

If the Board chooses to move forward with this marketing and public outreach initiative, staff will bring a budget action to the Board for approval in November 2023.

FISCAL IMPACT: The estimated cost is \$301,180. These funds are not currently budgeted in the Fiscal Year 2024 budget. If the Board approves this approach, staff will bring a budget amendment to the Board at the November 15, 2023, meeting.

REVIEWED BY: [x] Finance /s/

[x] Counsel /s/

Sincerely,

/s/

Julia Gonzalez

Communications and Marketing Manager

Attachment(s): Draft Marketing Communications and Public Outreach Plan Informing Taxpayers About the Benefits of SMART



Sonoma-Marin Area Rail Transit District
Draft Marketing Communications and Public Outreach
Plan Informing Taxpayers About the Benefits of SMART



Executive Summary

This Marketing and Communication Plan is designed to inform taxpayers about the advantages of SMART (Sonoma-Marín Area Rail Transit) public transit passenger rail service, funded by a ¼ cent sales tax. The primary objectives are to emphasize the return on investment and how this transit service enhances the North Bay's economic development, mobility, quality of life, and sustainability. The Plan covers target audiences, communication channels, and promotional initiatives, all aimed at effectively reaching a broad geographical area through various communication and advertising methods. We aim to inform the public about the benefits of SMART public transit passenger rail service, ultimately boosting ridership and improving the quality of life and sustainability in Sonoma and Marin Counties.

Situational Analysis

In 2022, SMART conducted a series of Listening Sessions to gather feedback from various constituent and stakeholder groups. The result was a SWOT analysis highlighting opportunities for SMART improvements, including Marketing and Communications activities.

The SWOT analysis found there were opportunities to:

- Market to untapped markets such as tourists, students, late-night and leisure travelers, and promote riding SMART to events.
- Improve SMART's online presence, wayfinding, real-time train arrival information, and apps.
- Increase interaction with public and community leaders.
- Develop marketing campaigns to target key audiences.

The SWOT analysis also identified the need to improve public perception, trust, confidence, and local support for SMART.

It's crucial to gain a thorough understanding of the benefits that SMART provides to North Bay residents. The challenge is to develop a comprehensive assessment of the economic, social, and environmental advantages SMART offers. Notably, SMART was recently awarded a grant from the California Department of Transportation to conduct a Quality of Life and Economic Impact Assessment. The insights from this study will play a vital role in shaping the strategy and messaging of this Marketing Communications and Public Outreach Plan.

Additionally, SMART is procuring a consultant to study and develop a comprehensive public outreach plan to inform taxpayers about the community benefits associated with continued SMART operations. The results of this consulting contract will help inform this Marketing and Communications Plan.

Target Audiences

High-level messaging for the audience segments is outlined below.

- **Residents of Sonoma and Marin counties** have supported SMART through a ¼ cent sales tax since 2008. This investment in public transit passenger rail service is instrumental in shaping a more prosperous and sustainable future for the community. With their continued support, SMART will continue to deliver reliable, cost-effective, and environmentally responsible transportation, reduce traffic congestion, extend the railway and multiuse pathway to northern communities, and enhance the region's quality of life. SMART has effectively leveraged sales tax revenue to compete for state and federal grants, resulting in nearly doubling



the public's investment since 2008. The support of residents and taxpayers is vital to realizing the collective goals for greener, more connected, and thriving Sonoma and Marin counties.

- **Community Leaders:** For our community's stewards, messaging revolves around the role SMART plays in advancing the well-being and sustainability of the region. Highlight SMART as a driving force behind economic growth, community development, and reduced traffic congestion. Emphasize a shared commitment to creating a greener, more prosperous future. SMART's dedication to reliable, eco-friendly transportation fosters cleaner air, a more robust local economy, and enhanced quality of life. Encourage community leaders to champion this sustainable vision, shaping a brighter and more vibrant community for all.
- **SMART Riders and Commuters:** Address the specific needs of daily commuters, such as reliability, convenience, and cost-effectiveness. Emphasize benefits like reduced commuting stress resulting from driving in congestion, increased productivity during commutes, and potential cost savings compared to driving—partner with local employers to promote commuter benefits and incentivize transit usage. Over the past two years, SMART has restored and expanded service, reduced fares, suspended parking fees, improved ferry connections, developed a student fieldtrip program, implemented a youth ride-free summer program, and launched a new on-demand micro-transit service to better meet the needs of the community; enabling the District to promptly recover from the COVID-19 pandemic— currently with the highest transit ridership recovery rate in the Bay Area.
 - **Youth:** Understand the preferences and habits of youth, such as a high level of comfort using technology and social media. Highlight the availability of youth discounted fares, 31-day passes and promote transit as an alternative to driving a car. Leverage social media platforms, digital advertising, and influencer partnerships to engage with youth.
 - **Seniors:** Identify the transportation needs of seniors, such as accessibility, safety, and affordability— tailor messaging to emphasize benefits like reduced driving stress, maintaining independence, mobility, and social connections. Provide educational sessions on using public transit and safety tips for seniors. Many seniors are not comfortable using digital channels to consume information. Instead, they prefer printed media such as newspapers and community newsletters. Many are connected to a local senior center and attend senior-focused events.
 - **Families:** Highlight the convenience and cost-effectiveness of public transit for family outings. Promote family-friendly features like spacious seating, tables, stroller accessibility, discounted fares for weekend travel, and the Sail-n-Rail combo ticket. Launch family-focused campaigns during school vacations or holidays, highlighting family-friendly activities accessible by public transit. Target family-oriented platforms, parenting blogs, and local family events.
 - **Leisure Travelers:** Emphasize letting go of the costs and stress of driving. Promote the idea of sitting back, relaxing, and enjoying the trip. Promote taking transit to entertainment and cultural experiences, providing travel tips and itineraries. Appeal to environmentally conscious travelers by showcasing the sustainable aspects of public transit.
- **Bicyclists and Pathway Users:** Showcase the agency's commitment to promoting eco-friendly transportation options. Promote the SMART multiuse pathway for first and last-mile connections, onboard bicycle racks, dedicated bike storage lockers located at train stations, and partner with local bicycling advocacy groups for joint initiatives. Collaborate with local bike shops, cycling clubs, and advocacy groups to promote the agency's bike-friendly services. Utilize social media platforms, bike-related forums, and community events to engage with bicycling enthusiasts. A monthly average of 55,000 people use the SMART Multiuse Pathway each month, of which 50% are pedestrians and 50% are bicyclists.



- **Employers and Business Owners:** Messaging for this audience focuses on the mutual benefits of promoting public transit, including reduced traffic congestion, sustainability, enhanced corporate social responsibility, cost savings for employees, and increased productivity resulting from the health and well-being benefits from taking the train to work. Additionally, robust transit services can attract customers to local businesses, contributing to economic growth and increased revenue for entrepreneurs and business owners.
- **Environmentalists:** Develop infographics illustrating the reduction of carbon emissions compared to traditional commuting methods (e.g., single occupancy driving). Messaging focuses on the environmental benefits of eco-friendly and sustainable transportation. SMART contributes to cleaner air, healthier communities, and supports a sustainable lifestyle.
- **Latino Community:** The messaging for our Latino residents is similar to the messaging outlined for the Sonoma and Marin counties target audience but needs to be developed in both English and Spanish. Effective ways to engage with the Latino community include community events, partnerships with community-based organizations, and targeted advertising in Hispanic media outlets. Advertise through Spanish-language media outlets, community centers, and participate in cultural events.

Branding and Positioning

Value Proposition Statement

SMART is an essential North Bay transportation service, connecting communities while aligning with the region's values, emphasizing sustainable transportation, increased mobility, and access to opportunity. SMART provides an environmentally sustainable transportation alternative to driving, actively reducing carbon emissions and promoting a greener future. SMART's unwavering commitment to riders' needs ensures a continuously enhanced transit experience, and our dedication to accessibility ensures our services are available to everyone.

SMART offers many benefits to North Bay communities, encompassing economic growth, convenience, accessibility, and enhanced well-being. Commuter rail service supports local businesses and boosts economic development, increasing property values, job opportunities, and overall community advancement. Moreover, reducing traffic congestion not only eases road accessibility but also leads to shorter commutes and reduced stress for everyone. As our population ages, SMART's accessible transportation options cater to individuals with mobility challenges, ensuring everyone can travel conveniently. SMART's commitment to quality of life is evident in its efforts to reduce stress, provide cleaner air, and promote better health, including a multiuse bicycle and pedestrian pathway for sustainable commutes and recreational activities. Finally, by investing in public transit, SMART champions sustainable transportation, reducing carbon emissions and paving the way for a greener, more environmentally responsible future.

These key messages form the foundation of a public outreach campaign to educate the public about the benefits of commuter and passenger rail train services. Messaging should be adapted to suit the specific features and advantages of the rail service being promoted to target audiences.

Communication Channels

SMART will employ a multi-channel approach to engage target audiences.

- Website providing rider information such as schedules and fares, and information about the multiuse pathway, construction projects, and the District.
- Print materials (*brochures, posters, signage, etc.*) in English and Spanish.



- Social media accounts on Facebook, Instagram, X (formerly Twitter), YouTube, and LinkedIn.
- Email marketing (*monthly e-newsletter and other promotions*).
- Paid advertising (digital, radio, cable TV, and newsprint).
- Online advertising – ads on Google and social media platforms.
- Community events.
- Partnerships with stakeholder groups.
- Annual signature SMART events (*December Holiday Express and FeBREWary campaign*).
- District-hosted events (*groundbreakings and ribbon cuttings*).
- Work with local news outlets to distribute news releases, articles, and interviews about agency initiatives and updates.
- Public Forums and Meetings: Host town-hall-style meetings where residents can interact with SMART officials, ask questions, and provide feedback.
- Local Partnerships: Collaborate with local businesses, schools, and community organizations to promote SMART as an asset to the community.
- Content Marketing: Develop a series of articles for use online and shared with stakeholders highlighting success stories, economic development, and environmental benefits of SMART.
- Videos: Create informative and visually engaging videos for use on advertising platforms and social media

Future communications channels to consider if budget and resources allow:

- Direct mail campaigns - Mailed informational pamphlets are an effective way to reach a broad range and specific audiences in a more personal and tangible manner. Print collateral can include details about SMART's benefits, schedules, and how the ¼ cent sales tax contributes to the service.
- Billboard advertising - Purchase ad space on high-visibility locations near highways and public transportation routes.
- TikTok social media channel.
- Other channels identified by the consultant developing a comprehensive marketing and public outreach plan focusing on educating residents of Sonoma and Marin counties about the community benefits associated with continued SMART operations.

A goal of the Marketing and Communications Plan is to grow a robust and diverse audience for SMART communications. The current audience being reached represents a small percentage of the adults residing in Sonoma and Marin counties.

Platform	Followers	% of pop. age 18+
Facebook	14,500	2.42%
Instagram	3,400	0.57%
X (Twitter)	4,400	0.73%
LinkedIn	785	0.13%
YouTube	371	0.06%
Newsletter	9,500	1.58%



738,668 2022 US Census estimated total population of Sonoma and Marin counties combined.
600,025 2022 US Census estimated population over age 18 of Sonoma and Marin counties combined.

Evaluation and Measurement

Key performance and return-on-investment indicators help gauge the success of marketing initiatives. This data should be regularly analyzed to evaluate the effectiveness of marketing initiatives and adjust strategies accordingly.

Quantitative Metrics used to gauge the effectiveness of campaigns, including increases in ridership, website traffic, social media engagement, newsletter open and click rates, and earned media coverage.

Qualitative Metrics used to gauge the effectiveness of campaigns include improved customer satisfaction, positive comments and engagement on social media, and improved media relationships.

Future evaluation instruments to consider if budget and resources allow:

- Conduct surveys to gauge public awareness and sentiment.
- Implement a data collection plan to analyze reports, track progress, and make data-driven decisions.

Current Staffing and Budgetary Resources

The Communications and Marketing Team is comprised of three full-time staff.

- Communications and Marketing Manager
- Community Outreach and Customer Service Manager
- Community Outreach and Marketing Coordinator

2023-2024 Budgetary Resources

Print Materials	\$50,000
Participation in Community Fairs.....	\$40,000
Paid Advertising	\$200,000*
Photography/Videography.....	\$8,000
SMART Sponsored Events	\$30,000

***Graphic Design and Copywriting** - Graphic design and copywriting are done in-house. Eliminating the need to allocate a portion of the advertising budget for these types of external services has allowed the Department to apply 100% of the paid advertising budget to purchase advertising placements.

The 2023-24 budgetary resources for advertising and marketing are currently allocated for initiatives focusing on growing ridership. Conducting an effective marketing and public outreach campaign to inform residents of Sonoma and Marin counties about the benefits requires additional funding and contracted resources.



Recommendation:

If the Board wishes staff to begin conducting marketing and public outreach activities in the current year to inform residents of Sonoma and Marin counties about the benefits of SMART, an additional \$301,800 would need to be allocated to the Communication and Marketing Department budget for the remainder of Fiscal Year 2023-24.

\$175,000	Direct Mail: Conduct a direct mail campaign to all business and residential addresses in Sonoma and Marin counties. This mailer would feature content from the Annual Report updating the community about District activities, and highlighting the economic, environmental, and sustainable transportation benefits of SMART.																				
\$50,000	Video production: hire a professional videographer to produce videos in 15- 30- and 60-second lengths highlighting: <ul style="list-style-type: none"> • Economic benefits • Environmental benefits • Sustainable transportation (rail and pathway) • Progress on the completion of the northern extensions These videos will meet the length and specs for use as paid ads on cable, streaming and social media channels.																				
\$76,800	<p>Paid advertising on cable television, streaming, digital platforms, and social media. Ad placement for digital, cable, and streaming would be concentrated in March through May of 2024 to allow time for production of video content and copywriting.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Paid Advertising</th> <th style="text-align: right;">Monthly Investment</th> <th style="text-align: right;">6 months (Nov – Jun)</th> <th style="text-align: right;">3 months (Mar - May)</th> </tr> </thead> <tbody> <tr> <td>digital</td> <td style="text-align: right;">\$10,000</td> <td style="text-align: center;">--</td> <td style="text-align: right;">\$30,000</td> </tr> <tr> <td>social media</td> <td style="text-align: right;">\$300</td> <td style="text-align: right;">\$1,800</td> <td style="text-align: center;">--</td> </tr> <tr> <td>cable/streaming</td> <td style="text-align: right;">\$15,000</td> <td style="text-align: center;">--</td> <td style="text-align: right;">\$45,000</td> </tr> <tr> <td>TOTAL= \$76,800</td> <td></td> <td style="text-align: right;">\$1,800</td> <td style="text-align: right;">\$75,000</td> </tr> </tbody> </table>	Paid Advertising	Monthly Investment	6 months (Nov – Jun)	3 months (Mar - May)	digital	\$10,000	--	\$30,000	social media	\$300	\$1,800	--	cable/streaming	\$15,000	--	\$45,000	TOTAL= \$76,800		\$1,800	\$75,000
Paid Advertising	Monthly Investment	6 months (Nov – Jun)	3 months (Mar - May)																		
digital	\$10,000	--	\$30,000																		
social media	\$300	\$1,800	--																		
cable/streaming	\$15,000	--	\$45,000																		
TOTAL= \$76,800		\$1,800	\$75,000																		
\$301,800	TOTAL																				

Timeline for Promotional Initiatives

SMART undertakes year-round promotional activities and marketing efforts to grow ridership—social media, newsletter, and content marketing are continuous and ongoing. A calendar of marketing activities focused on informing taxpayers about the benefits of SMART would need to be developed.

Continuous Improvement

Staff will establish a process for regularly reviewing and refining this Plan based on changing market conditions, audience feedback, and performance data. Revisions to messaging and strategy will be made when the Quality of Life and Economic Impact Assessment is completed, and the consultant studying a comprehensive public information initiative will provide insight into how this Marketing Communications and Public Outreach Plan may be improved.

These core components provide a structured framework for SMART to develop and execute an effective marketing strategy. This Plan is flexible and adaptable to feedback, performance data, changing circumstances, and priorities.



Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

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www.SonomaMarinTrain.org

October 18, 2023

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

SUBJECT: Pathway Wayfinding Update

Dear Board Members:

RECOMMENDATIONS: Information Item

SUMMARY:

SMART initiated the Pathway Wayfinding Project in Spring 2023 to address the need to ease users' ability to navigate the Pathway. The need for this effort was underscored by public input received at SMART's 2022 Listening Session on the Pathway. To date, SMART has conducted fieldwork and outreach to inform the sign types and design concepts for the Pathway's wayfinding system. Later this month, SMART will be bringing forward two sign design concepts for public input. Staff will provide a preview of these designs at the October 18th Board meeting.

Pathway Wayfinding Design Concepts

SMART's Pathway wayfinding design concepts have been guided by input gathered and insights gleaned from our outreach and stakeholder engagement conducted earlier this year. For example, public engagement efforts highlighted the need to improve community awareness of the Pathway, resulting in designs that clearly brand the Pathway and improve visibility of the facility. Additionally, discussions with partner agencies helped inform co-branding strategies to effectively represent the Great Redwood Trail and other-shared trail designations.

Design concepts and sign types proposed were shaped by public input on the most useful information such as nearby destinations, distances, SMART train connections, the bisecting street network, and general pathway guidance. We also heard from the public on how to present this information in a way that is legible for different types of users through a combination of pavement markings, signs, and maps, which we included in our sign types and designs. Also, both design concepts have been developed to be aesthetically cohesive with the Pathway and the various environments it travels through, and reflective of visual preferences conveyed by the public. Lastly, these two concepts have considered cost-effectiveness, ease of fabrication, and maintenance.

Public Input Opportunities on Pathway Wayfinding Design Concepts

The resulting two initial design concepts presented to the Board are being put forward for public review and input later this month. Members of the public will have the opportunity to view mock-up signs that will be placed along the Pathway. QR codes will be co-located with the mock-up signs to allow people reviewing the signs in person to relay their feedback. For individuals unable to view the signs in person, there will also be an opportunity to review the designs online and provide feedback through a survey. SMART will share the sign locations and the online survey through the agency’s social media channels. The signs and survey will be accessible for a minimum of seven days to ensure that those wishing to participate will have sufficient opportunity to do so.

Next Steps

Following the public engagement on the wayfinding design concepts, SMART will integrate the feedback received into a single refined design concept. SMART will then work towards developing a placement plan and the final design drawings needed to support the fabrication and installation of signs.

FISCAL IMPACT: Funding for fabrication and installation of signs has been included in the FY 2024 budget adopted in the amount of \$150,000.

REVIEWED BY: [x] Finance /s/

[x] Counsel /s/

Respectfully,

/s/

Emily Betts
Principal Planner



Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

Mary Sackett
Marin County Board of Supervisors

Eddy Cumins
General Manager

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

October 18, 2023

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

SUBJECT: SMART's Disadvantaged Business Enterprise (DBE) Plan and Goals for Federal Fiscal Years 2024-2026

Dear Board Members:

SUMMARY:

Because SMART receives Federal Transit Administration (FTA) grants, we are required to have DBE Plan and do goal setting. This plan is required to be done every three (3) years and the goals updated more frequently if funding circumstances change, i.e., we receive more or less FTA funding.

SMART has developed its goal for the period of October 1, 2023 – September 30, 2026. The race-neutral goal is 3.45% and is based on receiving the following federal funds over the next three years.

Anticipated Federal Funds	FFY 24	FFY 25	FFY 26	Total	Percent of Total Anticipated Federal Funds
FTA Section 5307	\$ 3,997,642	\$ 4,078,615	\$ 4,119,401	\$ 12,195,658	53%
Community Project Funding	\$ 1,800,000	\$ -	\$ -	\$ 1,800,000	8%
FTA-FHWA Transfer to 5307	\$ -	\$ 3,000,000		\$ 3,000,000	13%
ITIP - Complete Streets	\$ -	\$ 6,097,000		\$ 6,097,000	26%
Total	\$ 5,797,642	\$ 13,175,615	\$ 4,119,401	\$ 23,092,658	100%

If the funding amounts change and we receive either more or less FTA funds, we will need to adjust the goal.

SMART hosted a Zoom meeting on Thursday, September 21, 2023, to discuss the DBE goal setting process, the proposed DBE goal, and upcoming contracting opportunities. The invite was sent to all SMART registered vendors, DBE's, and SBE's. It was also in SMART's September newsletter which goes out to over 9,783 members of the public. Fifteen people attended the Zoom meeting.

Notification of the proposed Federal Fiscal Years 2024-2026 DBE goal and request for public comment was also published in the following newspapers.

- Marin Independent Journal
- Press Democrat

SMART did not receive any feedback or comments on the proposed goal either in person or via electronic media.

Sincerely,

/s/

Heather McKillop
Chief Financial Officer

Attachment(s): SMART DBE Plan and Goals Federal Fiscal Years 2024-2026



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

STATEMENT OF POLICY (Section 26.1, 26.23)

The Sonoma-Marín Area Rail Transit (SMART) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. SMART has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, SMART has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of SMART to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

- a. To ensure nondiscrimination in the award and administration of DOT - assisted contracts;
- b. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- c. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- d. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- e. To help remove barriers to the participation of DBEs in DOT assisted contracts;
- f. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by SMART
- g. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

Heather McKillop, Chief Financial Officer, has been delegated as the DBE Liaison Officer. In that capacity, Heather McKillop is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by SMART in its financial assistance agreements with the Department of Transportation.

SMART has disseminated this policy statement to the SMART Board of Directors and all 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/business.org.

All correspondence can be sent to:

SMART DBE Liaison
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954

Answers to any questions may be obtained by contacting Heather McKillop, Chief Financial Officer/ DBE Liaison at (707) 794-3320 or hmckillop@sonomamarintrain.org.

October 10, 2023



Eddy Cumins
General Manager

SUBPART A – GENERAL REQUIREMENTS

Objectives (Section 26.1)

The objectives are found in the policy statement on the first page of this program.

Applicability (Section 26.3)

SMART is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141. 126 Stat. 405.

Definitions (Section 26.5)

SMART will adopt the definitions contained in Section 26.5 for this program.

Non-discrimination Requirements (Section 26.7)

- a. SMART will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin.
- b. 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.

Record Keeping Requirements (Section 26.11)

SMART will report DBE participation on a quarterly basis, using DOT Form 4630. These reports will reflect payments made to DBEs on DOT- assisted contracts.

SMART will create a bidder's list, consisting of information about all DBEs and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of bidders list approach to calculating overall goals. The bidder's list will include the following:

- Firm's Name
- Firm's Address
- Firm's status as a DBE or non-DBE
- Firm's age
- Annual Gross Receipts of the Firm

SMART collects this information through use of our Prime Contractor and Sub Contractor / Supplier List form which bidders or proposers submit with their bid or proposal. This form requires Bidders or Proposers to report the names, addresses, age of firms, an understanding of the annual gross receipts of the firms, and the types of work or materials/supplies the firms will provide for DBEs and Non-DBEs. The Bidder or Proposer is directed to not only include firms that are selected for subcontracts, but also firms who submitted quotes to the Prime Contractor or Consultant but were not selected for subcontracts. Additionally, SMART includes notice in all solicitations and pre-bid/pre-

proposal meetings that DBE and SBE participation is strongly encouraged, as well as ensures that solicitations are widely advertised.

Federal Assistance Agreement (Section 26.13)

SMART has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance (Section 26.13(a))

"SMART shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to SMART of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance (Section 26.13(b))

SMART will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

"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 the recipient deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

DBE Program Updates (Section 26.21)

Since SMART has received a grant of \$250,000 or more in FTA planning, capital, and/or operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Policy Statement (Section 26.23)

The Policy Statement is elaborated on the first page of this program.

DBE Liaison Officer, DBELO (Section 26.25)

We have designated the following individual as SMART's DBE Liaison Officer (DBELO).

Heather McKillop
Chief Financial Officer
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954
(707) 794-3320
hmckillop@sonomamarintrain.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that SMART complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the General Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment A to this program.

The DBELO is responsible for developing, implementing, and monitoring the DBE program in coordination with SMART's Procurement Manager. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by D O T .
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race neutral methods and contract specific goals attainment) and identifies ways to improve processes.
6. Analyzes SMART's progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.

8. Advises the General Manager and SMART Board of Directors on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding, and insurance.
10. Plans and participates in DBE training seminars.
11. Participates in the Unified Certification Program in California.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

DBE Financial Institutions (Section 26.27)

It is the policy of SMART to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

SMART researched and found that the Federal Reserve Bank keeps a list of available minority banking institutions, this list however, doesn't include women owned institutions. <https://www.fdic.gov/regulations/resources/minority/mdi.html> Currently there are no financial institutions in either Sonoma or Marin Counties on the list. However, there are several minority-owned financial institutions in the San Francisco Bay area as of 03/31/2023. They are:

- Gateway Bank, F.S.B – Oakland
- Metropolitan Bank – Oakland
- Bank of the Orient – San Francisco
- California Pacific Bank – San Francisco
- Mission National Bank – San Francisco

Prompt Payment Policy and Provisions (Section 26.29)

SMART will include the following clause in each DOT-assisted prime contract:

"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.

Directory (Section 26.31)

SMART is a member of the California Uniform Certification Program (CUCP), which maintains the DBE directory pursuant to 49 CFR 26.31 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 SBEs. The directory can be accessed through <https://californiaucp.dbesystem.com/>

Overconcentration (Section 26.33)

SMART has not identified that overconcentration exists in the types of work that DBEs perform.

Business Development Programs (Section 26.35)

SMART has not established a business development program.

Monitoring and Enforcement Mechanisms (Section 26.37)

SMART will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

- We will bring to the attention of the Department of Transportation (DOT) any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
- We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment C lists the regulation, provisions, and contract remedies available to us in the event of non-compliance with the DBE regulation by a participant in our procurement activities.
- We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is performed by DBEs.
- We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Fostering Small Business Participation (Section 26.39)

- a. SMART will include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, unnecessary and unjustified bunding of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

- b. SMART will utilize some or all the following strategies:
 - 1. In multi-year design build contracts or other large contracts requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
 - 2. On prime contracts not having DBE contract goals requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
 - 3. Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
 - 4. Ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.
- c. SMART will actively implement the program elements to foster small business participation.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set Asides or Quotas (Section 26.43)

SMART does not use quotas in any way in the administration of this DBE Program.

Overall Goals (Section 26.45)

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment D to this program.

Section 26.45(f)

SMART will submit its overall goal to DOT on August 1st every three years. If circumstances change, SMART will submit an adjustment to FTA which reflects the changed circumstances.

Section 26.45(g)

Before finalizing the overall goal, SMART will consult with the primes, subcontractors, local chambers of commerce to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and SMART's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, SMART will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at SMART's Petaluma office or at www.sonomamarintrain.org for 30 days following the notice. The notice will be published in the Marin Independent Journal, Press Democrat, and SMART's website.

The goal submission will include a summary of information and comments received during this public participation process and our responses.

SMART will begin using our overall goal on October 1, unless we have received other instructions from the DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Transit Vehicle Manufacturer Certification (Section 26.49)

SMART will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, SMART may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying with this element of the program.

Breakout of Estimated Race-Neutral & Race Conscious (Section 26.51(a-c))

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment E to this program. This section of the program will be updated if the goal calculation is updated.

Contract Goals (Section 26.51(d-g))

SMART will use contract goals to meet any portion of the overall goal SMART does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of

race-neutral means.

SMART will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

Good Faith Efforts Procedures (Section 26.53)

- a. When a contract goal has been established by SMART, the contract can only be awarded to the bidder/offeror who makes a good faith effort to meet it. The DBELO must determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things:
 - 1. Documents that it has obtained enough DBE participation to meet the goal: or
 - 2. Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

- b. Each solicitation for which a contract goal has been established will require the bidders/ offerors to submit the following information:
 - 1. The names and addresses of DBE firms that will participate in the contract;
 - 2. A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - 3. The dollar amount of the participation of each DBE firm participating;
 - 4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - 5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
 - 6. If the contract goal is not met, evidence of good faith efforts.

This information must be submitted under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures. In a negotiated procurement, including a design-build procurement, the bidder/ offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required above before the final selection for the contract is made by the recipient.

- c. SMART's DBELO will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

- d. If the DBELO determines that the apparent successful bidder/ offeror has failed to

meet the requirements SMART will provide the bidder/ offeror an opportunity for administrative reconsideration. Within 10 days of being informed by SMART that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/Offeror should make this request in writing to the following:

General Manager
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954
ecumins@sonomamarintrain.org
(707) 794-3057

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet with the SMART reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will receive a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

- e. In a design build contracting situation, in which SMART has let a master contract to a contractor, who in turn lets subsequent subcontracts for work of the project, SMART may establish a goal for the project. The master contractor must then establish contract goals, as appropriate, for the subcontracts it lets. SMART will maintain oversight of the master contractor's activities to ensure that they are conducted properly.
- f. SMART will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contractor goal. We will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/ work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

SMART includes the following in all contracts:

"The contractor must promptly notify SMART whenever a DBE subcontractor performing work related to this Agreement is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an

affiliate without prior written approval of SMART. In this situation, the prime contractor shall provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time period specified, SMART will issue an order stopping all or part of payment/ work until satisfactory action has been taken. If the contractor still fails to comply, SMART may issue a termination for default proceeding.”

Counting DBE Participation (Section 26.55)

SMART will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPART D – CERTIFICATION STANDARDS

Certification Process

SMART is not a certifying agency. SMART is a member of the California Unified Certification Program. For information about the certification process or to apply for certification, firms should contact: <https://dot.ca.gov/programs/civil-rights/dbe>.

SUBPART E – CERTIFICATION PROCEDURES

Unified Certification Program (Section 26.81)

SMART is a member of the Unified Certification Program (UCP) administered by Caltrans. The UPC will meet all the requirements of this section.

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.

The California Unified Certification Program (CUCP), is governed by the terms of the Memorandum of Agreement (MOA) for a Unified Certification Program. 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 the following website: <https://dot.ca.gov/programs/civil-rights/dbe> or by contacting the DBELO 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.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, and Cooperation (Section 26.109)

SMART will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state and local law.

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party, other than DOT, without the written consent of the submitter.

Monitoring Payments to DBEs

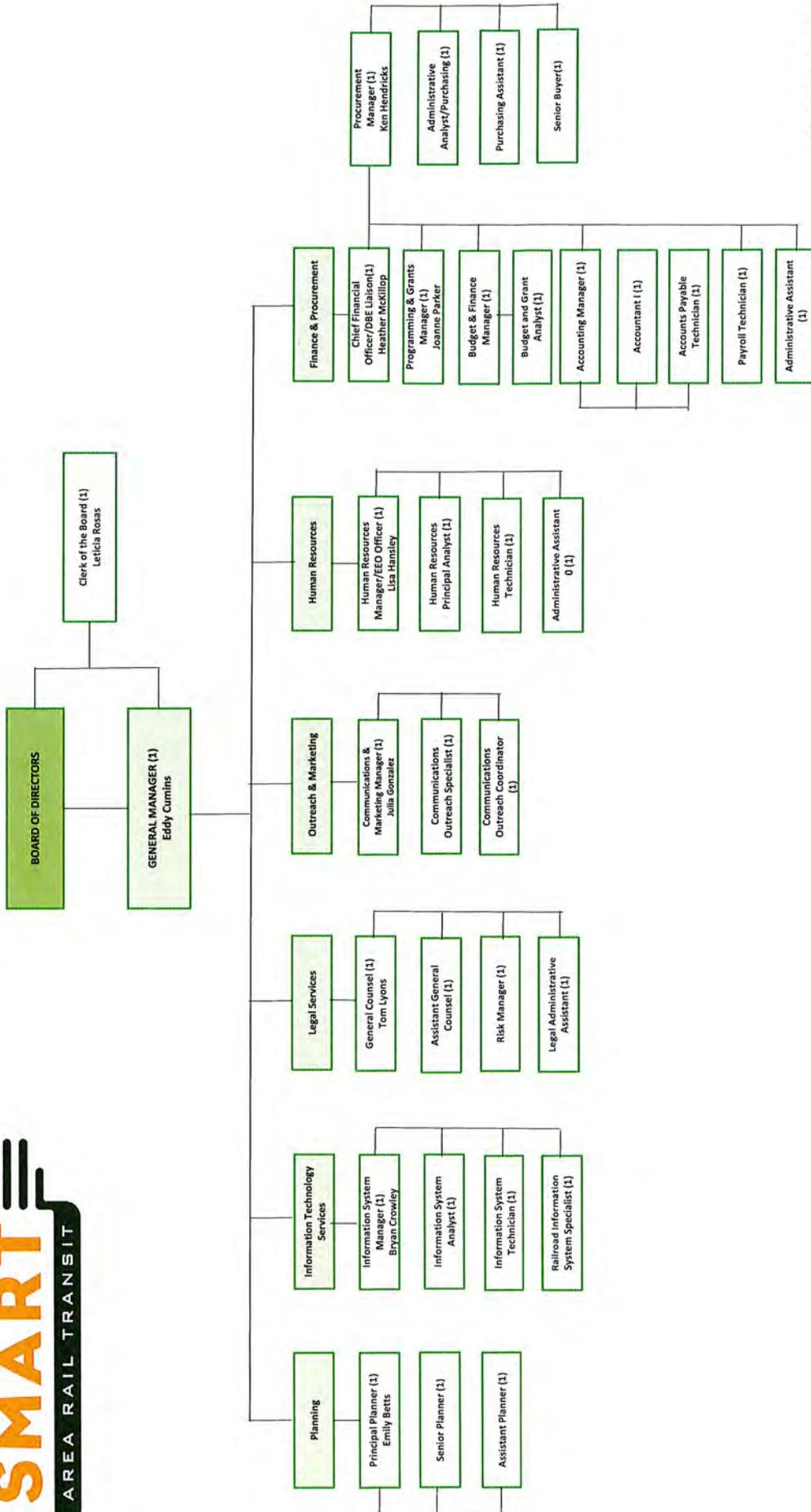
SMART will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of SMART or DOT. This reporting requirement also extends to any certified DBE subcontractor.

SMART will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amount stated in the schedule of DBE participation.

**Attachment A
Organizational
Chart**



ADMINISTRATION/FINANCE ORGANIZATION CHART



Updated: May 19, 2023

Attachment B
DBE Directory

See the CUCP directory, found at: <https://dot.ca.gov/programs/civil-rights/dbe>

SMART encourages prime contract bidders to search this directory when seeking subcontractors that are certified as DBE.

Attachment C
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:

- Breach of contract action, pursuant to the terms of the contract;
- Breach of contract action, pursuant to California Civil Code §3300, et seq.;
- 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:

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

**Attachment D
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 goal for Federal Fiscal Years (FFY) 2024- 2026 of 3.45%. The goal has been established based on a total of \$23,092,658 of federal funds projected to be available in the coming three years. If SMART receives more or less federal funds, we will reevaluate to determine whether the established goal continues to be realistic or if an adjustment is necessary. The DBE goal was developed based on projected availability of ready, willing, and able DBEs to participate in SMART federally assisted activities. SMART's assessment of federally assisted activities included review of the Census Bureau County Business Pattern (CBP) database, the California Unified Certification Program (CUCP) database, past participation, any relevant disparity studies, and goals of similar transit agencies.

Federally Assisted Contracts

A total of \$23,092,658 of federal dollars are anticipated for the goal period. Table 1 represents SMART's forecast of federal dollars during the goal period.

Table 1

Anticipated Federal Funds	FFY 24	FFY 25	FFY 26	Total	Percent of Total Anticipated Federal Funds
FTA Section 5307	\$ 3,997,642	\$ 4,078,615	\$ 4,119,401	\$ 12,195,658	53%
Community Project Funding	\$ 1,800,000	\$ -	\$ -	\$ 1,800,000	8%
FTA-FHWA Transfer to 5307	\$ -	\$ 3,000,000		\$ 3,000,000	13%
ITIP - Complete Streets	\$ -	\$ 6,097,000		\$ 6,097,000	26%
Total	\$ 5,797,642	\$ 13,175,615	\$ 4,119,401	\$ 23,092,658	100%

A majority of the federal funds forecasted to be received are for preventative maintenance. The annual amount SMART receives is forecasted at approximately \$4 million. Most of these funds are used for internal salaries associated with preventative maintenance. Table 2 depicts the percentage of qualified expenditures that are expected to be federal funds.

Table 2

Anticipated Federal Funds	Total Cost	Estimated Federal Share	% of Federal Funds
FTA Section 5307 - FFY 24	\$ 10,738,072	\$ 3,997,642	37%
FTA Section 5307 - FFY 25	\$ 11,060,214	\$ 4,078,615	37%
FTA Section 5307 - FFY 26	\$ 11,392,021	\$ 4,119,401	36%
Community Project Funding	\$ 36,138,000	\$ 1,800,000	5%
FTA - FHWA Transfer to 5307 - Guerneville Rd to Airport Blvd.	\$ 14,695,630	\$ 8,097,000	55%
FTA - FHWA Transfer to 5307 - Hanna Ranch Rd. to Vintage Way	\$ 2,477,468	\$ 1,000,000	40%
Total	\$ 86,501,405	\$ 23,092,658	

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 twenty-five NAICS codes relevant for federally assisted activities. Table 3 provides a summary of those categories of work, with an estimated amount of federal funds for each.

Table 3: NAICS Codes and Percentage of Federal Funds

Category of Work/ Description	NAICS	Estimated Federal Dollar Share (FFY 2024-2026)	% of Federal Funding by NAICS
Salaries (In-House Staff)	n/a	\$ 9,749,406	42.2%
Construction Sand & Gravel Mining	212321	\$ 48,281	0.2%
Other Heavy and Civil Engineering Construction	237990	\$ 9,097,000	39.4%
Electrical Contractors	238210	\$ 215,908	0.9%
Plumbing, Heating, & Air Conditioning Contractors	238220	\$ 44,388	0.2%
Iron & Steel Mills and Ferroalloy Manufacturing	331110	\$ 69,491	0.3%
Metal Coating, Engraving, and Allied Services	332812	\$ 618,773	2.7%
Commercial & Service Industry Machinery Manufacturing	333310	\$ 215,908	0.9%
Radio & Television Broadcasting & Wireless Equipment	334220	\$ 44,387	0.2%
Railroad Rolling Stock Manufacturing	336510	\$ 69,491	0.3%
Metal Service Centers & Other Metal Merchants	423510	\$ 48,281	0.2%
Electrical Apparatus & Equipment, Wiring Supplies, and Related Equipment	423610	\$ 44,387	0.2%
Hardware Merchant Wholesalers	423710	\$ 44,392	0.2%
Industrial Machinery & Equipment Merchant	423830	\$ 17,322	0.1%
Industrial Supplies Merchant Wholesalers	423840	\$ 44,387	0.2%
Transportation Equipment & Supplies	423860	\$ 116,624	0.5%
Other Misc. Durable Goods Merchant Wholesalers	423990	\$ 44,122	0.2%
Hardware Retailers / Other Building Material Dealer	444140/ 444180	\$ 53,863	0.2%
General Freight Trucking	484110	\$ 268,115	1.2%
Support Activities for Rail Transportation	488210	\$ 48,281	0.2%
General Warehousing	493110	\$ 38,806	0.2%
All other Consumer Goods Rental	532289	\$ 17,322	0.1%
Construction, Mining, & Forestry Machinery & Equipment Rental	532412	\$ 17,322	0.1%
Engineering Services	541330	\$ 1,800,000	7.8%
Landscaping Services	561730	\$ 48,281	0.2%
All Other Support Services	561990	\$ 268,115	1.2%
Total		\$ 23,092,658	100.0%

Market Area: SMART’s local market area was determined by assessing where most contractors and subcontractors who have bid on SMART contracts are located. In addition, SMART reviewed the market areas of neighboring transit agencies. For this goal-setting analysis, SMART’s local market area is defined as the following counties: Contra Costa, Marin, Napa, Solano, and Sonoma.

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 five-county market area, SMART searched the CUCP database for DBEs that are certified in the NAICS codes identified for that activity contract. The numbers of DBE's identified are summarized in Column D of Table 4 below.

Availability of DBE Firms: 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.

Weighted Base Figure: Is determined by multiplying the percentage of federal funds by NAICS code by the availability of DBEs. This calculation is done in Table 5. The weighted base figure is 6.9%

Table 4: Calculation of Base Figure

Category of Work/ Description (A)	NAICS (B)	CBP (C)	DBE (D)	Availability of DBEs (E)
Salaries (In-House Staff)	n/a	n/a	n/a	n/a
Construction Sand & Gravel Mining	212321	0	0	0.0%
Highway, Street, and Bridge	237310	65	11	16.9%
Electrical Contractors	238210	723	7	1.0%
Plumbing, Heating, & Air Conditioning Contractors	238220	813	0	0.0%
Iron & Steel Mills and Ferroalloy Manufacturing	331110	0	0	0.0%
Metal Coating, Engraving, and Allied Services	332812	9	0	0.0%
Commercial & Service Industry Machinery Manufacturing	333310	14	0	0.0%
Radio & Television Broadcasting & Wireless Equipment	334220	4	0	0.0%
Railroad Rolling Stock Manufacturing	336510	0	0	0.0%
Metal Service Centers & Other Metal Merchants	423510	34	1	2.9%
Electrical Apparatus & Equipment, Wiring Supplies, and Related Equipment	423610	83	1	1.2%
Hardware Merchant Wholesalers	423710	26	1	3.8%
Industrial Machinery & Equipment Merchant	423830	121	0	0.0%
Industrial Supplies Merchant Wholesalers	423840	72	2	2.8%
Transportation Equipment & Supplies	423860	40	0	0.0%
Other Misc. Durable Goods Merchant Wholesalers	423990	57	1	1.8%
Hardware Retailers	444140/444180	374	0	0.0%
General Freight Trucking	484110	239	0	0.0%
Support Activities for Rail Transportation	488210	13	0	0.0%
General Warehousing	493110	72	0	0.0%
All other Consumer Goods Rental	532289	33	0	0.0%
Construction, Mining, & Forestry Machinery & Equipment Rental	532412	45	0	0.0%
Engineering Services	541330	643	19	3.0%
Landscaping Services	561730	974	1	0.1%
All Other Support Services	561990	69	1	1.4%
Total		4,523	45	1.0%

Table 5: Calculation of Weighted Base Figure

Category of Work/ Description (A)	NAICS (B)	Weight	Availability	Weighted Base Figure
Salaries (In-House Staff)	n/a	42.2%	0.0%	0.0%
Construction Sand & Gravel Mining	212321	0.2%	0.0%	0.0%
Highway, Street, and Bridge	237310	39.4%	16.9%	6.7%
Electrical Contractors	238210	0.9%	1.0%	0.0%
Plumbing, Heating, & Air Conditioning Contractors	238220	0.2%	0.0%	0.0%
Iron & Steel Mills and Ferroalloy Manufacturing	331110	0.3%	0.0%	0.0%
Metal Coating, Engraving, and Allied Services	332812	2.7%	0.0%	0.0%
Commercial & Service Industry Machinery Manufacturing	333310	0.9%	0.0%	0.0%
Radio & Television Broadcasting & Wireless Equipment	334220	0.2%	0.0%	0.0%
Railroad Rolling Stock Manufacturing	336510	0.3%	0.0%	0.0%
Metal Service Centers & Other Metal Merchants	423510	0.2%	2.9%	0.0%
Electrical Apparatus & Equipment, Wiring Supplies, and Related Equipment	423610	0.2%	1.2%	0.0%
Hardware Merchant Wholesalers	423710	0.2%	3.8%	0.0%
Industrial Machinery & Equipment Merchant	423830	0.1%	0.0%	0.0%
Industrial Supplies Merchant Wholesalers	423840	0.2%	2.8%	0.0%
Transportation Equipment & Supplies	423860	0.5%	0.0%	0.0%
Other Misc. Durable Goods Merchant Wholesalers	423990	0.2%	1.8%	0.0%
Hardware Retailers	444140/444180	0.2%	0.0%	0.0%
General Freight Trucking	484110	1.2%	0.0%	0.0%
Support Activities for Rail Transportation	488210	0.2%	0.0%	0.0%
General Warehousing	493110	0.2%	0.0%	0.0%
All other Consumer Goods Rental	532289	0.1%	0.0%	0.0%
Construction, Mining, & Forestry Machinery & Equipment Rental	532412	0.1%	0.0%	0.0%
Engineering Services	541330	7.8%	3.0%	0.2%
Landscaping Services	561730	0.2%	0.1%	0.0%
All Other Support Services	561990	1.2%	1.4%	0.0%
Total				6.9%

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

In reviewing whether the Step One calculation should be adjusted, SMART looked at the past participation of DBE's in Federally Assisted Contracts and disparity studies of other agencies.

Past DBE Participation in Federally Assisted Contracts

SMART became a direct federal recipient in June 2015. In FFY 2020, SMART became eligible for federal 5307 funds. In FFY 2020, 2021, 2022, and 2023 SMART received federal CARES, CRRSAA, and ARPA funding which were used for salaries. In addition, we received a federal grant for a pathway project – SMART Pathway – Petaluma (Payran to Lakeville). We received three bids on that project. The two of the three bidders had DBE utilization, however the lowest bidder did not. SMART's most recent goal for FFY 2021-2023 was .03%. SMART was not able to achieve its goal for the period of FFY 2021-2023. The DBE participation rate in SMART's federally assisted contracts is based on the proportion of new federally assisted contracts awarded to DBEs during FY 2020-2023 as follows:

- FFY 2021: 0%
- FFY 2022: 0%
- FFY 2023: 0%

Using the method in the US DOT's Tips for Goal Setting, the median of 0% is the past participation rate in federally supported procurements. An adjusted goal would be determined in the following using the following.

- FFY 2024-2026 Base Figure Calculation: 6.90%
- Median Past Participation: 0.00%
- Adjustment – 6.9% + 0.0% divided by 2 = 3.45%

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 did review 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.

Caltrans commissioned an FTA Disparity Study which was completed in November of 2022. That study found that Woman-owned businesses, Black American-owned businesses, Hispanic American-owned businesses, and subcontinent Asian American-owned businesses exhibited substantial disparities on prime contracts. It also found that Woman-owned businesses, Asian Pacific American-owned businesses, Black American-owned businesses, and Hispanic American-owned businesses exhibited substantial disparities on subcontracts. We don't believe the outcome of these studies should result in an adjustment to SMART's goal.

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 joined the Business Outreach Committee (BOC), a consortium of Bay Area transit and transportation agencies formed in order to maximize outreach efforts. SMART is an active participant in the BOC. Below is a list of our engagement activities over the last several years.

- **March 9, 2021: "Small Business Enterprise (DSBE) Certification Webinar"**

This event was sponsored by the Business Outreach Committee (BOC). SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **March 16, 2021: "Disadvantaged Business Enterprise (DBE) Certification Webinar"**

This event was sponsored by the Business Outreach Committee (BOC). SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **May 13, 2023: "How to do Business with Public Transportation Agencies"**

This event was sponsored by the Business Outreach Committee (BOC) and SMART's Procurement Manager was a featured presenter, breakout room co-moderator, and Q&A panelist. SMART's Procurement Manager assisted with the development of structure and content for this event. Topics discussed included how to do business with SMART, how to get registered with the eProcurement Portal, and upcoming projects. SMART posted this

opportunity on its Procurement Website and advertised this event to its vendors.

- **October 21, 2021: Meet the Primes “Professional Services”**

This event was sponsored by the Business Outreach Committee (BOC) and SMART’s Procurement Manager was a featured presenter. SMART’s Procurement Manager assisted with the development of structure and content for this event. Topics discussed included how to do business with SMART, how to get registered with the eProcurement Portal, and upcoming projects. SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **December 16, 2021: Meet the Buyers (Part 1)**

This event was sponsored by the Business Outreach Committee (BOC) and SMART’s Procurement Manager was a featured presenter, breakout room moderator, and Q&A panelist. SMART’s Procurement Manager assisted with the development of structure and content for this event. Topics discussed included how to do business with SMART, how to get registered with the eProcurement Portal, and upcoming projects. SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **January 27, 2022: Meet the Buyers (Part 2)**

This event was sponsored by the Business Outreach Committee (BOC) and SMART’s Procurement Manager was a featured presenter, breakout room moderator, and Q&A panelist. SMART’s Procurement Manager assisted with the development of structure and content for this event. Topics discussed included how to do business with SMART, how to get registered with the eProcurement Portal, and upcoming projects. SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **August 18, 2022: 2022 Virtual Meet the Primes “Construction Contractors”**

This event was sponsored by the Business Outreach Committee (BOC). SMART was an attendee at this event. SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **February 7, 2023: Procurement Series “Professional Services”**

This event was sponsored by the Business Outreach Committee (BOC) and SMART’s Procurement Manager was a featured presenter and panelist. Topics discussed included How to Review a Bid, Proposal/Bid Tips & Tricks, Common Mistakes. SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **February 16, 2023: Procurement Series “Construction”**

This event was sponsored by the Business Outreach Committee (BOC) and SMART’s Procurement Manager was a featured presenter and panelist. Topics discussed included How to Review a Bid, Proposal/Bid Tips & Tricks, Common Mistakes. SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **June 6, 2023 and June 13, 2023: “Estimating & Bidding”**

This event was sponsored by the Business Outreach Committee (BOC). SMART’s

Procurement Manager helped develop the workshop structure and content and assisted with preparation of the guest speaker “Ed Duarte”. SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

- **June 12, 2023: APTA Rail Conference “Meet the Primes/Agencies” Business Networking Breakfast.**

This event was sponsored by the American Public Transportation Association (APTA) and SMART’s Procurement Manager hosted a table during the business networking breakfast and networked with many disadvantaged business enterprises (DBEs) and small business enterprises (SBEs) during the hour and a half networking session. SMART’s Procurement Manager informed these firms about upcoming projects and contracting opportunities and also how to register with SMART’s eProcurement Portal.

- **June 22, 2023 and June 29, 2023: DBE/ADCBE Certification Workshops**

This event was sponsored by the Business Outreach Committee (BOC). SMART posted this opportunity on its Procurement Website and advertised this event to its vendors.

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

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

SMART DBE plan and goal was available on SMART's website <https://sonomamarintrain.org/business> and was also available for review in person at the address below for the period of September 7, 2023 – October 6, 2023.

Heather McKillop
Chief Financial Officer/ DBE Liaison
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954
hmckillop@sonomamarintrain.org

SMART hosted a Zoom meeting on Thursday, September 21, 2023, to discuss the DBE goal setting process, the proposed DBE goal, and upcoming contracting opportunities. The invite was sent to all SMART registered vendors, DBE's, and SBE's. In addition, SMART reached out to local Chambers of Commerce to invite business members to attend. It was also in SMART's September newsletter which goes out to over 9,783 members of the public. Fifteen people attended the Zoom meeting.

Notification of the proposed FFY 2024-2026 DBE goal and request for public comment was also published in the following newspapers.

- Marin Independent Journal
- Press Democrat

SMART didn't receive any feedback or comments on the proposed goal either in person or via electronic media.

Attachment E
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. SMART the following race-neutral means to increase DBE participation:

- 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);
- Providing technical assistance and other services;
- 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);
- 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
- 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 3.45%, we will obtain the entire goal from race-neutral participation. Given the fact that SMART does not have enough 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 narrowly tailored to overcome the effects of discrimination, 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 F

PRIME CONTRACTOR AND SUBCONTRACTOR/SUPPLIER REPORT

Bidder Name: _____ Solicitation #: **XX-XX-XX-XXX**
 Solicitation Title: **Enter Title of Solicitation**
 Address: _____
 Is your firm a Disadvantaged Business Enterprise: Yes _____ No _____
 Owner or Contact Person: _____ Phone: () _____ E-Mail: _____

Instructions:

Please provide information on **ALL firms** (Prime Contractor/subcontractors/subconsultants/suppliers) that provided Bidder a bid, quote, or proposal to perform work, provide labor, render services or provide supplies in connection with this contract *WHETHER BID WAS ACCEPTED OR NOT*. You shall provide this information for all sub-bidders regardless of tier for both DBEs/SBEs and non-DBEs/SBEs alike. Include all bid acceptance(s) AND rejection(s). Signature is required on page three of this form.

(ADD ADDITIONAL SHEETS AS NEEDED).

Prime Contractor / Subcontractor / Supplier Information	Annual Gross Receipts	Identify if the firm is a certified DBE or SBE within the State of California*	Portion of Work or Type of Materials/Supplies	Dollar Amount of (Work / Materials / Supplies)	Was the Bid/Quote Accepted?	DBE and SBE Amount***
1 Name: _____ Address: _____ Age of Firm: _____ Contact Person: _____ E-mail: _____ Phone: _____	<input type="checkbox"/> < \$500,000 <input type="checkbox"/> \$500,000 - \$1 Million <input type="checkbox"/> \$1 Million - \$2 Million <input type="checkbox"/> \$2 Million - \$5 Million <input type="checkbox"/> > \$5 Million	<input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Certified			<input type="checkbox"/> Yes <input type="checkbox"/> No	DBE Amount: SBE Amount:
2 Name: _____ Address: _____ Age of Firm: _____ Contact Person: _____ E-mail: _____ Phone: _____	<input type="checkbox"/> < \$500,000 <input type="checkbox"/> \$500,000 - \$1 Million <input type="checkbox"/> \$1 Million - \$2 Million <input type="checkbox"/> \$2 Million - \$5 Million <input type="checkbox"/> > \$5 Million	<input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Certified			<input type="checkbox"/> Yes <input type="checkbox"/> No	DBE Amount: SBE Amount:

Prime Contractor and Subcontractor/Subconsultant/Supplier Report (Continued)

Subcontractor/Subconsultant/Supplier Information	Annual Gross Receipts	Identify if the firm is a certified DBE or SBE within the State of California*	Portion of Work or Type of Materials/Supplies	Dollar Amount of (Work / Materials / Supplies)	Was the Bid/Quote Accepted?	DBE and SBE Amount***
3 Name: _____ Address: _____ Age of Firm: _____ Contact Person: _____ E-mail: _____ Phone: _____	<input type="checkbox"/> < \$500,000 <input type="checkbox"/> \$500,000 - \$1 Million <input type="checkbox"/> \$1 Million - \$2 Million <input type="checkbox"/> \$2 Million - \$5 Million <input type="checkbox"/> > \$5 Million	<input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Certified			<input type="checkbox"/> Yes <input type="checkbox"/> No	DBE Amount: SBE Amount:
4 Name: _____ Address: _____ Age of Firm: _____ Contact Person: _____ E-mail: _____ Phone: _____	<input type="checkbox"/> < \$500,000 <input type="checkbox"/> \$500,000 - \$1 Million <input type="checkbox"/> \$1 Million - \$2 Million <input type="checkbox"/> \$2 Million - \$5 Million <input type="checkbox"/> > \$5 Million	<input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Certified			<input type="checkbox"/> Yes <input type="checkbox"/> No	DBE Amount: SBE Amount:
5 Name: _____ Address: _____ Age of Firm: _____ Contact Person: _____ E-mail: _____ Phone: _____	<input type="checkbox"/> < \$500,000 <input type="checkbox"/> \$500,000 - \$1 Million <input type="checkbox"/> \$1 Million - \$2 Million <input type="checkbox"/> \$2 Million - \$5 Million <input type="checkbox"/> > \$5 Million	<input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Certified			<input type="checkbox"/> Yes <input type="checkbox"/> No	DBE Amount: SBE Amount:
6 Name: _____ Address: _____ Age of Firm: _____ Contact Person: _____ E-mail: _____ Phone: _____	<input type="checkbox"/> < \$500,000 <input type="checkbox"/> \$500,000 - \$1 Million <input type="checkbox"/> \$1 Million - \$2 Million <input type="checkbox"/> \$2 Million - \$5 Million <input type="checkbox"/> > \$5 Million	<input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Certified			<input type="checkbox"/> Yes <input type="checkbox"/> No	DBE Amount: SBE Amount:

Attachment G

Regulations: 49 CFR Part 26

Please refer to: <https://www.ecfr.gov/current/title-49/subtitle-A/part-26?toc=1>



Eric Lucan, Chair
Marin County Board of Supervisors

October 18, 2023

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

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

Kate Colin
Transportation Authority of Marin

SUBJECT: Amend SMART's Current Fee Structure

Chris Coursey
Sonoma County Board of Supervisors

Dear Board Members:

Rachel Farac
Transportation Authority of Marin

RECOMMENDATIONS:

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Approve Resolution No. 2023-36 and Exhibit A amending Resolution No. 2003-11 and Resolution No. 2007-02, SMART's current rate schedules.

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

SUMMARY:

In 2003, SMART was in the process of acquiring the Northwestern Pacific Right-of-Way from the Northwestern Pacific Railroad Authority (NWPRRA). Recognizing that SMART would receive requests for entry onto the right-of-way from time to time for various transportation and non-transportation purposes they adopted Resolution No. 2003-11 which established a policy regarding "Processing of and action upon requests for conveyance of property interests involving SMART property." In addition, to other things, it set a fee schedule as outlined in Column A of Table 1. In February 2007, Resolution No. 2007-02 was passed which amended the special event, right of entry, and license agreement fees as seen in Column B in Table 1.

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

SMART's fees have not been updated in over 16 years and don't adequately reflect the current cost of doing business and the complexity of our operating environment. In developing the updated fee structure in Table 1, Real Estate took several factors into consideration.

Mary Sackett
Marin County Board of Supervisors

License Fees – Wire, Pipe, & Fiber Optic Conduit

Eddy Cumins
General Manager

The fees for these licenses are currently \$600 plus staff time for review. These fees have not been increased for 16 years. Real Estate looked at several options to determine the updated fee amount. 1) What are other commuter rail agencies charging; 2) Adding inflation to our existing rate; 3) Other options.

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

Other commuter rail agencies are charging between \$2,000 to \$5,000 base fee for anything up to 100 linear feet (LF) with additional charges for anything that exceeds 100 LF. We also looked at inflating our current charge of \$600 from 2007 to 2023. This would result in a fee of \$963. Since both options resulted in quite a jump in fees, we looked at other options. The one that seems the most viable is to use the fee that NCRA was charging and escalating it to 2024. NCRA was charging \$600 which was established in 2016. Inflated to 2024 the number is \$740 as seen in Table 1. In addition, the fee would be limited to the first 100 LF in the case of wire, pipe, or fiber. For pipe anything that exceeds 24" or for fiber anything that exceeds 432 strands would result in an additional fee, see Table 1. We are also recommending that an annual escalation factor of 3% be added to ensure that the fees are increased on a regular interval rather than all at one time.

Right of Entry Fees

The current fee is \$1,000 plus staff time for review. We are recommending keeping the fee the same but charging a flat review fee of \$1,000 instead of actual staff review time. This will simplify the process for SMART and the customer. In addition, we are recommending a new fee of \$300 to process any amendments to a Right of Entry application.

Administrative Fees

SMART currently charges a \$300 application fee. We are recommending keeping this fee the same. As mentioned previously, we would like to change the fee for staff review time from an actual cost to a flat fee that represents approximate cost.

Miscellaneous Fees

We are recommending that the special events, flagger, and safety course fees remain the same. We are recommending three new fees: Inspection fee, a fee for late cancellation of flaggers, and a refundable fee for as-built plans.

All the recommendations are listed in Column C of Table 1.

TABLE 1	Column A	Column B	Column C	
Type of Fee	2003 Fee	2007 Fee	Recommended Fee Structure	Existing / New
License Fees – Wire, Pipe, & Fiber Optic Conduit				
Annual License Fee - Wire	\$300	\$600 + staff review time	\$740/ year	Existing
Annual License Fee – Pipe within 100 LF & 24” pipe or smaller	\$300	\$600 + staff review time	\$740/ year	Existing
Pipe Diameter beyond 24” Fee	\$0	\$0	% of increase in pipe diameter beyond 24”	New
Annual License Fee – Fiber Optic Conduit within 100 LF & 432 Strands	\$300	\$600 + staff review time	\$740/ year	Existing
Additional Strands beyond 432 Strands	\$0	\$0	Current Per LF Rate/432 Strands = Price Per Strand Per LF	New
Standard Included License Area	Unlimited	Unlimited	Up to 100 LF as a minimum	New
Annual Escalation Rate	0%	0%	3%	New
Permit Fees – Right of Entry				
Right of Entry Fee	\$500	\$1,000 + staff review time	\$1,000	Existing
Right of Entry Fee Amendment	\$0	\$0	\$300	New
Administrative Fees – Wire, Pipe, Fiber Optic Conduit & Right of Entry				
Application Fee	\$300	\$300	\$300	Existing
Staff Reviews	\$0	Listed under License Fee	\$1,000	Existing
Miscellaneous Fees				
Special Event Fee	\$100/ day	\$200/ day	\$200/ day	Existing
Flaggers	Actual	Actual	Actual	Existing
Safety Course	Rate at cost provided by SMART	Rate at cost provided by SMART	Rate at cost provided by SMART	Existing
Inspection Fee	\$0	\$0	\$150/ hour if needed	New
As-Built Deposits (Refundable)	\$0	\$0	Up to \$2,500	New
Late Cancellation of Flaggers	\$0	\$0	\$250	New
Public Records Request – Digital Copies	\$6	\$6	\$6	Existing
Public Records Request – Paper Copies	\$0.15/ page	\$0.15/ page	\$0.15/ page	Existing
Public Records Request – Data Extraction, etc.	Current Rate	Current Rate	Current Rate	Existing

FISCAL IMPACT: The actual impact is difficult to predict as many of our licenses are multi-year and these rates wouldn't apply until the contracts are up for review, but the overall impact will be favorable.

Sincerely,

/s/

Heather McKillop
Chief Financial Officer

/s/

Randy Friedland
Real Estate Manager

Attachment(s):

- 1) Resolution No. 2023-36
- 2) Exhibit A SMART Schedule of Fees

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, AMENDING RESOLUTION NO. 2003-11 AND RESOLUTION NO. 2007-02 REGARDING SMART FEES

WHEREAS, fees for licenses, right of entry, administrative, and miscellaneous have not been reviewed and updated in over sixteen years; and

WHEREAS, September 17, 2003, the Board adopted Resolution No. 2003-11, establishing an encroachment policy which established a fee schedule; and

WHEREAS, February 21, 2007, the Board adopted Resolution No. 2007-02 which amended portions of Resolution No. 2002-11 by updating and adding fees; and

WHEREAS, the Board has determined that SMART's current fee schedule needs to be modified in accordance with Attachment A.

NOW, THEREFORE, BE IT RESOLVED that the fee schedule identified in Attachment is hereby amended.

BE IT FURTHER RESOLVED that staff has the authority to increase the license fees by 3% per year on July 1st of each year without further Board approval.

BE IT FURTHER RESOLVED that all other provisions of Resolution No. 2003-11 and Resolution No. 2007-02 shall continue to be, in full force and effect as originally adopted.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18th day of October 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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

SMART SCHEDULE OF FEES

Effective October 18, 2023

License Fees - Wire, Pipe & Fiber Optic Conduit

Description	Current Schedule of Fees (FY 2024)
Annual License Fee - Wire	Current Annual Rate. \$740 for up to 100 Linear Feet (LF) (\$7.40 per LF) for FY 24.
Annual License Fee - Pipe	Current Annual Rate. \$740 for up to 100 Linear Feet (LF) (\$7.40 per LF) for FY 24 for 1 pipe of up to 24" Charged increased pipe diameter rate pro rata, by the % of increase in pipe diameter beyond 24".
Annual License Fee - Fiber Optic Conduit	Current Annual Rate. \$740 for up to 100 Linear Feet (LF) (\$7.40 per LF) for FY 24 for up to 432 fiber optic strands. Additional strands beyond 432 strands charged per strand per LF as follows: Current Per LF Rate/432 Strands = Price Per Strand Per LF (Currently \$0.01712962962) for FY 24)
For all Wire, Pipe & Fiber Optic Licenses:	
Standard Included License Area	Up to 100 LF as a minimum.
Per LF Rate for Additional Area	Current LF Rate (Current Annual Rate/100) = \$7.40 per LF (FY 24).
Annual Escalation on Fee	3% escalations annually.

Permit Fee - Right of Entry

Description	Current Schedule of Fees (FY 2024)
*Right of Entry (ROE) Permit Fee	\$1,000 up to 1 year
Right of Entry (ROE) Amendment Fee	\$300

Administrative Fees - Wire, Pipe, Fiber Optic Conduit & Right of Entry

Description	Current Schedule of Fees (FY 2024)
Application Fee	\$300
Staff Reviews	\$1,000

Miscellaneous Fees

Description	Current Schedule of Fees (FY 2024)
Special Events Permit Fee	\$200/day
Flaggers	Current Rate
Inspection Fee	\$150/hour if needed
Safety Course	Rate at cost provided by District
As-Built Deposits (refundable)	Up to \$2,500
Late Cancellation of Flaggers	\$250

Public Records Requests (PRA)

Digital Copies on Thumb Drive	\$6.00 thumb drive/ postage
Paper Copies	\$0.15 per page/ or established statutory fee if applicable
Data Extraction, Compilation, Programming	Current Rate

**SMART District Staff can waive Right of Entry Application and Permit Fees as determined on a case-by-case basis for non-commercial type access for de minimis uses such as cleaning graffiti off a fence, fence repair and similar activities. Insurance coverage cannot be waived.*



Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

Mary Sackett
Marin County Board of Supervisors

Eddy Cumins
General Manager

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

October 18, 2023

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

SUBJECT: Approve a Resolution to Authorize the General Manager to execute a Funding Agreement with the City of Petaluma

Dear Board Members:

RECOMMENDATIONS:

Approve Resolution No. 2023-37 authorizing the General Manager to execute a funding agreement with the City of Petaluma to include paving work in the Petaluma North Station Platform, Grade Crossing Reconstruction and Pathway Contract No. CV-BB-23-004.

SUMMARY:

The City of Petaluma (City) would like SMART to include roadway paving work adjacent to the at-grade railroad crossing on McDowell Boulevard as part of the Petaluma North Station Platform, Grade Crossing Reconstruction and Pathway Project.

BACKGROUND:

SMART has prepared a Construction Contract No. CV-BB-23-004 to construct the Petaluma North Station Platform, reconstruct the McDowell Boulevard at-grade railroad crossing and construct two section of bicycle and pedestrian pathway. The work includes a new pedestrian crosswalk across McDowell Boulevard that will link the new pathway to the station area. The City recently repaved McDowell Boulevard. In order to minimize the reconstruction of McDowell Boulevard near the railroad track, SMART and City staff agreed to defer a portion of paving and incorporate it into the SMART Contract No. CV-BB-23-004.

The City provided construction documents depicting the paving work that SMART incorporated into the contract documents. SMART received bids for the work on September 27, 2023. The cost for the City's McDowell Boulevard paving work is \$806,102. The City is also committing a ten (10) percent contingency to cover and unknowns or differing site conditions that might be encountered in constructing the paving work.

The agreement also memorializes the ownership of improvements that SMART is constructing as part of the pathway project but that will be in the City right-of-way. This includes the new pedestrian crosswalk and traffic signal in McDowell Boulevard and a portion of pathway that will be in the City right-of-way.

Staff recommends approving Resolution No. 2023-37 authorizing the General Manager to execute a funding agreement with the City of Petaluma to include paving work in the Petaluma North Station Platform, Grade Crossing Reconstruction and Pathway Contract No. CV-BB-23-004.

FISCAL IMPACT: The work will be fully funded by the City of Petaluma.

REVIEWED BY: Finance /s/ Counsel /s/

Respectfully,

/s/
Bill Gamlen, P.E.
Chief Engineer

Attachment(s):

- 1) Resolution No. 2023-37
- 2) Funding Agreement with the City of Petaluma

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT APPROVING A FUNDING AGREEMENT WITH THE CITY OF PETALUMA TO INCLUDE MCDOWELL BOULEVARD PAVING WORK IN THE CONSTRUCTION OF PETALUMA NORTH STATION PLATFORM, GRADE CROSSING RECONSTRUCTION AND PATHWAY PROJECT

WHEREAS, The Sonoma-Marín Area Rail Transit District (SMART) prepared construction documents for the construction of a new SMART passenger rail station in Petaluma, two segments of pathway and the reconstruction of McDowell Boulevard at-grade railroad crossing (Contract No. CV-BB-23-004); and

WHEREAS, The City of Petaluma recently paved McDowell Boulevard, but left a portion of paving out adjacent to the at-grade railroad track crossing of the roadway; and

WHEREAS, the City has requested that the remaining portion of McDowell Boulevard paving be incorporated into the SMART Construction Contract No. CV-BB-23-004 as an additive alternate bid item; and

WHEREAS, SMART received two bids on September 27, 2023 and conducted a public bid opening for Contract No. CV-BB-23-004; and

WHEREAS, the bid amount of the additive alternate McDowell Boulevard paving work is \$806,102; and

WHEREAS, the City is committed to paying all cost for the additive alternate paving and ten (10) percent contingency for unforeseen items; and

WHEREAS, SMART prepared a funding agreement to incorporate the McDowell Boulevard paving work into Contract No. CV-BB-23-004; and

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF SMART HEREBY FINDS, DETERMINES, DECLARES, AND ORDERS AS FOLLOWS:

1. The foregoing Recitals are true and correct and are incorporated herein and form a part of this Resolution.
2. The General Manager is authorized to execute a funding agreement with the City of Petaluma to include McDowell Boulevard paving work into SMART Construction Contract No. CV-BB-23-004 to be paid for by the City of Petaluma.

**Resolution No. 2023-37
Sonoma-Marín Area Rail Transit District
October 18, 2023**

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18th day of October 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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

FUNDING REIMBURSEMENT AGREEMENT

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND CITY OF PETALUMA

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of _____, by and between the **SONOMA-MARIN AREA RAIL TRANSIT DISTRICT** (District), a regional transportation district duly established under the laws of California, and the **CITY OF PETALUMA** (City), a California municipal corporation and charter city.

Recitals

- A. The SMART District rail corridor, historically known as the Northwestern Pacific Railroad Authority (NWPRA), generally parallels Highway 101 running north-south in Sonoma and Marin Counties. The corridor is owned by the District from Milepost (MP) 84 in Cloverdale southward to MP 11.4 in Corte Madera.
- B. The District operates and maintains the rail corridor in accordance with applicable California Public Utilities Commission (CPUC) and Federal Railroad Administration (FRA) laws and regulations.
- C. The District has completed California Environmental Quality Act (CEQA) review and is proceeding with design and construction of passenger rail service and accompanying multi use path along an approximately 70-mile existing rail corridor extending from Cloverdale in Sonoma County, California, to a location near the ferry terminal in Larkspur, Marin County, California.
- D. The City is currently in the process of repaving North McDowell Boulevard from Old Redwood Highway to Sunrise Parkway, including the roadway adjacent to the Districts' railroad crossing of North McDowell Boulevard at railroad milepost MP 40.7 ("Crossing"), including class 2 bicycle path of travel improvements along North McDowell Blvd ("City Project").
- E. The City developed construction documents for the City Project, including paving and bicycle path of travel improvements for the Crossing.
- F. The District received bids for the Petaluma North Station Platform, Grade Crossing Reconstruction and Pathway Project which includes the reconstruction of the Crossing and a class 1 pathway in both the District right-of-way as well as the City right-of-way, and adding a new City signalized pedestrian crosswalk across McDowell Boulevard ("District Project"), which is within the City right of way that the City is paving pursuant to the City Project.
- G. Due to overlapping work pursuant to the City and District Projects at the Crossing, the City and District staff have determined that it will be cost effective to coordinate concerning the City and District Projects where project elements overlap. For purposes of this Agreement, the City and District improvements pursuant to their overlapping Projects at the Crossing are together referred to as the Crossing Improvements.

- H. The District is agreeable to constructing the Crossing Improvements, including the Crossing Improvements that are or will become a part of the City Project,.
- I. The City is committed to reimbursing the District for the full cost and expense of constructing the Crossing Improvements that make up part of the City Project, as specified in this Agreement, including, without limitation, in Section 3 and Exhibit D.

Agreement

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, City and District agree as follows:

1. RECITALS

The above recitals are true and correct and are hereby incorporated in and expressly form a part of this Agreement.

2. COORDINATION

The City shall coordinate the Work with The District's Chief Engineer or his designee, contact information for the parties' respective representatives is set forth below:

District	City
Bill Gamlen Chief Engineer Sonoma Marin Area Rail Transit District (SMART) 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954	Jeff Stutsman Deputy Director of Operations City of Petaluma 202 N McDowell Blvd. Petaluma, California 94954
Phone: 707.794.3330	Phone: 707.776.3673
Email: BGamlen@sonomamarintrain.org	Email: JStutsman@cityofpetaluma.org

3. SCOPE OF WORK

- i. Crossing Improvements. The Crossing Improvement work covered by this agreement at the Crossing is graphically depicted in Exhibit A ("Crossing Improvements").

The City's Class 2 bicycle pathway improvements at the Crossing are shown in Exhibit A and Exhibit B ("City Improvements")

District shall pave roughly 28,100 square feet of City roadway and construct City's class 2 bicycle pathway improvements including but not limited to entrance and exit ramps on Northbound and Southbound North McDowell Boulevard including green bike lane striping pursuant to City's design. In addition to improving the Crossing itself, the District is constructing a class 1 bicycle and pedestrian pathway from Southpoint Boulevard to Main Street in Penngrove as part of the planned north-south pathway network connecting stations in Marin and Sonoma counties ("District

Improvements”). A portion of the class 1 at the Crossing pathway will be in City right of way along the south-west side of North McDowell Boulevard from the north side of the crossing to the entrance to Petaluma Estates where the class 1 pathway will cross North McDowell Boulevard in a new City signalized pedestrian crosswalk. The pathway will also include a new City signalized pedestrian crossing on Corona Road. These District constructed improvements in the City’s right of way (“District-Constructed City Improvements”) are shown in Exhibits A and C. These two new City signalized pedestrian crossing at North McDowell Boulevard and Corona Road shall be accepted, owned, operated and maintained by the City and shall become the property of the City upon completion of the Crossing Improvements.

ii. **Deductive Change Order**

1. Following award of the District Contract, the District will issue a deductive change order amending some of the bid items listed in Exhibit D of this Agreement that comprise the City Improvements, as those bid items appear in the District Contract. Following issuance of the deductive change order, Exhibit D and Section 5, paragraph ii of this Agreement shall be amended accordingly, by memorandum in accordance with this section or otherwise, to reflect the amended scope of the City Improvements and the City Improvements costs that the City is obligated to reimburse pursuant to this Agreement. The District and the City estimate that following issuance of the deductive change order and corresponding amendment of this Agreement, the cost of the City Improvements will be reduced from \$806,102.00 to approximately \$574,000.

iii. **Request for Additional Work.**

1. **Initiation Conference:** The City may initiate a request for additional work to be covered under this Agreement. Such request shall be made in writing to District. The request shall include a description of the proposed work. Following receipt of the request, the parties shall meet to establish and agree on the following information:
 - a. Project Manager Information (name, address, phone number, fax number, and email address).
 - b. Project Information (project name, project area, location map).
 - c. Project/task number.
 - d. Account number.
 - e. Time allowed to perform the work or Construction Schedule.
2. **Agreement Memorandum.** The District will prepare an Agreement Memorandum setting forth the terms for the additional work as established during the Initiation Conference. The Agreement Memorandum will be executed by authorized representatives of both parties and become an amendment to this Agreement prior to the District issuance of a written authorization to proceed.

4. DISTRICT'S RESPONSIBILITIES

The District shall be responsible for the following:

- i. Contract Administration: District has included the City Improvements in a construction contract (CV-BB-23-004, the "District Contract") that will provide for construction of a new passenger rail station in Petaluma, reconstruction of the North McDowell Boulevard at-grade crossing, and bicycle and pedestrian pathways in the District right-of-way as well as in and along portions of City right of way comprising the Crossing Improvements. The City Improvements were included as Additive Alternate Bid Table E – North McDowell Boulevard Reconstruction (Petaluma Section) in the District Contract.
- ii. Construction: The District will oversee and administer the District Contract, manage day-to-day construction activities, and accept the construction of the District Project, including the Crossing Improvements (which include the City and District Crossing Improvements). The District shall not be responsible for inspecting the City Improvements for conformance with the City Improvements design.
- iii. Permitting and Approvals: District shall participate and submit a joint GO 88B application to the CPUC that includes the crossing Improvements.

5. CITY 'S RESPONSIBILITIES

The City agrees to perform the following:

- i. Permitting and Approvals: City shall participate and submit a joint GO 88B application to the CPUC for the crossing Improvements and inspect, review, approve and accept the City Improvements constructed pursuant to this Agreement and the District Contract, to the extent the City Improvements are in accordance with the City Improvements design and the District Contract.
- ii. Payment: The cost for the Improvements is \$806,102 as shown in the District Contract CV-BB-23-004 Additive Alternate Bid Table E, which is included in Exhibit D of this Agreement. The City shall allocate an additional ten percent (10%) contingency funding in the amount of \$806,102 to cover unknowns, differing site conditions and other unanticipated costs that may arise in constructing the City Improvements for a total estimated City financial commitment for construction of the City Improvements pursuant to this agreement of up to \$886,712, including contingency. This amount does not represent a "cap" on costs for the City Improvements. The City shall be responsible for all the costs of constructing the City Improvements. City payments for City The City shall reimburse District in accordance with Section 6 below.
- iii. Right of Entry: City shall provide any required permits to the District's Contractor at no cost to construct the Crossing Improvements.

- iv. McDowell Boulevard Roadway Shutdown: the City shall allow and coordinate with the District concerning complete closure of McDowell Boulevard for up to two weekends between Friday night at 20:00 to Monday morning at 05:00 during construction of the Crossing Improvements . The City shall waive any fees for the roadway closure and issue any necessary permits in a timely manner. District and/or its contractor shall provide City a minimum of 30 days’ notice prior to any full closure of McDowell Boulevard.
- v. Construction: The City shall be responsible for timely inspection and acceptance of the City Improvements, and shall promptly notify District if it determines the City improvements are not in conformance with City Improvements design. In the event of such non-conformance of the City Improvements, City and District will confer and agree on a resolution; however, City may not direct the District’s contractor.
- vi. Ownership of City’s improvements: Upon completion and acceptance of the City Improvements in accordance with the City Improvements design, the District Contract and this Agreement, City shall be deemed to have assumed full responsibility, ownership, maintenance, and control of the City Improvements.

6. PAYMENT AND REIMBURSEMENT PROCEDURES

- i. Within 30 days of receipt of District's invoice, City shall reimburse District for the cost of constructing the City Improvements. City payments for the cost of constructing the City Improvements will be consistent with the unit prices bid and measured quantities for the City Improvements work completed in accordance with the City Improvements design and the District Contract.

7. INDEMNIFICATION

- i. Insurance and Indemnification: District shall require its contractor to include City as an additional insured party under the contract per the standard requirements of the DISTRICT contract. District agrees to secure such protections against liability for the City to the maximum extent permitted by such contracts. City agrees to fully cooperate with District concerning securing protection against liability for the City pursuant to this provision. To the extent that the District is an additional insured and/or a loss payee and/or the beneficiary of waivers of liability – such as, for example, waivers of subrogation - or of policy endorsements concerning insurance requirements that apply pursuant to the District Contract and any related contracts concerning construction of the Crossing Improvements, District agrees to secure such protections against liability for the City to the maximum extent permitted by such contracts.
- ii. City shall indemnify, defend, and hold the District harmless concerning any and all liability, damage, claims, suits actions, arbitration proceedings, administrative proceedings, regulatory proceedings, penalties, fines, expenses and costs (including without limitation, claims expenses, attorneys’ fees

and costs and fees of litigation), of any nature caused by the design, maintenance and operation of the City Improvements. To the extent that the City is an additional insured and/or a loss payee and/or the beneficiary of waivers of liability – such as, for example, waivers of subrogation - or of policy endorsements concerning insurance requirements that apply pursuant to contracts of the City concerning design of the City Improvements, the City agrees to secure such protections against liability for the District to the maximum extent permitted by such contracts. District agrees to fully cooperate with City concerning securing protection against liability for the District pursuant to this provision. This indemnification obligation shall survive the expiration or termination of this Agreement.

- iii. Upon the completion and acceptance of the City Improvements in accordance with Section 5, paragraph (vi) of this Agreement, and upon the termination or expiration of this Agreement, the respective duties of the District and the City concerning improvements owned by each of them in their property and rights of way shall be those duties established under applicable laws and regulations. Nothing in this Agreement is intended to modify or may be construed to modify the respective duties of the District and the City concerning improvements owned by each of them in their property and rights of way pursuant to applicable laws and regulations. This provision shall survive the expiration or termination of this Agreement.

8. ADDITIONAL REQUIREMENTS

- i. Amendments to Agreement

This Agreement may be amended only by the mutual written consent of both parties.

- ii. Termination

Either party may terminate this Agreement by giving 30-days prior written notice to the other party, in the manner described below in Section 8.iii of this Agreement of its intent to terminate. City shall pay District for all expenses, cost, contractor's claims associated with the portion of City's work as of the termination date.

- iii. Notice

Unless otherwise requested by a party, all notices, demands, requests, consents, or other communications which may be or are required to be given by either party to the other shall be in writing and shall be deemed effective upon service. Notices shall be deemed to have been properly given when served on the party to whom the same is to be given by hand delivery or by deposit in the United States mail addressed to the party as follows:

District: Bill Gamlen, P.E
Chief Engineer
Sonoma-Marín Area Rail Transit District
5401 Old Redwood Highway
Petaluma, CA 94954

City: Jeff Stutsman
Deputy Director of Operations

City of Petaluma
202 McDowell Blvd.
Petaluma, California 94954

When a notice is given by a generally recognized overnight courier service, the notice, invoice, or payment shall be deemed received on the next business day. When a notice or payment is sent via United States Mail, it shall be deemed received seventy-two (72) hours after deposit in the United States Mail, registered or certified, return receipt requested, with the postage thereon fully prepaid. In all other instances, notices and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

iv. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

v. Entire Agreement

This instrument contains the entire agreement between the parties, and no statement, promise, or inducement made by either party or agents of the parties that is not contained in this written contract shall be valid or binding; and this contract may not be enlarged, modified, or altered except in writing signed by the parties.

vi. Authority of City and District

The undersigned District and City officials hereby represent and warrant that they have the authority to execute and deliver this Agreement on behalf of City or District, as applicable.

vii. No Waiver of Breach

The waiver by any of the Parties of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

viii. Time of Essence

Time is and shall be of the essence of this Agreement and every provision hereof.

ix. Construction

To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. City and District acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. City and District acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

f. Consent

Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

g. No Third-Party Beneficiaries

There is no third person or entity who is an intended third-party beneficiary under this agreement. No incidental beneficiary, whatever relationship such person may have with the Parties, shall have any right to bring an action or suit, or to assert any claim against the Parties under this agreement. Nothing contained in this agreement shall be construed to create and the Parties do not intend to create any rights in third parties.

h. Captions

The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

i. Acceptance of Electronic Signatures and Counterparts

The parties agree that this Agreement, any Agreements ancillary to this Agreement and related documents to be entered into this Agreement will be considered executed when all parties have signed this Agreement. Signatures delivered by scanned image as an attachment to electronic mail or delivered electronically through the use of programs such as DocuSign must be treated in all respects as having the same effect as an original signature. Each party further agrees that this Agreement may be executed in two or more counterparts, all of which constitute one and the same instrument.

IN WITNESS WHEREOF, the District and the City have executed this Agreement as of the date first above written.

CITY OF Petaluma:

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT:

By: _____
Peggy Flynn
City Manager
City of Petaluma

By: _____
Eddy Cumins
General Manager
SMART District

ATTEST:

By: _____
Kami Noriega
Deputy City Clerk

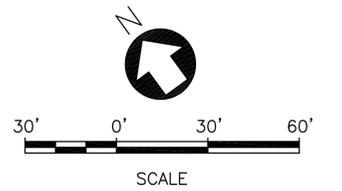
APPROVED AS TO FORM FOR CITY:

APPROVED AS TO FORM FOR DISTRICT:

By: _____
Eric Danly
City Attorney

By: _____
Thomas Lyons
SMART District Counsel

Exhibit A Crossing Improvements



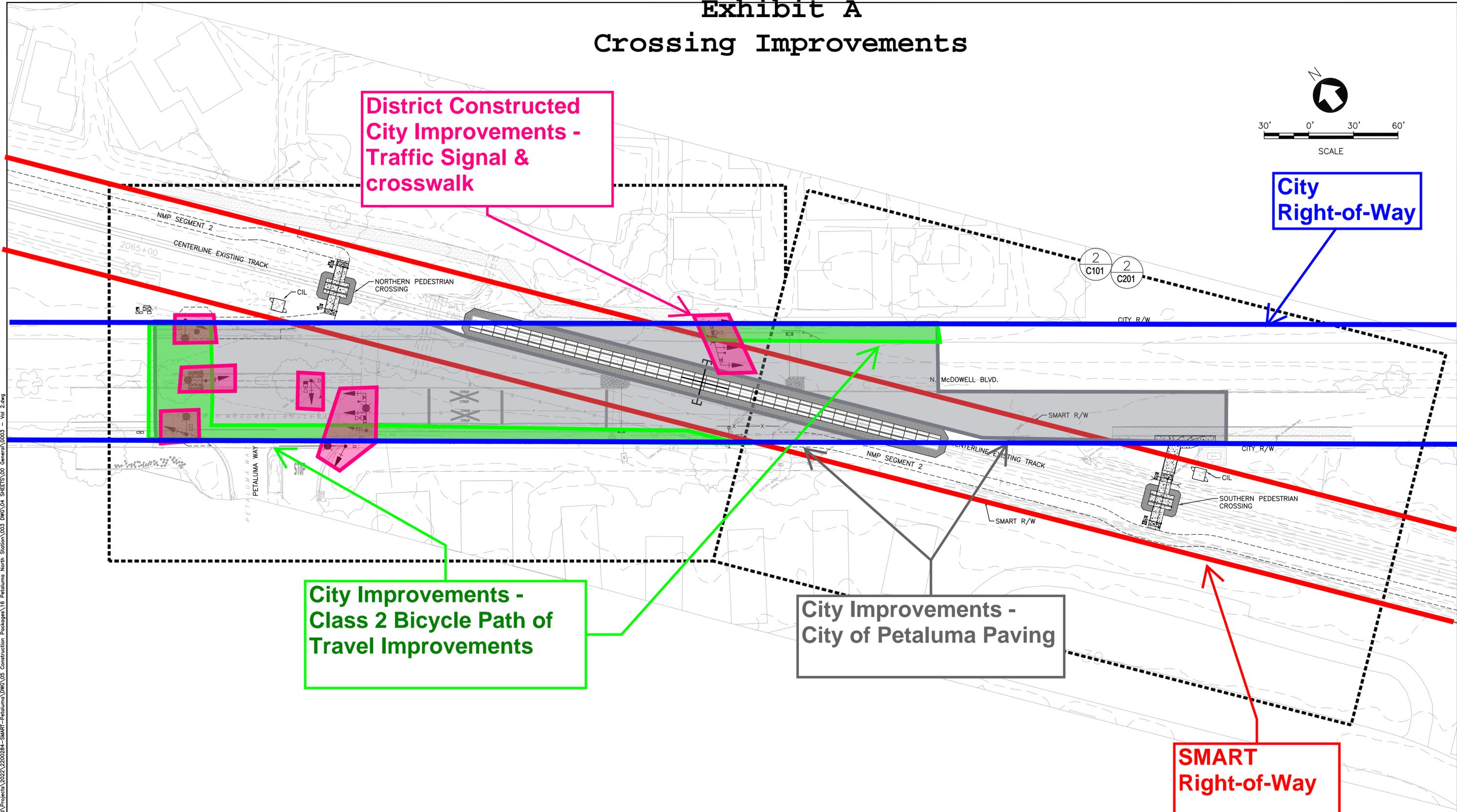
**District Constructed
City Improvements -
Traffic Signal &
crosswalk**

**City
Right-of-Way**

**City Improvements -
Class 2 Bicycle Path of
Travel Improvements**

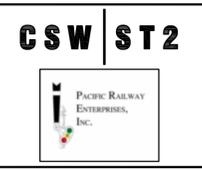
**City Improvements -
City of Petaluma Paving**

**SMART
Right-of-Way**



PLAN
SCALE: 1"=30'

REV	DATE	BY	SUB	APR	DESCRIPTION
0	20230621				IFC SUBMITTAL



PREPARED BY
JVT
DRAWN BY
JVT
CHECKED BY
JAH
IN CHARGE
JAH
DATE
20230621

N. McDOWELL BLVD.
IMPROVEMENTS
IFC

JUNE 21, 2023

CONSTRUCTION
CONTRACT NO.
CV-BB-23-004

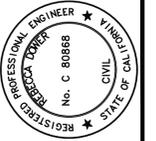


N. McDOWELL BLVD. IMPROVEMENTS
GENERAL
KEY MAP
SHEET 3 OF 17

CADD FILENAME G003 - Vol 2.dwg	
SCALE 1" = 30'	CONTRACT NO. CV-PS-22-003
DWG. NO. G003	MILEPOST 40.7

Jun 17, 2023 7:10pm P:\Shared\Projects\2022\2020204-SMART-Petaluma\DWG\05 Construction Postages\16 Petaluma North Station\03 DWG\04 SHEETS\00 General\G003 - Vol 2.dwg

Exhibit B City Improvements



REBECCA DOWER
C 80868
6/20/2023



SMART NON-MOTORIZED PATHWAY
SEGMENT 2

NORTHBOUND
BIKE TRANSITION

Revisions	
No.	Description

Date: APR 2023	Scale: AS SHOWN
Design: BD	Drawn: BL
Approved: BD	Job No: 20202059
Drawing Number:	
C1.0	
1	OF 2

- KEYNOTES:**
- 3 EXISTING UTILITY VAULT. PROTECT IN PLACE.
 - 4 EXISTING GAS VENT. PROTECT IN PLACE.
 - 5 CURB, GUTTER, AND SIDEWALK IN ACCORDANCE WITH CITY OF PETALUMA STANDARD DETAIL 202. SIDEWALK CROSS SLOPE SHALL NOT EXCEED 2-PERCENT.
 - 7 2-FOOT CURB TAPER.
 - 8 CONFORM TO EXISTING SURFACE ELEVATION IN A MANNER WHICH GENERATES A UNIFORM TRANSITION BETWEEN SURFACES AND DOES NOT IMPEDE DRAINAGE.
 - 10 4-FOOT CHAIN LINK FENCE, TYPE CL-4, BLACK VINYL CLAD IN ACCORDANCE WITH CALTRANS 2018 STANDARD PLAN A85.
 - 12 EXISTING WARNING FLASHERS WITH VEHICULAR GATE ARM TO BE RELOCATED. REFER TO SHEETS C100-C101.
 - 13 NEW SIGNAL POLE, SHOWN FOR REFERENCE ONLY. REFER TO THE TRAFFIC SIGNAL PLANS IN THE NMP SEGMENT 2 PLAN SET.
 - 14 TRAFFIC LANE SEPARATOR. QWICK KURB WITH L125SHM BIG BOLLARD DELINEATORS, OR APPROVED EQUIVALENT. QWICK KURB TO BE YELLOW, BOLLARDS TO BE WHITE AND YELLOW.
 - 15 GREEN BIKE LANE STRIPING.
 - 16 BIKE LANE SYMBOL WITH PERSON AND BIKE LANE ARROW IN ACCORDANCE WITH CALTRANS STANDARD PLANS A24A AND A24C.
 - 17 R44C "BICYCLES MUST EXIT" SIGN IN ACCORDANCE WITH THE CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (CURRENT EDITION).
 - 18 2-FOOT BIKE LANE BUFFER.
 - 19 BIKE LANE BUFFER TRANSITION FROM 2-FOOT TO 1-FOOT.
 - 23 REMOVE EXISTING SIGN AND DISPOSE OF UNUSED MATERIAL IN ACCORDANCE WITH LOCAL REGULATIONS.
 - 25 R10-6 "STOP HERE ON RED" SIGN IN ACCORDANCE WITH THE CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (CURRENT EDITION).

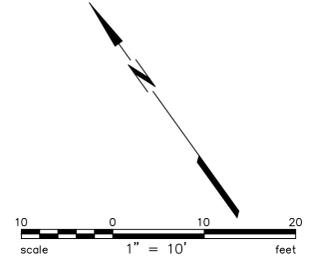
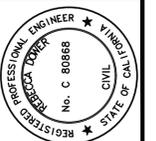
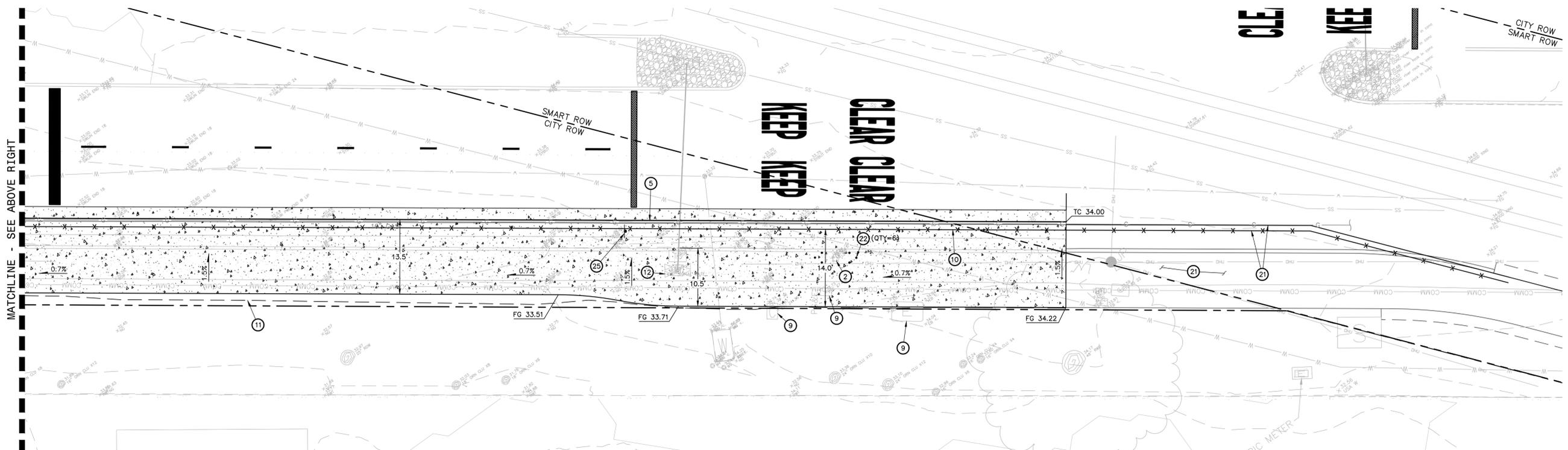
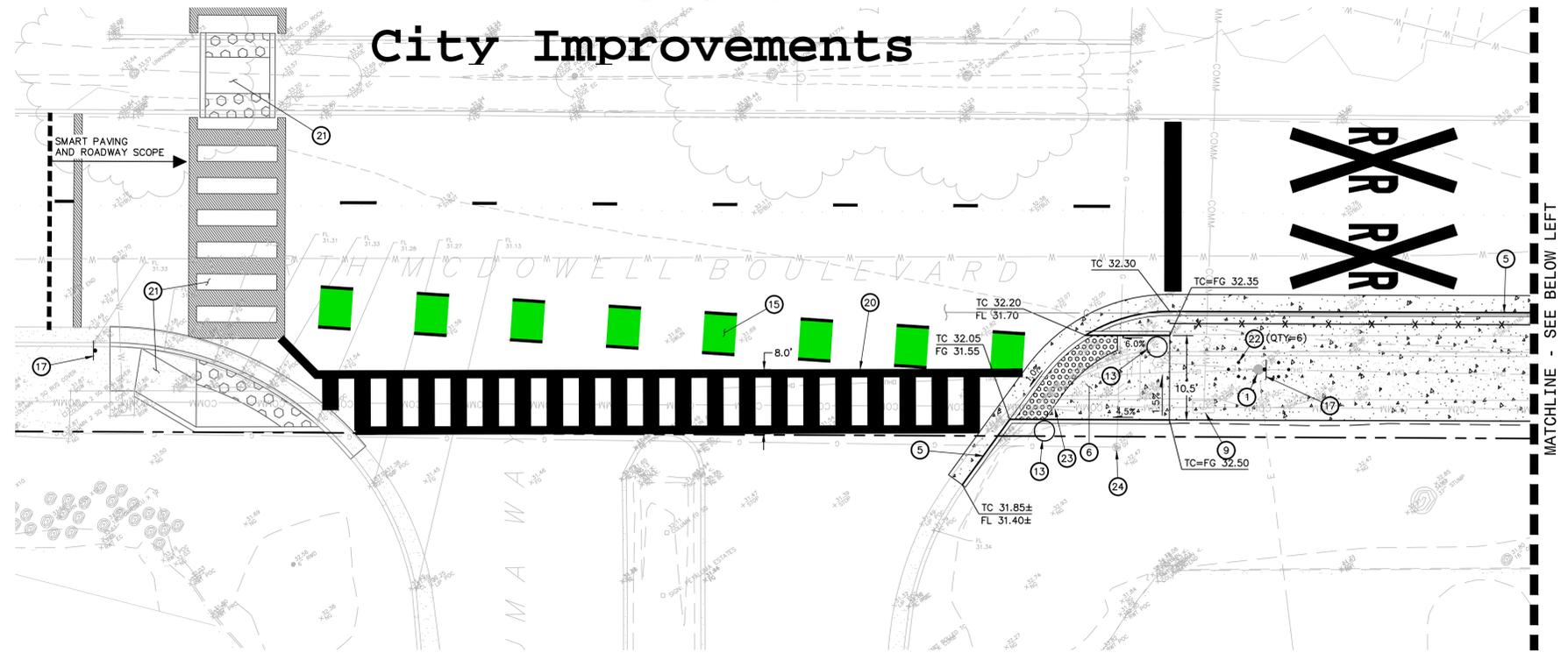
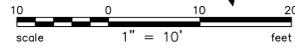


Exhibit B City Improvements

- KEYNOTES:**
- 1 EXISTING UTILITY POLE. PROTECT IN PLACE.
 - 2 EXISTING LIGHT POLE. PROTECT IN PLACE.
 - 5 CURB, GUTTER, AND SIDEWALK IN ACCORDANCE WITH CITY OF PETALUMA STANDARD DETAIL 202. SIDEWALK CROSS SLOPE SHALL NOT EXCEED 2-PERCENT.
 - 6 CASE 'E' CURB RAMP AND DETECTABLE WARNING SURFACE IN ACCORDANCE WITH CALTRANS 2018 STANDARD PLAN A88A.
 - 9 COORDINATE WITH THE OWNER OF THIS UTILITY TO RELOCATE AND/OR ADJUST EXISTING UTILITY TO FINISHED GROUND SURFACE ELEVATION.
 - 10 4-FOOT CHAIN LINK FENCE, TYPE CL-4, BLACK VINYL CLAD IN ACCORDANCE WITH CALTRANS 2018 STANDARD PLAN A85.
 - 11 APPROXIMATE LIMIT OF GRADING.
 - 12 EXISTING WARNING FLASHERS WITH VEHICULAR GATE ARM TO BE RELOCATED. REFER TO SHEETS C100-C101.
 - 13 NEW SIGNAL POLE, SHOWN FOR REFERENCE ONLY. REFER TO THE TRAFFIC SIGNAL PLANS IN THE NMP SEGMENT 2 PLAN SET.
 - 15 GREEN BIKE LANE STRIPING.
 - 17 R44C "BICYCLES MUST EXIT" SIGN IN ACCORDANCE WITH THE CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (CURRENT EDITION).
 - 20 LADDER STYLE CROSSWALK IN ACCORDANCE WITH CALTRANS 2018 STANDARD PLAN A24F.
 - 21 ADJACENT IMPROVEMENTS SHOWN FOR REFERENCE ONLY. REFER TO THE NMP SEGMENT 2 PLANS.
 - 22 TYPE Q OBJECT MARKER IN ACCORDANCE WITH CALTRANS 2022 STANDARD PLAN A73A.
 - 23 REMOVE EXISTING SIGN AND DISPOSE OF UNUSED MATERIAL IN ACCORDANCE WITH LOCAL REGULATIONS.
 - 24 EXISTING GAS VALVE. PROTECT IN PLACE.
 - 25 R10-6 "STOP HERE ON RED" SIGN IN ACCORDANCE WITH THE CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (CURRENT EDITION).



REBECCA DOWER
C 80868
6/20/2023



NON-MOTORIZED PATHWAY
SEGMENT 2

SOUTHBOUND
BIKE TRANSITION

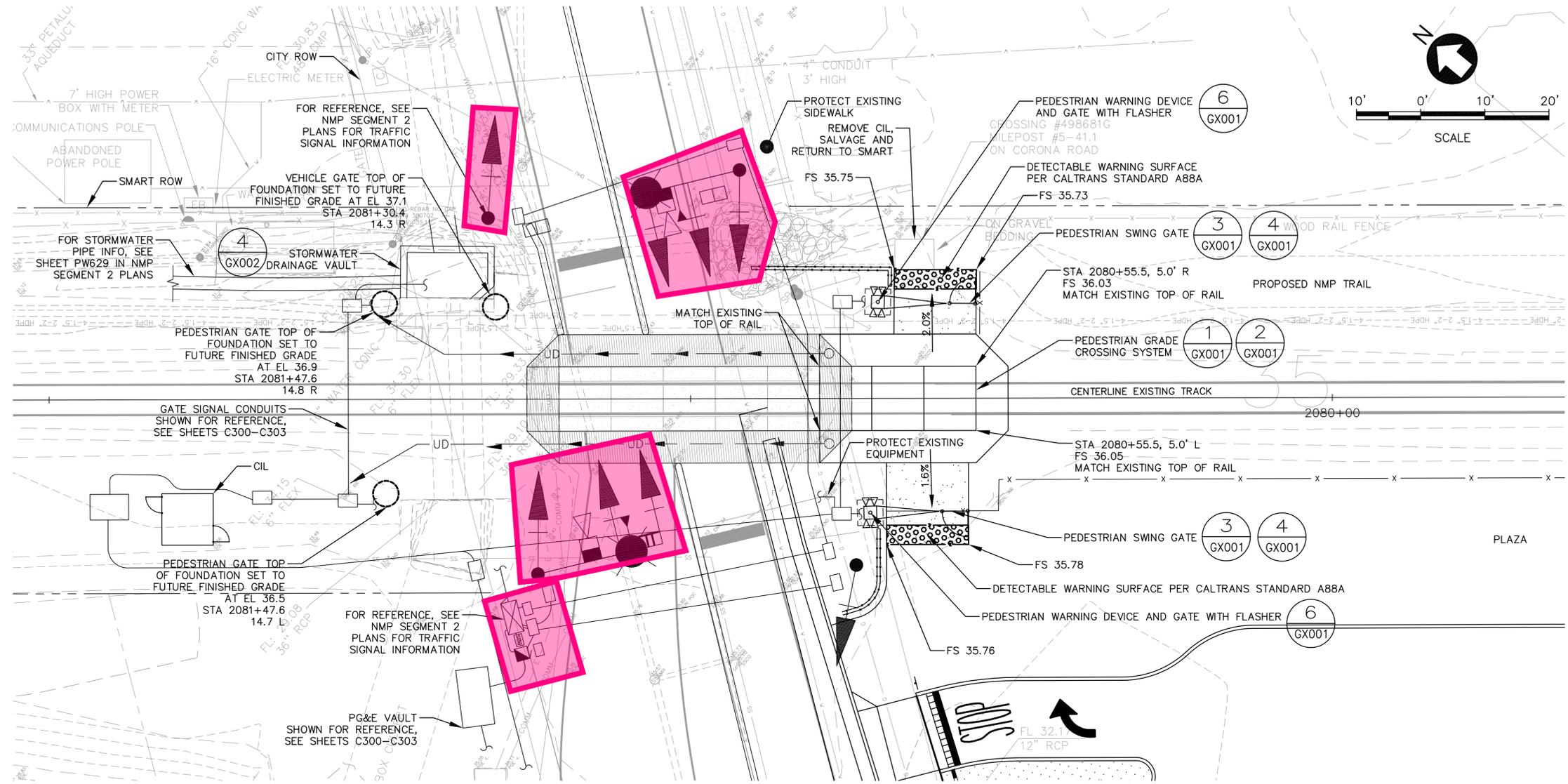
No.	Revisions

Drawing Number:

C1.1

2 OF 2

Exhibit C



PLAN
SCALE: 1"=10'



District Constructed City Improvements - To be owned, operated and maintained by City of Petaluma including crosswalk, traffic signals, power service, and associated conduits and pullboxes.

Jun 28, 2023 7:44pm P:\Shared\Projects\2022\22020284-SMART-Petaluma\DWG\05 Construction Postages\16 Petaluma North Station\03 DWG\04 SHEETS\06 GradeCrossings\Corona Road\GX100.dwg

REV	DATE	BY	SUB	APR	DESCRIPTION
0	20230621				IFC SUBMITTAL



PREPARED BY
JVJ
DRAWN BY
JVJ
CHECKED BY
JAH
IN CHARGE
JAH
DATE
20230621

PETALUMA NORTH STATION
IFC
JUNE 21, 2023

CONSTRUCTION
CONTRACT NO.
CV-BB-23-004



PETALUMA NORTH STATION
GRADE CROSSINGS
CORONA ROAD
GRADE CROSSING PLAN
SHEET 17 OF 71

CADD FILENAME GX100.dwg	
SCALE 1" = 10'	CONTRACT NO. CV-PS-22-003
DWG. NO. GX100	MILEPOST 41.05

**Invitation for Bid for Construction of Petaluma North Station Platform, Grade Crossing Reconstruction, Pathway
Solicitation No. CV-BB-23-004**

Price Analysis

Date: 9/27/2023

ADDITIVE ALTERNATE BID TABLE E – NORTH MCDOWELL BOULEVARD RECONSTRUCTION (PETALUMA SECTION)

ADDITIVE ALTERNATE BID TABLE E								
Item	Spec Section	Description	Quantity	Unit	STACY AND WITBECK, INC. / GHILOTTI BROS., INC. A JO		Estimated Quantities City Scope	
					Unit Price (In Figures)	Item Total (In Figures)	QTY	Price
1	01 75 25	Traffic Control	1	LS	\$170,000.00	\$170,000.00	1	\$99,969.71
2	31 11 50	Remove Existing Vertical Curb	15	LF	\$22.00	\$330.00	0	\$0.00
3	31 11 50	Remove Existing Curb and Gutter	375	LF	\$42.00	\$15,750.00	119	\$4,998.00
4	31 11 50	Remove Existing Sidewalk	2,130	SF	\$11.00	\$23,430.00	1521	\$16,731.00
5	31 11 50	Remove Existing Asphalt Roadway	1,880	SF	\$9.00	\$16,920.00	1880	\$16,920.00
6	31 11 50	Vertical Curb	30	LF	\$105.00	\$3,150.00	0	\$0.00
7	31 11 50	Curb and Gutter	405	LF	\$105.00	\$42,525.00	119	\$12,495.00
8	31 11 50	Concrete Sidewalk	4,950	SF	\$25.00	\$123,750.00	1520	\$38,000.00
9	31 11 50	Detectable Warning Surface	45	SF	\$50.00	\$2,250.00	0	\$0.00
10	31 11 50	Fence	350	LF	\$89.00	\$31,150.00	300	\$26,700.00
11	31 11 50	Adjust Existing Utility Cover to Grade	4	EA	\$1,900.00	\$7,600.00	4	\$7,600.00
12	31 11 50	6-Inch Cold Plane/Grind	3,130	SY	\$18.00	\$56,340.00	3130	\$56,340.00
13	31 11 50	Asphalt Concrete Overlay	1,020	TON	\$220.00	\$224,400.00	1020	\$224,400.00
13	31 11 50	Side Street Conform Grind and Overlay	960	SY	\$46.00	\$44,160.00	960	\$44,160.00
14	31 11 50	Dashed Lane Line	235	LF	\$7.00	\$1,645.00	235	\$1,645.00
16	31 11 50	Dashed Bike Lane Line	175	LF	\$7.00	\$1,225.00	175	\$1,225.00
17	31 11 50	Green Bike Lane Striping	230	SF	\$30.00	\$6,900.00	230	\$6,900.00
18	31 11 50	Crosswalk and Limit Line Striping	590	SF	\$25.00	\$14,750.00	0	\$0.00
19	31 11 50	Pavement Markings	360	SF	\$24.00	\$8,640.00	360	\$8,640.00
20	31 11 50	New Sign on New Pole	4	EA	\$595.00	\$2,380.00	4	\$2,380.00
21	31 11 50	New Sign on Existing Pole	1	EA	\$595.00	\$595.00	0	\$0.00
22	31 11 50	Type Q Object Marker	12	EA	\$276.00	\$3,312.00	0	\$0.00
23	31 11 50	Traffic Lane Separator	35	LF	\$140.00	\$4,900.00	35	\$4,900.00
							Subtotal	\$474,034.00
TOTAL BID PRICE (ADDITIVE ALTERNATE BID TABLE E) :					Total	\$806,102.00	Total	\$574,003.71



Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

Mary Sackett
Marin County Board of Supervisors

Eddy Cumins
General Manager

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

October 18, 2023

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

SUBJECT: Approve a Resolution to Amend the Fiscal Year 2024 Adopted Budget to budget additional funds for the Petaluma North Station, the McDowell Crossing, and two Sonoma County Pathway segments project.

Dear Board Members:

RECOMMENDATIONS:

Approve Resolution No. 2023-38 to Amend Resolution No. 2023-23, the Fiscal Year 2023 Adopted Budget, to add additional funds to the Petaluma North Station project and increase the spending authority accordingly.

SUMMARY:

The Petaluma North Station project consists of the following project components:

- A second passenger rail station in Petaluma at Corona Road
- Two segments of bicycle and pedestrian pathway totaling 5.7 miles
 - South Pont Boulevard to Main Street
 - Golf Course Drive to Bellevue
- Reconstruction of the North McDowell Boulevard at-grade vehicular crossing
- Repaving of portions of McDowell Boulevard for the City of Petaluma

The project was advertised for construction on July 24, 2023, and bids were opened on September 27, 2023. The project is recommended to be awarded to Stacy and Witbeck/Ghilotti Bros., A Joint Venture.

The overall cost based on the low bid is estimated at \$37,815,161 (without Petaluma's paving). SMART originally had \$26,675,062 programmed for the project. In addition to the funds already programmed, SMART recently received notification that we will be receiving \$3,195,000 in Affordable Housing and Sustainable Communities (AHSC) funds towards this project. We also spent less Measure M funds on design and are able to apply the difference of \$295,690 towards construction. With these additional funding sources, the shortfall is \$7,649,409. The shortfall is all related to the pathway portion of the project.

To fill this shortfall, staff is recommending that we utilize project funds that have been programmed for the Guerneville to Airport pathway project, which is currently funded in FY 24, FY 25, and FY 26 with Measure Q funds. This project is scheduled to go to construction some time in FY 25. Funding will need to be pursued to be able to construct the project. The Guerneville to Airport Pathway project has \$6,498,640 in Measure Q funds programmed over that three-year period. Those funds coupled with the utilization of fund balance in the amount of \$1,150,779 will allow us to award and construct this project.

FISCAL IMPACT: The overall fiscal impact is \$7,649,409. However, these funds are not estimated to be required until FY 2025. The following table summarizes the estimated need and sources of funding for this project.

Attachment A shows the overall funding and expenditure impact on the budget for FY 24. It also includes budgeting the \$886,712 in City of Petaluma funds for the paving of McDowell which they would like to have completed as part of this project.

Petaluma North Station/McDowell/Pathway Project			
Estimated Costs	FY 24	FY 25	Total
Contractor Bid - Petaluma	\$ 4,500,000	\$ 4,968,955	\$ 9,468,955
Contractor Bid - McDowell	\$ 2,000,000	\$ 1,536,288	\$ 3,536,288
Contractor Bid - Pathway	\$ 6,000,000	\$ 12,758,059	\$ 18,758,059
Bid Amount without Paving	\$ 12,500,000	\$ 19,263,302	\$ 31,763,302
Contingency	\$ 625,000	\$ 2,957,693	\$ 3,582,693
Construction Management Costs	\$ 1,209,081	\$ 1,260,084	\$ 2,469,166
Total Estimated Cost	\$ 14,334,081	\$ 23,481,079	\$ 37,815,161
Budgeted Funding Sources			
City of Petaluma	\$ 2,000,000	\$ -	\$ 2,000,000
Measure M - SCTA	\$ 480,108	\$ -	\$ 480,108
TIRCP	\$ 4,125,768	\$ 5,974,232	\$ 10,100,000
Measure Q	\$ 1,845,345	\$ 1,492,684	\$ 3,338,029
ATP	\$ 5,210,927	\$ 5,545,998	\$ 10,756,925
Subtotal	\$ 13,662,148	\$ 13,012,914	\$ 26,675,062
<u>Available but not yet budgeted</u>			
AHSC - Danco	\$ 645,515	\$ 2,549,485	\$ 3,195,000
Measure M - SCTA (From FY 23)	\$ 295,690	\$ -	\$ 295,690
Total Revenues Available	\$ 14,603,353	\$ 15,562,399	\$ 30,165,752
Shortfall	\$ 269,272	\$ (7,918,680)	\$ (7,649,409)
Funding Sources for Shortfall			
Balance from FY 24	\$ (269,272)	\$ 269,272	\$ -
Measure Q from Guerneville to Airport	\$ -	\$ 6,498,630	\$ 6,498,630
Measure Q from Fund Balance	\$ -	\$ 1,150,779	\$ 1,150,779
Total	\$ (269,272)	\$ 7,918,681	\$ 7,649,409

Sincerely,
 /s/
 Heather McKillop
 Chief Financial Officer

Attachment(s): 1) Resolution No. 2023-38
 2) Attachment A to the FY 24 Budget

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, AMENDING RESOLUTION NO. 2023-23, THE ANNUAL BUDGET FOR FISCAL YEAR 2023-2024 TO PROVIDE FOR REVISED EXPENDITURE AUTHORITY

WHEREAS, as part of its approval of the Annual Budget for Fiscal Year 2023-2024, the Board of Directors considered the annual expenditures necessary for the Sonoma-Marín Area Rail Transit District; and

WHEREAS, the Board desires to Amend the Annual Budget Resolution No. 2023-23 to modify expenditure authority for the Petaluma North Station project which includes the construction of a second passenger rail station in Petaluma at Corona Road, the reconstruction of the North McDowell Boulevard at-grade vehicular crossing in Petaluma, paving of the North McDowell Boulevard at-grade crossing, and two segments of bicycle and pedestrian pathway one being South Point Boulevard to Main Street, and Golf Course Drive to Bellevue;

NOW, THEREFORE, BE IT RESOLVED that expenditure authority in Resolution No. 2023-23, Fiscal Year 2023-2024 Adopted Budget, Appendix A is hereby amended.

BE IT FURTHER RESOLVED except as specifically amended or supplemented by this Resolution, Resolution No. 2023-23, together with all supplements, amendments, and exhibits thereto is, and shall continue to be, in full force and effect as originally adopted, and otherwise contained herein shall, or shall be construed to, modify, invalidate, or otherwise affect and provision of Resolution No. 2023-23.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18th day of October 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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

Appendix A - Passenger Rail/Pathway				
FISCAL YEAR 2023-2024 AMENDED BUDGET - SOURCES AND USES				
		A	B	C
		FY 24 Adopted Budget	Amendment #1	Amended Budget
1	Beginning Fund Balance *	\$ 39,066,717	\$ -	\$ 39,066,717
2	Rollforward	\$ 3,738,306	\$ -	\$ 3,738,306
3	Revenues			
4	SMART S&U Tax			
5	Measure Q	\$ 51,103,000		\$ 51,103,000
6	Federal Funds			
7	5307 - Urbanized Area Formula Funds (Preventative Maintenance)	\$ 3,997,642		\$ 3,997,642
8	American Rescue Plan	\$ -		\$ -
9	Discretionary Earmark	\$ 1,800,000		\$ 1,800,000
10	FRA Suicide Prevention Grant	\$ -		\$ -
11	Quick Strike (CMAQ) (Pathway Payran to Lakeville)	\$ 1,857,999		\$ 1,857,999
12	State Funds			
13	AHSC - Windsor	\$ 1,093,230		\$ 1,093,230
14	AHSC - Petaluma (Danco)	\$ -	\$ 645,515	\$ 645,515
15	ATP - SoCo Pathway - CTC/Caltrans/MTC	\$ 5,210,927		\$ 5,210,927
16	Caltrans Sustainability Communities Competitive Planning Grant	\$ 400,000		\$ 400,000
17	LCTOP - Low Carbon Transit Operating	\$ 520,218		\$ 520,218
18	LPP - Local Partnership Program	\$ 1,857,999		\$ 1,857,999
19	ITIP - Windsor Systems	\$ 2,186,460		\$ 2,186,460
20	SCC - Windsor	\$ 6,559,379		\$ 6,559,379
21	SRA - State Rail Assistance	\$ 5,026,754		\$ 5,026,754
22	STA - State Transit Assistance (Population)	\$ 653,792		\$ 653,792
23	STA - State Transit Assistance (Revenue)	\$ 3,170,013		\$ 3,170,013
24	STA - SGR (State of Good Repair)	\$ 330,712		\$ 330,712
25	TIRCP - Petaluma North and McDowell Crossing	\$ 4,125,768		\$ 4,125,768
26	TIRCP SH 37 Network Integration	\$ -		\$ -
27	TIRCP - Windsor to Healdsburg	\$ 3,200,000		\$ 3,200,000
28	Other Sources			
29	Advertising	\$ 70,000		\$ 70,000
30	Charges for Services	\$ 75,637		\$ 75,637
31	Fare Revenues	\$ 1,803,384		\$ 1,803,384
32	Interest Earning	\$ 627,926		\$ 627,926
33	Misc.	\$ 5,659		\$ 5,659
34	Parking	\$ 15,000		\$ 15,000
35	Rent - Real Estate	\$ 423,721		\$ 423,721
36	Sale of Property	\$ -		\$ -
37	Regional Funds			
38	Measure M - SCTA	\$ 480,108	\$ 295,690	\$ 775,798
39	Other Governments	\$ 2,000,000	\$ 886,712	\$ 2,886,712
40	Total Revenues	\$ 98,595,328	\$ 1,827,917	\$ 100,423,245
41	Total Revenues + Fund Balance+ Rollforward	\$ 141,400,351	\$ 1,827,917	\$ 143,228,268

		FY 24	Amendment #1	Amended Budget
42	Debt Service	\$ 16,244,444	\$ -	\$ 16,244,444
43	Salaries & Benefits	\$ 27,157,564	\$ -	\$ 27,157,564
44	Reduction for Salaries Charged to Projects	\$ (1,467,867)	\$ -	\$ (1,467,867)
45	Reduction for Allocation of Salaries/ Services/ Supplies to Freight	\$ (164,036)	\$ -	\$ (164,036)
46	Service & Supplies	\$ 19,429,772		\$ 19,429,772
47	Total Salaries, Benefits, Service, & Supplies	\$ 44,955,433	\$ -	\$ 44,955,433
48	Contribution to OPEB/ CalPERS Liability Fund	\$ 500,000	\$ -	\$ 500,000
49	Contribution to Capital Sinking Fund	\$ 1,000,000	\$ -	\$ 1,000,000
50	Operating Reserve	\$ 1,278,617	\$ -	\$ 1,278,617
51	Total Reserve Contributions	\$ 2,778,617	\$ -	\$ 2,778,617
52	Environmental	\$ 478,321		\$ 478,321
53	Planning	\$ 250,000		\$ 250,000
54	Total Planning & Environmental	\$ 728,321	\$ -	\$ 728,321
55	Total Debt Service, Operating, Reserves, Environmental/ Planning	\$ 64,706,815	\$ -	\$ 64,706,815
56	Balance	\$ 76,693,536	\$ 1,827,917	\$ 78,521,453

		FY 24	Amendment #1	Amended Budget
57	State of Good Repair			
58	Bridges	\$ 8,000		\$ 8,000
59	DMU	\$ 1,785,000		\$ 1,785,000
60	Equipment	\$ 69,500		\$ 69,500
61	Information Technology	\$ 235,400		\$ 235,400
62	Non-Revenue Vehicles	\$ 919,000		\$ 919,000
63	Other Construction	\$ -		\$ -
64	Safety and Security	\$ -		\$ -
65	Track, MOW, and Facilities	\$ 487,300		\$ 487,300
66	Total State of Good Repair	\$ 3,504,200	\$ -	\$ 3,504,200

		FY 24	Amendment #1	Amended Budget
	Capital Projects			
67	Expansion	\$ 21,805,204	\$ 1,112,194	\$ 22,917,398
68	Land Purchase	\$ -	\$ -	\$ -
69	Pathways	\$ 19,812,122	\$ (1,562,171)	\$ 18,249,951
70	Total Capital Expenditures	\$ 41,617,326	\$ (449,977)	\$ 41,167,349
71	Carryforward	\$ 3,738,306		\$ 3,738,306
72	Ending Fund Balance	\$ 27,833,704	\$ 2,277,894	\$ 30,111,598

* Excludes Reserves



Eric Lucan, Chair
Marin County Board of Supervisors

Melanie Bagby, Vice Chair
Sonoma County Mayors' and Councilmembers Association

Kate Colin
Transportation Authority of Marin

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Debora Fudge
Sonoma County Mayors' and Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Barbara Pahre
Golden Gate Bridge,
Highway/Transportation District

Gabe Paulson
Marin County Council of Mayors and Councilmembers

David Rabbitt
Sonoma County Board of Supervisors

Chris Rogers
Sonoma County Mayors' and Councilmembers Association

Mary Sackett
Marin County Board of Supervisors

Eddy Cumins
General Manager

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

October 18, 2023

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

SUBJECT: Approve a Resolution Authorizing the General Manager to Execute Construction Contract No. CV-BB-23-004 with Stacy and Witbeck/Ghilotti Bros, A Joint Venture in the amount of \$32,569,404

Dear Board Members:

RECOMMENDATION:

Approve Resolution No. 2023-39 Authorizing the General Manager to execute Construction Contract No. CV-BB-23-004 to Stacy and Witbeck/Ghilotti Bros, A Joint Venture in the amount of \$32,569,404 and delegate \$1,500,000 in change order signatory authority to the General Manager. This contract is for the construction of a new SMART passenger rail station in Petaluma, two segments of pathway and the reconstruction of McDowell Boulevard at-grade crossing.

SUMMARY:

Construction Contract No. CV-BB-23-004 Petaluma North Station Platform, Grade Crossing Reconstruction and Pathway Project will construct three key pieces of SMART infrastructure:

1. A second passenger rail station in Petaluma at Corona Road
2. Two segments of bicycle and pedestrian pathway totaling 5.7 miles:
 - South Point Blvd. (Petaluma) to Main Street (Pensgrove)
 - Golf Course Dr. (Rohnert Park) to Bellevue (Santa Rosa)
3. Reconstruction of the North McDowell Boulevard at-grade vehicular crossing in Petaluma

SMART has grouped all these project elements together because they all center around the new Petaluma North Station. The reconstruction of the existing North McDowell Boulevard at-grade vehicular crossing is just south of the station and the trackwork construction for the station ties into the reconstructed track in North McDowell Boulevard. The pathway between South Point Boulevard and Main Street runs through the North Petaluma Station area and must be integrated into the new station.

SMART prepared detailed construction documents for the work and issued an Invitation for Bid (IFB) on July 24, 2023. SMART conducted a pre-bid meeting for interested bidders on August 18, 2023, to provide information about the project and to answer questions.

SMART received numerous written questions about the project, which led to the issuance of four addenda to respond to questions and provide additional information about the project. SMART provided a two-week extension to the original bid deadline to allow bidders additional time to review the additional information provided and prepare their bids.

SMART received two bids on September 27, 2023, from the following bidders:

Bidders	Base Bid Amount
Ghilotti Construction Company	\$32,450,593.06
Stacy and Witbeck/Ghilotti Bros, A Joint Venture	\$31,763,302.00

The Invitation for Bid included two additive alternate bid tables for the following work: 1) Construction of a North Petaluma Station Parking Lot, and 2) North McDowell Boulevard Paving. Both bidders submitted bid prices for these additional additive alternate projects. The bid prices for these additive alternate projects were not factored into SMART’s determination of the low bidder in compliance with the Invitation for Bid.

The first additive alternate will not be pursued since SMART does not yet own the property where the parking lot will be located and therefore cannot construct permanent improvements on it. The second additive alternate was requested by the City of Petaluma (City) to include paving work adjacent to the North McDowell at-grade crossing reconstruction. This allows the paving to be integrated into the crossing reconstruction and avoids tearing up the newly paved street. Stacy and Witbeck/Ghilotti Bros, a Joint Venture submitted a bid for this work in the amount of \$806,102. While this additive alternate project was not a factor in determining the lowest bid, it should be noted that Stacy and Witbeck/Ghilotti Bros, a Joint Venture submitted the lowest bid price for this additive item between the two bidders. The City has committed to paying for the work which has been memorialized in a funding agreement that is included in the Board agenda today. Because the City Council will not be able to review the funding agreement and take action on it until November, SMART staff is recommending a conditional approval of the City paving additive alternate work that is dependent upon the execution of the funding agreement.

The Invitation for Bid procedures require SMART to award this construction contract to the lowest responsive, responsible bidder. Following the review of each bid, SMART made the determination that Stacy and Witbeck/Ghilotti Bros, A Joint Venture submitted the lowest responsive and responsible bid for the construction of the Petaluma North Station Platform, Grade Crossing Reconstruction and Pathway Project (Solicitation No. CV-BB-23-004).

Staff recommends approving Resolution No. 2023-39 authorizing the General Manager to execute Construction Contract No. CV-BB-23-004 with Stacy and Witbeck/Ghilotti Bros, A Joint Venture in the amount of \$32,569,404 for the construction of the Petaluma North Station Platform, Grade Crossing Reconstruction and Pathway Project (Base Contract) and delegate \$1,500,000 in change order signatory authority to the General Manager. In addition, conditionally approve the second additive alternate that was requested for the City of Petaluma. The above dollar amount does include the Additive Alternate bid item for the North McDowell Boulevard paving work but its inclusion in the contract is conditional upon the execution of a funding agreement between the City and SMART (Agenda Item 11 in today’s agenda).

FISCAL IMPACT: Expenditure authority and funding are included in the Fiscal Year 2023-24 budget and the previous budget action to reallocate Measure Q funding.

REVIEWED BY: [x] Finance _____/s/_____ [x] Counsel _____/s/_____

Very truly yours,

/s/

Bill Gamlen,P.E.

Chief Engineer

Attachment(s): 1) Resolution No. 2023-39
2) Stacy and Witbeck/Ghilotti Bros, a Joint Venture Contract No. CV-BB-23-004

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT APPROVING CONTRACT NO. CV-BB-23-004 WITH STACY AND WITBECK/GHILOTTI BROS, A JOINT VENTURE, FOR THE CONSTRUCTION OF PETALUMA NORTH STATION PLATFORM, GRADE CROSSING RECONSTRUCTION AND PATHWAY PROJECT

WHEREAS, The Sonoma-Marín Area Rail Transit District (SMART) prepared construction documents for the construction of a new SMART passenger rail station in Petaluma, two segments of pathway and the reconstruction of McDowell Boulevard at-grade crossing (Contract No. CV-BB-23-004); and

WHEREAS, SMART issued a formal Invitation for Bid for Construction Contract No. CV-BB-23-004 on July 24, 2023, which included advertising the opportunity in local newspapers, trade journals, the SMART website, and other outreach outlets; and

WHEREAS, SMART conducted a pre-bid meeting on August 18, 2023 for interested bidders; and

WHEREAS, SMART received two bids on September 27, 2023, which were opened during a public bid opening; and

WHEREAS, Stacy and Witbeck/Ghilotti Bros, A Joint Venture submitted the lowest base bid price in the amount of \$31,763,302; and

WHEREAS, the City of Petaluma requested that SMART include paving work on North McDowell Boulevard adjacent to the at-grade crossing reconstruction, which SMART included as an additive alternate bid item in the Invitation for Bid; and

WHEREAS, Stacy and Witbeck/Ghilotti Bros, A Joint Venture submitted a bid price for the Additive Alternate additional paving work in the amount of \$806,102; and

WHEREAS, the City of Petaluma is committed to paying the \$806,102 for the additive alternate paving work, but will not consider the funding agreement until their November 6, 2023 Council meeting; and

WHEREAS, SMART has made the determination that Stacy and Witbeck/Ghilotti Bros, A Joint Venture submitted the lowest responsive and responsible bid; and

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF SMART HEREBY FINDS, DETERMINES, DECLARES, AND ORDERS AS FOLLOWS:

1. The foregoing Recitals are true and correct and are incorporated herein and form a part of this Resolution.

**Resolution No. 2023-39
Sonoma-Marín Area Rail Transit District
October 18, 2023**

2. The General Manager is authorized to execute Contract No. CV-BB-23-004 with Stacy and Witbeck/Ghilotti Bros, A Joint Venture in the amount of \$32,569,404, with a conditional approval of the \$806,102 Additive Alternate North McDowell paving work for the City of Petaluma, that is dependent upon the execution of the SMART – City of Petaluma funding agreement.

3. The General Manager is authorized to approve change orders associated with Construction Contract No. CV-BB-23-04 for a cumulative not-to-exceed amount of \$1,500,000.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18th day of October 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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

DOCUMENT 00 52 00
AGREEMENT FOR CONTRACTOR SERVICES

This agreement (“Agreement”), dated as of October 18, 2023 (“Effective Date”) is by and between the Sonoma-Marín Area Rail Transit District, a Special District of the State of California (hereinafter “SMART”), and Stacy and Witbeck/Ghilotti Bros, a Joint Venture (hereinafter “Contractor”), whose members are Stacy and Witbeck, Inc. and Ghilotti Bros, Inc. and whose principal office is located at 2800 Harbor Bay Parkway, Alameda, CA 94502.

CONSTRUCTION OF PETALUMA NORTH STATION PLATFORM, GRADE
CROSSING RECONSTRUCTION, AND PATHWAY
CONTRACT # CV-BB-23-004

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set for, Contractor and SMART agree as follows:

A G R E E M E N T

ARTICLE 1. LIST OF EXHIBITS

Section 1.01 The following exhibits are attached hereto and incorporated herein:

- (a) Exhibit A: Schedule of Rates
- (b) Exhibit B: DOT and Grant Requirements

ARTICLE 2. WORK.

Section 2.01 Contractor shall complete all work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract Documents.

ARTICLE 3. NOTICES TO SMART.

Section 3.01 SMART has designated Michael Wiltermood, Project Manager, to act as SMART’s Representative(s), who will represent SMART in performing SMART’s duties and responsibilities and exercising SMART’s rights and authorities in Contract Documents. SMART may change the individual(s) acting as SMART’s Representative(s), or delegate one or more specific functions to one or more specific SMART’s Representatives, including without limitation engineering, architectural, inspection and general administrative functions, at any time with written notice and without liability to Contractor. Each SMART Representative is the beneficiary of all Contractor obligations to SMART, including without limitation, all releases and indemnities.

Section 3.02 All notices or demands to SMART under the Contract Documents shall be to SMART's Representative at: **5401 Old Redwood Hwy Suite 200, Petaluma, CA, 94954** or to such other person(s) and address(es) as SMART shall provide to Contractor.

Project Manager: Michael Wiltermood
Phone: 707-285-8188
Email: mwiltermood@sonomamarintrain.org

ARTICLE 4. CONTRACT TIME AND LIQUIDATED DAMAGES.

Section 4.01 Contract Time and Notice to Proceed. Contract Time and Notice to Proceed. Contractor shall achieve Substantial Completion of the project within three-hundred and sixty-five (365) calendar days from the date the Notice to Proceed is issued. Substantial Completion for this project is defined as substantial completion of the Petaluma North Station and Parking Lot so that it is available for revenue service, reconstruction of the North McDowell Blvd at-grade crossing, and completion of both Segment 2 and Segment 3 pathway segments.

Contract Time (the period between the start date identified in the Notice to Proceed with construction and the Substantial Completion date identified in the Notice to Proceed or as subsequently amended by a Change Order) commences on the date established in the Notice to Proceed. SMART reserves the right to modify or alter the Commencement Date of the Work. SMART may give a Notice to Proceed at any time within 60 Days after the Notice of Award. Contractor shall not do any Work at the Site prior to the date on which the Contract Time commences to run.

Contractor shall achieve full project completion within thirty (30) calendar days following Substantial Completion.

Contractor shall complete the Work so that a Final Inspection Report can be issued in accordance with Section 01770 (Contract Closeout).

Section 4.02 Liquidated Damages. SMART and contractor recognize that time is of the **essence** of this Agreement and that SMART will suffer financial loss, if all or any part of the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with the Contract Documents. Consistent with Article 14 of Document 00 70 00 - General Conditions, Contractor and SMART agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by SMART because of a delay in completion of all or any part of the Work or delay to existing passenger or freight operations. Accordingly, SMART and Contractor agree to the liquidated damages defined in Document 00 70 00 – General Conditions.

Liquidated damages for delay shall only cover project administrative (such as Project management and consultant expenses) and cost damages suffered by SMART as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages

resulting from Defective Work, lost revenues, or damages suffered by others who then seek to recover their damages from SMART (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof.

ARTICLE 5. CONTRACT SUM.

Section 5.01 SMART shall pay Contractor the Contract Sum for completion of Work in accordance with the Contract Documents as follows:

Total Contract Sum: \$32,569,404.00

The Contract Sum includes all allowances (if any).

Contractor agrees that 48 CFR Part 31, Contract Cost Principles and Procedures and 2 CFR Part 200 shall be used to determine the allowability of individual terms of cost. Any costs for which payment has been made to the Contractor that are determined by subsequential audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the Contractor to SMART.

ARTICLE 6. CONTRACTOR REPRESENTATIONS.

In order to induce SMART to enter into this Agreement, Contractor makes the following representations and warranties:

Section 6.01 Contractor has visited the Site and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, all local conditions, and all federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.

Section 6.02 Contractor has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, as-built drawings, drawings, products specifications or reports, available for Bidding purposes, of physical conditions, including Underground Facilities, or which may appear in the Drawings. Contractor accepts the determination set forth in these Documents and Document 00 70 00 - General Conditions of the limited extent of the information contained in such materials upon which Contractor may be entitled to rely. Contractor agrees that, except for the information so identified, Contractor does not and shall not rely on any other information contained in such reports and drawings.

Section 6.03 Contractor has conducted or obtained and has understood all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in Section 5.2 of this Document 00 52 00 - Agreement) that pertain to the subsurface conditions, as-built conditions, Underground Facilities and all other physical conditions at or contiguous to the Site or otherwise that may affect the cost,

Stacy and Witbeck/Ghilotti Bros, a Joint Venture
Document 00 52 00 - Agreement
CV-BB-23-004

progress, performance or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the Contract Sum, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Document 00 70 00 - General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.

Section 6.04 Contractor has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

Section 6.05 Contractor has given SMART prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents and as-built drawings and actual conditions and the written resolution thereof through Addenda issued by SMART is acceptable to Contractor.

Section 6.06 Contractor is duly organized, existing and in good standing under applicable state law, and is duly qualified to conduct business in the State of California.

Section 6.07 Contractor has duly authorized the execution, delivery and performance of this Agreement, the other Contract Documents and the Work to be performed herein. The Contract Documents do not violate or create a default under any instrument, agreement, order or decree binding on Contractor.

Section 6.08 Contractor has listed the following Subcontractors pursuant to the Subcontractor Listing Law, California Public Contract Code §4100 *et seq.*:

Name of Subcontractor and Location of Mill or Shop	Description of Work: Reference To Bid Items	Contractor's License No.
Ahlborn Fence & Steel, Inc. 1230 Century Ct. Santa Rosa, CA 95403	Table A-1: 217, 219, 402-404 Fencing and Gates 100% Table A-1: 406, 410 Fencing and Gates 100% Table A-1: 413 Fencing and Gates 85.02% Table B: 201, 209 Fencing and Gates 100% Table C: 36, 40-42 Fencing and Gates 100% Table D: 18, 39, 41 Fencing and Gates 100% Table D: 42, 43, 45 Fencing and Gates 100% Table E: 10 Fencing and Gates 100%	793504
Gonsalves & Santucci, Inc. 5141 Commercial Circle Concord, CA 94520	Table A-1: 243 Furnish Install Rebar at Vault 8% Table A-1: 401 Platform Rebar 100% Table C: 47 Furnish Sheet Pile Rebar 1.2% Table C: 50 Furnish and Install Headwall Rebar 10.8% Table C: 78 Furnish and Install Ped Bridge Rebar 3.1% Table D: 47 Furnish and Install Headwall Rebar 11.4% Table D: 67 Furnish Install Ped Bridge Rebar 4.2%	199902

Name of Subcontractor and Location of Mill or Shop	Description of Work: Reference To Bid Items	Contractor's License No.
Lassen Pile 9741 State Highway 99W Gerber, CA 96035 PO Box 234 Proberta, CA 96078	Table A-1: 204 Furnish Install Sheet Pile 86.3% Table C: 47 Furnish Install Sheet Pile 84.2%	1064353
Modern Railway Systems 8201 Southpark Lane Suite 200 Littleton, CO 80120	Table A-1: 702-704, 801-811 Signals 100% Table A-1: 700 Signals 87% Table A-1: 701 Signals 93% Table A-1: 800 Signals 85% Table B: 600-602 Signals 100% Table B: 500 Signals 84% Table B: 501 Signals 80% Table C: 83 Signals 100% Table C: 84 Signals 80% Table D: 73 Signals 100% Table D: 69 Signals 72% Table D: 70 Signals 75% Table D: 71 Signals 83% Table D: 72 Signals 74%	968510
Pacific Coast Drilling Co., Inc. 364 Bellevue Ave Santa Rosa, CA 95407	Table C: 78 CIDH 17.1% Table D: 67 CIDH 20%	39855
Striping Graphics 501 Aaron St. Cotati, CA 94931	Table A-1: 220, Striping and Signage 100% Table A-1: 222-224 Striping and Signage 100% Table A-1: 226 Striping and Signage 100% Table C: 7, 8, 51-57, 65 Striping and Signage 100% Table D: 8, 50-55, 60 Striping and Signage 100% Table E: 14, 16-23 Striping and Signage 100%	576756

Section 6.09 Contractor has designated **Nick Slama, Project Manager**, to act as Contractor's Representative(s), who will represent Contractor in performing Contractor's duties and responsibilities and exercising Contractor's rights and authorities in Contract Documents. Contractor has also designated **Bob Hintz, Superintendent**, to act as Contractor's Superintendent. Contractor may change the individual(s) acting as Contractor's Representative(s), or delegate one or more specific functions to one or more specific Contractor's Representatives, at any time upon prior written notice and approval and without liability to SMART, but Contractor is limited to two representatives.

Project Manager:	Nick Slama	Superintendent:	Bob Hintz
Phone:	510-393-2520	Phone:	916-826-8588
Email:	nslama@stacywitbeck.com	Email:	bhintz@stacywitbeck.com

ARTICLE 7. CONTRACTOR DOCUMENTS.

Section 7.01 Contract Documents consist of the following documents incorporated by reference, including all changes, Addenda, and Modifications thereto:

Document 00 52 00:	This Agreement
IFB:	Invitation for Bid
Document 00 70 00:	General Conditions
General Requirements:	Division 1 Specifications
Technical Specifications:	Technical Specifications
Plansheets:	Volume I Plansheets (Petaluma North Station, Parking Lot, and Corona Road Improvements)
	Volume II Plansheets (North McDowell Boulevard Improvements)
	Volume III Plansheets (Segment 2: Non-Motorized Pathway Southpoint Boulevard to Main Street)
	Volume IV Plansheets (Segment 3: Non-Motorized Pathway Golf Course Drive to Bellevue Avenue)
	Volume V Plansheets (Systems)

Section 7.02 There are no Contract Documents other than those listed in Section 7.01. The Contract Documents may only be amended, modified or supplemented as provided in Document 00 70 00 - General Conditions.

ARTICLE 8. INSURANCE.

Contractor shall procure and maintain for the duration of the Agreement insurance against all claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees, or subcontractors with limits and deductibles specified below:

Section 8.01 Workers' Compensation Insurance. Workers' Compensation as required by the State of California, with Statutory Limits, and Employer's Liability insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

Section 8.02 General Liability Insurance. Commercial General Liability insurance covering products-completed and ongoing operations, property damage, bodily injury and personal injury using an occurrence policy form, in an amount no less than \$10,000,000 per occurrence. Said insurance shall remain in effect for five (5) years after Final Completion and acceptance of the final payment for the Work, contractual liability, and coverage for explosion, collapse, and underground hazards.

Said policy shall include a Railroads CG 24 17 endorsement removing the exclusion of coverage, if applicable, for bodily injury or property damage arising out of operations within 50 feet of any railroad property and affecting any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing.

Section 8.03 Automobile Insurance. Automobile Liability insurance covering bodily injury and property damage in an amount no less than \$5,000,000 combined single limit for each occurrence.

Said insurance shall include coverage for owned, hired, and non-owned vehicles. Said policy shall also include a CA 20 70 10 13 endorsement removing the exclusion of coverage for bodily injury or property damage arising out of operations within 50 feet of any railroad bridge, trestle, track, roadbeds, tunnel, underpass or crossing.

Section 8.04 Contractor's Pollution Liability Insurance. Contractor's Pollution Liability Insurance in an amount no less than \$2,000,000 per occurrence or per claim. The Contractor's Pollution Liability policy shall be written on an occurrence basis with coverage for bodily injury, property damage and environmental damage, including cleanup costs arising out of third-party claims, for pollution conditions, and including claims of environmental authorities, for the release of pollutants caused by construction activities related to the Contract. Coverage shall include the Contractor as the named insured and shall include coverage for acts by others for whom the Contractor is legally responsible.

Coverage to be provided for bodily injury to or destruction of tangible property, including the resulting loss of use thereof, loss of use of tangible property that has been physically injured, and natural resource damage. There shall be no exclusions or limitations regarding damages or injury from existence, removal or abatement of lead paint. There shall be no insured vs. insured exclusion in the policy.

Section 8.05 Railroad Protective Liability Insurance. Prior to commencement of construction activities, Contractor shall procure and maintain Railroad Protective Liability insurance, in SMART's name, with limits of liability of no less than \$5,000,000 per occurrence, for losses arising out of injury to or death of all persons, and for physical loss or damage to or destruction of property, including the loss of use thereof. The additional named insureds shall be the Sonoma-Marine Area Rail District.

Section 8.06 Professional Liability Insurance. Professional Liability insurance covering liability arising out of any negligent act, error or omission in performance of design or engineering services for the Project in an amount no less than \$2,000,000 per occurrence or claim. If the Contractor provides Design Professional Services in-house, contractor's professional liability insurance or the equivalent is required. If any Design Professional Services are furnished by a Subcontractor, the Subcontractor shall be required to provide professional liability coverage.

- a. The Policy shall include, or be endorsed to include, **property damage liability coverage** for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of the Contractor. If not covered under the Contractor's liability policy, such "property" coverage of SMART may be endorsed onto the Contractor's Cyber Liability Policy as covered property.
- b. **Cyber Liability coverage** in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of SMART that will be in the care, custody, or control of Contractor.
- c. The Insurance obligations under this agreement shall be the greater of 1—all the Insurance coverage and limits carried by or available to the Contractor; or 2—the minimum Insurance requirements shown in this agreement. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to SMART. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the indemnity or other obligations of the Contractor under this agreement.

Section 8.07 Builder's Risk Insurance. Builder's risk covering all risks of direct physical loss of or damage to property (including additional perils of flood, earthquake and collapse) with a limit of \$32,569,404.00. Coverage shall apply to all materials, supplies, and equipment that are consumed on or intended for specific installation in the Project while such materials, supplies, and equipment are located at the Project site(s). Coverage for transit and storage away from the Project site(s) shall be covered as appropriate. Such coverage shall name SMART as a loss payee as their interest may appear.

Section 8.08 Endorsements. Prior to commencing work, Contractor shall file Certificate(s) of Insurance with SMART evidencing the required coverage and endorsement(s) and, upon request, a certified duplicate original of any of those policies. Said endorsements and Certificate(s) of Insurance shall stipulate:

- (a) SMART, its officers, and employees shall be named as additional insured on all policies listed above, with the exception of the workers compensation insurance policy (as applicable).
- (b) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which Contractor is liable, up to and including the total limit of liability, without right of contribution from any other insurance effected or which may be effected by the Insureds.
- (c) Inclusion of the Insureds as additional insureds shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Contractor. Said policy shall protect Contractor and the Insureds in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.
- (d) Contractor hereby grants to SMART a waiver of any right to subrogation which any insurer of said Contractor may acquire against SMART by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not SMART has received a waiver of subrogation endorsement from the insurer.
- (e) The insurance policy(ies) shall be written by an insurance company or companies acceptable to SMART. The insurance underwriter(s) for all insurance policies except Workers' Compensation shall have an A.M. Best Company rating of A VII or better. Such insurance company shall be authorized to transact business in the state of California. Required minimum amounts of insurance may be increased should conditions of Work, in opinion of SMART, warrant such increase. Contractor shall increase required insurance amounts upon direction by SMART, at which point Contractor can negotiate a change order for the increased requirements."

Section 8.09 Deductibles and Retentions. Contractor shall be responsible for payment of any insurance premiums, including any charges for required waivers of subrogation or the endorsement of additional insured. Contractor shall also be responsible for the payment of all deductibles or retention on Contractor's policies without right of contribution from SMART.

Section 8.10 Injuries. If injury occurs to any employee of Contractor, Subcontractor or sub-subcontractor for which the employee, or the employee's dependents in the event of employee's death, is entitled to compensation from SMART under provisions of the Workers' Compensation Insurance and Safety Act, as amended, or for which compensation is claimed from SMART, SMART may retain out of sums due Contractor under Contract Documents, amount sufficient to cover such compensation, as fixed by the

Act, as amended, until such compensation is paid, or until it is determined that no compensation is due. If SMART is compelled to pay compensation, SMART may, in its discretion, either deduct and retain from the Contract Sum the amount so paid, or require Contractor to reimburse SMART.

Section 8.11 Subcontractor Responsibility. Contractor shall require and verify that subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure SMART is named additional insured on insurance required from subcontractors.

Section 8.12 Claims Made Coverage. If any insurance specified above is written on a claims-made coverage form, Contractor shall:

- (a) Ensure that the retroactive date is shown on the policy, and such date must be before the date of this Agreement or beginning of any work under this Agreement;
- (b) Maintain and provide evidence of similar insurance for at least five (5) years following project completion, including the requirement of adding all additional insureds; and
- (c) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to Agreement effective date, Contractor shall purchase “extending reporting” coverage for a minimum of five (5) years after completion of the work.

Section 8.13 Documentation. The following documentation shall be submitted to SMART:

- (a) Properly executed Certificates of Insurance clearly evidencing all coverages and limits required above. Said Certificates shall be submitted prior to the execution of this Agreement. At SMART’s request, Contractor shall provide certified copies of the policies that correspond to the policies listed on the Certificates of Insurance. Contractor agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with SMART for the duration of this Agreement.
- (b) Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current endorsements evidencing the above-specified requirements on file with SMART for the duration of this Agreement.
- (c) After the Agreement has been signed, signed Certificates of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

Please email all renewal certificates of insurance and corresponding policy documents to InsuranceRenewals@sonomamarintrain.org.

Section 8.14 Policy Obligations. Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 8.15 Material Breach. If Contractor, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of this Agreement. SMART, in its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, SMART may purchase such required insurance coverage, and without further notice to Contractor, SMART may deduct from sums due to Contractor any premium costs advanced by SMART for such insurance. These remedies shall be in addition to any other remedies available to SMART.

Section 8.16 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice to SMART.

ARTICLE 9. MISCELLANEOUS.

Section 9.01 Terms and Abbreviations. Terms and abbreviations used in this Agreement are defined in Document 00 70 00 - General Conditions and Section 01420 (References and Definitions) and will have the meaning indicated therein.

Section 9.02 Confidentiality and Non-Disclosure Agreement. The Contractor and any subcontractors requiring access to SMART-designated Safety Sensitive Information ("SSI") in order to complete the required scope of work shall sign SMART's Confidentiality and Non-Disclosure Agreement prior to being provided access.

Section 9.03 Use of Recycled Paper. SMART requires that all printing jobs produced under this Agreement be printed on recycled content papers. Recycled-content papers are defined as papers containing a minimum of 30 percent postconsumer fiber by weight. All papers used in the performance of a print job for SMART shall be recycled-content paper. If paper meets the 30 percent requirement, the recycling logo should be printed on the project.

Section 9.04 Signers of this Agreement. It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of SMART or acting as an employee, agent, or representative of SMART, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of the SMART is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

Section 9.05 No Assignment of Contract. Contractor shall not assign any portion of the Contract Documents, and may subcontract portions of the Contract Documents only in compliance with the Subcontractor Listing Law, California Public Contract Code §4100 *et seq.*

Section 9.06 Assignment of Rights to Awarding Body. In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time SMART tenders final payment to Contractor, without further acknowledgment by the parties.

Section 9.07 Prevailing Wages. Contractor and all Subcontractors shall pay to all workers employed not less than the prevailing rate of wages as determined in accordance with the Labor Code as indicated herein.

All Contractors, contractors, and subcontractors doing business with public agencies through the State of California (including SMART) shall comply with applicable labor compliance requirements including, but not limited to prevailing wages, SB 854, Labor Code Sections 1725.5, 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815. Public Works Contractor Registration Programs, Electronic Certified Payroll Records submission to the State Labor Commissioner and other requirements, described at <http://www.dir.ca.gov/Public-Works/Contractors.html>.

Applicable projects are subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and shall be made available to any interested party on request.

Pursuant to Section 1861 of the Labor Code, Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

Section 9.08 Licensing Laws. The Contractor and all subcontractors shall comply with the provisions of Chapter 9 Division 3 of the Business and Professions code concerning the licensing of contractors. All Contractors shall be licensed in accordance with the laws of the State of California and any Contractor not so licensed is subject to the penalties imposed by such laws. Prior to commencing any work under contract, all Contractors and subcontractors must show that they hold appropriate and current Contractor Licenses in the State of California. The Contractor shall provide such subcontractor information, including the class type, license, number, and expiration date to SMART.

Section 9.09 Drug-Free Workplace. Contractor certifies that it will provide a drug-free workplace in compliance with Government Code §8350-§8357.

Section 9.10 Continuation of Work. Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).

Section 9.11 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Venue for any action to enforce the terms of this Agreement or for the breach thereof shall be in the Superior Court of the State of California in the County of Marin.

Section 9.12 Claims Procedures. Contractor accepts the claims procedure established by Article 12 of Document 00 70 00 - General Conditions, as established under Section 930.2 of the California Government Code.

Section 9.13 Relationships of the Parties: No Intended Third-Party Beneficiaries. The Parties intend by this Agreement to establish a cooperative funding relationship, and do not intend to create a partnership, joint, venture, joint enterprise, or any other business relationship. There is no third person or entity who is an intended third-party beneficiary under this Agreement. No incidental beneficiary, whatever relationship such person may have with the Parties, shall have any right to bring an action or suit, or to assert any claim against the Parties under this Agreement. Nothing contained in this Agreement shall be construed to create and the Parties do not intend to create any rights in third parties.

Section 9.14 No Waiver of Breach. The waiver by SMART of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

Section 9.15 Acceptance of Electronic Signatures and Counterparts. The parties agree that this Contract, Agreements ancillary to this Contract, and related documents to be entered into this Contract will be considered executed when all parties have signed this Agreement. Signatures delivered by scanned image as an attachment to electronic mail or delivered electronically through the use of programs such as DocuSign must be treated in all respects as having the same effect as an original signature. Each party further agrees that this

Contract may be executed in two or more counterparts, all of which constitute one and the same instrument.

Section 9.16 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONTRACTOR: STACY AND WITBECK/GHILOTTI BROS, A JOINT VENTURE

By: _____
Kurt Kniffin, Executive Vice President On behalf of Stacy and Witbeck/Ghilotti Bros, a Joint Venture

Date: _____

SONOMA-MARIN AREA RAIL TRANSIT (SMART)

By: _____
Eddy Cumins, General Manager

Date: _____

CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR SMART:

By: _____
Ken Hendricks, Procurement Manager

Date: _____

APPROVED AS TO FORM FOR SMART:

By: _____
District Counsel

Date: _____

**EXHIBIT A
SCHEDULE OF RATES**

TABLE A-1 CONSTRUCTION OF PETALUMA NORTH STATION PLATFORM & CORONA ROAD IMPROVEMENTS						
Item	Spec Section	Description	QTY	UOM	Unit Price (In Figures)	Item Total (In Figures)
100	01 71 13	Mobilization	1	LS	\$925,000.00	\$925,000.00
101	01 57 00	Water Pollution Control	1	LS	\$75,000.00	\$75,000.00
102	01 71 25	Traffic Management	1	LS	\$100,000.00	\$100,000.00
103	01 58 00	Project Funding Sign	1	EA	\$800.00	\$800.00
200	31 11 00	Clearing and Grubbing	20,000	SF	\$1.50	\$30,000.00
201	31 11 50	Sidewalk Removal	800	SF	\$2.00	\$1,600.00
202	31 11 50	Curb and Gutter Removal	150	LF	\$18.00	\$2,700.00
203	31 11 50	Asphalt Removal	3,700	SF	\$2.00	\$7,400.00
204	31 20 00	Earthwork (F)	500	CY	\$720.00	\$360,000.00
205	31 20 00	Import	10	CY	\$15.00	\$150.00
206	31 20 00	Additional Earthwork (R)	100	CY	\$200.00	\$20,000.00
207	31 20 00	Fine Grading	20,000	SF	\$1.00	\$20,000.00
208	32 12 16	Mill Asphalt	8,000	SF	\$1.25	\$10,000.00
211	32 12 16	Street Asphalt Overlay	120	TON	\$260.00	\$31,200.00
212	32 16 14	Street Curb and Gutter	400	LF	\$100.00	\$40,000.00
214	32 16 14	Parking Lot Curb	230	LF	\$48.00	\$11,040.00

215	32 16 14	Street Concrete Sidewalk	3,000	SF	\$20.00	\$60,000.00
216	32 16 14	Concrete Flatwork	7,000	SF	\$33.00	\$231,000.00
217	32 31 13	Fence	800	LF	\$52.00	\$41,600.00
218	34 42 11	Railroad/ Signal Gate Foundation	7	EA	\$3,700.00	\$25,900.00
219	32 31 13	Swing Gate and Foundation	2	EA	\$12,000.00	\$24,000.00
220	35 130 00	Detail 22	300	LF	\$3.00	\$900.00
221	N/A	N/A (REMOVED)	-	-	-----	-----
222	35 130 00	Detail 31	350	LF	\$3.00	\$1,050.00
223	35 130 00	Detail 39	450	LF	\$3.00	\$1,350.00
224	32 17 23	Markings	200	SF	\$20.00	\$4,000.00
226	35 130 00	Signs	4	EA	\$600.00	\$2,400.00
227	33 11 00	Water Line	350	LF	\$150.00	\$52,500.00
236	35 110 00	Adjust to Grade Manhole	1	EA	\$2,000.00	\$2,000.00
237	35 110 00	Adjust to Grade Valve	1	EA	\$2,000.00	\$2,000.00
242	N/A	N/A (REMOVED)	-	-	-----	-----
243	33 05 16	Corona Road Drainage Vault	1	EA	\$125,000.00	\$125,000.00
245	33 05 16	Corona Road Precast 24x24 Drainage Box	1	EA	\$4,500.00	\$4,500.00
246	33 05 16	Curb Inlet	1	EA	\$6,600.00	\$6,600.00
300	31 11 50	Track Demolition	800	LF	\$21.00	\$16,800.00
301	33 40 00	Pedestrian Crossing Panel	1	EA	\$15,000.00	\$15,000.00

302	33 40 00	19'-6" Gauntlet Turnout	2	EA	\$115,000.00	\$230,000.00
303	33 46 14	Ballast	700	TON	\$80.00	\$56,000.00
304	33 40 00	Sub Ballast	500	TON	\$190.00	\$95,000.00
305	N/A	N/A (REMOVED)	-	-	-----	-----
306	33 40 00	Track Construction	510	LF	\$375.00	\$191,250.00
307	34 11 35	Tamp Track	500	LF	\$20.00	\$10,000.00
308	34 11 35	Tamp Track - Profile Adjustment	3,000	LF	\$30.00	\$90,000.00
309	34 72 00	Insulated Joints	4	EA	\$5,500.00	\$22,000.00
400	03 30 00	Structural Concrete (Platform) (F)	370	CY	\$1,510.00	\$558,700.00
401	03 20 00	Bar Reinforcing Steel (Platform)	65,000	LB	\$1.75	\$113,750.00
402	32 16 14	Pedestrian Ramp, Guardrail, and Handrail	800	SF	\$330.00	\$264,000.00
403	32 16 14	Stairs, Guardrail, and Handrail	10	CY	\$1,650.00	\$16,500.00
404	05 52 00	Platform Guardrail	230	LF	\$275.00	\$63,250.00
405	32 17 26	Detectable Warning Device	540	SF	\$56.00	\$30,240.00
406	12 93 00	Shelters and Benches	2	EA	\$162,000.00	\$324,000.00
407	10 14 00	Station Wayfinding	2	EA	\$16,500.00	\$33,000.00
408	12 93 00	Trash Receptacle	2	EA	\$2,750.00	\$5,500.00
409	12 93 00	Recycling Receptacle	2	EA	\$2,750.00	\$5,500.00
410	05 50 00	Platform Access Door	1	EA	\$8,000.00	\$8,000.00
411	22 11 01	Hose Bib and Enclosure	1	EA	\$6,200.00	\$6,200.00

412	27 05 28	Station Platform Conduits	1	LS	\$87,000.00	\$87,000.00
413	10 14 00	General Station Signs and Platform Painting	1	LS	\$4,500.00	\$4,500.00
500	12 93 00	Bike Rack	12	EA	\$700.00	\$8,400.00
501	12 93 00	Bike Enclosure	12	EA	\$23,000.00	\$276,000.00
600	23 24 13	Electrical Switchboard	1	EA	\$275,000.00	\$275,000.00
601	26 24 24	Panelboard	1	EA	\$7,000.00	\$7,000.00
602	26 24 24	Lighting Control Panel	2	EA	\$17,000.00	\$34,000.00
603	26 24 24	Lighting Inverter	1	EA	\$68,000.00	\$68,000.00
604	26 05 43	3/4" C. RGS	450	LF	\$22.00	\$9,900.00
605	26 05 43	1" C. RGS	200	LF	\$30.00	\$6,000.00
606	26 05 43	4" C. RGS	1,200	LF	\$125.00	\$150,000.00
607	26 05 43	3/4" PVC SCH 40	1,550	LF	\$38.00	\$58,900.00
608	26 05 43	1" PVC SCH 40	300	LF	\$42.00	\$12,600.00
609	26 05 43	1 1/2" PVC SCH 40	200	LF	\$52.00	\$10,400.00
610	26 05 43	2 1/2" PVC SCH 40	150	LF	\$55.00	\$8,250.00
611	26 05 43	3 1/2" PVS SCH 40	200	LF	\$75.00	\$15,000.00
612	26 05 43	4" PVC SCH 40	20	LF	\$225.00	\$4,500.00
613	26 05 43	5" PVC SCH 40	30	LF	\$275.00	\$8,250.00
614	26 27 26	#12 AWG	100	LF	\$2.50	\$250.00
615	26 27 26	#10 AWG	1,000	LF	\$2.50	\$2,500.00

616	26 27 26	#8 AWG	1,000	LF	\$2.50	\$2,500.00
617	26 27 26	#2 AWG	1,200	LF	\$6.00	\$7,200.00
618	26 27 26	#3/0 AWG	1,000	LF	\$10.00	\$10,000.00
619	N/A	N/A (REMOVED)	-	-	-----	-----
620	26 05 43	In Grade Pull Box	42	EA	\$1,400.00	\$58,800.00
621	26 05 43	Junction Boxes	19	EA	\$1,250.00	\$23,750.00
622	34 41 13	Corona Road Lights	3	EA	\$15,000.00	\$45,000.00
623	34 41 13	Corona Road Conduits and Conductors	400	LF	\$120.00	\$48,000.00
624	26 50 00	Area Light Fixture and Pole - Parking	6	EA	\$14,000.00	\$84,000.00
625	26 50 00	Platform Light Fixture and Pole	6	EA	\$6,000.00	\$36,000.00
626	26 50 00	Shelter Light Fixture	8	EA	\$1,200.00	\$9,600.00
628	34 41 13	Remove Existing Corona Road Light	1	EA	\$3,100.00	\$3,100.00
629	26 05 43	2" PVC SCH 40	500	LF	\$45.00	\$22,500.00
630	26 05 43	3" PVC SCH 40	15	LF	\$175.00	\$2,625.00
631	26 27 26	#4 AWG	20	LF	\$5.00	\$100.00
700	34 42 00	CP Petaluma North All Inclusive	1	LS	\$1,780,000.00	\$1,780,000.00
701	34 42 00	Corona All Inclusive	1	LS	\$1,075,000.00	\$1,075,000.00
702	34 42 00	Vital Network Changes Including Perle Switches	1	LS	\$20,000.00	\$20,000.00
703	34 42 00	Petaluma Downtown Network Changes	1	LS	\$35,000.00	\$35,000.00

704	34 42 00	Application Software Review Sessions	10	DAY	\$2,500.00	\$25,000.00
800	27 05 00	CP Petaluma North All Inclusive (Comm)	1	LS	\$440,000.00	\$440,000.00
801	27 15 13	Station Platform Conductors	3,100	LF	\$15.00	\$46,500.00
802	27 24 00	Card Reader Installation	3	EA	\$1,500.00	\$4,500.00
803	27 24 00	Ticket Vending Machine Procure & Installation	1	EA	\$3,500.00	\$3,500.00
804	27 24 00	Emergency Telephone	1	EA	\$1,500.00	\$1,500.00
805	27 24 00	Wireless Access Point	2	EA	\$1,600.00	\$3,200.00
806	27 05 11	POE Camera (360) Station Platform	4	EA	\$6,000.00	\$24,000.00
807	27 24 00	POE Speaker	2	EA	\$2,000.00	\$4,000.00
810	27 05 11	POE Camera Corona Rd	1	EA	\$32,000.00	\$32,000.00
811	27 15 13	Communications Conductor- Corona Rd	50	LF	\$15.00	\$750.00
900	N/A	Allowance – Unforeseen Conditions	1	LS	\$200,000.00	\$200,000.00
TOTAL PRICE (TABLE A-1):						\$9,468,955.00

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**TABLE B
GRADE CROSSING RECONSTRUCTION**

Item	Spec Section	Description	QTY	UOM	Unit Price (In Figures)	Item Total (In Figures)
100	01 71 13	Mobilization	1	LS	\$340,000.00	\$340,000.00
101	31 60 00	Water Pollution Control	1	LS	\$34,000.00	\$34,000.00
102	01 71 25	Traffic Management	1	LS	\$41,000.00	\$41,000.00
200	35 310 00	Asphalt Plug	100	TON	\$350.00	\$35,000.00
201	05 52 10	Pedestrian Swing Gate and Foundation	4	EA	\$11,000.00	\$44,000.00
202	34 42 11	Railroad Gate Foundation	6	EA	\$3,500.00	\$21,000.00
203	31 11 50	Remove Existing Curb and Gutter	40	LF	\$48.00	\$1,920.00
204	31 11 50	Remove Existing Sidewalk	180	SF	\$9.00	\$1,620.00
205	31 11 50	Remove Existing Asphalt Roadway	217	SF	\$4.00	\$868.00
206	32 16 16	N/A – Removed	-	-	-----	-----
207	32 16 16	Curb and Gutter	82	LF	\$120.00	\$9,840.00
208	32 16 16	Concrete Sidewalk	810	SF	\$29.00	\$23,490.00
209	32 31 13	Fence	42	LF	\$125.00	\$5,250.00
300	31 11 00	Track Demolition	1	LS	\$43,000.00	\$43,000.00
301	34 11 13	Grade Panel, Tie, and Track	1	LS	\$380,000.00	\$380,000.00
302	34 71 50	Pedestrian Panel	2	EA	\$10,000.00	\$20,000.00
303	34 11 26	Ballast	500	TON	\$95.00	\$47,500.00
304	34 11 26	Subballast	400	TON	\$155.00	\$62,000.00
305	34 80 23	Subdrain	700	LF	\$17.00	\$11,900.00
306	33 40 00	Geotextile Fabric	700	SY	\$3.00	\$2,100.00
400	26 05 70	Electrical Service	2	EA	\$12,000.00	\$24,000.00

401	26 05 43	3" Conduit	250	LF	\$88.00	\$22,000.00
500	34 42 00	North McDowell Main All Inclusive	1	LS	\$1,200,000.00	\$1,200,000.00
501	34 42 00	North McDowell Remote All Inclusive	1	LS	\$1,050,000.00	\$1,050,000.00
600	27 05 11	POE Camera (360) North McDowell Main	1	EA	\$32,000.00	\$32,000.00
601	27 05 11	POE Camera (360) North McDowell Remote	1	EA	\$33,000.00	\$33,000.00
602	27 15 13	Communications Conductor	50	LF	\$16.00	\$800.00
900	N/A	Allowance – Unforeseen Conditions	1	LS	\$50,000.00	\$50,000.00
TOTAL PRICE (TABLE B):						\$3,536,288.00

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**TABLE C
CONSTRUCTION OF NON-MOTORIZED PATHWAY SEGMENT 2
FROM SOUTHPOINT BOULEVARD TO MAIN STREET (MP 40.4 TO MP 43.3)**

Item	Spec Section	Description	QTY	UOM	Unit Price (In Figures)	Item Total (In Figures)
1	01 71 13	Mobilization	1	LS	\$975,000.00	\$975,000.00
2	01 71 23	Water Pollution Control	1	LS	\$275,000.00	\$275,000.00
3	01 57 00	Traffic Management	1	LS	\$110,000.00	\$110,000.00
4	01 58 00	Project Funding Sign	1	EA	\$800.00	\$800.00
5	31 11 00	Clearing and Grubbing	6	AC	\$32,000.00	\$192,000.00
6	31 11 00	Remove Chain Link Fence (Type CL-Varies)	7,300	LF	\$7.00	\$51,100.00
7	35 130 00	Relocate Sign	15	EA	\$600.00	\$9,000.00
8	35 130 00	Reset Sign	3	EA	\$750.00	\$2,250.00
9	31 11 00	Remove Tree	4	EA	\$3,200.00	\$12,800.00
10	31 11 50	Remove Sidewalk	2,400	SF	\$5.00	\$12,000.00
11	31 11 50	Remove Curb	100	LF	\$15.00	\$1,500.00
12	31 11 50	Remove Curb and Gutter	290	LF	\$27.00	\$7,830.00
13	31 11 50	Remove and Replace Undocumented Fill Material	1,300	CY	\$200.00	\$260,000.00
14	31 11 50	Remove Headwall	2	EA	\$2,100.00	\$4,200.00
15	31 11 50	Abandon Headwall	1	EA	\$1,500.00	\$1,500.00
16	01 57 00	Temporary Fence (Type ESA)	305	LF	\$13.00	\$3,965.00
17	31 20 00	Earthworks - CUT	1,200	CY	\$125.00	\$150,000.00
18	31 20 00	Earthworks - FILL	6,500	CY	\$22.00	\$143,000.00
19	31 20 00	Roadway Excavation	40	CY	\$220.00	\$8,800.00
20	31 20 00	Scarify Existing Subgrade	20,500	SY	\$4.50	\$92,250.00

21	31 20 00	Structural Excavation (Walls & Misc)	3,500	CY	\$70.00	\$245,000.00
22	32 12 16	Hot Mix Asphalt	4,600	TON	\$180.00	\$828,000.00
23	32 11 23	Class II Aggregate Base	2,500	CY	\$145.00	\$362,500.00
24	33 40 00	2" PVC	30	LF	\$170.00	\$5,100.00
25	33 40 00	8" PVC	8	LF	\$210.00	\$1,680.00
26	33 40 00	6" Steel	30	LF	\$560.00	\$16,800.00
27	33 40 00	12" RCP (Class V)	16	LF	\$245.00	\$3,920.00
28	33 40 00	18" RCP (Class III)	12	LF	\$315.00	\$3,780.00
29	33 40 00	18" RCP (Class V)	63	LF	\$350.00	\$22,050.00
30	33 40 00	18" PVC	15	LF	\$430.00	\$6,450.00
31	33 40 00	24" RCP (Class III)	63	LF	\$260.00	\$16,380.00
32	33 40 00	24" RCP (Class V)	62	LF	\$350.00	\$21,700.00
33	33 40 00	36" RCP (Class V)	157	LF	\$400.00	\$62,800.00
34	33 40 00	48" Corrugated Steel Pipe	5	LF	\$2,000.00	\$10,000.00
35	33 05 16	Under Sidewalk Drain	22	LF	\$300.00	\$6,600.00
36	33 05 16	Curb Cut Channel Crossing	1	EA	\$11,000.00	\$11,000.00
37	31 11 50	Abandon Culvert	60	LF	\$25.00	\$1,500.00
38	32 31 13	4' Chain Link Fence (Type CL-4, Blk. Vinyl Clad)	5,900	LF	\$30.00	\$177,000.00
39	N/A	N/A (REMOVED)	-	-	-----	-----
40	32 31 13	6' Chain Link Fence (Type CL-6, Standard)	20,000	LF	\$40.00	\$800,000.00
41	32 31 13	4' Barb Wire Fence (Type BW)	6,500	LF	\$15.00	\$97,500.00
42	32 31 13	Pipe Railing	60	LF	\$250.00	\$15,000.00
43	03 30 00	Fence Post Spread Foundation (R)	14,000	LF	\$60.00	\$840,000.00

44	32 32 16	Modular Retaining System	12,000	SF	\$70.00	\$840,000.00
45	32 32 16	Ultrablock Retaining System	1,100	LF	\$300.00	\$330,000.00
46	32 17 28	Portable Concrete Barrier	8	EA	\$8,500.00	\$68,000.00
47	31 62 16	Sheet Pile Wall	100	LF	\$3,500.00	\$350,000.00
48	33 40 00	48" Manhole	1	EA	\$7,000.00	\$7,000.00
49	33 40 00	Drainage Inlet	6	EA	\$8,000.00	\$48,000.00
50	03 30 00	Drainage Headwall	4	EA	\$48,000.00	\$192,000.00
51	32 17 23	Paint Pavement Marking	121	SF	\$80.00	\$9,680.00
52	32 17 23	Thermoplastic Pavement Marking	2,400	SF	\$20.00	\$48,000.00
53	32 17 23	Paint Pavement Striping	1,900	LF	\$12.00	\$22,800.00
54	32 17 23	4" Thermoplastic Traffic Stripe	700	LF	\$4.00	\$2,800.00
55	32 17 23	SMART Train Stencil	4	EA	\$80.00	\$320.00
56	32 17 23	Object Marker (Type Q)	12	EA	\$300.00	\$3,600.00
57	32 17 23	Channelizer	4	EA	\$210.00	\$840.00
58	32 16 14	Minor Concrete (Curb Ramp)	32	CY	\$2,000.00	\$64,000.00
59	32 16 14	Minor Concrete (Sidewalk)	67	CY	\$1,800.00	\$120,600.00
60	32 16 14	Minor Concrete (Curb and Gutter)	490	LF	\$95.00	\$46,550.00
61	32 16 14	Minor Concrete (Curb)	186	LF	\$65.00	\$12,090.00
62	32 12 16	AC Curb	165	LF	\$57.00	\$9,405.00
63	33 40 00	Rock Slope Protection (Light, Method B)	70	CY	\$460.00	\$32,200.00
64	33 40 00	Rock Slope Fabric	110	SY	\$18.00	\$1,980.00
65	35 130 00	Roadside Sign - Single Post	103	EA	\$500.00	\$51,500.00
66	32 17 26	Detectable Warning Surface	344	SF	\$45.00	\$15,480.00

67	33 05 24	Adjust Pull Box to Grade	4	EA	\$1,000.00	\$4,000.00
68	33 05 24	Adjust Fiber Optic Pull Box to Grade	7	EA	\$1,000.00	\$7,000.00
69	33 05 24	Adjust Electrical Vault to Grade	2	EA	\$1,500.00	\$3,000.00
70	33 05 24	Adjust Electrical Pull Box to Grade	2	EA	\$1,000.00	\$2,000.00
71	33 05 24	Adjust Water Valve to Grade	2	EA	\$1,900.00	\$3,800.00
72	33 05 24	Adjust Riser to Grade	1	EA	\$1,200.00	\$1,200.00
73	33 05 24	Adjust Sonic Box to Grade	1	EA	\$1,500.00	\$1,500.00
74	33 05 24	Relocate Pull Box	1	EA	\$1,500.00	\$1,500.00
75	31 11 50	Remove Abandoned Telephone Pole	14	EA	\$300.00	\$4,200.00
76	01 71 23	Monument Preservation	1	LS	\$10,000.00	\$10,000.00
77	34 41 14	LED Enhanced Pedestrian Warning Sign at SouthPoint	2	EA	\$16,000.00	\$32,000.00
78	32 34 13	Pedestrian Bridge	1	LS	\$740,000.00	\$740,000.00
79	35 00 00	Bicycle and Pedestrian Counter	1	EA	\$18,500.00	\$18,500.00
80	34 41 13	Traffic Signal at Corona Road	1	LS	\$440,000.00	\$440,000.00
81	34 41 13	Traffic Signal at McDowell Boulevard	1	LS	\$580,000.00	\$580,000.00
82	34 41 13	Traffic Signal at Ely Road	1	LS	\$410,000.00	\$410,000.00
83	34 42 00	South Point All Inclusive	1	LS	\$40,000.00	\$40,000.00
84	34 42 00	Ely All Inclusive	1	LS	\$320,000.00	\$320,000.00
85	34 42 00	Vital Network Changes Including Perle Switches	1	LS	\$27,000.00	\$27,000.00
86	34 42 00	Petaluma Downtown Network Changes	1	LS	\$27,000.00	\$27,000.00
87	33 40 00	60" HDPE Pipe & 2 Couplers	10	LF	\$2,800.00	\$28,000.00
88	32 31 13	Warning Barrier Fence (4' orange mesh on T stakes)	15,600	LF	\$7.50	\$117,000.00

89	N/A	Allowance – Unforeseen Conditions	1	LS	\$100,000.00	\$100,000.00
TOTAL PRICE (TABLE C):						\$11,062,300.00

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**TABLE D
CONSTRUCTION OF NON-MOTORIZED PATHWAY SEGMENT 3
FROM GOLF COURSE DRIVE TO BELLEVUE AVENUE (MP 48.5 TO MP 51.2)**

Item	Spec Section	Description	QTY	UOM	Unit Price (In Figures)	Item Total (In Figures)
1	01 71 13	Mobilization	1	LS	\$695,000.00	\$695,000.00
2	01 71 23	Water Pollution Control	1	LS	\$280,000.00	\$280,000.00
3	01 57 00	Traffic Management	1	LS	\$140,000.00	\$140,000.00
4	01 58 00	Project Funding Sign	1	EA	\$800.00	\$800.00
5	31 11 00	Clearing and Grubbing	6	AC	\$25,000.00	\$150,000.00
6	31 11 00	Remove Chain Link Fence (Type CL-Varies)	7,200	LF	\$7.00	\$50,400.00
7	31 11 50	Remove Sidewalk	50	SF	\$17.00	\$850.00
8	35 130 00	Relocate Sign	2	EA	\$750.00	\$1,500.00
9	31 11 50	Remove Utility Pole	4	EA	\$1,500.00	\$6,000.00
10	31 11 50	Remove Guardrail	30	LF	\$56.00	\$1,680.00
11	31 11 50	Remove Curb	9	LF	\$48.00	\$432.00
12	31 11 50	Remove AC Berm	60	LF	\$14.00	\$840.00
13	31 11 00	Remove Tree	2	EA	\$4,800.00	\$9,600.00
14	31 11 50	Remove H Pile	1	EA	\$1,700.00	\$1,700.00
15	31 11 50	Remove Headwall	2	EA	\$1,750.00	\$3,500.00
16	31 11 50	Remove Underdrain	2	EA	\$1,400.00	\$2,800.00
17	31 20 00	Remove and Replace Undocumented Fill Material	100	CY	\$215.00	\$21,500.00
18	32 17 28	Modify Existing Guardrail	1	LS	\$6,500.00	\$6,500.00
19	33 05 24	Relocate 2" Riser Vent	4	EA	\$2,100.00	\$8,400.00
20	33 05 24	Adjust Pull Box to Grade	3	EA	\$900.00	\$2,700.00

21	33 05 24	Adjust Fiber Optic Pull Box to Grade	4	EA	\$900.00	\$3,600.00
22	33 05 24	Adjust Sewer Manhole (To Grade)	1	EA	\$1,400.00	\$1,400.00
23	33 05 24	Relocate Pull Box	4	EA	\$1,200.00	\$4,800.00
24	31 20 00	Earthworks - CUT	1,100	CY	\$130.00	\$143,000.00
25	31 20 00	Earthworks - FILL	4,100	CY	\$42.00	\$172,200.00
26	31 20 00	Scarify Existing Subgrade	19,000	SY	\$4.00	\$76,000.00
27	32 12 16	Grind AC Pavement	40	SY	\$35.00	\$1,400.00
28	31 20 00	Roadway Excavation	10	CY	\$640.00	\$6,400.00
29	31 20 00	Structural Excavation	190	CY	\$200.00	\$38,000.00
30	32 12 16	Hot Mix Asphalt	4,300	TON	\$200.00	\$860,000.00
31	32 11 23	Class II Aggregate Base	1,100	CY	\$155.00	\$170,500.00
32	33 40 00	Reset 8" CMP	1	EA	\$1,900.00	\$1,900.00
33	33 40 00	8" RCP (Class III)	50	LF	\$180.00	\$9,000.00
34	33 40 00	24" RCP (Class III)	90	LF	\$480.00	\$43,200.00
35	33 40 00	30" RCP (Class III)	4	LF	\$1,250.00	\$5,000.00
36	33 40 00	24" Flared End Section	1	EA	\$1,600.00	\$1,600.00
37	33 40 00	Drainage Inlet	1	EA	\$9,000.00	\$9,000.00
38	33 40 00	48" Manhole	1	EA	\$6,000.00	\$6,000.00
39	32 31 13	4' Chain Link Fence (Type CL-4, Blk. Vinyl Clad)	2,700	LF	\$65.00	\$175,500.00
40	N/A	N/A (REMOVED)	-	-	-----	-----
41	32 31 13	6' Chain Link Fence (Type CL-6, Standard)	18,000	LF	\$45.00	\$810,000.00
42	32 31 13	6' Chain Link Fence (Type CL-6, High Security)	500	LF	\$100.00	\$50,000.00

43	32 31 13	Channelization Railing	84	LF	\$210.00	\$17,640.00
44	03 30 00	Fence Post Spread Foundation (R)	9,400	LF	\$55.00	\$517,000.00
45	32 31 13	Double Leaf Swing Gate	3	EA	\$3,000.00	\$9,000.00
46	32 32 16	Modular Retaining System	1,800	SF	\$130.00	\$234,000.00
47	03 30 00	Drainage Headwall	4	EA	\$40,000.00	\$160,000.00
48	33 40 00	Rock Slope Protection (Light, Method B)	9	CY	\$1,000.00	\$9,000.00
49	33 40 00	Rock Slope Fabric	28	SY	\$40.00	\$1,120.00
50	32 17 23	Paint Pavement Marking	136	SF	\$25.00	\$3,400.00
51	32 17 23	Thermoplastic Pavement Marking	1,200	SF	\$14.00	\$16,800.00
52	32 17 23	Paint Pavement Striping	1,700	LF	\$5.50	\$9,350.00
53	32 17 23	6" Thermoplastic Traffic Stripe	87	LF	\$11.00	\$957.00
54	32 17 23	SMART Train Stencil	6	EA	\$70.00	\$420.00
55	32 17 23	Channelizer	6	EA	\$275.00	\$1,650.00
56	32 16 14	Minor Concrete (Curb Ramp)	22	CY	\$3,100.00	\$68,200.00
57	32 16 14	Minor Concrete (Sidewalk)	9	CY	\$2,800.00	\$25,200.00
58	32 16 14	Minor Concrete (Curb)	45	LF	\$66.00	\$2,970.00
59	32 16 14	Minor Concrete (Curb and Gutter)	143	LF	\$130.00	\$18,590.00
60	35 130 00	Roadside Sign - Single Post	64	EA	\$640.00	\$40,960.00
61	32 17 26	Detectable Warning Surface	300	SF	\$44.00	\$13,200.00
62	01 57 00	Protect-In-Place Historic Roadway Highway Concrete	1	LS	\$21,000.00	\$21,000.00
63	34 41 13	Traffic Signal at Todd Road	1	LS	\$460,000.00	\$460,000.00
64	34 41 14	LED Enhanced Pedestrian Warning Sign at Scenic	2	EA	\$16,000.00	\$32,000.00

65	34 41 14	LED Enhanced Pedestrian Warning Sign at West Robles	2	EA	\$16,000.00	\$32,000.00
66	34 41 14	LED Enhanced Pedestrian Warning Sign at Bellevue	2	EA	\$16,000.00	\$32,000.00
67	32 34 13	Pedestrian Bridge	1	LS	\$800,000.00	\$800,000.00
68	35 00 00	Bicycle and Pedestrian Counter	1	EA	\$19,000.00	\$19,000.00
69	34 42 00	Scenic All Inclusive	1	LS	\$430,000.00	\$430,000.00
70	34 42 00	Todd All Inclusive	1	LS	\$425,000.00	\$425,000.00
71	34 42 00	West Robles All Inclusive	1	LS	\$37,000.00	\$37,000.00
72	34 42 00	Bellevue All Inclusive	1	LS	\$57,000.00	\$57,000.00
73	34 42 00	Vital Network Changes Including Perle Switches	1	LS	\$11,000.00	\$11,000.00
74	32 31 13	Warning Barrier Fence (4' orange mesh on T stakes)	14,700	LF	\$8.00	\$117,600.00
75	N/A	Allowance – Unforeseen Conditions	1	LS	\$100,000.00	\$100,000.00
TOTAL PRICE (TABLE D):						\$7,695,759.00

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**TABLE E
NORTH MCDOWELL BOULEVARD RECONSTRUCTION (PETALUMA SECTION)**

Item	Spec Section	Description	QTY	UOM	Unit Price (In Figures)	Item Total (In Figures)
1	01 75 25	Traffic Control	1	LS	\$170,000.00	\$170,000.00
2	31 11 50	Remove Existing Vertical Curb	15	LF	\$22.00	\$330.00
3	31 11 50	Remove Existing Curb and Gutter	375	LF	\$42.00	\$15,750.00
4	31 11 50	Remove Existing Sidewalk	2130	SF	\$11.00	\$23,430.00
5	31 11 50	Remove Existing Asphalt Roadway	1880	SF	\$9.00	\$16,920.00
6	31 11 50	Vertical Curb	30	LF	\$105.00	\$3,150.00
7	31 11 50	Curb and Gutter	405	LF	\$105.00	\$42,525.00
8	31 11 50	Concrete Sidewalk	4950	SF	\$25.00	\$123,750.00
9	31 11 50	Detectable Warning Surface	45	SF	\$50.00	\$2,250.00
10	31 11 50	Fence	350	LF	\$89.00	\$31,150.00
11	31 11 50	Adjust Existing Utility Cover to Grade	4	EA	\$1,900.00	\$7,600.00
12	31 11 50	6-Inch Cold Plane/Grind	3130	SY	\$18.00	\$56,340.00
13	31 11 50	Asphalt Concrete Overlay	1020	TON	\$220.00	\$224,400.00
13	31 11 50	Side Street Conform Grind and Overlay	960	SY	\$46.00	\$44,160.00
14	31 11 50	Dashed Lane Line	235	LF	\$7.00	\$1,645.00
16	31 11 50	Dashed Bike Lane Line	175	LF	\$7.00	\$1,225.00
17	31 11 50	Green Bike Lane Striping	230	SF	\$30.00	\$6,900.00
18	31 11 50	Crosswalk and Limit Line Striping	590	SF	\$25.00	\$14,750.00
19	31 11 50	Pavement Markings	360	SF	\$24.00	\$8,640.00
20	31 11 50	New Sign on New Pole	4	EA	\$595.00	\$2,380.00
21	31 11 50	New Sign on Existing Pole	1	EA	\$595.00	\$595.00
22	31 11 50	Type Q Object Marker	12	EA	\$276.00	\$3,312.00

23	31 11 50	Traffic Lane Separator	35	LF	\$140.00	\$4,900.00
TOTAL PRICE (TABLE E):						\$806,102.00

GENERAL INFORMATION

LS = Lump Sum

Costs are in United States Dollars

The above costs include all labor, supervision, equipment, materials, supplies, insurance, overhead, profit, and all other direct and indirect costs associated with performing the work included in this Agreement.

EXHIBIT B
DOT & GRANT REQUIREMENTS

1. General.

In performance of its obligations pursuant to this Agreement or Purchase Order [Hereinafter “Agreement”], the Contractor, Seller, or Consultant [Hereinafter “Contractor”] agrees to comply with all applicable provisions of federal, state and local law, regulations, and CA DOT directives. The terms of the most recent amendment to any federal, state or local laws, regulations, CA DOT directives, and amendments to the grant or cooperative agreement providing funding for this Agreement that may be subsequently adopted, are applicable to the Agreement to the maximum extent feasible, unless the CA DOT provides otherwise in writing. The Federal or State regulations set forth in this Agreement to be observed in the performance of the Agreement are subject to change, and such changed requirements will apply to this Agreement as required. Contractor shall include in its subcontracts, and require its subcontractors of every tier to include in their respective subcontracts, provisions incorporating the requirements of this Attachment. Contractor’s failure to comply with these requirements shall constitute a material breach of this Agreement and may result in the withholding of progress payments to the Contractor, in addition to other remedies.

It is the responsibility of the Contractor and its subcontractors to ensure that all clauses included in this Exhibit applicable to the work specified within the Agreement are adhered to by the Contractor and its subcontractors and flow down as required.

2. Access To Records and Reports.

Applicability: All Contracts

Contractor shall comply with the following requirements:

(a) Record Retention. Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third-party Contracts of any type, and supporting materials related to those records.

(b) Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. §200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

(c) Access to Records. The Contractor agrees to provide access to SMART, CA DOT and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required. Contractor shall also permit SMART, the Secretary of Transportation and the Comptroller General of the United States, or their authorized representatives, to inspect all project work, materials, payrolls, and other data, and to audit the books, records, and accounts of Contractor and its subcontractors pertaining to the Agreement. In accordance with 49 U.S.C. § 5325(g), Contractor shall require each subcontractor to permit SMART, the Secretary of Transportation and the Comptroller General of the United States, or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that subcontractor agreement and to audit the books, records, and accounts involving that subcontractor agreement as it affects the Agreement. Additionally, Contractor and its subcontractors agree to permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any agency of the State of California designated by the State, for the purpose of any investigation to ascertain compliance with this Agreement and the Act.

(d) Access to the Site of Performance. The Contractor agrees to permit CA DOT and its contractors access to the sites of performance under this contract as reasonably may be required.

(e) State Audit, Inspection, Access to Records and Retention of Records Requirements. Contractor and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred costs by line item for the project. Contractor and its subcontractors' accounting systems shall conform to generally accepted accounting principles (GAAP) and all records shall provide a breakdown of total costs charged to the project, including properly executed payrolls, time records, invoices and vouchers as well as all accounting generated reports. Contractor and its subcontractors shall permit representatives of the State and State Auditor to inspect, examine, make excerpts or transcribe Contractor and its subcontractors' work, documents, papers, materials, payrolls, books, records, accounts, any and all data relevant to this Agreement at any reasonable time and to audit and verify statements, invoices or bills submitted by Contractor and its subcontractors pursuant to this Agreement, and shall provide copies thereof upon request and shall provide such assistance as may be reasonably required in the course of such audit or inspection.

The State, its representatives and the State Auditor further reserve the right to examine, inspect, make copies, or excerpts of all work, documents, papers, materials, payrolls, books and accounts, and data pertaining to this Agreement and to inspect and re-examine said work, documents, papers, materials, payrolls, books, records, accounts and data during the life of the Agreement and for the three (3) year period following the final payment under this Agreement, and Contractor and its subcontractors shall in no event dispose of, destroy, alter or mutilate said work, documents, papers, materials, payrolls, books, records, accounts and data in any manner whatsoever for three (3) years after final payment under this Agreement and all pending matters are closed.

Any costs for which Contractors and its subcontractors have received payment that are determined by subsequent audit to be unallowable under the terms of this agreement may be required to be repaid to SMART by the Contractors and its subcontractors. Should Contractor and its subcontractors fail to reimburse money due SMART within 30 days of demand, or within such other period as may be agreed between the parties hereto, SMART is authorized to withhold future payments due Contractor and its subcontractors from any source.

The Contractor agrees that the Contract Cost Principles and Procedures at least as restrictive as 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 *et seq.*, shall be used to determine the allowability of individual items of costs.

The Contractor agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payments have been made to the Contractor, which are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 *et seq.*, or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by Contractor to SMART.

Any subcontract entered into as a result of this Agreement shall contain all the provisions of this section.

3. Non-Discrimination

Applicability: All Contracts

In the performance of work under this Agreement, Contractor and all subcontractors, shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, family and medical care leave, pregnancy leave, and disability leave. Contractor and all subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, *et seq.*) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 *et seq.*). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Each contractor and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as

appropriate.

4. ADA Access

Applicability: All Construction, Architecture & Engineering, Operations Management, and Rolling Stock Contracts

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

5. Lobbying

Applicability: All Contracts > \$100,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying". Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier certifies to the tier above that it will not and has not taken any action involving the Project or the Underlying Agreement for the Project, including any award, extension, or modification. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to SMART.

6. Civil Rights.

Applicability: All Contracts

The following Federal Civil Rights laws and regulations apply to the Agreement:

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:

- a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
 - b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, “Equal Employment Opportunity,” September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
 3. **Nondiscrimination on the Basis of Age.** The “Age Discrimination Act of 1975,” as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
 4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Sonoma-Marin Area Rail Transit District is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability.
5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

7. Clean Air Act

Applicability: All Contracts > \$150,000

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401-7671(q) et seq. The Contractor agrees to report each violation to SMART and the Regional Office of the Environmental Protection Agency.

8. Clean Water Act

Applicability: All Contracts > \$150,000

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 - 1377 et seq.
- (2) The contractor agrees to report each violation to the SMART and understands and agrees that SMART will, in turn, report each violation as required to the appropriate Environmental Protection Agency Regional Office in compliance with the notice of violating facility provisions in section 508 of the Clean Water Act, as amended, 33 U.S.C. 1368.
- (3) The Contractor agrees to protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j-6.

9. Conformance with National ITS Architecture

Applicability: All ITS Contracts

Intelligent Transportation Systems (ITS) property and services must comply with the National ITS Architecture and Standards to the extent required by 23 U.S.C Section 517(d). Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture.

10. Contract Work Hours and Safety Standards Act.

Applicability: All Operations Management, Rolling Stock Purchases, and Construction Contracts > \$100,000.

- a. Where applicable (see 40 U.S.C. § 3701 et seq), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2

C.F.R. Part 200, Appendix II.

- b. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- c. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1.5) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. SMART shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and

liquidated damages as provided in the clause set forth in paragraph (2) of this section.

- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

11. Davis Bacon Act and Copeland Anti-Kickback Act

Applicability: All Construction Contracts > \$2,000

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, et seq. and 18 USC 874. The Acts apply to SMART’s construction contracts and subcontracts that “at least partly are financed by a loan of grant from the Federal Government”. 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5). The Acts apply to any construction contract over \$2,000. Construction for purposes of the Acts, include “actual construction, alteration, and/or repair, including painting and decorating” as defined by 29 CFR 5.5(a).

Contractors and subcontractors at any contract tier agree to comply with the Davis-Bacon Act 40 USC 3141, et seq and implementing DOL regulations “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction” 29 CFR Part 5.

In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

SMART has attached to the Agreement a copy of the current prevailing wage determination issued by the Department of Labor which must be adhered to by the Contractor and all subcontractors. Contractor shall report all suspected or reported violations to the SMART who will intern report all violations to the Federal awarding agency.

“Compliance with the Copeland “Anti-Kickback” Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

12. Debarment and Suspension

Applicability: All Contracts > \$25,000

- (1) This contract is a covered transaction for purposes of 49 CFR Part 18. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) By signing the Agreement or accepting the Purchase Order, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by the SMART. If it is later determined that the contractor knowingly rendered an erroneous certification, in addition to remedies available to SMART, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR 180 throughout the period of this contract.

13. Procurement of Recovered Materials.

The Contractor agrees to comply with all the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. The Contractor agrees to comply with the U.S. Environmental Protection Agency (US EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials”, 40 CFR Part 247.

14. Safe Operation of Motor Vehicles.

Applicability: All Contracts

- (a) Seat Belt Use. Contractor agrees to implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. §402 note, (62 Fed Reg. 19217), by:

Stacy and Witbeck/Ghilotti Bros, a Joint Venture
Document 00 52 00 - Agreement
CV-BB-23-004

Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles.

- (b) Distracted Driving, Including Text Messaging While Driving. Contractor agrees to comply with Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” 23 U.S.C. §402, U.S. DOT Order 3902.10, “Text Messaging While Driving”, and U.S. DOT Special Provision pertaining to Distracted Driving:
- a. Safety. The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle the company owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Agreement, or when performing any work for or on behalf of SMART.
 - b. Contractor agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

15. Seismic Safety.

Applicability: All A&E and Construction Contracts

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project. The Contractor will facilitate and follow Executive Order No. 12699, “Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction,” 42 U.S.C. 7704 note, except as the Federal Government determines otherwise in writing.

16. Special DOL EEO Clause

Applicability: All Construction Contracts > \$10,000

The contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), Stacy and Witbeck/Ghilotti Bros, a Joint Venture
Document 00 52 00 - Agreement
CV-BB-23-004

60-300.5(a) and 60- 741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

17. Drug and Alcohol Testing

Applicability: All Transit Operations Service Contracts

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or the Sonoma-Marín Area Rail Transit District, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 before June 30 and to submit the Management Information System (MIS) reports to the Sonoma-Marín Area Rail Transit District. To certify compliance the Contractor shall use the “Substance Abuse Certifications” in the “Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements”, which is published annually in the Federal Registrar.

18. Veterans Hiring Preference.

Applicability: All Contracts

As provided in 49 U.S.C. §5325(k), the Contractor, to the extent practicable, agrees and assures that each subcontractor:

1. Will give a hiring preference to veterans, as defined in 5 U.S.C. §2108, who have the skills and abilities required to perform construction work required under Agreement in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53; and
2. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

19. Metric System.

Applicability: All Contracts

To the extent required by U.S. DOT, Contractor shall use the metric system of measurement in its project activities pursuant to the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. 205a et seq.; Executive Order No 12770 “Metric Usage in Federal Government Programs, 15 U.S.C. § 205a note; and other regulations, guidelines, and policies issued by U.S. DOT. To the extent practicable and feasible, SMART agrees to accept products and services with dimensions expressed in the metric system of measurement.

20. Rights to Inventions Made Under a Contract or Agreement.

Applicability: All Research and Development Contracts

Contractor agrees to comply with the requirements of 37 C.F.R. §401.2(a), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements” and any implementing regulations issued by SMART.

21. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

Applicability: All Contracts

Contractor certifies and confirms that no services provided or supplies installed or utilized under this contract constitute telecommunications services, equipment or systems prohibited under Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232), and as may be implemented by 2 C.F.R. 200.216. If Contractor later learns that prohibited telecommunications services, equipment or systems have been supplied, installed, or utilized under this Contract, Contractor shall immediately inform SMART in writing. SMART may require the Contractor to promptly replace such prohibited service, equipment and systems at the Contractor's sole cost.

22. Domestic Preferences for Procurements

Applicability: All Contracts

Contractor shall make every effort to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). This section must be included in all subcontracts.

For the purposes of this section:

- 1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

- 2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.