



BOARD OF DIRECTOR MEETING AGENDA

JULY 19, 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=TzBvYW15b1VLejVndFA4enN4M21Mz09>

Webinar ID: 861 1724 9784

Passcode: 742217

TELECONFERENCE

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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, July 18, 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

JULY 19, 2023

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

1. Call to Order
2. Approval of the June 21, 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 – June 2023
- 6b. Approval of Monthly Financial Reports – May 2023
- 6c. Approve a Resolution Authorizing the General Manager to secure an encroachment permit and enter into a Maintenance Agreement with Caltrans to install a bicycle and pedestrian counter on a portion of the Pathway within Caltrans' right of way in San Rafael
- 6d. Authorize the General Manager to execute Contract Amendment No. 4 to Contract No. OP-SV-19-001 with Richard A. Sanchez dba A.J. Janitorial Service in an amount of \$114,000 to continue providing Janitorial Services at SMART's Stations and Facilities
- 6e. Approve a Resolution Authorizing the General Manager to Execute Contract Amendment No. 2 to CV-PS-21-003, with BKF Engineers for an amount of \$254,550.76 and extend the contract through December 31, 2024
- 6f. Authorize the General Manager to Execute Contract Amendment No 2 to Contract No. OP-PS-21-004 with Modern Railway Systems in an amount of \$93,983.22 to continue providing Track Driver Extra (TDX) Dispatch System Technical Support Services, Rail Network Technical Support Services and Rail Network Management System Implementation
- 6g. Authorize the General Manager to execute Contract Amendment No. 3 with Nossaman, LLP in an amount of \$400,000 for legal services and extend the term to December 31, 2024

Regular Calendar

7. Pathway Wayfinding Update (*Information*) – *Presented by Emily Betts*
8. Approve a Resolution Authorizing the General Manager to Execute Contract No. CV-BB-22-003 with Ghilotti Brothers, Inc. in the amount of \$3,436,924 for construction of McInnis Parkway to Smith Ranch Road Multi-Use Pathway in San Rafael – *Presented by Bill Gamlen*

9. SMART Freight Storage (*Information/Discussion*) - Presented by General Manager Cumins
10. Marin County Civil Grand Jury Report, dated June 22, 2023, entitled “SMART at a Crossroads – Here Today, Gone Tomorrow?” (*Information/Discussion*) - Presented by General Manager Cumins
11. Next Regular Meeting Board of Directors, August 16, 2023 – 1:30 PM – 5401 Old Redwood Highway, 1st Floor, Petaluma, CA 94954
12. 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**

June 21, 2023 – 1:30 PM
5401 Old Redwood Highway, 1st Floor
Petaluma, CA 94954

1. Call to Order

Vice Chair Bagby called the meeting to order at 1:33pm. Directors Colin, Fudge, Garbarino, Pahre, Rabbitt and Rogers were present; Directors Coursey, Farac, Lucan, Paulson, and Sackett were absent.

2. Approval of the May 17, 2023, Board Meeting

MOTION: Director Rabbitt moved approval of the May 17, 2023, Board Meeting Minutes as presented. Director Garbarino second. The motion carried 7-0 (Directors Coursey, Farac, Lucan, Paulson, and Sackett were absent).

3. Board Members Announcements

Director Fudge stated that Windsor is anxiously waiting for the train.

Director Garbarino stated that she is a happy person when she is at gate crossings and sees the train go by.

Vice Chair Bagby thanked staff for a wonderful ribbon cutting ceremony on Friday. There were over 120 people who attended. We look forward to a future event in Downtown Windsor, not too far from the Airport Station location of the Micro Transit Project.

4. Citizens Oversight Committee Report – *Presented by Chair Dani Sheehan-Meyer*

COC Chair Dani Sheehan-Myers stated she is happy and excited to report to the Board for the first time. She thanked Chair Lucan who attended their second meeting. She said that the COC has conducted two meetings, the first was on March 22nd which consisted of a briefing on the COC Bylaws, training on the Ralph Brown Act and a presentation on the Short Range Plan. It was established that that the COC primary focus would be budget matters.

The second meeting was on May 24th, which members elected Chair Sheehan Meyer and Vice Chair Engdahl. The General Manager's report included acknowledgment plaques to former COC members, ridership data and Starlighter service and the potential of SMART Connect Service at Airport Station.

Chief Financial Officer McKillop provided an overview of the 2019 Strategic Plan and the 2023-2024 meeting schedule was presented to correlate with budget information and to accommodate members schedules by staggering the dates. The COC members are supportive of the fiscal year 2024 budget and members provided comments on the comprehensive draft. Members addressed the following concerns: pathway construction, design and completion and connecting our system to a solar or renewable energy program. Ridership marketing and the train schedule have improved to attract riders. They support the return of Wi-fi to attract business riders.

Comments

Director Rogers expressed gratitude to the COC Chair and members for continuing to push forward on the projects and work with the Board and staff. It helps us to highlight that this is the community's train and that we are being responsive to the public needs.

Director Pahre thanked the COC Chair Sheehan Meyer for the information. This is a new process, and it will be helpful to the Board.

Richard Brand thanked Chair Sheehan Meyer for providing updates to the Board and being on the Committee.

Jack Swaengen said that Dani Sheehan Meyer stated at the Friends of SMART meeting that she would be providing an update to the Board regarding the COC meetings. She also suggested that they attend the Board meeting.

Vice Chair Bagby thanked COC Chair Sheehan Meyer for stepping up and providing the Board information. She and the Board looks forward to continuing to work with her and the Committee. The Citizen Oversight Committee is valuable and looks forward to receiving feedback.

5. General Manager's Report

General Manager Cumins provided a brief overview on the following:

- Contracts/Procurements over \$100K
- Ridership
- Pathway Counter Update
- Pathway Wayfinding Project
- Service Schedule Changes
- Marin County Fair Service
- Free Youth Summer Program
- Overnight Parking

- SMART Connect
- Questions

Contracts/Procurements over \$100K

- Award Purchase Order to Nippon Sharyo Manufacturing, LLC for Fabricating and supplying Diesel Power Module (“DPM”) custom brackets and covers which provides protection to the DPM unit in an amount of \$130,460.40.
- Contract Amendment No. 2 with Cinquini & Passarino, Inc. for as needed Right-of-Way Land Surveying Services in an amount of \$25,000 and not-to-exceed \$125,000.
- Contract Amendment No. 1 with BKF Engineers for the Design and Engineering of seven Segments of Non-Motorized Pathways located in Marin and Sonoma Counties in an amount of \$139,366.80.

Ridership

- April 2023 SMART had the highest ridership recovery rate in the Bay Area for 2nd month
- May ridership: 65,146; up 69% over May 2022 and 102% of May 2019
- Fiscal Year 2023 ridership through May 2023: 572,937
- May Average Weekday ridership: 2,485; 98% of pre-COVID (May 2019)
- June Average Weekday ridership (to date): 2,434; 3% higher than June 2019
- SMART forecasted a 68% ridership increase for Fiscal Year 2023 (594,000 riders)
- Achieved annual goal on June 11, 2023; as of June 20th – 615,104 riders
- Trending 3.7% above goal year-to-date
- In Fiscal Year 2023 bike boarding: 83,313
- Projected to carry over 90,000 bikes in fiscal year 2023

Pathway Counter Update

- 30,889 Pedestrians in May 2023, 3% higher than April 2023
- 31,969 Bicyclists in May 2023, 4% higher than April 2023
- Total Pathway Users Counted: 62,858

Pathway Wayfinding Project

- Received 429 responses; Conducted in-person over 4 days and online for 7 days
- Two Marin, two Sonoma sites
- Administer in English and Spanish, promoted on social media
- First public meeting will be held virtually on **June 29 at 6 pm** via Zoom
 - The meeting will cover: the project’s purpose and intended outcomes, project timeline, and Wayfinding 101

Service Schedule Changes

- On June 26th, Golden Gate Ferry is adjusting their weekend service
- SMART will be moving two weekend trains five minutes later to maintain a good ferry connection at Larkspur:
 - Northbound 6:30pm → 6:35pm
 - Southbound 5:54pm → 5:59pm

Marin County Fair Service

- SMART partnering with Marin County to run additional service during 4th of July weekend in support the Marin County Fair and provide post-fireworks service
- Trains will depart Civic Center Station Southbound at:
 - 10:05pm Southbound
 - 10:10pm and 10:45pm Northbound
- 5 Days: Friday June 30th through Tuesday July 4th

Free Youth Summer Program

- SMART kicked off our first Free Youth Summer Rides program on June 1st
- In the first half of June, SMART carried over 4,000 youth

Overnight Parking

- Overnight parking launched on June 16th alongside the SMART Connect shuttle
- Riders can now park overnight and take the train to STS or the Larkspur Ferry
- \$5 per night

SMART Connect Launch

- SMART Connect is now operating at the Airport Station
 - 7 days per week; 8am – 6pm
 - \$1.50/adults, \$.75 senior/disabled, free for youth
- Shuttle meets every northbound train at the SMART station
- For southbound trains, riders select the train station as their destination and use the “Transit Connect” feature to ensure an on-time arrival
- Service Area Map
 - Weekday Service: American Ag Credit, Sonoma County Office of Education, Kendall Jackson, Medtronic, Redwood Empire Food Bank, and the Sonoma County Water Agency.
 - Weekend Service: Area is larger and includes 25 different wineries and breweries.
- Ways to ride: 1) Download **Ride Pingo App**; and/or 2) Call 800-727-0729 to book a ride
- Ways to pay: 1) By credit card in **Ride Pingo App** and/or 2) Pay cash on board
- Walk-ons accepted space permitting

Comments

Director Fudge asked if the service area will be extended to Downtown Windsor (Town Green). General Manager Cumins stated that various locations are being considered and have not been finalized.

Director Colin asked for data on the Starlighter train. General Manager Cumins responded that ridership is growing slowly with approximately 80 riders per night and the goal is to have 200 riders roundtrip.

Director Rogers stated that he has heard that the Starlighter train northbound is not late enough for riders. He said it would be great to have a shuttle that connects SSU, Graton

Casino and future Downtown Rohnert Park. He would like to see the Youth data and if SMART is partnering with the Bus services to monitor riders.

Warren Wells stated he appreciates all the hard work staff is doing. He asked to see the ridership figures in a tabular form to see those gains month by month especially interesting as we get some more of those segments opened when we can see some real stepwise jumps in pathway ridership.

Richard Brand stated that the General Manager's reports are very informative and positive. He said that he has not seen any marketing of the Kendall Jackson – Taste of Sonoma Event with the Sonoma Connect Service. He suggested that Director Fudge work with General Manager Cumins to provide a shuttle to the Wineries near or in Windsor. He asked for clarification Wayfinding 101. General Manager Cumins responded that there is a way to provide locations which SMART is looking at doing on pathways and stations.

Eris Weaver stated that she would like to see more people use public transportation. It was a great ribbon cutting event for the SMART Connect service. She promoted the online SMART Pathway Wayfinding Plan; however, she was informed that the survey question did not relate to Wayfinding and hopefully the information that comes from the survey is useful.

Director Fudge asked if the SCTA members knew when the E-bike share was going to roll out throughout the system and at SMART stations. Director Rogers responded that some companies were running into financial issues and non-responsive and a new Request for Proposal has been issued. Director Rabbitt stated that is broader than a Sonoma County issue - it is throughout the Bay Area.

Director Rogers stated that there are significant issues whether its scooters, bikes and micro-mobility and hope to see them soon. Director Fudge suggested looking into the bike company that just launched 400 bikes in Santa Cruz.

Vice Chair Bagby asked if there is youth ridership data particularly the connection to Muir Woods and related to summer youth programs. General Manager Cumins responded that he will ask Principal Planner Betts to do some research. Vice Chair Bagby stated that this weekend is the Heirloom Festival, and it would be nice to coordinate with the local Chambers on the events that we haven't seen. It was very exciting to see various City Council members at the SMART Connect ribbon cutting event.

6. Public Comment on Non-Agenda Items

Dani Sheehan-Meyer stated that Friends of SMART hosted a Rail and Sail Tour on June 17, 2023. They had approximately 25 participants ranging from 3 years to 98 years old.

7. Consent

- a. Accept Monthly Ridership Report – May 2023
- b. Approval of Monthly Financial Reports – April 2023

- c. Authorize the General Manager to Execute Contract Amendment No. 3 with Allen, Glaessner, Hazelwood & Werth Legal Service in an amount of \$50,000 and extend the contract through June 30, 2024
- d. Authorize the General Manager to Execute Contract Amendment No. 3 with Hulcher Services, Inc. in an amount of \$175,000 for a total not-to-exceed amount of \$360,000
- e. Authorize the General Manager to Execute Contract Amendment No. 2 with Sierra-Cedar Oracle Support Services in an amount of \$30,000 and extend the contract through June 30, 2024
- f. Approval of Resolutions authorizing extending the Clipper START Pilot Program through June 30, 2025; and Consent to Participate in Clipper BayPass Phase 2 Pilot

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

MOTION: Director Garbarino moved approval of Consent Agenda as presented. Director Pahre second. The motion carried 7-0 (Directors Coursey, Farac, Lucan, Paulson, and Sackett were absent).

8. Pathway Update (*Information*) – Presented by Bill Gamlen

Chief Engineer, Bill Gamlen provided a PowerPoint presentation, which is located on SMART’s website. Highlights include:

Pathway Update

- Pathway Progress
 - Completed over 28 miles of pathway (39%)
 - 9.54 miles (14%) in or about to initiate construction
 - Remaining segments (47%) are in development
- Completed Pathway
 - Class I – Multi-Use Path (74%)
 - Class II – Bike Lane (23%)
 - Class III – Bike Route/Sharrows (2%)
 - Class IV – Separated Bikeway (1%)
- New Pathway
 - City of Novato/Costco/Vintage Oaks recently opened 0.56 miles of Class I Pathway on Rowland Blvd
 - Upgraded/replaced the previous Class II bike lane
 - Will connect south by the Rowland Blvd. to Hanna Ranch Blvd. segment funded for construction through One Bay Area Grant (OBAG)
 - Will connect north by the Vintage Way to North Novato Creek crossing segment that is currently in design
- Pathway Construction
 - 0.3 miles in Petaluma between Lakeville Street and Payran Street
 - 6.6 miles preparing to enter construction:
 - McInnis Pkwy. to Smith Ranch Rd. (San Rafael)

- Southpoint Blvd. to Main St. (Petaluma to Penngrove)
 - Golf Course Dr. to Bellevue Ave. (Rohnert Park to Santa Rosa)
 - Construction on the pathway portion of the Windsor Extension expected to recommence Spring 2024 (2.7 miles)
- Pathway Design
 - The remaining pathway segments are at various stages of project development and design—33.69 miles
 - Some of these segments have funding commitments for construction—3.55 miles
 - Some are awaiting grant award announcements—8.85 miles
 - Others are advancing through design to secure funding
 - Next Steps
 - Continue to prepare Segments for construction: “Shovel Ready”
 - Continue to coordinate with our partners to complete and connect the pathways.
 - Update the Board regarding pathway funding and project milestone achievement

Comments

Director Rogers asked if there is an estimate on the funding shortfall, if the entire pathway can be built, and what resources are needed to be able to fill the 47% that is in development. Chief Financial Officer McKillop responded that amount is in the Capital Plan and will provide the information via email.

Eris Weaver asked for dates of the final construction as opposed to when construction starts. It is her desire to ride her bike from Cotati to work in Santa Rosa before she retires, since her retirement date is approaching. Chief Engineer Gamlen responded some segments have limited construction. We do not have an overall schedule for finishing all the pathway segments remaining because they are funding dependent.

9. Approve a Resolution Authorizing the General Manager to Execute a Purchase Agreement to purchase 7.04 acres of California Tiger Salamander Mitigation Credits from the Alton Lane Conservation Preserve, LLC. for an amount of \$1,576,960 – *Presented by Bill Gamlen*

Chief Engineer, Bill Gamlen provided a PowerPoint presentation, which is located on SMART’s website. Highlights include:

California Tiger Salamander Mitigation Credit Purchase

- SMART Pathway: Golf Course Dr. to Bellevue Avenue
- California Tiger Salamander Mitigation
- Meeting Requirements

Mr. Gamlen stated that construction permits require the purchase 7.04 acres of California Tiger Salamander conservation credits. SMART issued a bid for the purchase of 7.04 acres of credits and received 1 bid for the sale of mitigation credits in the amount of \$1,576,960 from the Alton Lane Conservation Preserve, LLC.

Staff recommends approving Resolution No. 2023-20 authorizing the General Manager to execute a purchase agreement for 7.04 acres from Alton Lane Conservation Preservation LLC. in the amount of \$1,576,960 to fulfill USFWA and CDFW permit requirements.

Comments

Director Colin asked if that was a good price, since only one bid was received. Chief Engineer Gamlen responded that when SMART buys credits in various banks for various types of wetlands and species, they range widely based on supply and demand. SMART purchased California Tiger Salamander credits in the past for less, however there just isn't the supply of credits available. Director Colin asked if the purchase needed to be regional or local. Chief Engineer Gamlen said that they need to be purchased in the project area.

Director Rabbitt asked how the Regulatory Agencies came up with 7.04 acres and what is the multiplier that they use for affected land. Chief Engineer Gamlen responded that they did not have a consistent multiplier and they had different ratios depending on how close we were. Director Rabbitt said that the cost of California Tiger Salamanders has increased considerably as it is doing business in California.

Director Fudge stated that this is a linear parcel next to the rail and so there's nothing we can do about it. I know we have to follow the law, but it's linear next to a rail which is already a barrier.

MOTION: Director Rogers moved to Approve a Resolution Authorizing the General Manager to Execute a Purchase Agreement to purchase 7.04 acres of California Tiger Salamander Mitigation Credits from the Alton Lane Conservation Preserve, LLC. for an amount of \$1,576,960 as presented. Director Pahre second. The motion carried 7-0 (Directors Coursey, Farac, Lucan, Paulson and Sackett were absent).

10. Authorize the General Manager to Execute Contract No. LG-PS-23-002 with Hanson Bridgett LLP for the provision of Labor and Employment and related legal support services in an amount not-to-exceed \$360,000 for the initial three-year term, and \$125,000 for optional year 4 and \$150,000 for optional year 5 to be added at SMART's discretion - *Presented by Lisa Hansley*

Human Resources Manager Lisa Hansley stated that SMART utilizes a third-party legal services consultant to assist with employment related issues. The current contract for legal services expires on June 30, 2023.

A Request for Proposals was issued on March 27, 2023. The selection committee evaluated eight (8) responsive proposals and determined the proposal from Hanson Bridgett, LLP provided the best overall value to SMART. Therefore, staff is requesting authorization for General Manager to execute Contract No. LG-PS-23-002 with Hanson Bridgett, LLP for a not-to-exceed amount of \$360,000 for the initial 3 year contract.

MOTION: Director Pahre moved to Authorize the General Manager to Execute Contract No. LG-PS-23-002 with Hanson Bridgett LLP for the provision of Labor and Employment and related legal support services in an amount not-to-exceed \$360,000 for the initial three-year term, and \$125,000 for optional year 4 and \$150,000 for optional year 5 to be added at SMART’s discretion as presented. Director Rogers second. The motion carried 7-0 (Directors Coursey, Farac, Lucan, Paulson and Sackett were absent).

11. Approval of Resolutions Adopting the Fiscal Year 2023-2024 Annual Budget and Declaring and Ratifying the Annual Appropriation Limit for Fiscal Year 2023-2024 - *Presented by Heather McKillop*

Chief Financial Officer, Heather McKillop, stated that the Fiscal Year 2023-24 draft budget was presented to the Board on May 17 and was available for review and comment between 22, 2023 and June 5, 2023. Highlights include:

Passenger Rail and Pathways

Total revenues are estimated at \$98.6 million and total expenditures are estimated at \$109.8 million. Expenditures are greater than revenues by \$11.2 million which will reduce the estimated fund balance at the end of Fiscal Year 2023-2024 to \$27.8 million.

Freight Rail

Total revenues are estimated at \$2.4 million and total expenditures are estimated at \$2.7 million. Expenditures are greater than revenues by \$0.3 million which will reduce the estimated fund balance at the end of Fiscal Year 2023-2024 to \$960K.

Changes since May 17, 2023, Draft Document

- Added another carryforward project to page B-41 for \$49,875 which brings the total carryforward request to \$3,738,306.
- Added two more columns to pages B-34 through B-36 to show planned costs for Fiscal Years 2025 and 2026. These expenditures are planned in those years, but not necessarily funded.
- Page B-54, Appendix E – Statement of Investment Policy. Under 2.0 Scope, the name of the annual report was changed in the first sentence to “District’s Annual Comprehensive Financial Report.”

Comments on the Draft Budget

The public comment period was open between May 22, 2023, and June 5, 2023. We received thirty (30) comments. None of the comments resulted in changes to the budget.

Comments

Director Colin complimented staff. There was a lot of conversation during the draft presentation, which is why there wasn't as much conversation today. It's a great document.

Vice Chair Bagby said that the clarity and delineation on this final version is detailed financially and accessible. She appreciated getting the comments from the public as well.

Lastly, General Manager Cumins stated that staff put a lot of energy and time into the document, from checking everything, answering questions, and making things accessible. Chief Financial Officer McKillop and her team did a phenomenal job on this report.

MOTION: Director Colin moved to Approval of Resolutions Adopting the Fiscal Year 2023-2024 Annual Budget and Declaring and Ratifying the Annual Appropriation Limit for Fiscal Year 2023-2024 as presented. Director Fudge second. The motion carried 7-0 (Directors Coursey, Farac, Lucan, Paulson and Sackett were absent).

12. Next Regular Meeting Board of Directors, July 19, 2023 – 1:30 PM – 5401 Old Redwood Highway, 1st Floor, Petaluma, CA 94954
13. Adjournment – Meeting adjourned at 2:44pm

Respectfully submitted,

Leticia Rosas
Clerk of the Board

Approved on : _____



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

July 19, 2023

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

SUBJECT: Monthly Ridership Report – June 2023

Dear Board Members:

RECOMMENDATIONS: Accept Monthly Ridership Report

SUMMARY:

We are presenting the monthly ridership report for activity for the month of June 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. The report also shows progress so far in the Fiscal Year compared to the same time in the last Fiscal Year, to enable tracking of riders relative to budget expectations. These reports also note relevant details associated with fare program discount usage and trends in riders bringing bicycles onboard.

SMART's ridership data through May 2023 is posted on the SMART Ridership website and June will be posted once validated. (<http://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 – June 2023

JUNE 2023 SMART RIDERSHIP REPORT

June 2023 saw a continued increase in ridership, with average weekday ridership at 2,551, up 3% from the previous month, and total monthly ridership at 67,124, a 62% increase over last June. Total monthly ridership for June was 21% higher than June 2019 (pre-COVID). FY23 has seen 85% ridership recovery, compared with the year 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 will continue through the month of August.

The tables below present data for June 2022 and 2023, monthly and year-over-year. Since June is the end of the fiscal year, the information presented is for the entire fiscal year 2023. Total ridership for FY23 is up 81% over FY22, with average weekday ridership up 80% over FY22.

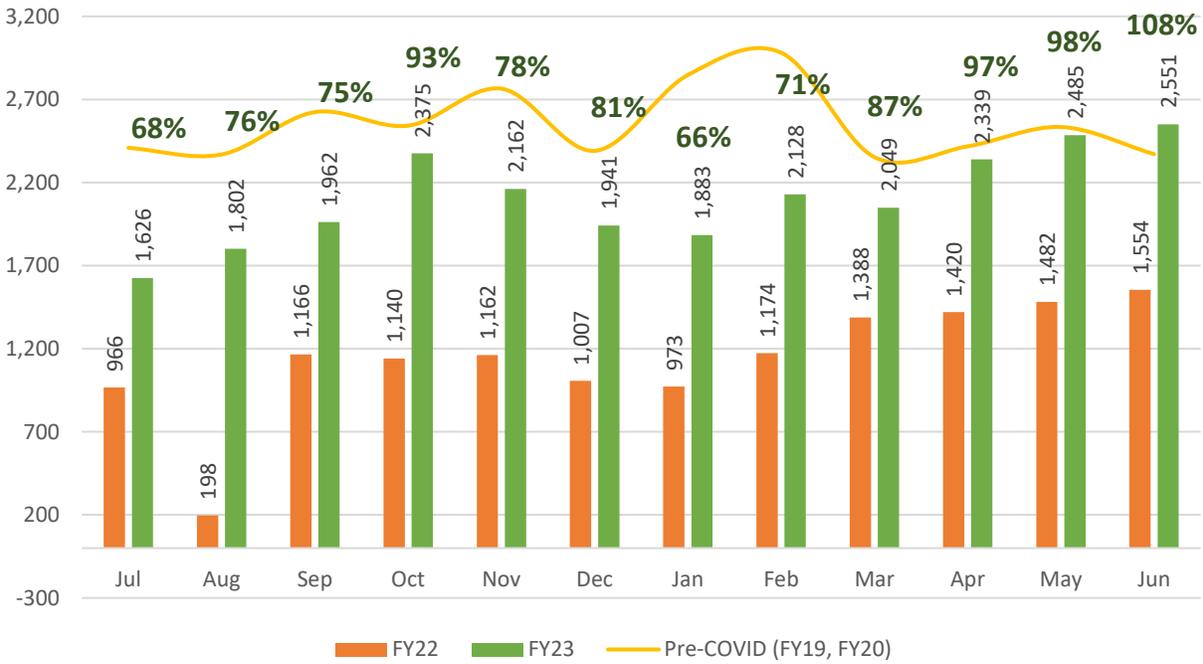
FISCAL YEAR (JUL - JUN)	Fiscal Year 2022	Fiscal Year 2023	% Change
Ridership	354,328	640,061	81%
Fare Payments (Clipper + App Only)	325,474	520,804	60%
Average Weekday Ridership	1,174	2,110	80%
Average Saturday Ridership	703	1,071	52%
Average Sunday Ridership	644	856	33%
Bicycles	54,396	83,313	53%
Mobility Devices	1,536	1,508	-2%

Bicycles on board were up 38% over last June and passengers boarding with mobility devices were up 2%. In June, 14% of riders brought bikes on the train, with a total of 9,428 bikes on board. SMART has carried more bikes on board this fiscal year than any year prior.

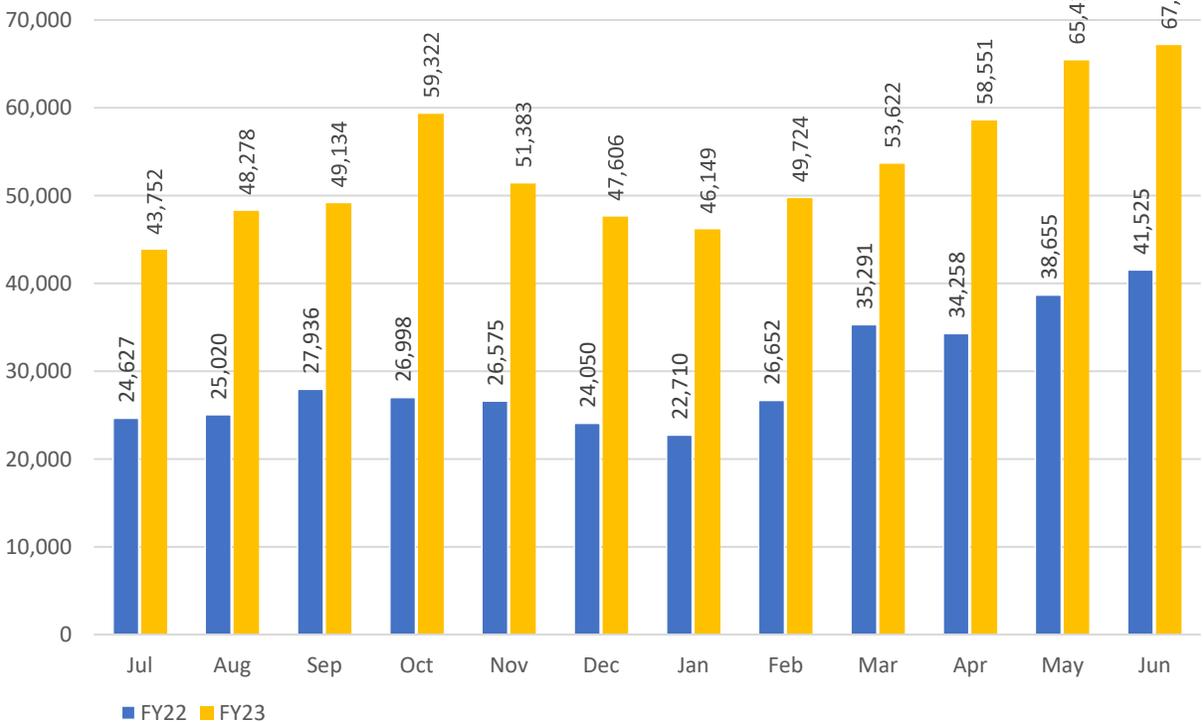
MONTHLY TOTALS YEAR-OVER-YEAR	JUNE 2022	JUNE 2023	% Change
Ridership	41,525	67,124	62%
Fare Payments (Clipper + App Only)	37,952	48,809	29%
Average Weekday Ridership	1,556	2,551	64%
Average Saturday Ridership	1,000	1,479	48%
Average Sunday Ridership	825	1,213	47%
Bicycles	6,831	9,428	38%
Mobility Devices	143	146	2%

The following charts compare the average weekday ridership and monthly totals for FY22-FY23.

SMART Average Weekday Ridership (FY22 v FY23)



SMART Monthly Ridership (FY22 v FY23)





July 19, 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-Marin 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

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 2022 – May 2023. 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 four years.

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 FY 2022-23.

This report reflects sales & use tax collections through March 2023. Based on this information, we are estimating that sales and use tax will be around \$48 million versus \$50.2 million that is budgeted, or a difference of \$2.2 million. Fare revenues were budgeted at \$1.6 million, and we are estimated that we will end the fiscal year with collections around \$1.72 million.

Sincerely,

/s/
Heather McKillop
Chief Financial Officer

Attachment(s):

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



MONTHLY FINANCIAL STATUS

MAY 2023

PASSENGER REVENUES

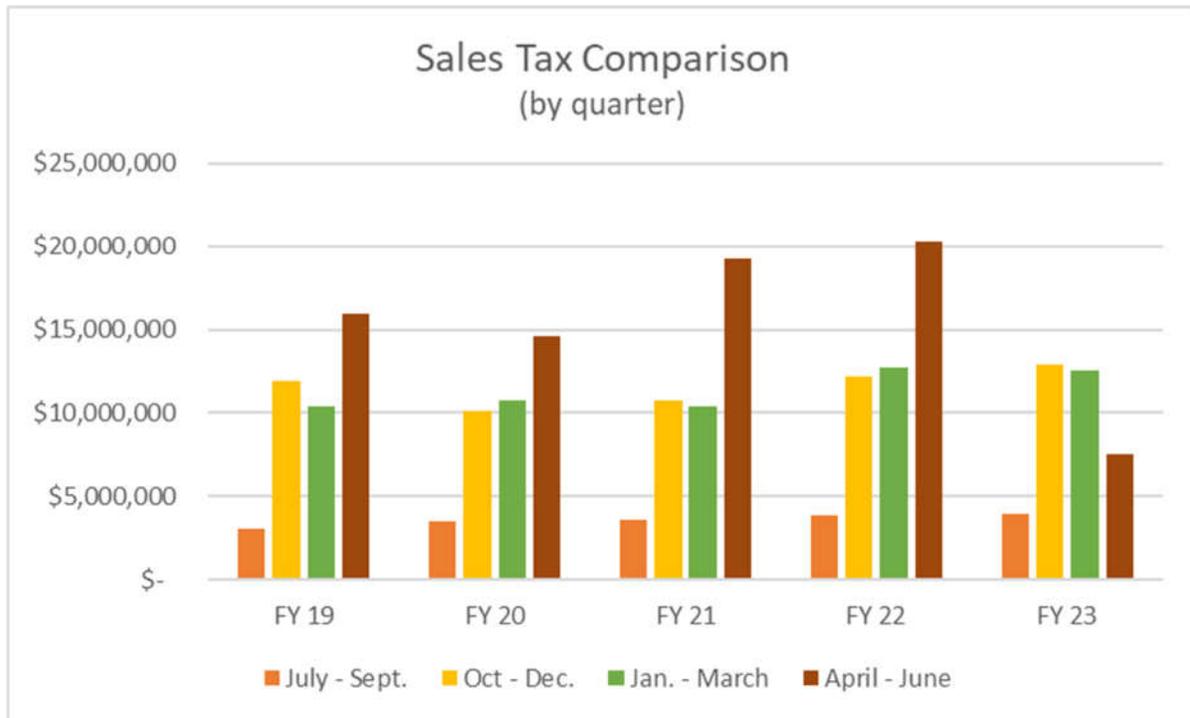
	FY 2022-23 Approved Budget	Actual	Amount Over/ Under Budget	Comments
Revenues				
Passenger Rail				
Sales/Use Taxes	\$ 50,190,000	\$ 36,920,251	\$ (13,269,749)	Sales Taxes are recorded when received not when earned
Interest and Lease Earnings	\$ 816,631	\$ 1,447,273	\$ 630,642	Leases renew throughout the year
Miscellaneous Revenue	\$ 145,000	\$ 490,295	\$ 345,295	
Passenger Fares	\$ 1,600,000	\$ 1,581,603	\$ (18,397)	
State Grants	\$ 12,089,233	\$ 5,479,014	\$ (6,610,219)	State grants are received throughout the year
Charges For Services	\$ 28,325	\$ 44,565	\$ 16,240	
Federal Funds (Non-COVID Relief)	\$ 5,034,529	\$ 2,667,491	\$ (2,367,038)	Federal funds are received on a reimbursable basis. Funds need to be expended before they can be requested.
Federal Funds (COVID)	\$ 7,507,797	\$ 7,471,416	\$ (36,381)	Federal funds are received on a reimbursable basis. Funds need to be expended before they can be requested.
Other Governments	\$ 1,519,892	\$ 30,000	\$ (1,489,892)	
Passenger Rail Subtotal	\$ 78,931,407	\$ 56,131,908	\$ (22,799,499)	

**Measure Q Sales Tax
Fiscal Year (FY) 2022/2023**

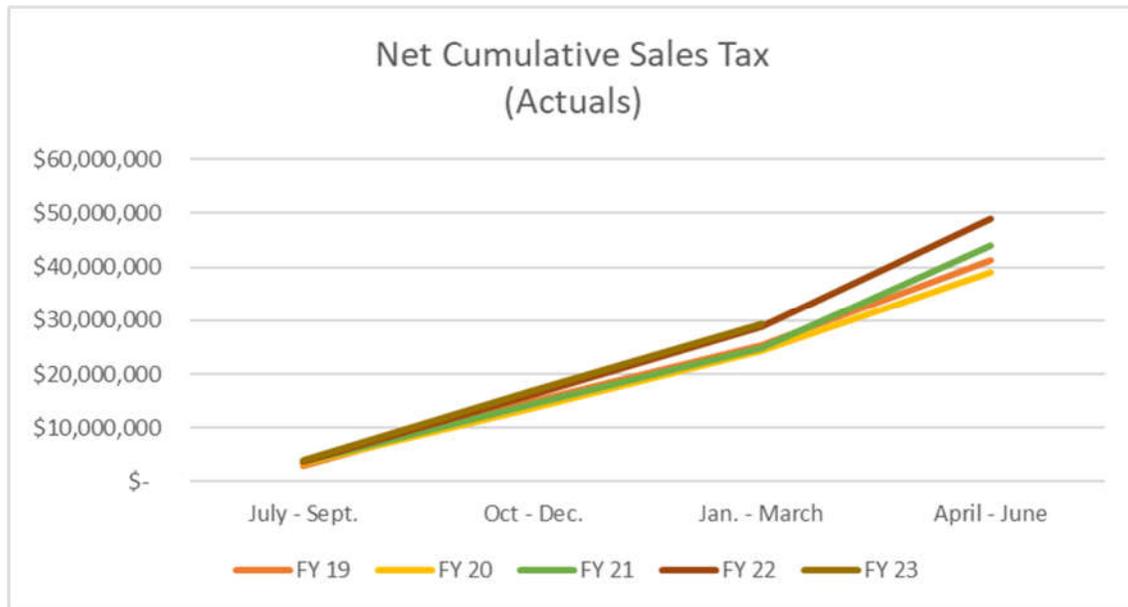
Time Period	July - Sept.	Oct - Dec.	Jan. - March	April - June
Forecasted FY 23 Budget	\$ 4,017,856	\$ 12,844,262	\$ 13,444,817	\$ 20,783,065
Actual	\$ 3,964,404	\$ 12,936,544	\$ 12,505,987	\$ 7,513,316
Difference	\$ (53,452)	\$ 92,282	\$ (938,830)	\$ (13,269,749)

Note: This reflects actual collections through March 2023

**Fiscal Year 2019-2023 Net Sales Tax Comparison
(by Quarter)**

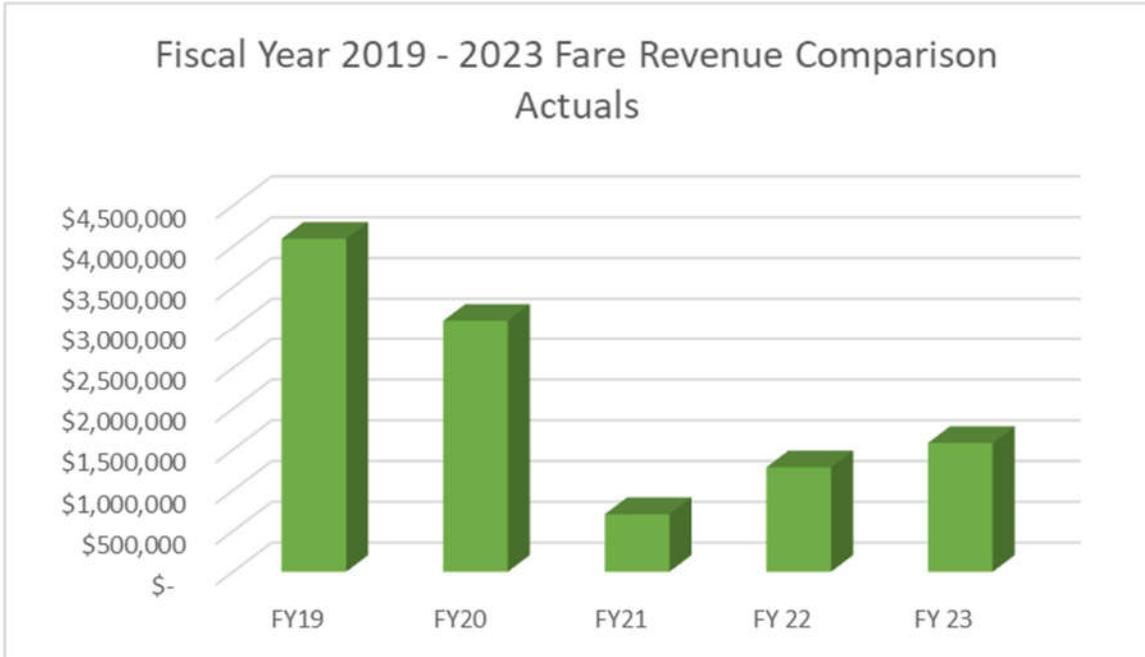


Fiscal Year 2019-2023 Net Cumulative Sales Tax Comparison

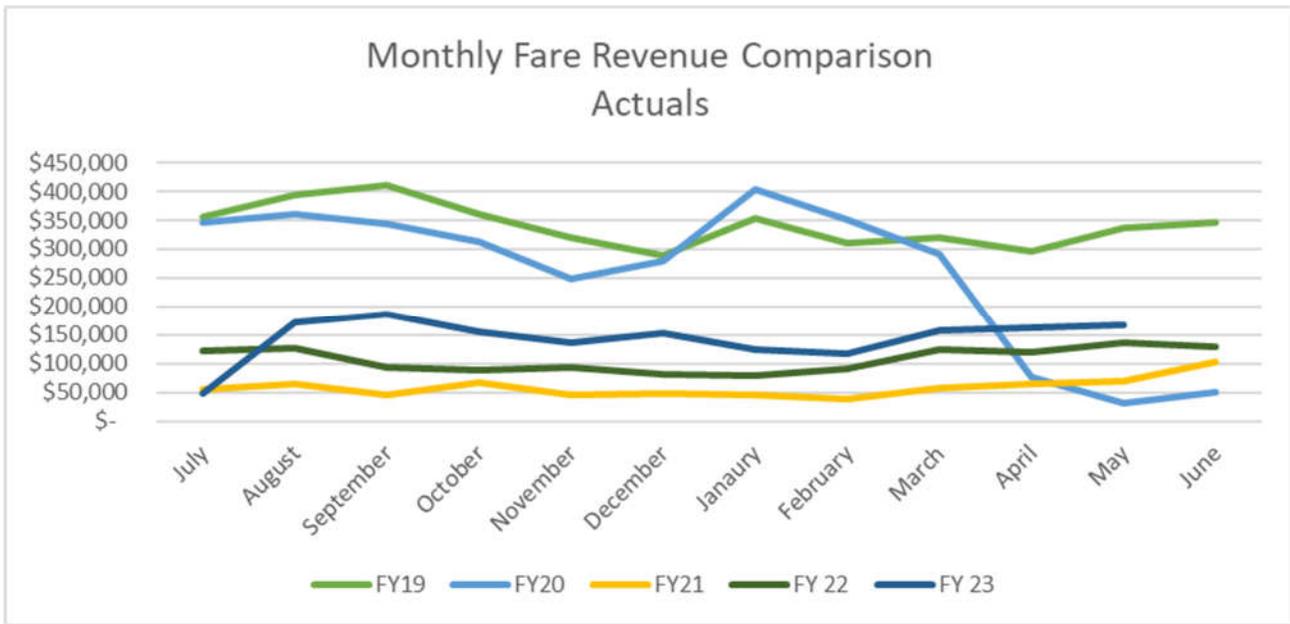


Note: Sales Taxes are recorded when received not when earned.

Fiscal Year 2019-2023 Fare Revenue Comparison



Fiscal Year 2019-2023 Monthly Fare Revenue Comparison



PASSENGER EXPENDITURES

	FY 2022-23 Approved Budget	Actual	Amount Over/ Under Budget
Passenger Expenditures			
Administration			
Salaries & Benefits	\$ 5,727,768	\$ 4,472,360	\$ (1,255,408)
Services & Supplies	\$ 10,588,992	\$ 5,028,704	\$ (5,560,288)
Administration Subtotal	\$ 16,316,760	\$ 9,501,064	\$ (6,815,696)
Operations			
Salaries & Benefits	\$ 17,348,209	\$ 13,858,415	\$ (3,489,794)
Services & Supplies	\$ 6,564,448	\$ 3,787,584	\$ (2,776,864)
Operations Subtotal	\$ 23,912,657	\$ 17,645,999	\$ (6,266,658)
Capital			
Salaries & Benefits	\$ 311,911	\$ 817,062	\$ 505,151
Services & Supplies	\$ 665,840	\$ 171,349	\$ (494,491)
Capital Subtotal	\$ 977,751	\$ 988,411	\$ 10,660
Total Passenger Expenditures	\$ 41,207,168	\$ 28,135,474	\$ (13,071,694)

Passenger (Capitalized) Expenditures			
Buildings & Capital Improvements	\$ -	\$ -	\$ -
Machinery & Equipment	\$ 3,415,955	\$ 1,131,600	\$ (2,284,355)
Infrastructure	\$ 12,092,168	\$ 6,548,963	\$ (5,543,205)
Total Passenger (Capitalized) Expenditures	\$ 15,508,123	\$ 7,680,563	\$ (7,827,560)

Passenger Expenditures + Capitalized	\$ 56,715,291	\$ 35,816,037	\$ (20,899,254)
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FREIGHT REVENUES

	FY 2022-23 Approved Budget	Actual	Amount Over/ Under Budget	Comments
Revenues				
Freight				
Sales/Use Taxes	\$ -	\$ -	\$ -	
Interest and Lease Earnings	\$ 245,000	\$ 436,091	\$ 191,091	Leases renew throughout the year
Miscellaneous Revenue	\$ 239,190	\$ 261,972	\$ 22,782	Includes 45(G) tax credit
Freight Traffic	\$ 1,100,000	\$ 700,122	\$ (399,878)	
State Grants	\$ 4,206,000	\$ 612,419	\$ (3,593,581)	State grants are received throughout the year
Charges For Services	\$ 25,000	\$ 9,036	\$ (15,964)	Includes freight car storage.
Federal Funds (Non-COVID Relief)	\$ -	\$ -	\$ -	
Federal Funds (COVID)	\$ -	\$ -	\$ -	
Other Governments	\$ -	\$ -	\$ -	
Freight Subtotal	\$ 5,815,190	\$ 2,019,640	\$ (3,795,550)	

FREIGHT EXPENDITURES

	FY 2022-23 Approved Budget	Actual	Amount Over/ Under Budget
Freight Expenditures			
Administration			
Salaries & Benefits	\$ -	\$ -	\$ -
Services & Supplies	\$ -	\$ 32,552	\$ 32,552
Administration Subtotal	\$ -	\$ 32,552	\$ 32,552
Operations			
Salaries & Benefits	\$ 893,533	\$ 712,899	\$ (180,634)
Services & Supplies	\$ 1,180,505	\$ 651,395	\$ (529,110)
Operations Subtotal	\$ 2,074,038	\$ 1,364,294	\$ (709,744)
Capital			
Salaries & Benefits	\$ -	\$ -	\$ -
Services & Supplies	\$ 3,040,398	\$ 1,195,948	\$ (1,844,450)
Capital Subtotal	\$ 3,040,398	\$ 1,195,948	\$ (1,844,450)
Total Freight Expenditures	\$ 5,114,436	\$ 2,592,794	\$ (2,521,642)

Freight (Capitalized) Expenditures			
Buildings & Capital Improvements	\$ -	\$ -	\$ -
Machinery & Equipment	\$ 143,000	\$ -	\$ (143,000)
Infrastructure	\$ -	\$ -	\$ -
Total Freight (Capitalized) Expenditures	\$ 143,000	\$ -	\$ (143,000)

Freight Expenditures + Capitalized	\$ 5,257,436	\$ 2,592,794	\$ (2,664,642)
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CAPITAL PROJECTS

Capital Project Report					
	Total Project Budget	Expended in Prior Fiscal Years	Budgeted in FY23 (Includes Amendments through March 31, 2023)	Remaining to be Budgeted in Future Years	Project Status
PASSENGER RAIL PROJECTS					
Windsor Extension	\$ 70,000,000	\$ 24,256,464	\$ -	\$ 45,736,037	SMART is planning next steps to resume construction.
Sonoma County Pathway Connector Project - Design & Construction	\$ 17,707,859	\$ 2,240,211	\$ 2,481,284	\$ 12,986,364	Project has been combined with the Petaluma North Station.
Marin & Sonoma Pathway Design & Permitting	\$ 11,655,937	\$ 604,212	\$ 5,349,680	\$ 5,702,045	Conducting engineering design to prepare for construction.
McInnis Pkwy. at Bridgewater Dr. to Smith Ranch Rd. Construction	\$ 4,835,333	\$ -	\$ -	\$ 4,835,333	Project has been advertised for construction. Bids open on June 20, 2023.
Joe Rodota to 3rd St. Design and Construction	\$ 309,377	\$ 17,330	\$ 292,047		In design - Construction will depend on grant execution.
Petaluma North Station	\$ 15,278,010	\$ 35,744	\$ 1,519,892	\$ 13,722,374	Finalizing construction documents. The Project will advertise for bids in July. The contract includes Sonoma County Pathway projects for construction.
Path-of-Travel Improvements	\$ 501,489	\$ 236,116	\$ 264,523	\$ -	Construction is complete.
Payran to Lakeville Pathway - Design & Construction	\$ 1,484,462	\$ -	\$ 1,484,462	\$ -	Construction is nearly complete.
Basalt Creek Timber Bridge Replacement	\$ 626,103	\$ 77,543	\$ 107,401	\$ 441,159	Finalizing design and working with regulatory agencies to secure environmental permits.
San Antonio Tributary Timber Trestle Replacement	\$ 1,071,264	\$ 81,358	\$ 118,840	\$ 871,066	Finalizing design and working with regulatory agencies to secure environmental permits.
FREIGHT RAIL PROJECTS					
Black Point Bridge - Fender Replacement	\$ 875,742	\$ 89,044	\$ 725,741	\$ -	Construction is complete.
Highway 37 Grade Crossing Reconstruction	\$ 505,394	\$ -	\$ 505,394	\$ -	Construction is complete.
Brazos Branch Bridge Repairs	\$ 2,302,557	\$ 16,594	\$ 1,845,963	\$ 440,000	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.

Note: Cash Balance significantly increased in February due to receipt of federal funds associated with Fiscal Year 2022.

<u>Cash On Hand</u>	
Bank of Marin	\$ 32,542,128
Sonoma County Investment Pool *	\$ 88,054,720
Total Cash on Hand	\$ 120,596,848
<u>Reserves</u>	
Self-Insured	\$ 2,370,675
OPEB/ CalPERS	\$ 4,074,676
Operating Reserve	\$ 10,000,000
Capital Sinking Fund	\$ 9,625,000
Corridor Completion	\$ 7,000,000
Total Reserves	\$ 33,070,351
Cash Balance	\$ 87,526,497
Less: Current Encumbrances	\$ 6,863,094
Balance	\$ 80,663,403
Less: Estimated FY23 Year-end Fund	\$ 39,066,717
Balance	\$ 41,596,686
Remaining Balance	\$ 41,596,686
* Does not include funds held by the trustee for debt service	



Contract Summary

Active contracts as of June 1, 2023

PASSENGER RAIL

Contractor	Scope	Fiscal Year 22/23 Projected	Fiscal Year 22/23 Actuals-To-Date
A.J. Janitorial Service	Janitorial Services for all Stations, Roblar, ROC, and Fulton	\$ 110,000	\$ 99,740
Ai-Media Technologies, LLC	Closed-Captioning Services	\$ 13,000	\$ 6,120
Air & Lube Systems, Inc.	Structural Alterations to the Rail Operation Center and Installation of the Wheel Press Machine	\$ 275,500	\$ 275,500
Alcohol & Drug Testing Services, LLC	DOT and FRA-regulated Drug and Alcohol Testing Services	\$ 36,000	\$ 31,286
Allen, Glaessner, Hazelwood LLP	Legal Services for Litigation and Rail Transit Issues	\$ 100,000	\$ 41,242
Alliant Insurance Services	Insurance Brokerage and Risk Management Services	\$ 70,000	\$ -
American Integrated Services, INC.	On-Call Biohazard Remediation Services	\$ 50,000	\$ -
American Rail Engineers Corporation	Railroad Bridge Inspections, Bridge Engineering, and Related Services	\$ 786,851	\$ 90,809
Asbury Environmental Services (AES)	Hazardous and Non-Hazardous Waste Removal and Disposal Services	\$ 10,000	\$ 1,219
Atlas Copco Compressors, LLC	Air Compressor Maintenance Services	\$ 8,400	\$ 2,195
BBM Railway Equipment, LLC	Wheel Press Machine - Furnish, Install, Configure, Test, Commission, and Train SMART Staff	\$ 310,664	\$ 257,166
Becoming Independent	Emergency Bus Bridge Services	\$ 22,000	\$ 18,000
Bettin Investigations	Pre-Employment Investigation, Background Screening, and Related Services	\$ 2,500	\$ 1,700
BKF Engineers Inc.	Design and Engineering Services for MUP Segments in Sonoma and Marin Counties	\$ 1,612,958	\$ 1,471,191
Bolt Staffing Service, Inc.	Temporary Staffing Services	\$ 60,000	\$ 32,916
Bright Star Security, Inc.	Security Patrol at SMART's Cal Park Tunnel	\$ 10,980	\$ 10,065
Burdell Tenancy In Common	Purchase of 6 Seasonal Wetland Mitigation Credits	\$ 834,000	\$ 834,000
Business Training Library, LLC	Cloud-Based Learning Courses	\$ 15,041	\$ 14,483
Central Pacific Engineering, LLC	Pedestrian Path of Travel Improvements Construction	\$ 195,520	\$ 185,744
Cinquini & Passarino, Inc.	Right-of-Way Land Surveying and Related Services	\$ 20,000	\$ 3,719
Craft & Commerce, LLC	Marketing and Community Outreach Services and Support	\$ 43,537	\$ 43,536
CSW/Stuber-Stroeh Engineering Group	Design and Engineering for Petaluma North Station, N. McDowell Grade Crossing, Segments 2 & 3 Pathway	\$ 1,300,019	\$ 1,145,262
CSW/Stuber-Stroeh Engineering Group	Design and Engineering Services for 5 MUP Segments in Marin County	\$ 1,497,001	\$ 816,905
D Block Security	Security and Patrol Services	\$ 75,000	\$ -
DeAngelo Contracting Services, LLC	Assignment of OP-SV-21-006 Vegetation Control Services	\$ 37,550	\$ 5,250
Dikita Enterprises, Inc	NTD Compliant Passenger Counting Services	\$ 40,688	\$ 13,390
Doc Bailey Construction Equipment, Inc.	Hi Rail Vehicle Inspection, Maintenance, Repair, and Certification Services	\$ 25,000	\$ 12,500
Doug Williams	Fire and Life Safety Consultant	\$ 3,585	\$ 1,305
Dr. Lance O'Connor	Occupational Health Screening Services	\$ 4,430	\$ 1,570
Dunnigan Psychological & Threat Assessments, LLC	Employment-Related Psychological Evaluation Services	\$ 25,000	\$ 15,463
Eide Bailly LLP	Financial Audit Services	\$ 50,885	\$ 39,950
eLock Technologies, LLC	Station Bike Lockers - Ongoing Maintenance and Support Services	\$ 13,130	\$ 11,410
Empire Cleaners	Operations Uniform Dry Cleaning, Laundering, and Related Services	\$ 18,000	\$ 11,998
Environmental Logistics, INC.	On-Call Biohazard Remediation Services	\$ 150,000	\$ -
Essel Technology Services	Phase 1 Environmental Site Assessment ESA	\$ 2,200	\$ 2,200
Gallagher Benefit Services, Inc.	Classification and Compensation Study Services	\$ 84,350	\$ -
Gary D. Nelson Associates, Inc.	Temporary Staffing and Placement Services	\$ 40,000	\$ 23,540
George Hills Company, Inc.	Third Party Claims Administration Services	\$ 45,000	\$ 2,136
GHD, Inc.	SWPP Compliance, AutoCAD Management, Traffic and Hydraulic Analysis	\$ 14,500	\$ 14,500
GHD, Inc.	3 Segments MUP Petaluma - Penngrove - Rohnert Park	\$ 31,586	\$ 29,475
Ghilotti Bros, Inc.	Parking Lot Improvements at Airport Station	\$ 58,881	\$ -
Ghilotti Bros, Inc.	Construction of Non-Motorized Pathway - Lakeville to Payran	\$ 1,237,052	\$ 473,334
Golden Five, LLC	Microsoft 365 Consulting Services	\$ 85,600	\$ 68,415
GP Crane & Hoist Services	Cal/OSHA Inspection Services	\$ 3,960	\$ 3,520

PASSENGER RAIL

Contractor	Scope	Fiscal Year 22/23	
		Projected	Actuals-To-Date
Granicus, Inc.	Media Streaming and Internet Broadcasting Services	\$ 12,248	\$ 12,248
Hanford A.R.C.	Implementation and Monitoring, San Rafael Creek Riparian Enhancement Project	\$ 39,610	\$ 33,517
Hanford A.R.C.	Maintenance and Monitoring the the Las Gallinas Creek Watershed Riparian Enhancement Planting	\$ 21,215	\$ 14,447
Hanson Bridgett LLP	Legal Services	\$ 150,000	\$ 109,762
Hazel Mitigation Preserve, LLC	Seasonal Wetlands Mitigation Credits	\$ 20,000	\$ -
HCI Systems, Inc.	Fire Equipment Inspection and Certification	\$ 17,274	\$ -
Hogan Lovells LLP	Legal Services - Freight and Passenger Rail Sector	\$ 50,000	\$ 8,459
Holland Company	Track Geometry and Measurement Services	\$ 24,000	\$ 24,000
Hunt and Sons, Inc.	Bulk Delivery of Motor Oil (15W40)	\$ 22,000	\$ 17,657
Innovative Business Solutions	Payroll Processing Software	\$ 31,700	\$ 27,583
Integrative Security Controls, Inc.	CCTV Maintenance and Support	\$ 30,000	\$ 7,581
Intelligent Technology Solutions, LLC	Maximo SaaS Development, Implementation, and Related Services	\$ 222,122	\$ 190,248
JMA Civil, Inc.	On-Call Civil & Rail Engineering Design Services	\$ 44,000	\$ 21,839
Khouri Consulting, LLC	California State Legislative and Advocacy Services	\$ 80,000	\$ 50,000
LC Disability Consulting	Disability Access Consulting	\$ 12,000	\$ 7,200
LeaseQuery, LLC	Lease Software Licensing and Software Support Services	\$ 25,000	\$ 11,900
Leete Generators	Generator Inspection and Maintenance Services	\$ 5,000	\$ 2,811
Lewis, Brisbois, Bisgaard & Smith LLP	Various legal services related to transit	\$ 50,000	\$ 6,564
Lisa Wolper, LCSW, SAP	Substance Abuse Professional Services	\$ 5,000	\$ 1,250
Masabi LLC	SMART Mobile Ticketing Pilot Project	\$ 57,000	\$ 47,500
MaxAccel	Compliance Management Software Design/Implementation/Asset Management	\$ 58,000	\$ 28,492
Mike Brown Electric Co.	On-Call Electrical Maintenance	\$ 25,000	\$ -
Militus, Inc.	Cybersecurity and Network Threat Analysis and Assessment	\$ 40,000	\$ 40,000
Milton R. Davis dba Davis Sign Co., Inc.	Print, Install, and Remove Holiday Express Window Clings on SMART's Train	\$ 1,230	\$ 926
Mission Linen Supply	Employee Uniform Services	\$ 32,084	\$ 24,009
Modern Railway Systems, Inc.	Monitoring and Maintenance SMART's Communications Network and TDX System	\$ 91,250	\$ 75,817
MuniServices, LLC	Sales Tax Recovery Services	\$ 89,408	\$ 50,305
Netspeed Solutions, Inc.	SMART Phone System Maintenance	\$ 15,684	\$ 11,867
North Bay Bottling (Alex Ruiz Sr.)	Drinking Water Delivery Service	\$ 2,900	\$ 882
North Bay Petroleum	Provision of Fuel for DMUs	\$ 1,474,353	\$ 1,136,461
Nossaman LLP	Litigation, Rail Transit Issues, and other related legal services	\$ 200,000	\$ 182,364
Occupational Health Centers of CA	Pre-Employment Evaluation Services	\$ 30,999	\$ 11,784
Oil Stop, LLC	Automotive Repair and Service	\$ 4,500	\$ 3,508
Oracle	Fusion ERP System	\$ 80,613	\$ 53,121
Pacific Polymers, Inc. DBA American Foam Experts	Healdsburg Warehouse Roof Repair	\$ 189,540	\$ -
Panatrol Corp	Haystack Bridge Automation Software Reprogramming	\$ 2,350	\$ 2,350
Parodi Investigative Solutions	Pre-Employment Background Investigation Services	\$ 27,500	\$ 10,575
Peterson Mechanical, Inc.	HVAC Maintenance Services	\$ 24,000	\$ -
PFM Financial Advisors, LLC	Financial Advisory Services	\$ 75,000	\$ 1,150
Pivotal Vision, LLC	Security Software Licensing	\$ 2,200	\$ 2,200
Portola Systems, Inc.	SMART Station Network Maintenance and Configuration Services	\$ 255,000	\$ 254,186
Precision Wireless	Tech Support and Maintenance for Land Mobile Radio	\$ 31,150	\$ 23,654
Quinn Covarrubias, a Professional Law Corporation	Legal Services for Rail Transit Matters	\$ 100,000	\$ 75,474
SEFAC USA	Portable Lifting Jack Inspection and Certification Services	\$ 8,000	\$ 2,330
Simple Appraisals Inc.	Perform Real Estate Appraisal Services	\$ 4,000	\$ 4,000
Sherwood Electromotion, Inc.	Overhaul Services for SMART's Permanent Magnet Alternators	\$ 60,000	\$ 40,100
Sierra-Cedar, LLC	Oracle Enterprise Resources Planning Software	\$ 150,000	\$ 78,782
Sonic.Net	Backhaul Agreement	\$ 9,451	\$ -
Sonoma County Fleet Operation Division	Non-Revenue Fleet Vehicle Installation, Maintenance, and Repair Services	\$ 38,000	\$ 13,064
Sperry Rail Service	Rail Flaw Detection Services	\$ 13,500	\$ -
SPTJ Consulting, Inc.	Network Monitoring and Support Services	\$ 307,188	\$ 162,871
Stericycle, Inc.	Medical Waste Pick-Up and Disposal Services	\$ 2,000	\$ -

PASSENGER RAIL

Contractor	Scope	Fiscal Year 22/23 Projected	Fiscal Year 22/23 Actuals-To-Date
Sue Evans	Title Investigation Support Services	\$ 10,000	\$ 2,990
Summit Signal, Inc.	Call-Out Maintenance and Repair Services for Signal Grade Crossings	\$ 10,000	\$ -
Survival CPR & First Aid, LLC	First Aid and CPR Training, AED Compliance Program Management	\$ 6,570	\$ 5,736
Swiftly, Inc.	AVL Mobile Application and Website Interface	\$ 8,820	\$ -
TDG Engineering, Inc.	Wayfinding System Planning and Design for the SMART Pathway	\$ 45,000	\$ -
The Pape Group, Inc. dba Pape Material Handling	On-site ANSI/OSHA Aerial Safety Inspections and Maintenance Services	\$ 3,941	\$ 3,773
The Routing Company	Furnish, Implement, and Maintain a Microtransit Software Platform	\$ 20,918	\$ -
Traffic Management, Inc.	Project Specific Flagging, Traffic Control and Related Services.	\$ 10,179	\$ 10,092
Traliant, LLC	Online Training Program	\$ 3,000	\$ -
Tri Valley Recycling, Inc.	eWaste Collection and Recycling	\$ 100	\$ -
Triangle Properties, Inc.	SoCo Pathway Riparian Enhancement Implementation and Monitoring	\$ 90,090	\$ 53,993
Trillium Solutions, Inc.	Transit Feed Mapping Software	\$ 2,000	\$ 1,890
Urban Transportation Associates, Inc.	Onboard Automatic Passenger Counter System Purchase, Install, and Software Implementation and Training	\$ 107,296	\$ 107,296
UTCRA, LLC	Wheel Pressing Services	\$ 25,000	\$ -
Van Scoyoc Associates	Federal Lobbying Services	\$ 60,000	\$ 50,000
VenTek Transit Inc.	Fare Vending Machine Operations and Maintenance Services	\$ 282,704	\$ 213,496
Vista Broadband Networks, Inc.	Broadband Services	\$ 9,000	\$ 6,750
W.J.C. Electric, Inc. dba Hahn Automotive	Non-Revenue Vehicle Repair and Service	\$ 30,000	\$ 29,386
Ward Levy Appraisal Group, Inc.	Real Estate Appraisal Services for SMART-Owned Property	\$ 7,000	\$ 5,000
West Coast Arborists, Inc.	Tree Trimming and Tree Removal Services	\$ 30,000	\$ 12,950
WRA, Inc.	As-Needed Environmental Consulting Services	\$ 144,040	\$ 74,319
TOTALS:		\$ 14,699,095	\$ 9,575,263

FREIGHT RAIL

Contractor	Scope	Fiscal Year 22/23 Projected	Fiscal Year 22/23 Actuals-To-Date
American Rail Engineers Corporation	Railroad Bridge Inspections, Bridge Engineering, and Related Services	\$ 156,386	\$ 151,882
Asbury Environmental Services (AES)	Hazardous and Non-Hazardous Waste Removal and Disposal Services	\$ 10,000	\$ 190
Cathcart Rail Holdco, LLC dba Cathcart Field Services, LLC	Running Repair Agent Inspection and Maintenance Services	\$ 2,500	\$ -
DeAngelo Contracting Services, LLC	Assignment of OP-SV-21-006 Vegetation Control Services	\$ 25,500	\$ -
Doc Bailey Construction Equipment, Inc.	Hi Rail Vehicle Inspection, Maintenance, Repair, and Certification Services	\$ 1,000	\$ -
E&M Electric and Machinery, Inc.	Bridge Automation Software Design Services	\$ 2,500	\$ 2,466
Freight Rail Tracking Software	Freight Rail Tracking Software	\$ 29,574	\$ 3,000
GATX Rail Locomotive Group, LLC	Freight Locomotive Lease Agreement	\$ 48,787	\$ 44,832
Hue & Cry, Inc.	Security System at Schellville Depot	\$ 2,250	\$ 1,491
Hulcher Services, Inc.	On-Call Derailment Services	\$ 160,913	\$ 160,913
Koppers Railroad Structures, Inc.	Emergency Repair Work on "Railroad Slough" MP B38.97	\$ 491,476	\$ 491,476
Koppers Railroad Structures, Inc.	Brazos Branch Timber Bridge Repairs - Phase I Contract	\$ 1,165,302	\$ -
Lambertus J. Verstegen dba South West Locomotive Repair	Overhaul and Repair Services of Locomotive RP20DB	\$ 20,000	\$ 1,250
Manson Construction Co.	Black Point Bridge Repair	\$ 576,870	\$ 576,870
Mickelson & Company, LLC	45G Tax Credit Advisory Services	\$ 14,351	\$ 14,351
North Bay Petroleum	Provision of Fuel for Locomotives	\$ 89,000	\$ 47,102
Rail Power Services, LLC	Mobile Locomotive Maintenance, Repair, and Related Services	\$ 50,000	\$ -
Stacy and Witbeck, Inc.	Highway 37 At-Grade Crossing Repair	\$ 378,694	\$ -
Summit Signal, Inc.	Inspection, Testing, and Maintenance Services for Signal Equipment Along Brazos Branch	\$ 27,408	\$ 17,625
Summit Signal, Inc.	Interim Freight Rail Operation and Maintenance Services	\$ 52,592	\$ 52,592
Wine Country Sanitary, Inc.	Portable Toilet Rental and Maintenance	\$ 2,364	\$ 2,165
WRA, Inc.	As-Needed Environmental Consulting Services	\$ 5,960	\$ 5,960
TOTALS:		\$ 3,313,427	\$ 1,574,165

Actuals-To-Date includes invoices that have been approved as of May 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

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Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

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Eddy Cumins
General Manager

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

July 19, 2023

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

SUBJECT: Approve a Resolution to secure an encroachment permit and enter into a maintenance agreement with Caltrans to permit the installation of a Pathway counter in Caltrans' Right-of-Way in San Rafael

Dear Board Members:

RECOMMENDATIONS:

Approve Resolution No. 2023-25 authorizing the General Manager to secure an encroachment permit and enter into a maintenance agreement with Caltrans to install a bicycle and pedestrian counter on a portion of the pathway within Caltrans' right-of-way in San Rafael.

SUMMARY:

During SMART's 2020 Listening Sessions and the April 2022 *Planning for the Future – Improving our Pathways* outreach efforts, community comments included the need to track pathway use in order to describe the benefits of the public investment. In addition, the SMART Board reviewed a range of Performance Measures in Spring 2021 and gave staff direction to collect pathway use data as the next step in evaluating SMART's performance.

As a result, SMART purchased ten bicycle and pedestrian counters to install along the multi-use pathway in 2022. The counters provide SMART with invaluable data to guide future planning and grant applications.

In August 2022, SMART installed nine counters at locations that were selected with input from the Marin and Sonoma County Bicycle Coalitions and in accordance with grant funding requirements. The nine counter locations are as follows:

1. **Santa Rosa:** SMART North Station (Guerneville Rd) – College Ave
2. **Santa Rosa:** 6th Street – 8th Street
3. **Santa Rosa:** Hearn Ave – Bellevue Ave
4. **Rohnert Park/Cotati:** Golf Course Drive – SMART Cotati Station
5. **Petaluma:** Southpoint Blvd – Payran St
6. **Novato:** SMART San Marin Station – Rush Creek Place
7. **Novato:** State Access Rd – SMART Hamilton Station

- 8. **San Rafael:** Rice Drive – Anderson Drive
- 9. **San Rafael to Larkspur:** Cal Park Tunnel Pathway.

The tenth counter is proposed for installation in San Rafael on the Lincoln Hill pathway. Counter installation at this location is subject to Caltrans’ approval as this section of the pathway is within Caltrans’ right-of-way. Caltrans requires SMART to enter into a maintenance agreement to secure an encroachment permit. The encroachment permit allows SMART to install the counter within Caltrans’ right-of-way and the maintenance agreement commits SMART to maintaining the counter equipment.

Board approval of Resolution No. 2023-25 would authorize the General Manager to enter into a Maintenance Agreement with Caltrans and to obtain an encroachment permit, which would then allow SMART to install and maintain a pathway counter along the Lincoln Hill Pathway segment. Once in operation, staff will be able to monitor and report on pathway count data for this portion of the pathway and include this data in regular reports to the board and in grant applications for other pathway segments.

FISCAL IMPACT: None

REVIEWED BY: [x] Finance /s/

[x] Counsel /s/

Respectfully,

/s/
Emily Betts
Principal Planner

Attachment(s): Resolution No. 2023-25

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, AUTHORIZING SMART TO OBTAIN AN ENCROACHMENT PERMIT AND ENTER INTO A MAINTENANCE AGREEMENT WITH CALTRANS IN ORDER TO INSTALL A BICYCLE AND PEDESTRIAN COUNTER ON A SEGMENT OF THE PATHWAY WITHIN CALTRANS' RIGHT OF WAY

WHEREAS, SMART and local and regional partners, including Caltrans, have constructed and continue to implement the SMART Non-motorized multi-use pathway (pathway) in Marin and Sonoma Counties;

WHEREAS, Caltrans has constructed segments of the pathway within portions of their right-of-way in San Rafael as part of the 101 Gap Closure project;

WHEREAS, SMART in Summer 2022 purchased ten (10) bicycle and pedestrian counters to gather data on pathway usage and comply with data monitoring requirements of grants that funded pathway construction;

WHEREAS, SMART, in conjunction with local advocates, identified important locations for installing pathway counters in Marin and Sonoma;

WHEREAS, the tenth counter is recommended for the portion of the pathway within Caltrans' right-of-way;

WHEREAS, counter installation on Caltrans property requires securing an encroachment permit and entering into maintenance agreement with Caltrans to permit the installation of the counter and retain SMART's responsibility to maintain the counter equipment;

NOW, THEREFORE, BE IT RESOLVED that Board of Directors authorizes SMART to obtain an encroachment permit and enter into a maintenance agreement with Caltrans in order to install a bicycle and pedestrian counter on a segment of the pathway within Caltrans' right of way in San Rafael.

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



July 19, 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
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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: Authorize the General Manager to execute Contract Amendment No. 4 to Contract No. OP-SV-19-001 with Richard A. Sanchez dba A.J. Janitorial Service

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to execute Contract Amendment No. 4 to Contract No. OP-SV-19-001 with Richard A. Sanchez dba A.J. Janitorial Service in an amount of \$114,000 for a total not-to-exceed amount of \$529,007 to continue providing Janitorial Services at SMART's Stations and Facilities.

SUMMARY:

SMART contracts with a third-party service provider to perform regular janitorial services at SMART's twelve (12) commuter rail stations, four (4) park-and-ride lots, and four (4) office facilities. Services include daily trash and debris collection, sweeping and leaf blowing, power washing of the concrete platforms and parking lots, cleaning all fixtures, benches, signage, card vending machines, and general office janitorial services.

SMART conducted a Request for Proposal for these janitorial services back in May of 2019. The contract was awarded to Richard A. Sanchez dba A.J. Janitorial Service with an initial three-year term and two one-year options to extend thereafter at SMART's discretion.

This Contract Amendment No. 4 extends the term of the Agreement for one year utilizing the final optional year available in the contract and increases the not-to-exceed amount to cover the fees for the additional year. This contract will be re-procured for the next contract cycle.

FISCAL IMPACT: Funding is included in the Fiscal Year 2023-24 Adopted Budget.

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

Very truly yours,

/s/
Ken Hendricks
Procurement Manager

**FOURTH AMENDMENT TO THE SERVICE AGREEMENT BETWEEN THE
SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
AND RICHARD A. SANCHEZ DBA A.J. JANITORIAL SERVICE**

This Fourth Amendment dated as of July 19, 2023 (the “Fourth Amendment”), to the Service Agreement by and between Richard A. Sanchez (dba A.J. Janitorial Service) (hereinafter referred to as “Service Provider”) and the Sonoma-Marín Area Rail Transit District (hereinafter referred to as “SMART”), dated as of August 1, 2019 (the “Original Agreement,” as amended and supplemented by the First, Second, Third Amendments, and now this Fourth Amendment, the “Agreement”).

RECITALS

WHEREAS, Service Provider and SMART previously entered the Original Agreement on August 1, 2019 to provide Janitorial and Custodial Services at SMART's stations and facilities; and

WHEREAS, SMART and SERVICE PROVIDER previously entered into various Amendments to the Agreement to modify the scope of work, update the fee schedule, extend the term and increase the not-to-exceed amount of the Agreement

WHEREAS, SMART desires to amend the Agreement to extend the term of the Agreement for another year utilizing an option available in the contract and increase the not-to-exceed amount of the Agreement by \$114,000 for a total not-to-exceed amount of \$529,007; and

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

AGREEMENT

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

In addition to the not-to-exceed amount set forth in the Original Agreement and subsequent Amendments, the contract amount shall be increased by an amount not-to-exceed \$114,000 for a total not-to-exceed amount of \$529,007 for the Agreement.

2. **“ARTICLE 6. TERM OF AGREEMENT.”** Section 6.01 is hereby removed and replaced with the following:

“The term of this Agreement shall remain in effect through July 31, 2024, unless terminated earlier in accordance with Article 7.”

3. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with all supplements, amendments and exhibits thereto is, and shall continue to be, in full force and effect as originally executed, and nothing

contained herein shall, or shall be construed to, modify, invalidate, or otherwise affect any provision of the Agreement.

THIS SPACE INTENTIONALLY LEFT BLANK

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

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: _____

By _____
Eddy Cumins, General Manager

**RICAHRD A. SANCHEZ, DBA
A.J. JANITORIAL SERVICE**

Dated: _____

By _____
Richard A. Sanchez

APPROVED AS TO FORM:

Dated: _____

By _____
District Counsel



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
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General Manager

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www.SonomaMarinTrain.org

July 19, 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 Contract Amendment No. 2 with BKF Engineers

Dear Board Members:

RECOMMENDATIONS:

Approve Resolution No. 2023-26 authorizing the General Manager to Execute Contract Amendment No. 2 to CV-PS-21-003 0with BKF Engineers for an amount of \$254,550.76 and a total not-to-exceed of \$2,949,509.56 and extend the contract through December 31, 2024.

SUMMARY:

In March of 2021, SMART entered an agreement with BKF Engineers to provide professional services in engineering design and permitting. BKF was tasked with preparing construction and environmental permit documents for seven (7) sections of Non-Motorized Pathway (NMP) in Marin and Sonoma County, a total of approximately 7 miles.

The seven sections of pathway within this contract include:

1. McInnis Parkway to Smith Ranch Road in San Rafael
2. Main Street to Railroad Avenue in Sonoma County
3. Joe Rodota Trail to 3rd Street in Santa Rosa
4. Santa Rosa Downtown Station to 6th Street in Santa Rosa
5. Guerneville Road to West Steele Lane in Santa Rosa
6. West Steele Lane to San Miguel Road in Santa Rosa
7. San Miguel Road to Airport Boulevard in Sonoma County

In June 2023, Contract Amendment No. 1 was executed in the amount of \$139,366.80 to incorporate traffic signal design for the City of Santa Rosa on W. 3rd Street into the pathway design from Joe Rodota Trail to W. 3rd Street to create better connectivity and flow between the two projects.

Contract Amendment No 2 will incorporate additional design and permitting services for five of the segments of pathway (McInnis Pkwy. to Smith Ranch Rd., Main Street to E. Railroad Ave., Guerneville Rd. to W. Steele Ln., W. Steele Ln. to San Miguel Rd., and San Miguel Rd. to Airport Blvd.). The additional design services include preparing riparian mitigation planting plans, specifications, and mitigation and monitoring plans as required by the environmental regulatory agencies to secure construction permits. In addition, BKF Engineers will complete the National Environmental Policy Act (NEPA) clearance for the segments between Guerneville Road and Airport Boulevard. SMART has already received NEPA clearance for the pathway segments between McInnis Parkway and Guerneville Road as part of the IOS-1 project.

FISCAL IMPACT: Funding is included in the Fiscal Year 2023-2024 Adopted Budget.

REVIEWED BY: [x] Finance /s/

[x] Counsel /s/

Sincerely,

/s/

Bill Gamlen, P.E.

Chief Engineer

Attachment(s):

- 1) Resolution No. 2023-26
- 2) BKF Engineers Contract Amendment No. 2

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT APPROVING CONTRACT AMENDMENT NO. 2 TO CONTRACT NO. CV-PS-21-003 WITH BKF ENGINEERS FOR THE MARIN – SONOMA PATHWAY DESIGN AND PERMITTING PROJECT

WHEREAS, District entered into Contract No. CV-PS-21-003 with BKF Engineers for the Marin – Sonoma Pathway Design and Permitting; and

WHEREAS, the Contract anticipated certain additional changes to be completed as part of the scope of the work; and

WHEREAS, Contract Amendment No. 2 provides for additional scope to complete riparian mitigation plans, mitigation construction documents, and NEPA clearance; and

WHEREAS, Contract No. CV-PS-21-003 was approved through a competitive solicitation and procurement process and the work included in Contract Amendment No. 2 are consistent with the scope of work previously awarded; and

WHEREAS, Contract Amendment No. 2 meets the specifications and requirements of Contract No. CV-PS-21-003; and

WHEREAS, Contractor and SMART staff negotiated a final cost of \$254,550.76 for the increase in scope; and

WHEREAS, Contractor and SMART staff negotiated to extend Contract No. CV-PS-21-003 until December 31, 2024; and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the foregoing recitals are true and correct.
2. The General Manager is authorized to execute Contract Amendment No. 2 with BKF Engineers in the amount of \$254,550.76 and extend contract expiration until December 31, 2024.
3. Contract Amendment No. 2, a copy of which is attached hereto and incorporated herein as Exhibit “A”, is hereby approved.

**Resolution No. 2023-26
Sonoma-Marín Area Real Transit District
July 19, 2023**

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

**SECOND AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
AND BKF ENGINEERS**

This Second Amendment dated as of July 19, 2023 (the “Second Amendment”), to the Agreement for Consultant Services by and between BKF Engineers (hereinafter referred to as “CONSULTANT”) and the Sonoma-Marín Area Rail Transit District (hereinafter referred to as “SMART”), dated as of February 2, 2022 (the “Original Agreement,” as amended and supplemented by the First Amendment and now this Second Amendment, the “Agreement”).

RECITALS

WHEREAS, CONSULTANT and SMART previously entered the Original Agreement on February 2, 2022 to design and engineer several multi-use pathway segments located along SMART’s right-of-way in Sonoma and Marin County; and

WHEREAS, SMART previously entered into the First Amendment to the Agreement to increase the not-to-exceed amount by \$139,367.00 for a total not-to-exceed amount of \$2,694,958.80, to modify the scope of work for Segment 3 “Joe Rodota Trail to W. 3rd Street” and Segment 5 “West Steel Lane to Guerneville Road”, and to modify the Exhibit B “Schedule of Rates”; and

WHEREAS, SMART desires to amend the Agreement again to increase the not-to-exceed amount by an additional \$254,550.76 for a total not-to-exceed amount of \$2,949,509.56 to modify the scope of work for Segment 1 “McInnis Parkway to Smith Ranch Road”, Segment 2 “Main Street to E. Railroad Avenue”, Segment 5 “Guerneville Road to West Steel Lane”, Segment 6 “West Steele Road to San Miguel Road”, and Segment 7 “San Miguel Road to Airport Boulevard, to extend contract until December 31, 2024, and to modify the Exhibit B “Schedule of Rates”; and

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

AGREEMENT

1. “ARTICLE 2. LIST OF EXHIBITS.

Section 2.01 The following exhibits are attached hereto and incorporated herein:

(a) Exhibit A: Scope of Work & Timeline

The Exhibit A “Scope of Work & Timeline” included in the Agreement is amended per the Exhibit A “Scope of Work & Timeline” included in this Amendment No. 2.

(b) Exhibit B: Schedule of Rates

The Exhibit B “Schedule of Rates” included in the Agreement is deleted and replaced with the Exhibit B “Schedule of Rates” included in this Amendment No. 2.

2. **“ARTICLE 5. PAYMENT”** Article 5, Section 5.01 of the Agreement is hereby deleted and replaced with the following:

“Consultant shall be paid, as full compensation for the satisfactory completion of the work described in the Scope of Work and Timeline (Exhibit A) in accordance with the milestone payment structure included in the Schedule of Rates (Exhibit B) for a total amount of \$2,949,509.56, regardless of whether it takes Consultant more time to complete or costs are more than anticipated. The total amount paid to Consultant includes compensation for all work and deliverables, including travel and equipment described in the Exhibit A Scope of Work and Timeline. No additional compensation will be paid to Consultant, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total amount of compensation will be negotiated between Consultant and SMART. Adjustment in the total amount of compensation will not be effective until authorized by written Amendment and approved by SMART.”

3. **“ARTICLE 6. TERM OF AGREEMENT”**. Section 6.01 of the Agreement is hereby deleted and replaced with the following:

“The term of this Agreement shall remain in effect through December 31, 2024, unless terminated earlier in accordance with the provisions of Article 7 below.”

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

SIGNATURE PAGE TO FOLLOW

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

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: _____

By _____
Eddy Cumins, General Manager

BKF ENGINEERS

Dated: _____

By _____
Jason Kirchmann, Executive-in-Charge

APPROVED AS TO FORM:

Dated: _____

By _____
District Counsel

EXHIBIT A
SCOPE OF WORK & TIMELINE

Article III “Scope of Work” for SEGMENT I: “MCINNIS PARKWAY TO SMITH RANCH ROAD”, SEGMENT II: “MAIN STREET TO EAST RAILROAD AVENUE”, SEGMENT VI: “WEST STEELE LANE TO SAN MIGUEL ROAD” and SEGMENT VII: “SAN MIGUEL ROAD TO AIRPORT BOULEVARD” are modified as follows:

- A. SEGMENT I: “MCINNIS PARKWAY TO SMITH RANCH ROAD”, SEGMENT II: “MAIN STREET TO EAST RAILROAD AVENUE”, SEGMENT VI: “WEST STEELE LANE TO SAN MIGUEL ROAD”, and SEGMENT VII: “SAN MIGUEL ROAD TO AIRPORT BOULEVARD”

The following scope of services shall be added to the “SEGEMENT DESIGN PACKAGE DESCRIPTIONS” section for each of these segments:

1. Prepare riparian mitigation concepts, designs, mitigation and monitoring plans, and specifications.

The following deliverables have been added to these segments to correspond with the additional scope of services:

- a. 90 percent submittal package, including:
 - i. Draft construction drawings
 - ii. Draft cost estimates and bid sheet
 - iii. Draft Mitigation and Monitoring Plan (“MMP”) for review by SMART and landowner
 - iv. Draft MMP for permitting agencies
- b. 100 Percent Submittal package, including:
 - i. Final construction drawings
 - ii. Final cost estimates and bid sheet
 - iii. Final Mitigation and Monitoring Plan (“MMP”) for review by SMART and landowner
 - iv. Final MMP for permitting agencies
- c. Riparian Mitigation CDFW permit

- B. SEGMENT V: “GUERNEVILLE ROAD TO WEST STEELE LANE”, SEGMENT VI: “WEST STEELE LANE TO SAN MIGUEL ROAD”, and SEGMENT VII: “SAN MIGUEL ROAD TO AIRPORT BOULEVARD”

The following additional scope of services shall be added to each of these segments:

1. Prepare the required documentation to support a determination by the Federal Administration (FTA) that the segment would not result in any individual or cumulate significant environmental effects and if therefore eligible for a Category Exemption (CE) under National Environmental Policy Act (NEPA).

C. THE ARTICLE III “SCOPE OF WORK”, Additional Service Item No. 3
“Environmental Permit Applications and Mitigation Strategies” is removed and replaced with the following:

3. Environmental Permit Applications and Mitigation Construction Documents.

“The consultant team shall prepare the necessary environmental permit applications required for the construction of all segments including riparian construction projects. This will require Developing environmental mitigation plans and permits that identify all required mitigation with options and riparian mitigation construction designs and documents for fulfilling them. Please see reference the “Natural Environmental Study - July 2014” which is incorporated into this contract by reference (Provided in the Request for Proposal) that was prepared as part of NEPA environmental study. Consultant shall assist SMART through the approval process.

DELIVERABLES:

- a) Final environmental permits and mitigation strategies
- b) Final riparian construction plans and documents”

**EXHIBIT B
SCHEDULE OF RATES**

Payment will be made on a milestone basis in accordance with the tasks identified in Section I “Milestone Payment Schedule” below.

SEGMENT 1 – MCINNIS PARKWAY TO SMITH RANCH ROAD (~0.74 Miles)	
Task 1: Engineering Design	
<i>Milestones</i>	<i>Lump Sum Fee</i>
30 Percent Design Level Package	\$79,354.00
50 Percent Design Level Package	\$62,943.00
100 Percent Design Level Package	\$32,294.00
IFC Percent Design Level Package	\$9,762.00
Task 2: Environmental Permitting and Mitigation	
<i>Milestones</i>	<i>Lump Sum Fee</i>
Environmental Permitting and Mitigation	\$219,175.00
SEGMENT 1 TOTAL (Task 1 + Task 2)	
TOTAL SEGMENT 1 FEE	\$403,528.00

SEGMENT 2 – MAIN STREET TO E. RAILROAD AVENUE (~1.48 Miles)	
Task 1: Engineering Design	
<i>Milestones</i>	<i>Lump Sum Fee</i>
30 Percent Design Level Package	\$250,952.00
50 Percent Design Level Package	\$80,562.00
75 Percent Design Level Package	\$29,189.00
95 Percent Design Level Package	\$77,354.00
IFC Percent Design Level Package	\$10,214.00
Task 2: Environmental Permitting and Mitigation	
<i>Milestones</i>	<i>Lump Sum Fee</i>
Environmental Permitting and Mitigation	\$225,378.76
SEGMENT 2 TOTAL (Task 1 + Task 2)	
TOTAL SEGMENT 2 FEE	\$673,649.76

SEGMENT 3 – JOE RODOTA TRAIL TO W. 3rd STREET (~0.06 Miles)	
Task 1: Engineering Design	
<i>Milestones</i>	<i>Lump Sum Fee</i>
30 Percent Design Level Package	\$17,330.00
50 Percent Design Level Package	\$84,137.00
75 Percent Design Level Package	\$34,249.00
95 Percent Design Level Package	\$43,111.00
IFC Percent Design Level Package	\$18,415.80
Task 2: Environmental Permitting and Mitigation	
<i>Milestones</i>	<i>Lump Sum Fee</i>
Environmental Permitting and Mitigation	\$0
SEGMENT 3 TOTAL (Task 1 + Task 2)	
TOTAL SEGMENT 3 FEE	\$197,242.80

SEGMENT 4 – SANTA ROSA DOWNTOWN STATION TO 6th STREET (~0.04 Miles)	
Task 1: Engineering Design	
<i>Milestones</i>	<i>Lump Sum Fee</i>
30 Percent Design Level Package	\$22,093.00
50 Percent Design Level Package	\$11,298.00
75 Percent Design Level Package	\$2,779.00
95 Percent Design Level Package	\$7,827.00
IFC Percent Design Level Package	\$510.00
Task 2: Environmental Permitting and Mitigation	
<i>Milestones</i>	<i>Lump Sum Fee</i>
Environmental Permitting and Mitigation	\$0.00
SEGMENT 4 TOTAL (Task 1 + Task 2)	
TOTAL SEGMENT 4 FEE	\$44,507.00

SEGMENT 5 – GUERNEVILLE ROAD TO W. STEELE LANE (~0.32 Miles)	
Task 1: Engineering Design	
<i>Milestones</i>	<i>Lump Sum Fee</i>
30 Percent Design Level Package	\$110,712.00
50 Percent Design Level Package	\$40,935.00
75 Percent Design Level Package	\$40,200.40
95 Percent Design Level Package	\$51,427.00
IFC Percent Design Level Package	\$10,163.00
Task 2: Environmental Permitting and Mitigation	
<i>Milestones</i>	<i>Lump Sum Fee</i>
Environmental Permitting and Mitigation	\$104,875.60
SEGMENT 5 TOTAL (Task 1 + Task 2)	
TOTAL SEGMENT 5 FEE	\$358,313.00

SEGMENT 6 – W. STEELE LANE TO SAN MIGUEL ROAD (~1.2 Miles)	
Task 1: Engineering Design	
<i>Milestones</i>	<i>Lump Sum Fee</i>
30 Percent Design Level Package	\$218,496.00
50 Percent Design Level Package	\$48,376.00
75 Percent Design Level Package	\$16,473.00
95 Percent Design Level Package	\$46,069.00
IFC Percent Design Level Package	\$3,351.00
Task 2: Environmental Permitting and Mitigation	
<i>Milestones</i>	<i>Lump Sum Fee</i>
Environmental Permitting and Mitigation	\$147,014.00
SEGMENT 6 TOTAL (Task 1 + Task 2)	
TOTAL SEGMENT 6 FEE	\$479,779.00

SEGMENT 7 – SAN MIGUEL ROAD TO AIRPORT BOULEVARD (~3.1 Miles)	
Task 1: Engineering Design	
<i>Milestones</i>	<i>Lump Sum Fee</i>
30 Percent Design Level Package	\$290,856.00
50 Percent Design Level Package	\$97,572.00
75 Percent Design Level Package	\$26,723.00
95 Percent Design Level Package	\$67,643.00
IFC Percent Design Level Package	\$12,524.00
Task 2: Environmental Permitting and Mitigation	
<i>Milestones</i>	<i>Lump Sum Fee</i>
Environmental Permitting and Mitigation	\$157,672.00
SEGMENT 7 TOTAL (Task 1 + Task 2)	
TOTAL SEGMENT 7 FEE	\$652,990.00

TOTAL FEE FOR SEGMENTS 1 - 7	\$2,810,009.56
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OPTIONAL ENVIRONMENTAL TASKS			
<i>Optional Task #</i>	<i>Task Description</i>	<i>Segment</i>	<i>Lump Sum Fee</i>
1	Cultural Resources Compliance Assessment	1	\$21,000.00
2	CDFW 2081 Permitting (CTS) - Development of design will determine if CTS critical habitat will be impacted. If impacted, CTS permitting will be required	2	\$18,000.00
3	USFWS and NMFS Section 7 Consultants	6/7	\$48,000.00
4	SHPO and Tribal Section 106 Compliance	6/7	\$16,500.00
5	CDFW 2081 Permitting (CTS) - Development of design will determine if CTS critical habitat will be impacted. If impacted, CTS permitting will be required	6	\$18,000.00
6	CDFW 2081 Permitting (CTS) - Development of design will determine if CTS critical habitat will be impacted. If impacted, CTS permitting will be required	7	\$18,000.00
TOTAL			\$139,500.00

The Optional Environmental Tasks listed in the above table may be required during the course of the Consultant's services under this Agreement. SMART must provide written authorization and approval to the Consultant if any of these Optional Environmental Tasks become required prior to the work being performed.

*The following pages consist of the cost roll-up for Total Fees for Segments 1-7 and the Optional Environmental Tasks. SMART payment is based on the milestone payment schedule.

COST PROPOSAL
LUMP SUM CONTRACTS

Note: Mark-ups are Not Allowed Prime Consultant X Subconsultant 2nd Tier Subconsultant

Consultant BKF Engineerings
Project No. BKF No. 212037 - Segment 5 Contract No. CV-PS-21-003 Date 11/29/2021

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Senior Associate	Jason Kirchmann*	528	\$85.31	\$45,043.68
Senior Associate	Jaggi Bhandal*	136	\$85.31	\$11,602.16
Project Manager	Rebecca Dower*	929	\$70.00	\$65,030.00
Senior Project Engineer	Benjamin Kerstetter*	739	\$55.50	\$41,014.50
Project Engineer	James Petersen	325	\$47.50	\$15,437.50
Design Engineer	Bryan LoCoco	1,187	\$41.00	\$48,667.00
Two Person Field Crew	TBD**	164	\$100.29	\$16,447.56
				\$0.00

LABOR COSTS

a) Subtotal Direct Labor Costs \$243,242.40
b) Anticipated Salary Increases (see page 2 for calculation) \$12,061.78
c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$255,304.18

INDIRECT COSTS

d) Fringe Benefits (Rate: _____) e) Total Fringe Benefits [(c) x (d)] \$0.00
f) Overhead (Rate: 189.88%) g) Overhead [(c) x (f)] \$484,771.58
h) General and Administrative (Rate: _____) i) Gen & Admin [(c) x (h)] \$0.00
j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$484,771.58

FIXED FEE 10.00% k) TOTAL FIXED FEE [(c) + (j)] x (q)] \$74,007.58

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs	962	miles	\$0.56	\$538.72
Equipment Rental and Supplies				\$0.00
Permit Fees				\$0.00
Plan Sheets	618	each	\$12.00	\$7,416.00
Other	1	each	\$122.81	\$122.81
l) TOTAL OTHER DIRECT COSTS				\$8,077.53

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

WRA	\$	740,294.50
Cornerstone Structural Engineering Group	\$	303,643.72
Alta	\$	362,327.00
JMA Civil	\$	234,971.22
Engco	\$	234,398.70
Cinquini & Passarino	\$	112,213.54
m) TOTAL SUBCONSULTANTS' COSTS		\$ 1,987,848.68

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$1,995,926.21

TOTAL COST [(c) + (j) + (k) + (n)] \$2,810,009.56

NOTES:

- Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Prime Consultants shall include a cost proposal for all Subconsultants.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

SAMPLE COST PROPOSAL
LUMP SUM CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

per Cost Proposal	per Cost Proposal	=	Rate	Duration
\$243,242.40	4008		\$60.69	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation	=		
Year 1	\$60.69	+	5.0%	=	\$63.72	Year 2 Avg Hourly Rate
Year 2	\$63.72	+	5.0%	=	\$66.91	Year 3 Avg Hourly Rate
Year 3	\$66.91	+	5.0%	=	\$70.26	Year 4 Avg Hourly Rate
Year 4	\$70.26	+	5.0%	=	\$73.77	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year	*	Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	36.00%	*	4008.0	=	1442.9	Estimated Hours Year 1
Year 2	41.00%	*	4008.0	=	1643.3	Estimated Hours Year 2
Year 3	13.00%	*	4008.0	=	521.0	Estimated Hours Year 3
Year 4	10.00%	*	4008.0	=	400.8	Estimated Hours Year 4
Year 5	0.00%	*	4008.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	4008.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)	*	Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$60.69	*	1442.9	=	\$87,567.26	Estimated Hours Year 1
Year 2	\$63.72	*	1643.3	=	\$104,715.85	Estimated Hours Year 2
Year 3	\$66.91	*	521.0	=	\$34,862.72	Estimated Hours Year 3
Year 4	\$70.26	*	400.8	=	\$28,158.35	Estimated Hours Year 4
Year 5	\$73.77	*	0.0	=	\$0.00	Estimated Hours Year 5
Total Direct Labor Cost with Escalation				=	\$255,304.18	
Direct Labor Subtotal before Escalation				=	\$243,242.40	
Estimated total of Direct Labor Salary Increase				=	\$12,061.78	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) - (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: Jason Kirchmann Title *: Principal / Project Executive
Signature:  Date of Certification (mm/dd/yyyy): 07/10/2023
Email: jkirchmann@bkf.com Phone Number: 707-583-8515
Address: 200 4th Street, Suite 300, Santa Rosa, CA 95401

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Topographic survey, civil engineering

EXHIBIT 10-H1 COST PROPOSAL PAGE 1 OF 2
COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
 (DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

 Prime Consultant Subconsultant 2nd Tier SubconsultantConsultant **WRA, Inc.**

Project No.: TBD

Contract No. Solicitation # CV-PS-21-003

Date: 7/10/2023

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal*	Leslie Allen	689	\$75.96	\$52,336.44
Senior Associate*	Bianca Clarke	474	\$54.97	\$26,055.78
Senior Environmental Planner	Rob Carnachan	102	\$64.90	\$6,619.80
Senior Restoration Designer	Brian Bartell	40	\$63.32	\$2,532.80
Senior Associate	Peter Kobylarz	84	\$55.96	\$4,700.64
Senior Associate	Jason Yakich	263	\$54.60	\$14,359.80
GIS Professional II	Christopher Zumwalt	60	\$45.74	\$2,744.40
Associate	Scott Yarger	170	\$42.64	\$7,248.80
Senior Scientist	Jemma Williams	166	\$38.06	\$6,317.96
Senior Scientist	Brian Kearns	8	\$36.46	\$291.68
Scientist	Liz Allen	210	\$33.65	\$7,066.50
Landscape Designer I	Derrell Griffen	320	\$28.84	\$9,228.80
Landscape Designer I	Cody Lambrecht	80	\$28.84	\$2,307.20
Technician	Eliza Schlein	254	\$28.43	\$7,221.22
Technician	Carla Angulo	123	\$27.64	\$3,399.72
Clerical Support	[classification]	46	\$44.25	\$2,035.50
		3089		

LABOR COSTS

a) Subtotal Direct Labor Costs

\$154,467.04

b) Anticipated Salary Increases (see page 2 for sample)

\$5,607.90

c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$160,074.94**INDIRECT COSTS**

d) Fringe Benefits

(Rate: 65.32%)

e) Total Fringe Benefits [(c) x (d)]

\$104,560.95

f) Overhead

(Rate: 0.00%)

g) Overhead [(c) x (f)]

\$0.00

h) General and Administrative

(Rate: 118.33%)

i) Gen & Admin [(c) x (h)]

\$189,416.67

j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$293,977.62**FIXED FEE****k) TOTAL FIXED PROFIT [(c) + (j)] x fixed fee**

10.00%

\$45,405.26

D) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZED

Description	Quantity	Unit	Unit Cost	Total
Mileage Costs	3753	miles	\$0.560	\$2,101.68
Road Tolls	34	each	\$6.000	\$204.00
Equipment Rental and Supplies	10	day	\$100.000	\$1,000.00
				\$0.00
TOTAL OTHER DIRECT COSTS				\$3,305.68

m) SUBCONSULTANT'S COSTS

Name	Total
Subconsultant 1 Stantec	\$237,531.00
Subconsultant 2	
TOTAL SUBCONSULTANT'S COSTS	
	\$237,531.00

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$240,836.68**TOTAL COST [(c) + (j) + (k) + (n)]** \$740,294.50

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.

3. Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL PAGE 2 OF 2
COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
 (DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal		Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$154,467.04		3089	=	\$50.01	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation	=		
Year 1	\$50.01	+	3.5%	=	\$51.76	Year 2 Avg Hourly Rate
Year 2	\$51.76	+	3.5%	=	\$53.57	Year 3 Avg Hourly Rate
Year 3	\$53.57	+	3.5%	=	\$55.44	Year 4 Avg Hourly Rate
Year 4	\$55.44	+	3.5%	=	\$57.38	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year	*	Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	30.00%	*	3089.0	=	926.7	Estimated Hours Year 1
Year 2	40.00%	*	3089.0	=	1235.6	Estimated Hours Year 2
Year 3	27.50%	*	3089.0	=	849.5	Estimated Hours Year 2
Year 4	2.50%	*	3089.0	=	77.2	Estimated Hours Year 2
Year 5	0.00%	*	3089.0	=	0.0	Estimated Hours Year 2
Total	100%		Total	=	3089.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)	*	Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$50.01	*	927	=	\$46,340.11	Estimated Hours Year 1
Year 2	\$51.76	*	1236	=	\$63,949.35	Estimated Hours Year 2
Year 3	\$53.57	*	849	=	\$45,503.96	Estimated Hours Year 2
Year 4	\$55.44	*	77	=	\$4,281.51	Estimated Hours Year 2
Year 5	\$57.38	*	0	=	\$0.00	Estimated Hours Year 2
	Total Direct Labor Cost with Escalation			=	\$160,074.94	
	Direct Labor Subtotal before Escalation			=	\$154,467.04	
	Estimated total of Direct Labor Salary Increase			=	\$5,607.90	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual,

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) - (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in

Prime Consultant or Subconsultant Certifying:

Name: Leslie Allen Title *: Principal

Signature :  Date of Certification (mm/dd/yyyy): 7/10/2023

029E4F748E4447F...

Email: allen@wra-ca.com Phone Number: 510-296-5021

Address: 2169-G East Francisco Blvd, San Rafael, CA 94901

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief

List services the consultant is providing under the proposed contract:

environmental professional services

Exhibit 10-H1 Cost Proposal

**Actual Cost-Plus-Fixed Fee or lump sum (Firm Fixed Price) Contracts
Marin-Sonoma County Pathway Design & Permitting Structural Engineering Design Services**

Note: Mark-ups are Not Allowed

Prime Consultant

Subconsultant

2nd Tier Subconsultant

Consultant Cornerstone Structural Engineering Group

Project No. CV-PS-21-003

Contract No. CV-PS-21-003

Date 12/15/2021

Project Name: Mclinnis Parkway at Bridgewater Drive to Smith Ranch Road

DIRECT LABOR

Classification/Title	Name	Hours	Range	Actual Hourly Rate	Total
Principal	S. Cullers	26.50	65.00 - 80.00	\$ 65.77	\$ 1,742.91
Senior Engineer	M. Weaver	102.00	45.00 - 55.00	\$ 50.77	\$ 5,178.54
Staff Engineer		116.00	40.00 - 50.00	\$ 39.81	\$ 4,617.96
SDII		68.00	35.00 - 45.00	\$ 38.94	\$ 2,647.92
Principal	QC/QA Manager	13.00	65.00 - 80.00	\$ 78.03	\$ 1,014.39
Project Engineer		30.00	45.00 - 55.00	\$ 48.17	\$ 1,445.10
		Total Hours	355.50		

LABOR COSTS

a) Subtotal Direct Labor Costs	\$ 16,646.82
b) Anticipated Salary Increases (SEE SALARY ESCALATION)	\$ -
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$ 16,646.82

INDIRECT COSTS

d) Fringe Benefits %	47.79%	e) Total Fringe Benefits [(c) x (d)]	\$ 7,955.51
f) Overhead%	97.11%	g) Overhead [(c) x (f)]	\$ 16,165.72
h) General and Administrative%	54.59%	i) Gen & Admin [(c) x (h)]	\$ 9,087.50
j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]			\$ 33,208.73

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee = 10% \$ 4,985.55

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage	868	Miles	\$ 0.55	\$ 477.40
Lodging	0	Each	\$ 250.00	\$ -
Per Diem	0	Each	\$ 45.00	\$ -
Shipping	3	Each	\$ 30.00	\$ 90.00
Copies	772	Each	\$ 0.15	\$ 115.80
Plots (Bond)	6	Sheet	\$ 9.00	\$ 54.00
Plots (Film)	6	Sheet	\$ 18.00	\$ 108.00
l) TOTAL OTHER DIRECT COSTS				\$ 845.20

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:	0	\$ -
Subconsultant 2:	0	\$ -
Subconsultant 3:	0	\$ -
Subconsultant 4:	0	\$ -

m) TOTAL SUBCONSULTANTS' COSTS \$ -

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$ 845.20

TOTAL COST [(c) + (j) + (k) + (n)] \$ 55,686.30

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

Exhibit 10-H1

Consultant	<u>Cornerstone Structural Engineering Group</u>		
Project No.	<u>CV-PS-21-003</u>	Contract No.	<u>CV-PS-21-003</u>
Project Name:	<u>McInnis Parkway at Bridgewater Drive to Smith Ranch Road</u>		
		Date	<u>12/15/2021</u>

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 6. [48 Code of Federal Regulations Part 9904](#) - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s)

Prime Consultant or Subconsultant Certifying:

Name:	<u>Shawn M. Cullers</u>	Title*:	<u>President</u>
Signature:		Date of Certification (mm/dd/yyyy):	<u>12/15/2021</u>
Email:	<u>scullers@cseg.com</u>	Phone Number:	<u>559-320-3200</u>
Address:	<u>986 W Alluvial Avenue, Suite 201, Fresno CA 93711</u>		

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List Services the consultant is providing under the proposed contract:

Structural engineering design services for the structures listed in the Scope of Work dated December 15, 2021

Exhibit 10-H1 Cost Proposal

**Actual Cost-Plus-Fixed Fee or lump sum (Firm Fixed Price) Contracts
Marin-Sonoma County Pathway Design & Permitting Structural Engineering Design Services**

Note: Mark-ups are Not Allowed

Prime Consultant

Subconsultant

2nd Tier Subconsultant

Consultant Cornerstone Structural Engineering Group

Project No. CV-PS-21-003

Contract No. CV-PS-21-003

Date 12/15/2021

Project Name: Main Street to East Railroad Avenue

DIRECT LABOR

Classification/Title	Name	Hours	Range	Actual Hourly Rate	Total
Principal	S. Cullers	31.00	65.00 - 80.00	\$ 65.77	\$ 2,038.87
Senior Engineer	M. Weaver	135.00	45.00 - 55.00	\$ 50.77	\$ 6,853.95
Staff Engineer		284.00	40.00 - 50.00	\$ 39.81	\$ 11,306.04
SDII		64.00	35.00 - 45.00	\$ 38.94	\$ 2,492.16
Principal	QC/QA Manager	23.00	65.00 - 80.00	\$ 78.03	\$ 1,794.69
Project Engineer		36.00	45.00 - 55.00	\$ 48.17	\$ 1,734.12
Total Hours		573.00			

LABOR COSTS

a) Subtotal Direct Labor Costs	\$ 26,219.83
b) Anticipated Salary Increases (SEE SALARY ESCALATION)	\$ -
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$ 26,219.83

INDIRECT COSTS

d) Fringe Benefits %	47.79%	e) Total Fringe Benefits [(c) x (d)]	\$ 12,530.46
f) Overhead%	97.11%	g) Overhead [(c) x (f)]	\$ 25,462.08
h) General and Administrative%	54.59%	i) Gen & Admin [(c) x (h)]	\$ 14,313.41
j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]			\$ 52,305.94

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee = 10% **\$ 7,852.58**

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage	434	Miles	\$ 0.55	\$ 238.70
Lodging	0	Each	\$ 250.00	\$ -
Per Diem	0	Each	\$ 45.00	\$ -
Shipping	2	Each	\$ 30.00	\$ 60.00
Copies	1350	Each	\$ 0.15	\$ 202.50
Plots (Bond)	16	Sheet	\$ 9.00	\$ 144.00
Plots (Film)	16	Sheet	\$ 18.00	\$ 288.00
l) TOTAL OTHER DIRECT COSTS				\$ 933.20

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:	0	\$ -
Subconsultant 2:	0	\$ -
Subconsultant 3:	0	\$ -
Subconsultant 4:	0	\$ -

m) TOTAL SUBCONSULTANTS' COSTS **\$ -**

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] **\$ 933.20**

TOTAL COST [(c) + (j) + (k) + (n)] **\$ 87,311.55**

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

Exhibit 10-H1

Consultant	Cornerstone Structural Engineering Group		
Project No.	CV-PS-21-003	Contract No.	CV-PS-21-003
Project Name:	Main Street to East Railroad Avenue		
		Date	12/15/2021

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 6. [48 Code of Federal Regulations Part 9904](#) - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s)

Prime Consultant or Subconsultant Certifying:

Name:	<u>Shawn M. Cullers</u>	Title*:	<u>President</u>
Signature:		Date of Certification (mm/dd/yyyy):	<u>12/15/2021</u>
Email:	<u>scullers@cseg.com</u>	Phone Number:	<u>559-320-3200</u>
Address:	<u>986 W Alluvial Avenue, Suite 201, Fresno CA 93711</u>		

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List Services the consultant is providing under the proposed contract:

Structural engineering design services for the structures listed in the Scope of Work dated December 15, 2021

Exhibit 10-H1 Cost Proposal

**Actual Cost-Plus-Fixed Fee or lump sum (Firm Fixed Price) Contracts
Marin-Sonoma County Pathway Design & Permitting Structural Engineering Design Services**

Note: Mark-ups are Not Allowed

Prime Consultant

Subconsultant

2nd Tier Subconsultant

Consultant Cornerstone Structural Engineering Group

Project No. CV-PS-21-003

Contract No. CV-PS-21-003

Date 12/15/2021

Project Name: Joe Rodota Trail to 3rd Street

DIRECT LABOR

Classification/Title	Name	Hours	Range	Actual Hourly Rate	Total
Principal	S. Cullers	7.00	65.00 - 80.00	\$ 65.77	\$ 460.39
Senior Engineer	M. Weaver	29.00	45.00 - 55.00	\$ 50.77	\$ 1,472.33
Staff Engineer		66.00	40.00 - 50.00	\$ 39.81	\$ 2,627.46
SDII		0.00	35.00 - 45.00	\$ 38.94	\$ -
Principal	QC/QA Manager	5.50	65.00 - 80.00	\$ 78.03	\$ 429.17
Project Engineer		8.00	45.00 - 55.00	\$ 48.17	\$ 385.36
		Total Hours	115.50		

LABOR COSTS

a) Subtotal Direct Labor Costs	\$ 5,374.71
b) Anticipated Salary Increases (SEE SALARY ESCALATION)	\$ -
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$ 5,374.71

INDIRECT COSTS

d) Fringe Benefits %	47.79%	e) Total Fringe Benefits [(c) x (d)]	\$ 2,568.57
f) Overhead%	97.11%	g) Overhead [(c) x (f)]	\$ 5,219.38
h) General and Administrative%	54.59%	i) Gen & Admin [(c) x (h)]	\$ 2,934.05
j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]			\$ 10,722.00

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee = 10% \$ 1,609.67

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage	0	Miles	\$ 0.55	\$ -
Lodging	0	Each	\$ 250.00	\$ -
Per Diem	0	Each	\$ 45.00	\$ -
Shipping	2	Each	\$ 30.00	\$ 60.00
Copies	698	Each	\$ 0.15	\$ 104.70
Plots (Bond)	6	Sheet	\$ 9.00	\$ 54.00
Plots (Film)	6	Sheet	\$ 18.00	\$ 108.00
l) TOTAL OTHER DIRECT COSTS				\$ 326.70

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:	0	\$ -
Subconsultant 2:	0	\$ -
Subconsultant 3:	0	\$ -
Subconsultant 4:	0	\$ -

m) TOTAL SUBCONSULTANTS' COSTS \$ -

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$ 326.70

TOTAL COST [(c) + (j) + (k) + (n)] \$ 18,033.07

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

Exhibit 10-H1

Consultant	Cornerstone Structural Engineering Group		
Project No.	CV-PS-21-003	Contract No.	CV-PS-21-003
Project Name:	Joe Rodota Trail to 3rd Street		Date
			12/15/2021

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 6. [48 Code of Federal Regulations Part 9904](#) - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s)

Prime Consultant or Subconsultant Certifying:

Name:	<u>Shawn M. Cullers</u>	Title*:	<u>President</u>
Signature:		Date of Certification (mm/dd/yyyy):	<u>12/15/2021</u>
Email:	<u>scullers@cseg.com</u>	Phone Number:	<u>559-320-3200</u>
Address:	<u>986 W Alluvial Avenue, Suite 201, Fresno CA 93711</u>		

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List Services the consultant is providing under the proposed contract:

Structural engineering design services for the structures listed in the Scope of Work dated December 15, 2021.

Exhibit 10-H1 Cost Proposal

**Actual Cost-Plus-Fixed Fee or lump sum (Firm Fixed Price) Contracts
Marin-Sonoma County Pathway Design & Permitting Structural Engineering Design Services**

Note: Mark-ups are Not Allowed

Prime Consultant

Subconsultant

2nd Tier Subconsultant

Consultant Cornerstone Structural Engineering Group

Project No. CV-PS-21-003

Contract No. CV-PS-21-003

Date 12/15/2021

Project Name: West Steele Lane to San Miguel Road

DIRECT LABOR

Classification/Title	Name	Hours	Range	Actual Hourly Rate	Total
Principal	S. Cullers	20.50	65.00 - 80.00	\$ 65.77	\$ 1,348.29
Senior Engineer	M. Weaver	84.00	45.00 - 55.00	\$ 50.77	\$ 4,264.68
Staff Engineer		164.00	40.00 - 50.00	\$ 39.81	\$ 6,528.84
SDII		64.00	35.00 - 45.00	\$ 38.94	\$ 2,492.16
Principal	QC/QA Manager	19.00	65.00 - 80.00	\$ 78.03	\$ 1,482.57
Project Engineer		24.00	45.00 - 55.00	\$ 48.17	\$ 1,156.08
		Total Hours	375.50		

LABOR COSTS

a) Subtotal Direct Labor Costs	\$ 17,272.62
b) Anticipated Salary Increases (SEE SALARY ESCALATION)	\$ -
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$ 17,272.62

INDIRECT COSTS

d) Fringe Benefits %	47.79%	e) Total Fringe Benefits [(c) x (d)]	\$ 8,254.58
f) Overhead%	97.11%	g) Overhead [(c) x (f)]	\$ 16,773.44
h) General and Administrative%	54.59%	i) Gen & Admin [(c) x (h)]	\$ 9,429.12
j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]			\$ 34,457.14

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee = 10% \$ 5,172.98

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage	0	Miles	\$ 0.55	\$ -
Lodging	0	Each	\$ 250.00	\$ -
Per Diem	0	Each	\$ 45.00	\$ -
Shipping	2	Each	\$ 30.00	\$ 60.00
Copies	1200	Each	\$ 0.15	\$ 180.00
Plots (Bond)	6	Sheet	\$ 9.00	\$ 54.00
Plots (Film)	6	Sheet	\$ 18.00	\$ 108.00
l) TOTAL OTHER DIRECT COSTS				\$ 402.00

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:	0	\$ -
Subconsultant 2:	0	\$ -
Subconsultant 3:	0	\$ -
Subconsultant 4:	0	\$ -

m) TOTAL SUBCONSULTANTS' COSTS \$ -

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$ 402.00

TOTAL COST [(c) + (j) + (k) + (n)] \$ 57,304.73

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

Exhibit 10-H1

Consultant	Cornerstone Structural Engineering Group			
Project No.	CV-PS-21-003	Contract No.	CV-PS-21-003	
Project Name:	West Steele Lane to San Miguel Road		Date	12/15/2021

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. [Title 23 United States Code Section 112](#) - Letting of Contracts
- 4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
- 5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
- 6. [48 Code of Federal Regulations Part 9904](#) - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s)

Prime Consultant or Subconsultant Certifying:

Name:	<u>Shawn M. Cullers</u>	Title*:	<u>President</u>
Signature:		Date of Certification (mm/dd/yyyy):	<u>12/15/2021</u>
Email:	<u>scullers@cseg.com</u>	Phone Number:	<u>559-320-3200</u>
Address:	<u>986 W Alluvial Avenue, Suite 201, Fresno CA 93711</u>		

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List Services the consultant is providing under the proposed contract:

Structural engineering design services for the structures listed in the Scope of Work dated December 15, 2021.

Exhibit 10-H1 Cost Proposal

**Actual Cost-Plus-Fixed Fee or lump sum (Firm Fixed Price) Contracts
Marin-Sonoma County Pathway Design & Permitting Structural Engineering Design Services**

Note: Mark-ups are Not Allowed

Prime Consultant

Subconsultant

2nd Tier Subconsultant

Consultant Cornerstone Structural Engineering Group

Project No. CV-PS-21-003 Contract No. CV-PS-21-003

Date 12/15/2021

Project Name: San Miguel Boulevard to Airport Boulevard

DIRECT LABOR

Classification/Title	Name	Hours	Range	Actual Hourly Rate	Total
Principal	S. Cullers	32.00	65.00 - 80.00	\$ 65.77	\$ 2,104.64
Senior Engineer	M. Weaver	125.00	45.00 - 55.00	\$ 50.77	\$ 6,346.25
Staff Engineer		240.00	40.00 - 50.00	\$ 39.81	\$ 9,554.40
SDII		96.00	35.00 - 45.00	\$ 38.94	\$ 3,738.24
Principal	QC/QA Manager	23.00	65.00 - 80.00	\$ 78.03	\$ 1,794.69
Project Engineer		44.00	45.00 - 55.00	\$ 48.17	\$ 2,119.48
Total Hours		560.00			

LABOR COSTS

a) Subtotal Direct Labor Costs	\$ 25,657.70
b) Anticipated Salary Increases (SEE SALARY ESCALATION)	\$ -
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$ 25,657.70

INDIRECT COSTS

d) Fringe Benefits %	47.79%	e) Total Fringe Benefits [(c) x (d)]	\$ 12,261.81
f) Overhead%	97.11%	g) Overhead [(c) x (f)]	\$ 24,916.19
h) General and Administrative%	54.59%	i) Gen & Admin [(c) x (h)]	\$ 14,006.54
j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]			\$ 51,184.55

FIXED FEE

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee =	10%	\$ 7,684.22
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l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage	868	Miles	\$ 0.55	\$ 477.40
Lodging	0	Each	\$ 250.00	\$ -
Per Diem	0	Each	\$ 45.00	\$ -
Shipping	1	Each	\$ 30.00	\$ 30.00
Copies	748	Each	\$ 0.15	\$ 112.20
Plots (Bond)	6	Sheet	\$ 9.00	\$ 54.00
Plots (Film)	6	Sheet	\$ 18.00	\$ 108.00
i) TOTAL OTHER DIRECT COSTS				\$ 781.60

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:	0	\$ -
Subconsultant 2:	0	\$ -
Subconsultant 3:	0	\$ -
Subconsultant 4:	0	\$ -

m) TOTAL SUBCONSULTANTS' COSTS \$ -

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$ 781.60

TOTAL COST [(c) + (j) + (k) + (n)] \$ 85,308.07

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

Exhibit 10-H1

Consultant	Cornerstone Structural Engineering Group			
Project No.	CV-PS-21-003	Contract No.	CV-PS-21-003	
Project Name:	San Miguel Boulevard to Airport Boulevard		Date	12/15/2021

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904](#) - Cost Accounting Standards Board (when applicable)

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Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s)

Prime Consultant or Subconsultant Certifying:

Name:	<u>Shawn M. Cullers</u>	Title*:	<u>President</u>
Signature:		Date of Certification (mm/dd/yyyy):	<u>12/15/2021</u>
Email:	<u>scullers@cseg.com</u>	Phone Number:	<u>559-320-3200</u>
Address:	<u>986 W Alluvial Avenue, Suite 201, Fresno CA 93711</u>		

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List Services the consultant is providing under the proposed contract:

Structural engineering design services for the structures listed in the Scope of Work dated December 15, 2021

EXHIBIT 10-H1 COST PROPOSAL PAGE 1 OF 3
ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
 (DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Prime Consultant Subconsultant 2nd Tier Subconsultant

Note: Mark-ups are Not Allowed

Consultant Alta Planning + Design, Inc.

Project No. Marin, CA SMART Pathway Design/Permit Contract No. CV-PS-21-003 Date 11/29/2021

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal in Charge	Deven Young	55	\$74.59	\$4,102.45
Project Manager	Brian Burchfield	36	\$53.05	\$1,909.80
Active Transportation Planner	Jeff Knowles	36	\$69.27	\$2,493.72
Senior Engineering Associate	Adrian Esteban	64	\$63.78	\$4,081.92
Senior Engineer	Joe Paul	1044	\$48.17	\$50,289.48
Engineer	Emma Katz	564	\$40.49	\$22,836.36
Designer	Austin Dunn	52	\$35.10	\$1,825.20
Senior Engineering Associate	Tobin Bonnell	454	\$53.94	\$24,488.76
Project Coordinator	Kirsten Clausen	44	\$35.33	\$1,554.52

LABOR COSTS

a) Subtotal Direct Labor Costs	\$113,582.21
b) Anticipated Salary Increases (see page 2 for calculations)	\$5,679.11
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$119,261.32

INDIRECT COSTS

d) Fringe Benefits (Rate: <u>42.64%</u>)	Total Fringe Benefits [(c) x (d)]	\$ 50,853.03
f) Overhead (Rate: <u>133.55%</u>)	g) Overhead [(c) x (f)]	\$ 159,273.49
h) General and Administrative (Rate: <u>0.00%</u>)	Gen & Admin [(c) x (h)]	\$ -
j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]		\$210,126.52

FIXED FEE	k) TOTAL FIXED FEE [(c) + (j)] x fixed fee <u>10.00%</u>	\$32,938.78
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l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Reimbursable Expenses			\$0	\$0
Equipment Rental and Supplies			\$0	\$0
Permit Fees			\$0	\$0
Plan Sheets			\$0	\$0
Test			\$0	\$0
l) TOTAL OTHER DIRECT COSTS				\$0

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)	
Subconsultant 1:	\$0
Subconsultant 2:	\$0
Subconsultant 3:	\$0
Subconsultant 4:	\$0
Subconsultant 5:	\$0
m) TOTAL SUBCONSULTANTS' COSTS	\$0
n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)]	\$0
TOTAL COST [(c) + (j) + (k) + (n)]	\$362,327

- NOTES:
- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
 - The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
 - Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL PAGE 2 OF 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours) 44529

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$113,582.21	2349	=	\$48.35	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation)

	Avg Hourly Rate	+	Proposed Escalation	=		
Year 1	\$48.35	+	5%	=	\$50.77	Year 2 Avg Hourly Rate
Year 2	\$50.77	+	5%	=	\$53.31	Year 3 Avg Hourly Rate
Year 3	\$53.31	+	5%	=	\$55.98	Year 4 Avg Hourly Rate
Year 4	\$55.98	+	5%	=	\$58.77	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year	*	Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	0.00%	*	2349.0	=	0.0	Estimated Hours Year 1
Year 2	100.00%	*	2349.0	=	2349.0	Estimated Hours Year 2
Year 3	0.00%	*	2349.0	=	0.0	Estimated Hours Year 3
Year 4	0.00%	*	2349.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	2349.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	2349.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)	*	Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$48.35	*	0	=	\$0.00	Estimated Hours Year 1
Year 2	\$50.77	*	2349	=	\$119,261.32	Estimated Hours Year 2
Year 3	\$53.31	*	0	=	\$0.00	Estimated Hours Year 3
Year 4	\$55.98	*	0	=	\$0.00	Estimated Hours Year 4
Year 5	\$58.77	*	0	=	\$0.00	Estimated Hours Year 5
Total Direct Labor Cost with Escalation				=	\$119,261.32	
Direct Labor Subtotal before Escalation				=	\$113,582.21	
Estimated total of Direct Labor Salary Increase				=	\$5,679.11	Transfer to Page 1

NOTES:

- 1 This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
- 2 An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
- 3 This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- 4 Calculations for anticipated salary escalation must be provided.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: Deven Young Title *: Vice President, as duly authorized

Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: devenyoung@altago.com Phone Number: (510) 540-5008

Address: 304 12th Street, Suite#2A, Oakland, CA 94607

*An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Marin, CA SMART Pathway Design and Permitting

**COST PROPOSAL
LUMP SUM CONTRACTS**

Note: Mark-ups are Not Allowed Prime Consultant Subconsultant X 2nd Tier Subconsultant

Consultant JMA Civil, Inc.

Project No. Marin-Sonoma County Pathway Design & Permitting

Contract No. CV-PS-21-003

Date 1/6/2022

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal Engineer	Jon Marshall, PE	23	\$115.38	\$2,653.74
Sr. Civil Engineer, Quality Manager	Allene Rieger, PE	46	\$86.53	\$3,980.38
Sr. Civil Engineer	Mohammed Abushaban, PE	264	\$74.52	\$19,673.28
Civil Engineer	Arka Ghosh, PE	56	\$55.28	\$3,095.68
Civil Engineer	Zhaoyang Wang, PE	304	\$56.60	\$17,206.40
Sr. Project Engineer	Ke Zheng Ong	828	\$39.90	\$33,037.20
Project Engineer	Ramya Tanikella		\$36.05	\$0.00
Sr. Project Administrator	Araceli Reynoso		\$60.09	\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00

LABOR COSTS

a) Subtotal Direct Labor Costs		\$79,646.68
b) Anticipated Salary Increases (see page 2 for calculation)		\$6,073.06
	c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$85,719.74
INDIRECT COSTS		
d) Fringe Benefits	(Rate: <u>29.48%</u>) e) Total Fringe Benefits [(c) x (d)]	\$25,270.18
f) Overhead	(Rate: <u>0.00%</u>) g) Overhead [(c) x (f)]	\$0.00
h) General and Administrative	(Rate: <u>119.47%</u>) i) Gen & Admin [(c) x (h)]	\$102,409.37
	j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]	\$127,679.55
FIXED FEE 10.00%	k) TOTAL FIXED FEE [(c) + (j)] x (q)]	\$21,339.93

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs	400	miles	\$0.58	\$232.00
Equipment Rental and Supplies				\$0.00
Permit Fees				\$0.00
Plan Sheets				\$0.00
Test				\$0.00
			l) TOTAL OTHER DIRECT COSTS	\$232.00

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
	m) TOTAL SUBCONSULTANTS' COSTS

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$232.00

TOTAL COST [(c) + (j) + (k) + (n)] \$234,971.22

NOTES:

1. Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Prime Consultants shall include a cost proposal for all Subconsultants.
2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
3. Anticipated salary increases calculation (page 2) must accompany.

COST PROPOSAL
LUMP SUM CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal \$79,646.68		Total Hours per Cost Proposal 1521	=	Avg Hourly Rate \$52.36	5 Year Contract Duration Year 1 Avg Hourly Rate
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2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation	=		
Year 1	\$52.36	+	5.0%	=	\$54.98	Year 2 Avg Hourly Rate
Year 2	\$54.98	+	5.0%	=	\$57.73	Year 3 Avg Hourly Rate
Year 3	\$57.73	+	5.0%	=	\$60.62	Year 4 Avg Hourly Rate
Year 4	\$60.62	+	5.0%	=	\$63.65	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	0.00%	*	1521.0	=	0.0	Estimated Hours Year 1
Year 2	50.00%	*	1521.0	=	760.5	Estimated Hours Year 2
Year 3	50.00%	*	1521.0	=	760.5	Estimated Hours Year 3
Year 4	0.00%	*	1521.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	1521.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	1521.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$52.36	*	0.0	=	\$0.00	Estimated Hours Year 1
Year 2	\$54.98	*	760.5	=	\$41,814.51	Estimated Hours Year 2
Year 3	\$57.73	*	760.5	=	\$43,905.23	Estimated Hours Year 3
Year 4	\$60.62	*	0.0	=	\$0.00	Estimated Hours Year 4
Year 5	\$63.65	*	0.0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$85,719.74	
	Direct Labor Subtotal before Escalation			=	\$79,646.68	
	Estimated total of Direct Labor Salary Increase			=	\$6,073.06	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) - (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: Ethan Hartsell Title *: President
Signature:  Date of Certification (mm/dd/yyyy): 1/6/2022
Email: ehartsell@jmacivil.com Phone Number: 925-400-4356 xt. 1002
Address: 383 4th Street, Ste. 201 Oakland, CA 94607

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Crossing design engineering and CPUC Coordination

SAMPLE COST PROPOSAL
LUMP SUM CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal \$9,242.75		Total Hours per Cost Proposal 140	=	Avg Hourly Rate \$66.02	5 Year Contract Duration Year 1 Avg Hourly Rate
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2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation	=		
Year 1	\$66.02	+	5.0%	=	\$69.32	Year 2 Avg Hourly Rate
Year 2	\$69.32	+	5.0%	=	\$72.79	Year 3 Avg Hourly Rate
Year 3	\$72.79	+	5.0%	=	\$76.43	Year 4 Avg Hourly Rate
Year 4	\$76.43	+	5.0%	=	\$80.25	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	0.00%	*	140.0	=	0.0	Estimated Hours Year 1
Year 2	50.00%	*	140.0	=	70.0	Estimated Hours Year 2
Year 3	50.00%	*	140.0	=	70.0	Estimated Hours Year 3
Year 4	0.00%	*	140.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	140.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	140.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$66.02	*	0.0	=	\$0.00	Estimated Hours Year 1
Year 2	\$69.32	*	70.0	=	\$4,852.44	Estimated Hours Year 2
Year 3	\$72.79	*	70.0	=	\$5,095.07	Estimated Hours Year 3
Year 4	\$76.43	*	0.0	=	\$0.00	Estimated Hours Year 4
Year 5	\$80.25	*	0.0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$9,947.51	
	Direct Labor Subtotal before Escalation			=	\$9,242.75	
	Estimated total of Direct Labor Salary Increase			=	\$704.76	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

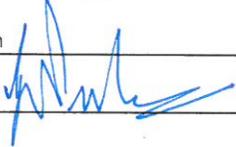
Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. Title 23 United States Code Section 112 - Letting of Contracts
4. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
5. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board - (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: G. 'Neel' Neelakantan Title *: Principal
Signature :  Date of Certification (mm/dd/yyyy): 12/20/2021
Email: nneelakantan@engeo.com Phone Number: 415-309-3321
Address: 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Geotechnical Investigation and DesignSupport Services

SAMPLE COST PROPOSAL
LUMP SUM CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal \$9,543.20		Total Hours per Cost Proposal 150	=	Avg Hourly Rate \$63.62	5 Year Contract Duration Year 1 Avg Hourly Rate
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2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$63.62	+	5.0%	=	\$66.80	Year 2 Avg Hourly Rate
Year 2	\$66.80	+	5.0%	=	\$70.14	Year 3 Avg Hourly Rate
Year 3	\$70.14	+	5.0%	=	\$73.65	Year 4 Avg Hourly Rate
Year 4	\$73.65	+	5.0%	=	\$77.33	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	0.00%	*	150.0	=	0.0	Estimated Hours Year 1
Year 2	50.00%	*	150.0	=	75.0	Estimated Hours Year 2
Year 3	50.00%	*	150.0	=	75.0	Estimated Hours Year 3
Year 4	0.00%	*	150.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	150.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	150.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$63.62	*	0.0	=	\$0.00	Estimated Hours Year 1
Year 2	\$66.80	*	75.0	=	\$5,010.18	Estimated Hours Year 2
Year 3	\$70.14	*	75.0	=	\$5,260.69	Estimated Hours Year 3
Year 4	\$73.65	*	0.0	=	\$0.00	Estimated Hours Year 4
Year 5	\$77.33	*	0.0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$10,270.87	
	Direct Labor Subtotal before Escalation			=	\$9,543.20	
	Estimated total of Direct Labor Salary Increase			=	\$727.67	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

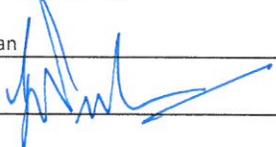
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5. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board - (when applicable)

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Prime Consultant or Subconsultant Certifying:

Name: G. 'Neel' Neelakantan Title *: Principal
Signature:  Date of Certification (mm/dd/yyyy): 12/20/2021
Email: nneelakantan@engeo.com Phone Number: 415-309-3321
Address: 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Geotechnical Investigation and Design Support Services

SAMPLE COST PROPOSAL
LUMP SUM CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal		Total Hours per Cost Proposal		=	Avg Hourly Rate		5 Year Contract Duration
\$7,536.00		120			\$62.80		Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation		=		
Year 1	\$62.80	+	5.0%			\$65.94	Year 2 Avg Hourly Rate
Year 2	\$65.94	+	5.0%			\$69.24	Year 3 Avg Hourly Rate
Year 3	\$69.24	+	5.0%			\$72.70	Year 4 Avg Hourly Rate
Year 4	\$72.70	+	5.0%			\$76.33	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		=	Total Hours per Year	
Year 1	0.00%	*	120.0			0.0	Estimated Hours Year 1
Year 2	50.00%	*	120.0			60.0	Estimated Hours Year 2
Year 3	50.00%	*	120.0			60.0	Estimated Hours Year 3
Year 4	0.00%	*	120.0			0.0	Estimated Hours Year 4
Year 5	0.00%	*	120.0			0.0	Estimated Hours Year 5
Total	100%		Total			120.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		=	Cost per Year	
Year 1	\$62.80	*	0.0			\$0.00	Estimated Hours Year 1
Year 2	\$65.94	*	60.0			\$3,956.40	Estimated Hours Year 2
Year 3	\$69.24	*	60.0			\$4,154.22	Estimated Hours Year 3
Year 4	\$72.70	*	0.0			\$0.00	Estimated Hours Year 4
Year 5	\$76.33	*	0.0			\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation					\$8,110.62	
	Direct Labor Subtotal before Escalation					\$7,536.00	
	Estimated total of Direct Labor Salary Increase					\$574.62	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

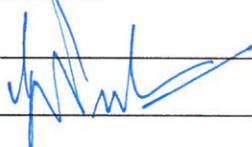
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Prime Consultant or Subconsultant Certifying:

Name: G. 'Neel' Neelakantan Title *: Principal
Signature :  Date of Certification (mm/dd/yyyy): 12/20/2021
Email: nneelakantan@engeo.com Phone Number: 415-309-3321
Address: 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Geotechnical Investigation and Design Support Services

SAMPLE COST PROPOSAL
LUMP SUM CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$7,872.55	125	=	\$62.98	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$62.98	+	5.0%	=	\$66.13	Year 2 Avg Hourly Rate
Year 2	\$66.13	+	5.0%	=	\$69.44	Year 3 Avg Hourly Rate
Year 3	\$69.44	+	5.0%	=	\$72.91	Year 4 Avg Hourly Rate
Year 4	\$72.91	+	5.0%	=	\$76.55	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	0.00%	*	125.0	=	0.0	Estimated Hours Year 1
Year 2	50.00%	*	125.0	=	62.5	Estimated Hours Year 2
Year 3	50.00%	*	125.0	=	62.5	Estimated Hours Year 3
Year 4	0.00%	*	125.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	125.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	125.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$62.98	*	0.0	=	\$0.00	Estimated Hours Year 1
Year 2	\$66.13	*	62.5	=	\$4,133.09	Estimated Hours Year 2
Year 3	\$69.44	*	62.5	=	\$4,339.74	Estimated Hours Year 3
Year 4	\$72.91	*	0.0	=	\$0.00	Estimated Hours Year 4
Year 5	\$76.55	*	0.0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$8,472.83	
	Direct Labor Subtotal before Escalation			=	\$7,872.55	
	Estimated total of Direct Labor Salary Increase			=	\$600.28	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
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3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

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6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board - (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: G. 'Neel' Neelakantan Title *: Principal
Signature :  Date of Certification (mm/dd/yyyy): 12/20/2021
Email: nneelakantan@engeo.com Phone Number: 415-309-3321
Address: 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Geotechnical Investigation and Design Support Services

EXHIBIT 10-H1 COST PROPOSAL **Page 1 of 3**
ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Mark-ups are Not Allowed

Prime Consultant Subconsultant Second Tier Subconsultant

Consultant: **Cinquini & Passarino, Inc.**
Project No.: **Penngrove Pathway** Contract No.: Date: **January 6, 2022**

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal Land Surveyor	Anthony Cinquini		\$80.000	\$0.00
Principal Land Surveyor	James Dickey	48	\$82.400	\$3,955.20
Prof. Land Surveyor II	Mathew Dudley	124	\$58.920	\$7,306.08
Prof. Land Surveyor I	Leslie Kirby		\$52.500	\$0.00
Staff Surveyor I	Clayton Ferrari		\$40.000	\$0.00
Staff Surveyor I	TBD		\$25.500	\$0.00
Survey Technician	Jeff Meyer	236	\$45.000	\$10,620.00
Two Person Field Crew	TBD	144	\$100.290	\$14,441.76

LABOR COSTS

a) Subtotal Direct Labor Costs:	\$36,323.04
b) Anticipated Salary Increases (see page 2 for calculation):	\$0.00
c) TOTAL DIRECT LABOR COSTS [(a)+(b)]:	\$36,323.04

INDIRECT COSTS

d) Fringe Benefits (Rate: 67.72%)	e) Total Fringe Benefits [(c)x(d)]:	\$24,597.96
f) Overhead (Rate: 39.80%)	g) Overhead [(c)x(f)]:	\$14,456.57
h) General and Administrative (Rate: 66.72%)	i) Overhead [(c)x(f)]:	\$24,234.73
j) TOTAL INDIRECT COSTS [(e)+(g)+(i)]:		\$63,289.26

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee of 10.0% :	\$9,961.23
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CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs		miles	\$ 0.535	\$ -
Equipment Rental and Supplies				\$ -
Review Fees & Filing	3	each	\$ 800.00	\$ 2,400.00
Plan Sheets-Mylar	12	each	\$ 20.00	\$ 240.00
Other (specify) ... Title Reports		each	\$ 1,000.00	\$ -
Other (specify) ... Lidar Flight		each	\$ 5,000.00	\$ -
l) TOTAL OTHER DIRECT COSTS:				\$ 2,640.00

SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:		
Subconsultant 2:		
Subconsultant 3:		
Subconsultant 4:		
Subconsultant 5:		
m) TOTAL SUBCONSULTANTS COSTS:		\$0.00
n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)]:		\$2,640.00
TOTAL COSTS [(c) + (j) + (k) + (n)]:		\$112,213.54

NOTES:

- Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3
ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal		Average Hourly Rate	5 Year Contract Duration
\$36,323.04	552	→	\$65.803	← Year 1 average rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation		
Year 1	\$65.80	+	5%	=	\$69.09 ← Year 2 Avg Hourly Rate
Year 2	\$69.09	+	5%	=	\$72.55 ← Year 3 Avg Hourly Rate
Year 3	\$72.55	+	5%	=	\$76.17 ← Year 4 Avg Hourly Rate
Year 4	\$76.17	+	5%	=	\$79.98 ← Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	100.0%	x	552	=	552	← Estimated Hours Year 1
Year 2	0.0%	x	552	=	0	← Estimated Hours Year 2
Year 3	0.0%	x	552	=	0	← Estimated Hours Year 3
Year 4	0.0%	x	552	=	0	← Estimated Hours Year 4
Year 5	0.0%	x	552	=	0	← Estimated Hours Year 5
Total	100%			Total =	552	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$65.80	x	552	=	\$36,323.04	← Estimated Cost Year 1
Year 2	\$69.09	x	0	=	\$0.00	← Estimated Cost Year 2
Year 3	\$72.55	x	0	=	\$0.00	← Estimated Cost Year 3
Year 4	\$76.17	x	0	=	\$0.00	← Estimated Cost Year 4
Year 5	\$79.98	x	0	=	\$0.00	← Estimated Cost Year 5
	Total Direct Labor Cost with Escalation			=	\$36,323.04	
	Direct Labor Subtotal Before Escalation			=	\$36,323.04	
	Estimated total of Direct Labor Salary Increase			=	\$0.00	← Transfer to Page 1

NOTES:

- This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
- An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
- This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112 - Letting of Contracts](#)
4. [48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures](#)
5. [23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Serv](#)
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board \(when applicable\)](#)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name:	Anthony Cinquini	Title *:	Chief Financial Officer
Signature:		Date of Certification (mm/dd/yyyy):	1/6/2022
Email:	tcinquini@cinquinipassarino.com	Phone Number:	(707)542-6268
Address:	1360 North Dutton Avenue, Suite 150, Santa Rosa, CA 95401		

*An individual executive or financial officer of the consultant’s or subconsultant’s organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Professional Surveying and ROW Engineering Services

		Subtotal (m)	\$4,110.64
n)	Permit Fees (itemize), Plan sheets (each), Test Holes (each), etc	Unit(s)	Unit Cost
			Total
			\$0.00
			\$0.00
			\$0.00
		Subtotal (n)	\$0.00
o)	Subconsultant Costs (attach detailed cost proposal in same format as prime consultant estimate for each subconsultant)	Unit(s)	Unit Cost
			Total
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
		Subtotal (o)	\$0.00
		0	

EXHIBIT 10-H COST PROPOSAL (EXAMPLE #1) PAGE 2 OF 2
ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
 (SAMPLE CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

Consultant Stantec Consulting Services Inc. Contract No. CV-PS-21-003 Date 12/23/2021
 Prime Consultant

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$78,818.62	1789	=	\$44.06	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$44.06	+	4%	=	\$45.82	Year 2 Avg Hourly Rate
Year 2	\$45.82	+	4%	=	\$47.65	Year 3 Avg Hourly Rate
Year 3	\$47.65	+	4%	=	\$49.56	Year 4 Avg Hourly Rate
Year 4	\$49.56	+	4%	=	\$51.54	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	20.00%	*	1789.0	=	357.8	Estimated Hours Year 1
Year 2	60.00%	*	1789.0	=	1073.4	Estimated Hours Year 2
Year 3	15.00%	*	1789.0	=	268.4	Estimated Hours Year 3
Year 4	5.00%	*	1789.0	=	89.5	Estimated Hours Year 4
Year 5	0.00%	*	1789.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	1789.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$44.06	*	358	=	\$15,763.72	Estimated Hours Year 1
Year 2	\$45.82	*	1073	=	\$49,182.82	Estimated Hours Year 2
Year 3	\$47.65	*	268	=	\$12,787.53	Estimated Hours Year 3
Year 4	\$49.56	*	89	=	\$4,433.01	Estimated Hours Year 4
Year 5	\$51.54	*	0	=	\$0.00	Estimated Hours Year 5

Total Direct Labor Cost with Escalation	=	\$82,167.09	
Direct Labor Subtotal before Escalation	=	\$78,818.62	
Estimated total of Direct Labor Salary Increase	=	\$3,348.47	Transfer to Page 1

NOTES:

- This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
- An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
- This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.

COST PROPOSAL
LUMP SUM CONTRACTS

Note: Mark-ups are Not Allowed Prime Consultant X Subconsultant 2nd Tier Subconsultant
 Consultant BKF Engineers
 Project No. BKF No. 20212037 Contract No. CV-PS-21-003 Date 1/5/2022

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Senior Associate	Jason Kirchmann*	48	\$85.31	\$4,094.88
Senior Associate	Jaggi Bhandal*		\$85.31	\$0.00
Project Manager	Rebecca Dower*	48	\$70.00	\$3,360.00
Senior Project Engineer	Benjamin Kerstetter*		\$55.50	\$0.00
Project Engineer	James Petersen		\$47.50	\$0.00
Design Engineer	Bryan LoCoco		\$41.00	\$0.00
Two Person Field Crew	TBD**		\$100.29	\$0.00
				\$0.00

LABOR COSTS

a) Subtotal Direct Labor Costs \$7,454.88
 b) Anticipated Salary Increases (see page 2 for calculation) \$186.37
 c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$7,641.25

INDIRECT COSTS

d) Fringe Benefits (Rate:) e) Total Fringe Benefits [(c) x (d)] \$0.00
 f) Overhead (Rate: 189.88%) g) Overhead [(c) x (f)] \$14,509.21
 h) General and Administrative (Rate:) i) Gen & Admin [(c) x (h)] \$0.00
 j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$14,509.21

FIXED FEE 10.00% k) TOTAL FIXED FEE [(c) + (j)] x (q)] \$2,215.05

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs	148	miles	\$0.56	\$82.92
Equipment Rental and Supplies			\$0.56	\$0.00
Permit Fees				\$0.00
Plan Sheets	12	each	\$12.00	\$144.00
Other		each	\$1.00	\$0.00
l) TOTAL OTHER DIRECT COSTS				<u>\$226.92</u>

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

WRA	\$	114,908
m) TOTAL SUBCONSULTANTS' COSTS		<u>\$114,908</u>

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$115,134.49

TOTAL COST [(c) + (j) + (k) + (n)] \$139,500.00

NOTES:

1. Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Prime Consultants shall include a cost proposal for all Subconsultants.
2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
3. Anticipated salary increases calculation (page 2) must accompany.

SAMPLE COST PROPOSAL
LUMP SUM CONTRACTS
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal

Total Hours

Avg Hourly

per Cost Proposal	per Cost Proposal	=	Rate	Duration
\$7,454.88	96		\$77.66	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation	=		
Year 1	\$77.66	+	5.0%	=	\$81.54	Year 2 Avg Hourly Rate
Year 2	\$81.54	+	5.0%	=	\$85.61	Year 3 Avg Hourly Rate
Year 3	\$85.61	+	5.0%	=	\$89.90	Year 4 Avg Hourly Rate
Year 4	\$89.90	+	5.0%	=	\$94.39	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year	*	Total Hours per Cost Proposal	=	Total Hours per Year	
Year 1	50.00%	*	96.0	=	48.0	Estimated Hours Year 1
Year 2	50.00%	*	96.0	=	48.0	Estimated Hours Year 2
Year 3	0.00%	*	96.0	=	0.0	Estimated Hours Year 3
Year 4	0.00%	*	96.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	96.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	96.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)	*	Estimated hours (calculated above)	=	Cost per Year	
Year 1	\$77.66	*	48.0	=	\$3,727.44	Estimated Hours Year 1
Year 2	\$81.54	*	48.0	=	\$3,913.81	Estimated Hours Year 2
Year 3	\$85.61	*	0.0	=	\$0.00	Estimated Hours Year 3
Year 4	\$89.90	*	0.0	=	\$0.00	Estimated Hours Year 4
Year 5	\$94.39	*	0.0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor Cost with Escalation			=	\$7,641.25	
	Direct Labor Subtotal before Escalation			=	\$7,454.88	
	Estimated total of Direct Labor Salary Increase			=	\$186.37	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

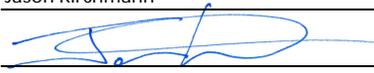
Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) - (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: Jason Kirchmann Title *: Senior Associate / Project Executive
Signature:  Date of Certification (mm/dd/yyyy): 1/6/2022
Email: jkirchmann@bkf.com Phone Number: 707-583-8515
Address: 200 4th Street, Suite 300, Santa Rosa, CA 95401

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Design and Permitting of 7 pathway segments

EXHIBIT 10-H1 COST PROPOSAL PAGE 1 OF 2
COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Prime Consultant Subconsultant 2nd Tier Subconsultant

Consultant **WRA, Inc.**

Project No.: TBD

Contract No. Solicitation # CV-PS-21-003

Date: 1/5/2022

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal*	Leslie Allen	17	\$75.96	\$1,291.32
Senior Environmental Planner	Rob Carnachan	9	\$64.90	\$584.10
Senior Associate	Jason Yakich	9	\$54.60	\$491.40
GIS Professional II	Christopher Zumwalt	8	\$45.74	\$365.92
Environmental Planner II	Yingying Cai	30	\$45.67	\$1,370.10
Associate	Scott Yarger	7	\$42.64	\$298.48
Senior Scientist	Brian Kearns	31	\$36.46	\$1,130.26
Technician	Carla Angulo	19	\$27.64	\$525.16
Clerical Support	[classification]	3	\$44.25	\$132.75
		133		

LABOR COSTS

a) Subtotal Direct Labor Costs	\$6,189.49
b) Anticipated Salary Increases (see page 2 for sample)	\$219.68
c) TOTAL DIRECT LABOR COSTS [(a) + (b)]	\$6,409.17

INDIRECT COSTS

d) Fringe Benefits (Rate: <u>65.32%</u>)	e) Total Fringe Benefits [(c) x (d)]	\$4,186.47
f) Overhead (Rate: <u>0.00%</u>)	g) Overhead [(c) x (f)]	\$0.00
h) General and Administrative (Rate: <u>118.33%</u>)	i) Gen & Admin [(c) x (h)]	\$7,583.97
	j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]	\$11,770.44

FIXED FEE

k) TOTAL FIXED PROFIT [(c) + (j)] x fixed fee	10.00%	\$1,817.96
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l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZED

Description	Quantity	Unit	Unit Cost	Total
Mileage Costs	0	miles	\$0.560	\$0.00
Road Tolls	0	each	\$6.000	\$0.00
Equipment Rental and Supplies	0	day	\$100.000	\$0.00
				\$0.00
				\$0.00

m) SUBCONSULTANT'S COSTS

Name	Total
Subconsultant 1 Stantec	\$94,910.00
Subconsultant 2	
TOTAL SUBCONSULTANT'S COSTS	\$94,910.00

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)]	\$94,910.00
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TOTAL COST [(c) + (j) + (k) + (n)]	\$114,907.57
---	---------------------

NOTES:

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL PAGE 2 OF 2
COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal		Total Hours per Cost Proposal		Avg Hourly Rate	5 Year Contract Duration
\$6,189.49		133	=	\$46.54	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$46.54	+	3.5%	=	\$48.17	Year 2 Avg Hourly Rate
Year 2	\$48.17	+	3.5%	=	\$49.85	Year 3 Avg Hourly Rate
Year 3	\$49.85	+	3.5%	=	\$51.60	Year 4 Avg Hourly Rate
Year 4	\$51.60	+	3.5%	=	\$53.40	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	35.00%	*	133.0	=	46.6	Estimated Hours Year 1
Year 2	35.00%	*	133.0	=	46.6	Estimated Hours Year 2
Year 3	25.00%	*	133.0	=	33.3	Estimated Hours Year 2
Year 4	5.00%	*	133.0	=	6.7	Estimated Hours Year 2
Year 5	0.00%	*	133.0	=	0.0	Estimated Hours Year 2
Total	100%		Total	=	133.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$46.54	*	47	=	\$2,166.32	Estimated Hours Year 1
Year 2	\$48.17	*	47	=	\$2,242.14	Estimated Hours Year 2
Year 3	\$49.85	*	33	=	\$1,657.58	Estimated Hours Year 2
Year 4	\$51.60	*	7	=	\$343.12	Estimated Hours Year 2
Year 5	\$53.40	*	0	=	\$0.00	Estimated Hours Year 2
	Total Direct Labor Cost with Escalation			=	\$6,409.17	
	Direct Labor Subtotal before Escalation			=	\$6,189.49	
	Estimated total of Direct Labor Salary Increase			=	\$219.68	Transfer to Page 1

		Subtotal (m)	\$1,784.32
n)	Permit Fees (itemize), Plan sheets (each), Test Holes (each), etc	Unit(s)	Unit Cost
			Total
			\$0.00
			\$0.00
			\$0.00
		Subtotal (n)	\$0.00
o)	Subconsultant Costs (attach detailed cost proposal in same format as prime consultant estimate for each subconsultant)	Unit(s)	Unit Cost
			Total
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
		Subtotal (o)	\$0.00
		0	

EXHIBIT 10-H COST PROPOSAL (EXAMPLE #1) PAGE 2 OF 2
ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS
 (SAMPLE CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

Consultant Stantec Consulting Services Inc. Contract No. CV-PS-21-003 Date 12/23/2021
 Prime Consultant

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal	Total Hours per Cost Proposal	=	Avg Hourly Rate	5 Year Contract Duration
\$32,020.25	709	=	\$45.16	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation		
Year 1	\$45.16	+	4%	=	\$46.97
Year 2	\$46.97	+	4%	=	\$48.85
Year 3	\$48.85	+	4%	=	\$50.80
Year 4	\$50.80	+	4%	=	\$52.83
					Year 2 Avg Hourly Rate
					Year 3 Avg Hourly Rate
					Year 4 Avg Hourly Rate
					Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year
Year 1	20.00%	*	709.0	=	141.8
Year 2	60.00%	*	709.0	=	425.4
Year 3	15.00%	*	709.0	=	106.4
Year 4	5.00%	*	709.0	=	35.5
Year 5	0.00%	*	709.0	=	0.0
Total	100%		Total	=	709.0
					Estimated Hours Year 1
					Estimated Hours Year 2
					Estimated Hours Year 3
					Estimated Hours Year 4
					Estimated Hours Year 5

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year
Year 1	\$45.16	*	142	=	\$6,404.05
Year 2	\$46.97	*	425	=	\$19,980.64
Year 3	\$48.85	*	106	=	\$5,194.97
Year 4	\$50.80	*	35	=	\$1,800.92
Year 5	\$52.83	*	0	=	\$0.00
					Estimated Hours Year 1
					Estimated Hours Year 2
					Estimated Hours Year 3
					Estimated Hours Year 4
					Estimated Hours Year 5

Total Direct Labor Cost with Escalation	=	\$33,380.57	
Direct Labor Subtotal before Escalation	=	\$32,020.25	
Estimated total of Direct Labor Salary Increase	=	\$1,360.32	Transfer to Page 1

NOTES:

- This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
- An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
- This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.



July 19, 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: Authorize the General Manager to Execute Contract Amendment No. 2 to Contract No. OP-PS-21-004 with Modern Railway Systems to option in Year 3 of the Agreement

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to Execute Contract Amendment No. 2 to Contract No. OP-PS-21-004 with Modern Railway Systems in amount by \$93,983.22 for a new total not-to-exceed amount of \$342,233.22 with an option in Year 3 of the Agreement to continue providing Track Driver Extra (TDX) Dispatch System Technical Support Services, Rail Network Technical Support Services and Rail Network Management System Implementation.

SUMMARY:

Due to the proprietary nature of the Track Driver Extra (TDX) Dispatch System, SMART has contracted with the supplier, Modern Railway Systems to obtain technical support for the TDX system. In addition, as Modern Railway Systems is the designer and integrator of SMART's fiber optic Rail Network, they are best qualified to perform on-call technical support, and have provided excellent, timely service over the last two years.

Staff recommends authorizing the General Manager to amend Contract No. OP-PS-21-004 with Modern Railway Systems in amount by \$93,983.22 for a new total not-to-exceed amount of \$342,233.22 with an option in Year 3 of the Agreement to continue providing Track Driver Extra (TDX) Dispatch System Technical Support Services, Rail Network Technical Support Services and Rail Network Management System Implementation

FISCAL IMPACT: Funding is included in the Fiscal Year 2023-24 Adopted Budget.

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

Very truly yours,

 /s/
Aaron Parkes
Manager of Train Control Systems

**SECOND AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
AND MODERN RAILWAY SYSTEMS**

This Second Amendment dated as of July 19, 2023 (the “Second Amendment”), to the Agreement for Consultant Services by and between Modern Railway Systems (hereinafter referred to as “CONSULTANT”) and the Sonoma-Marín Area Rail Transit District (hereinafter referred to as “SMART”), dated as of September 1, 2021 (the “Original Agreement,” as amended and supplemented by the First Amendment and now this Second Amendment, the “Agreement”).

RECITALS

WHEREAS, CONSULTANT and SMART previously entered the Original Agreement on September 1, 2021 to provide monitoring and maintenance services on SMART’s communications network and TDX system; and

WHEREAS, SMART previously amended the Agreement on August 17, 2022 to extend the term by one additional year utilizing the first option available on the contract to continue providing monthly monitoring and maintenance services and increase the not-to-exceed amount by \$91,250.00 for a total not-to-exceed amount of \$248,250.00.

WHEREAS, SMART desires to amend the Agreement to extend the term by one additional year utilizing the final option available on the contract to continue providing monthly monitoring and maintenance services and increase the not-to-exceed amount by \$93,983.22 for a total not-to-exceed amount of \$342,233.22.

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

AGREEMENT

1. **“ARTICLE 2. LIST OF EXHIBITS”**. The following exhibit is attached hereto and incorporated herein:

(b) Exhibit B: Schedule of Rates

Exhibit B included in the Original Agreement is hereby removed and replaced with the Exhibit B included in this Second Amendment.

2. **“ARTICLE 5. PAYMENT”**. Section 5.02 is hereby deleted and replaced with the following:

“Consultant shall be paid in accordance with the rates established in Exhibit B; provided, however, that total payments to Consultant shall not exceed \$342,233.22, without the prior written approval of SMART. Consultant shall submit its invoices in

arrears on a monthly basis and in a format that is mutually agreed upon by both SMART and the Consultant. The invoices shall show or include: (i) the monthly fees and task order(s) performed; (ii) any additional time in hours above the established monthly service fee; (iii) the hourly rate or rates for the additional hours; and (iv) copies of receipts for reimbursable materials/expenses, if any. All reimbursable expenses must comply with SMART's Current Travel Guidelines and/or receive prior approval from SMART's Manager of Train Control Systems. Consultant's reimbursement for materials/expenses shall not include items already included in Consultant's overhead as may be billed as a part of its labor rates set forth in Exhibit B.

3. **“ARTICLE 6. TERM OF AGREEMENT”**. Section 6.01 is hereby deleted in its entirety and replaced with the following:

The term of this Agreement shall remain in effect through August 31, 2024 unless terminated earlier in accordance with the provisions of **Article 7.**”

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

THIS SPACE INTENTIONALLY LEFT BLANK

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

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: _____

By _____
Eddy Cumins, General Manager

MODERN RAILWAY SYSTEMS

Dated: _____

By _____
Paul Rieger, President

APPROVED AS TO FORM:

Dated: _____

By _____
District Counsel

**EXHIBIT B
SCHEDULE OF RATES**

Implementation Services

Description	Unit of Measure	Cost
Network Management System (Category 4-A)	Lump Sum	\$68,132.30

The Implementation Services listed above shall be invoiced in arrears following project completion and SMART acceptance.

Standard Services

Description	Unit of Measure	Cost
Monthly TDX Software & Network Maintenance (Category 1)	Per Month	\$7,831.93
TDX Engineer	Per Hour	\$234.38
Network Engineer	Per Hour	\$135.41

Optional Services

Description	Unit of Measure	Cost
Optional Task - Annual Audit Site Visit	Per Audit	\$14,244.57
Optional Task - Annual Training Site Visit	Per Training	\$20,891.06



July 19, 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
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General Manager

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

SUBJECT: Approval of Nossaman LLP Contract Amendment No. 3

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to execute Contract Amendment No. 3 with Nossaman, LLP in an amount of \$400,000 for legal services and extend the term to December 31, 2024.

SUMMARY:

Nossaman LLP has specialized expertise in a variety of rail transit and state and local government agency matters and has assisted SMART with litigation support, railroad right of way, construction projects, eminent domain proceedings and related matters. Since 2021, Nossaman LLP has assisted SMART on an as needed basis providing litigation support, railroad right-of-way matters, and regulatory issues. Staff is anticipating the continued need for the firm's specialized experience and litigation support.

Staff recommends approval of this amendment to continue the retention of Nossaman LLP for the supplemental specialized legal support on an as-needed basis. This amendment extends the contract for an additional 18-month term through December 31, 2024 and increases the contract amount by \$400,000.

FISCAL IMPACT: Funding has been included in the Fiscal Year 2022-2023 Adopted Budget.

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

Very truly yours,

 /s/
Thomas F. Lyons
General Counsel

Attachment(s): Nossaman LLP Contract Amendment No. 3

**THIRD AMENDMENT TO THE LEGAL SERVICES AGREEMENT BETWEEN THE
SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
AND NOSSAMAN LLP**

This Third Amendment dated as of July 20, 2023 (the “Third Amendment”), to the Legal Services Agreement by and between Nossaman LLP (hereinafter referred to as “Attorneys”) and the Sonoma-Marín Area Rail Transit District (hereinafter referred to as “SMART”), dated as of April 30, 2021 (the “Original Agreement,” as amended and supplemented by the First and Second Amendments, and now this Third Amendment, the “Agreement”).

RECITALS

WHEREAS, Attorneys and SMART previously entered the Original Agreement on April 30, 2021 to provide various legal services regarding litigation, rail transit issues, including railroad right of way, construction projects, eminent domain proceedings and related issues; and

WHEREAS, SMART and Attorneys previously entered into various Amendments to the Agreement on September 21, 2021, and on June 1, 2022, to increase the not-to-exceed amount of the Agreement and extend the term of the Agreement; and

WHEREAS, SMART now desires to amend the Agreement to increase the total not-to-exceed amount of compensation by \$400,000.00, modify the Exhibit A, Schedule of Rates, and extend the term; and

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

AGREEMENT

1. **“ARTICLE 4. COMPENSATION”** The last sentence of Article 4 of the Agreement is hereby amended as follows:

“Total compensation under this Agreement shall not exceed \$925,000.00.”

2. **“ARTICLE 7. EFFECTIVE DATE AND TERM”** is hereby deleted and replaced with the following:

This Agreement shall be effective as of April 30, 2021, and shall expire on December 31, 2024, unless terminated earlier in accordance with the terms herein.

3. **“EXHIBIT A, SCHEDULE OF RATES”** Exhibit A, Schedule of Rates, is hereby deleted in its entirety and replaced with the revised Exhibit A, Schedule of Rates, attached herein.

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

THIS SECTION INTENTIONALLY BLANK

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

**SONOMA-MARIN AREA RAIL TRANSIT
DISTRICT**

Dated: _____

By _____
Eddy Cumins, General Manager

NOSSAMAN LLP

Dated: _____

By _____
Brad Kuhn, Partner

APPROVED AS TO FORM:

Dated: _____

By _____
District Counsel

**Exhibit A
Schedule of Rates**

Matter Code 008

Employee Code	Employee	Hourly Rate
ACJ1	Johnston, Amanda	\$265.00
BBK	Kuhn, Bradford B.	\$585.00
DMN	Nowlin McMillin, Diana M.	\$265.00
JF1	Friess Leivas, Jillian	\$585.00
RMC	Cole, Ron	\$585.00
SMS3	Silva, Steven M.	\$585.00
FC2	Castaneda, Fernando	\$265.00
JHV	Vorhis, James H.	\$585.00

The Hourly Rate for attorneys shall be \$585.00 and for paralegals shall be \$265.00.

Matter Code 009

Employee Code	Employee	Hourly Rate
BBK	Kuhn, Bradford B.	\$725.00
RMC	Cole, Ron	\$495.00
BZR	Rubin, Benjamin Z.	\$585.00
JHV	Vorhis, James H.	\$335.00
FC2	Castaneda, Fernando	\$335.00
JF1	Friess Leivas, Jillian	\$385.00
SMS3	Silva, Steven M.	\$495.00
DMN	Nowlin McMillin, Diana M.	\$310.00
CLB	Blumenstein, Carl L.	\$725.00

Matter Code 010

Employee Code	Employee	Hourly Rate
DMN	Nowlin McMillin, Diana M.	\$265.00
JF1	Friess Leivas, Jillian	\$585.00
BBK	Kuhn, Bradford B.	\$585.00
BZR	Rubin, Benjamin Z.	\$585.00
RMC	Cole, Ron	\$585.00
JHV	Vorhis, James H.	\$585.00
FC2	Castaneda, Fernando	\$265.00
SMS3	Silva, Steven M.	\$585.00
CLB	Blumenstein, Carl L.	\$585.00

The Hourly Rate for attorneys shall be \$585.00 and for paralegals shall be \$265.00.

The rates specified herein are fully burdened and include all administrative and overhead costs such as secretarial assistance, word processing and computer assisted research cost and telephone charges.

EXPENSES

Attorneys shall not charge for travel time, but shall, if approved by SMART, be reimbursed for travel expenses such as airfare (excluding first class or business class), taxis, rental cars, etc. in accordance with SMART's travel policy.

Copying charges:	\$0.15 per page
Fax charges: (outgoing only)	\$1.00 per page

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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
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General Manager

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www.SonomaMarinTrain.org

July 19, 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:

The Pathway is an integral component of the SMART system and serves as a transportation facility paralleling the rail line, carrying an estimated 55,000 bicyclists and pedestrians every month. In 2022, SMART held a series of listening sessions, including one on the Pathway. One of the key takeaways from that meeting was the need and desire to include wayfinding signage on the Pathway. As a result, SMART initiated the Pathway Wayfinding Project in Spring 2023 to assess Pathway wayfinding needs, design wayfinding concepts that improve connectivity and the ability to navigate the Pathway and develop a wayfinding plan to support the eventual implementation of the selected wayfinding design concept.

Outreach

Public input is a critical component guiding SMART's Pathway Wayfinding Plan. Several different engagement opportunities are included in the project scope to learn about the people using the Pathway and to solicit input from community members on wayfinding needs and visual preferences, and to guide design concepts.

Intercept Survey

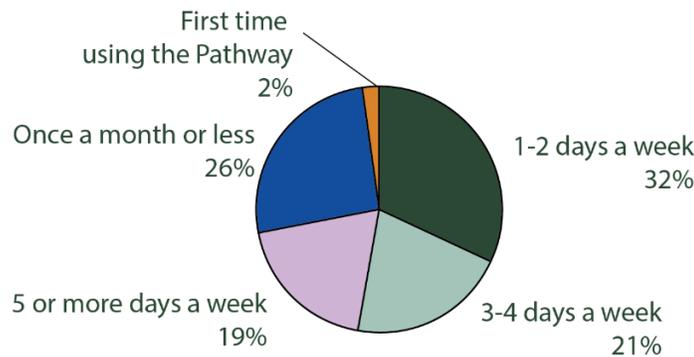
An intercept survey was included in the project scope for the purpose of gathering data to understand who current Pathway users are and learn about their existing travel patterns and trip purposes. This information establishes a baseline understanding of how the Pathway is currently being used to inform ways wayfinding might improve trip making for existing trips and identify where wayfinding could better support and encourage travel. The data from the intercept survey will also have wider application beyond wayfinding for pathway planning purposes.

In-person intercepts were conducted over four days between May 31 and June 3, 2023 and at four locations, including two locations in Marin County (Downtown Novato and Larkspur) and two locations in Sonoma County (Downtown Santa Rosa and Rohnert Park). The survey was administered at each location throughout the day to capture people using the Pathway in the morning, midday, and evening hours. Simultaneously, the survey was also available online and open from May 31 through June 7, 2023 to allow respondents the opportunity to complete the survey at their convenience. The link to the survey was promoted by SMART on social media platforms and shared with the local bicycle coalitions. A total of 386 surveys were completed and 43 were partially completed, for a total of 429 surveys received. The survey generated several insights, highlighted below.

Train and Pathway Use

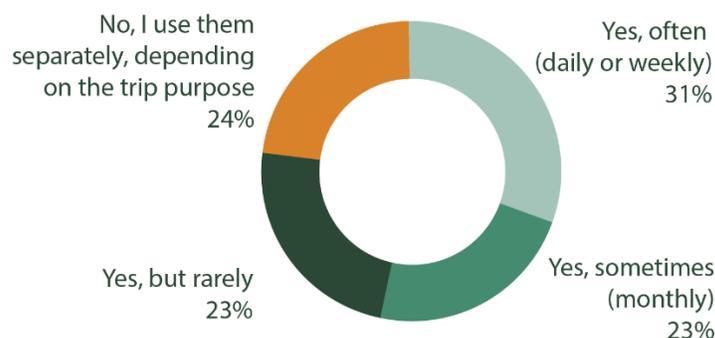
The majority of respondents were frequent users of the Pathway. Nearly a third (32%) of respondents said they use the Pathway 1-2 days per week, 21% use it 3-4 days per week, and 19% use the Pathway 5 days per week; in sum, nearly three quarters of the users surveyed use the pathway at least weekly. The remaining quarter indicated the use the pathway once a month or less.

How often people use the Pathway?



A little over half of the respondents (54%) use both the Pathway and train during the same trip. 46% of respondents rarely or never use the Pathway during the same trip. These results indicate that SMART’s pathway serves a range of trip types and that wayfinding should be designed to help improve the connection between train stations and the Pathway.

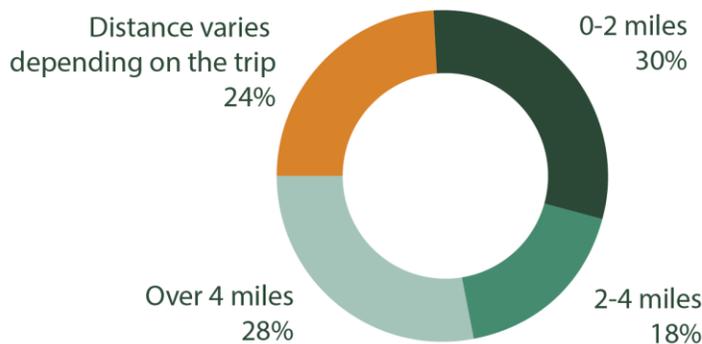
Do you ever use the SMART Pathway and Train during the same trip?



Trip Distance

Survey respondents were asked to estimate their most common trip distance. Of the responses given, 30% indicated a short trip of 0-2 miles, 18% answered 2-4 miles, and 28% indicated they usually travel more than 4 miles. The remaining 24% answered that their distance varies and is dependent on trip purpose. This range of answers underscores the variety of trips that are taking place on the Pathway.

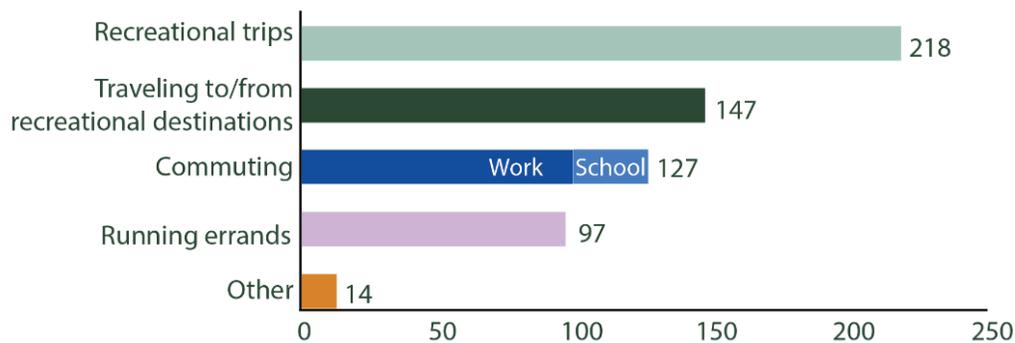
Typical distance of trips taken on the Pathway...



Trip Purpose

Survey respondents were asked what kind of trips they use the Pathway for, and respondents were permitted to provide multiple answers. Responses showed that the majority of trips are for recreational purposes, with 218 respondents stating they use the Pathway for recreational bike or walking trips and another 147 reporting that they use the Pathway to access recreational destinations. Commuting, whether to work or school, was the next most common trip purpose, and another 97 respondents stated that they use the Pathway for running errands. Trips in the other category included exercise, visiting family and friends, or reaching medical appointments.

Trip Purpose: "I use the SMART Pathway for..."

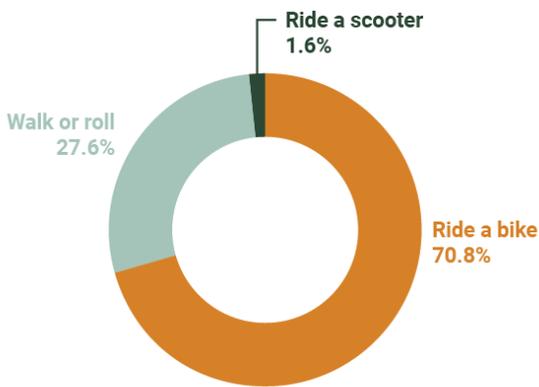


These trip purpose responses emphasize the importance for wayfinding to highlight recreational connections and better orient Pathway users with the surrounding community.

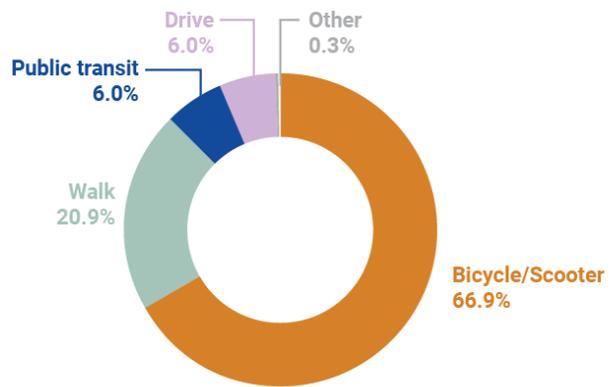
Mode of Travel

The majority (70.8%) of respondents primarily ride a bicycle on the Pathway (over walking or riding a scooter). When asked how they typically reach the Pathway, which is important for wayfinding design, the results were similar: the majority of respondents both arrive by and travel on the Pathway by bicycle or scooter (60-70%). This was followed by walking (20-27%). When scooters were identified as a separate category from bicycles, it became clear that scooter use in this area is extremely low, with only 1.6% of surveyed users reaching the Pathway by scooter compared to 70.8% by bicycle. We know from our pathway counters that the usage of the pathway is generally split evenly between bicyclists and pedestrians, so that suggests that the survey respondent group might have been skewed towards bicyclists during this sample period.

On the SMART Pathway, I primarily:



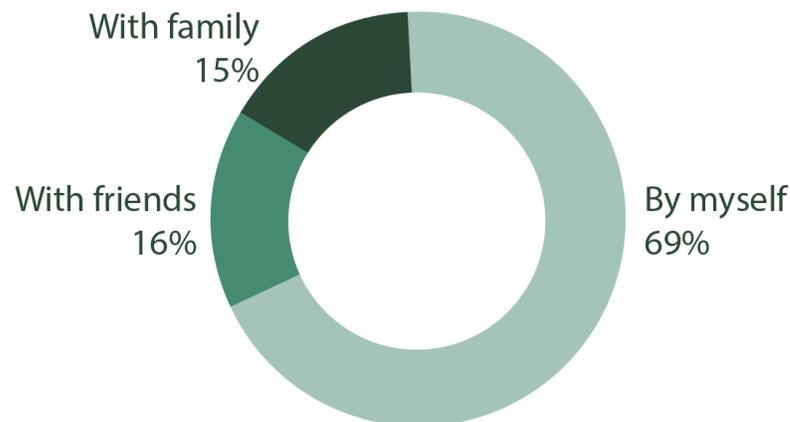
How do you typically reach the SMART Pathway?



Travel Behavior

Most people travel by themselves on the Pathway. Less than a third of respondents reported using the Pathway with friends or family. These responses point to the need for the Pathway wayfinding to include a unified style and regular Pathway confirmation signs to allow people to navigate the Pathway confidently and on their own.

People primarily use the Pathway...



Demographics

The majority of survey respondents were older adults (45+). The age breakdown of survey respondents were as follows: 4% (under 18), 6% (18-24), 13% (25-34), 16% (35-44), 14% (45-54), 21% (55-64), and 26% over 65. Of respondents who indicated a gender, 65% indicated male, 35% female, and 1% non-binary. Regarding disabilities, 25 of respondents indicated they had a disability that affected their daily life, and indicated the category of that disability. Survey respondents were also asked about their household income; results were fairly even across the categories, with just over half the respondents reporting over \$100,000; 16% of the surveys indicated a household income of less than \$50,000 per year, and 14% under \$75,000.

When asked about the language spoken at home, 90% of respondents answered English, with 5% indicating Spanish, and the remaining 5% speaking a range of other languages. Of the surveys received, two were completed in Spanish.

Virtual Public Workshop

A virtual public workshop for Pathway Wayfinding was held on the evening of June 29, 2023. A total of 37 people attended. The meeting introduced community members to the project scope, goals, and schedule. The meeting included a number of interactive activities to allow participants to share the ways they typically navigate and state their visual preferences and the characteristics they would wish to see reflected in the Pathway wayfinding design. The workshop also highlighted future public participation opportunities the public can take part in to further guide the project and the Pathway signage design concepts.

Next Steps

Moving forward, Staff are working with partner agencies to coordinate areas where the Pathway shares designations. SMART will incorporate feedback from the intercept survey and the virtual public workshop in the initial design concepts, which will be presented to the public for input in late Summer 2023.

FISCAL IMPACT: Information only.

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

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Eddy Cumins
General Manager

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www.SonomaMarinTrain.org

July 19, 2023

Sonoma-Marin 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 Contract No. CV-BB-23-002 with Ghilotti Brothers, Inc. in the amount of \$3,436,924

Dear Board Members:

RECOMMENDATION:

Approve Resolution No. 2023-27 authorizing the General Manager to execute Contract No. CV-BB-23-002 with Ghilotti Brothers, Inc. in the amount of \$3,436,924. This contract is for the construction of a section of multi-use pathway between McInnis Parkway near Bridgewater Drive and Smith Ranch Road in San Rafael, providing a connection between the Marin Civic Center Station and the McInnis Park and Epicenter. This section of pathway will connect the community and businesses in northern San Rafael to the SMART Civic Center train station.

SUMMARY:

SMART continues to construct pathway segments to make important station connections and improve the first/last mile connectivity throughout the SMART system. This contract will build a 0.7-mile multi-use class I pathway, upgrade 0.2 miles of class III pathway, and upgrades an at-grade crossing to integrate the pathway.

A formal Invitation for Bid was issued on May 15, 2023, to procure a contractor to construct this pathway segment. A Pre-Bid Conference was held on May 31, 2023. On June 20, 2023, SMART held a public bid opening. The final project bid amounts were each read out loud and tabulated. SMART received a total of 2 sealed bids from the following contractors:

Contractor	Amount
Ghilotti Brothers Inc.	\$3,436,924
Stacy and Witbeck, Inc.	\$3,798,575

The Invitation for Bid procedures requires SMART to award this construction contract to the lowest responsive, responsible bidder. Following evaluations of each bid, SMART deemed Ghilotti Brothers, Inc, to have submitted the lowest responsive and responsible bid for the construction of the Non-Motorized Pathway from McInnis Parkway to Smith Ranch Road (Solicitation No. CV-BB-23-002).

Staff recommends approving Resolution No. 2023-27 authorizing the General Manager to execute Contract No. CV-BB-22-003 with Ghilotti Bros. Inc. in the amount of \$3,436,924 for construction of McInnis Parkway to Smith Ranch Road multi-use pathway in San Rafael.

FISCAL IMPACT: Funding is included in the Fiscal Year 2023-24 Adopted Budget.

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

Very truly yours,

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

Attachment(s):

- 1) Resolution No. 2023-27
- 2) Ghilotti Brothers Inc. Contact No. CV-BB-22-003

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
APPROVING CONTRACT NO. CV-BB-23-002 WITH GHILOTTI BROTHERS, INC. FOR THE CONSTRUCTION OF
NON-MORTORIZED PATHWAY BETWEEN MCINNIS PARKWAY AND SMITH RANCH ROAD IN SAN RAFAEL**

WHEREAS, The Sonoma-Marín Area Rail Transit District (SMART) prepared construction documents (Contract No. CV-BB-23-002) for a segment of non-motorized pathway between McInnis Parkway and Smith Ranch Road; and

WHEREAS, SMART initiated a formal Invitation for Bid for Construction Contract No. CV-BB-23-002 on May 15, 2023 which included advertising the opportunity in local newspapers, trade journals, the SMART website and other related outreach outlets; and

WHEREAS, SMART conducted a pre-bid conference for interested contractors on May 31, 2023; and

WHEREAS, SMART received two bids on June 20, 2023 and conducted a public bid opening; and

WHEREAS, Ghilotti Brothers, Inc. submitted the lowest bid for the work of \$3,436,924; and

WHEREAS, SMART determined that Ghilotti Brothers, Inc. 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.
2. The General Manager is authorized to execute Contract No. CV-BB-23-002 with Ghilotti Brothers, Inc. in the amount of \$3,436,924.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 19th day of July 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 July 19, 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 Ghilotti Bros., Inc, whose place of business is located at 525 Jacoby Street, San Rafael, CA 94901 (hereinafter “Contractor”).

**CONSTRUCTION OF NON-MOTORIZED PATHWAY
MCINNIS PARKWAY TO SMITH RANCH ROAD (MP 20.1 – MP 21.0)
CONTRACT # CV-BB-23-002**

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: FTA & DOT Requirements
- (c) Exhibit C: Federal Wage Determination

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 **Alexandra Majoulet, 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’s 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: Alexandra Majoulet
Phone: 707-285-8186
Email: amajoulet@sonomamarintrain.org

ARTICLE 4. CONTRACT TIME AND LIQUIDATED DAMAGES.

Section 4.01 Contract Time and Notice to Proceed. Contractor shall achieve Substantial Completion of the project within two hundred (230) working days from the date the Notice to Proceed is issued. Contractor shall achieve full project completion no later than June 30, 2024.

Contractor shall not perform any Work prior to SMART issuing a Notice to Proceed. SMART may issue a Notice to Proceed at any time within 60 Days after Contract Award.

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 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.

Accordingly, SMART and Contractor agree that as liquidated damages for delay Contractor shall pay SMART the liquidated damages identified 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: \$3,436,924.00

The Contract Sum includes all allowances (if any).

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, 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.
Camblin Steel Service, Inc. 548 Gibson Dr., Suite 150 Roseville, CA 95678	Rebar Items 53	218839
Kingsborough Atlas Tree Surgery 1544 Ludwig Ave Santa Rosa, CA 95407	Tree Service Item 10	679146
Ahlborn Fence & Steel, Inc. 1230 Century Ct. Santa Rosa, CA 95403	Fencing Items 16-21,23	793504
Mike Brown Electric Co. 561 A Mercantile Drive Cotati, CA 94931	Electrical Items 22, 32, 36, 58, 59, 60	306767
Striping Graphics 501 Aaron St. Cotati, CA 94931	Striping & Signs: Items 33-35, 37-39	578756
Pacific Coast Drilling Company 364 Bellevue Ave Santa Rosa, CA 95407	CIDH: Item 51 (Partial)	539855

Section 6.09 Contractor has designated **Kevin Park, 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 **Dave Foti, 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: Kevin Park	Superintendent: Dave Foti
Phone: 415-419-9333	Phone: 415-760-0095
Email: kevinp@gbi1914.com	Email: davef@gbi1914.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:	General Requirements
Technical Specifications:	Technical Specifications

Section 7.02 There are no Contract Documents other than those listed in Section 6.01. 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. A follow form Excess Liability policy may be utilized to satisfy the required limits of liability under this section.

Section 8.03 Comprehensive 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 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 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 Transit District, and shall cover all other railroads operating on the right-of-way.

Section 8.06 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 \$3,436,924.00. 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.

Section 8.07 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.

Section 8.08 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 8.09 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 8.10 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 8.11 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 three (3) 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 three (3) years after completion of the work.

Section 8.12 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 8.13 Policy Obligations. Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 8.14 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.

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 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 9.03 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 9.04 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 9.05 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 9.06 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.

This project is subject to the Federal Wage determination. Whenever the Federal Wage determination and the California Prevailing Wage determinations conflict, the higher rate shall be paid.

Section 9.07 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 9.08 Drug-Free Workplace. Contractor certifies that it will provide

a drug-free workplace in compliance with Government Code §8350-§8357.

Section 9.09 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 9.10 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 9.11 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 9.12 No Third-Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

Section 9.13 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 9.14 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 9.15 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: GHILOTTI BROS., INC.

By: _____
Michael M. Ghilotti, President

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**

Item #	Description	QTY	UOM	Per Unit Price	Total Item Price
1	Mobilization	1	LS	\$211,489.00	\$211,489.00
2	Signs and Traffic Control	1	LS	\$15,000.00	\$15,000.00
3	Erosion Control / Water Pollution Control	1	LS	\$100,000.00	\$100,000.00
4	Temporary Construction Fencing	1	LS	\$20,000.00	\$20,000.00
5	Clearing and Grubbing	1	LS	\$172,000.00	\$172,000.00
6	Remove Asphalt Concrete	1	LS	\$4,000.00	\$4,000.00
7	Remove Rip Rap	1	LS	\$500.00	\$500.00
8	Roadway Excavation	1	LS	\$5,000.00	\$5,000.00
9	Remove Bollard	3	EA	\$175.00	\$525.00
10	Remove Tree	18	EA	\$1,200.00	\$21,600.00
11	Remove Gate	2	EA	\$330.00	\$660.00
12	Remove Fence	25	LF	\$25.00	\$625.00
13	Hot Mix Asphalt	2,100	TON	\$209.00	\$438,900.00
14	Class II Aggregate Base	555	CY	\$375.00	\$208,125.00
15	Concrete Walkway	380	SF	\$30.00	\$11,400.00
16	4' Chain Link Fence (Type CL-4, Blk. Vinyl Clad)	217	LF	\$75.00	\$16,275.00
17	6' Chain Link Fence (Type CL-6, Standard)	5,686	LF	\$29.00	\$164,894.00
18	6' Chain Link Fence (Type CL-4, High Security)	1,033	LF	\$37.00	\$38,221.00
19	4' Wide Man Gate	3	EA	\$3,020.00	\$9,060.00
20	6' Tall Sliding Gate (15' Width)	1	EA	\$9,040.00	\$9,040.00
21	Replacement Double Leaf Swing Gate (20' Total Width)	1	EA	\$9,480.00	\$9,480.00
22	Pedestrian Crossing Gate Foundation	2	EA	\$8,650.00	\$17,300.00
23	Pedestrian Crossing Emergency Swing Gate	2	EA	\$8,535.00	\$17,070.00
24	Removable Bollard	1	EA	\$2,000.00	\$2,000.00
25	Vegetated Swale	400	LF	\$11.00	\$4,400.00
26	Rock Outfall	1	CY	\$800.00	\$800.00

27	Ballast Swale	680	LF	\$13.00	\$8,840.00
28	Pathway Earthwork - Cut	900	CY	\$75.00	\$67,500.00
29	Pathway Earthwork - Fill	1,900	CY	\$22.00	\$41,800.00
30	Detectable Warning Surface	5	EA	\$1,600.00	\$8,000.00
31	10' ADA Precast Grade Crossing Concrete Panel	1	LS	\$20,000.00	\$20,000.00
32	Pedestrian and Cyclist Urban Multi Eco Counter	1	EA	\$19,790.00	\$19,790.00
33	Relocate Sign	2	EA	\$350.00	\$700.00
34	Roadside Sign and Post	41	EA	\$350.00	\$14,350.00
35	Fence-Mounted Panel Sign	2	EA	\$350.00	\$700.00
36	Solar-Powered Pedestrian Activated Crossing System	1	LS	\$43,760.00	\$43,760.00
37	Pavement Striping	1,100	LF	\$10.00	\$11,000.00
38	Pavement Marking	1,442	SF	\$12.00	\$17,304.00
39	Watch for Train Stencils	10	EA	\$400.00	\$4,000.00
40	4" Sch-80 PVC Culvert Pipe	37	LF	\$130.00	\$4,810.00
41	6" Sch-80 PVC Culvert Pipe	122	LF	\$133.00	\$16,226.00
42	24"x24" Precast Concrete Bottomless Culvert	1	LS	\$7,000.00	\$7,000.00
43	Extend 42" RCP Culvert	1	LS	\$15,000.00	\$15,000.00
44	18" Grate Inlet	2	EA	\$4,000.00	\$8,000.00
45	Adjust Utility Box to Finished Grade	1	EA	\$1,100.00	\$1,100.00
46	Adjust Cleanout to Finished Grade	1	EA	\$1,100.00	\$1,100.00
47	Rock Slope Protection	10	CY	\$475.00	\$4,750.00
48	Mechanically Stabilized Embankment (Retaining Wall)	6,200	SF	\$122.00	\$756,400.00
49	Structure Excavation	32	CY	\$200.00	\$6,400.00
50	Structure Backfill	22	CY	\$300.00	\$6,600.00
51	30" Cast-In-Drilled-Hole Concrete Piling	206	LF	\$560.00	\$115,360.00
52	Structural Concrete	26	CY	\$3,000.00	\$78,000.00

53	Structural Concrete with Polymer Fiber	17	CY	\$1,300.00	\$22,100.00
54	Bar Reinforced Steel (Epoxy Coated)	1	LS	\$70,000.00	\$70,000.00
55	Prefabricated Pedestrian Bridge	1	LS	\$400,000.00	\$400,000.00
56	Structural Concrete, Approach Slab	6	CY	\$1,900.00	\$11,400.00
57	Miscellaneous Metal, Bridge	1	LS	\$15,000.00	\$15,000.00
58	Pull Boxes	4	EA	\$3,010.00	\$12,040.00
59	4" Sch-80 PVC Signal Conduits (Bore)	164	LF	\$150.00	\$24,600.00
60	4" Sch-80 PVC Signal Conduits (Trench)	34	LF	\$145.00	\$4,930.00
61	Allowance – Unforeseen Site Conditions	1	LS	\$100,000.00	\$100,000.00
TOTAL PRICE:					\$3,436,924.00

GENERAL INFORMATION

Costs are in United States Dollars

The above costs include all labor, supervision, equipment, materials, supplies, insurance, bonding, overhead, profit, and all other direct and indirect costs associated with performing the work included in this Agreement.

ITEM DESCRIPTIONS:

1. Item 1: Mobilization

Mobilization will be paid for at the contract LUMP SUM (LS) price, which price shall constitute full compensation for all such work. The scope of work for mobilization shall include, but not limited to, obtaining all bonds, insurance and permits, moving onto the site of all plant and equipment, submittal, and approval of a schedule of values for lump sum items, and obtaining approval for all shop drawings and materials for signal equipment. Final payment for mobilization shall occur following demobilization and final cleanup when all required items per the Contract are fulfilled and the site is free of equipment and clean and ready for use by the public, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

2. Item 2: Signs and Traffic Control

Signs and Traffic Control will be paid for at the contract LUMP SUM (LS) price, which shall include full compensation for conforming to the provisions in this

section, furnishing all labor, materials, tools and equipment, and doing all work involved in traffic control, including temporary relocation of regulatory signs, provide/maintain/relocate portable changeable message boards (PCMS), providing/placing/removal of trench plates, providing, as specified herein and/or shown in the approved traffic control plans, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

3. Item 3: Erosion Control / Water Pollution Control

Erosion Control / Water Pollution Control shall be paid for at the contract LUMP SUM (LS) price, which shall include full compensation for conforming to the provisions in this section, furnishing all labor, materials, tools, equipment, and any other work involved in Erosion Control / Water Pollution Control including but not limited to implementation and maintenance of all stormwater, sediment, and erosion control measures, following Best Management Practices, and all incidentals necessary to control stormwater pollution, sedimentation, and erosion, and no additional compensation will be made therefor.

4. Item 4: Temporary Construction Fencing

Payment for Temporary Construction Fencing shall be paid at the contract price LUMP SUM (LS) for Temporary Construction Fencing, which shall include full compensation for furnishing all labor, materials, tools, and equipment for Temporary Construction Fencing, including but not limited to furnishing and installing fence materials, site preparation, disposal of unused materials, maintenance of the fence during the construction period, and removal of the fence and all accessories following the completion of construction, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

5. Item 5: Clearing and Grubbing

Payment for Clearing and Grubbing shall be paid for at the contract LUMP SUM (LS) price for which shall include full compensation for all costs necessary and incidental to Clearing and Grubbing, including but not limited to site preparation, removal of vegetation, boulders, and other earthen materials, watering, and disposal, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

6. Item 6: Remove Asphalt Concrete

Payment for Asphalt Concrete Removal shall be paid for at the contract price per LUMP SUM (LS) for Asphalt Concrete Removal which shall include full compensation for furnishing all labor, materials, tools, equipment, for removal of asphalt concrete, including excavation, sawcutting, disposal, and cleanup, all in accordance with the requirements of the Contract Documents and no

additional compensation will be made therefor.

7. Item 7: Remove Rip Rap

Payment for Rip Rap Removal shall be paid for at the contract price per LUMP SUM (LS) for Rip Rap Removal which shall include full compensation for furnishing all labor, materials, tools, equipment, for removal of rip rap, including excavation, disposal, and cleanup, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

8. Item 8: Roadway Excavation

Payment for Roadway Excavation shall be paid for at the contract price per LUMP SUM (LS) for Roadway Excavation which shall include full compensation for furnishing all labor, materials, tools, equipment, for roadway excavation, disposal, and clean up, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

9. Item 9: Remove Bollard

Payment for Bollard Removal shall be paid for at the contract price per EACH (EA) for Bollard removal which shall include full compensation for furnishing all labor, materials, tools, equipment, for removal and disposal of bollards that conflict with the proposed improvements all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

10. Item 10: Remove Tree

Payment for Tree Removal shall be paid for at the contract price per EACH (EA) for tree removal which shall include full compensation for furnishing all labor, materials, tools, equipment, for removal and disposal of trees, including limbs, truck, and root system larger than 3-in in diameter, and capping and removal of impacted portions of the existing irrigation facilities serving the tree that conflict with the proposed improvements all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

11. Item 11: Remove Gate

Payment for Remove Gate shall be paid for at the contract price per EACH (EA) for gate removal which shall include full compensation for furnishing all labor, materials, tools, equipment, for removal and disposal of gates, including concrete footings, and backfill of removed footings, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

12. Item 12: Remove Fence

Payment for Remove Fence shall be paid for at the contract price per LINEAR FOOT (LF) for fence removal which shall include full compensation for furnishing all labor, materials, tools, equipment for removal and disposal of fences, including concrete footings, and backfill of removed footings, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

13. Item 13: Hot Mix Asphalt

Payment for Hot Mix Asphalt shall be paid for at the contract price per TON (TON) for Hot Mix Asphalt which shall include full compensation for furnishing all labor, materials, tools, equipment, for Hot Mix Asphalt, including but not limited to transport to the site, surface preparation, placement, compaction, and cleanup, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

14. Item 14: Class II Aggregate Base

Payment for Class II Aggregate Base shall be paid for at the contract price per CUBIC YARD (CY) for Class II Aggregate Base which shall include full compensation for furnishing all labor, materials, tools, equipment, and doing all the work involved for Class II Aggregate Base, including but not limited to formwork, transport, surface preparation, placement, and compaction, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

15. Item 15: Concrete Walkway

Payment for Concrete Walkway shall be paid for at the contract price per SQUARE FOOT (SF) for Concrete Walkway which shall include full compensation for furnishing all labor, materials, tools, equipment, and doing all the work involved in construction of Concrete Walkway, including but not limited to formwork, expansion joints, scoring, finishing, and all incidentals, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

16. Item 16: 4' Chain Link Fence (Type CL-4, Blk. Vinyl Clad)

Payment for 4' Chain Link Fence (Type CL-4, Blk. Vinyl Clad) shall be paid at the contract price per LINEAR FOOT (LF) for 4' Chain Link Fence (Blk. Vinyl Clad) which shall include full compensation for furnishing all labor, materials, tools, and equipment for 4' Chain Link Fence (Blk. Vinyl Clad), including but not limited to furnishing fence materials, factory coating, excavation, disposal, concrete, and installation, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

17. Item 17: 6' Chain Link Fence (Type CL-6, Standard)

Payment for 6' Chain Link Fence (Type CL-6, Standard) shall be paid at the contract price per LINEAR FOOT (LF) for 6' Chain Link Fence (Standard) which shall include full compensation for furnishing all labor, materials, tools, and equipment for 6' Chain Link Fence (Standard), including but not limited to furnishing fence materials, excavation, disposal, concrete, and installation, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

18. Item 18: 6' Chain Link Fence (Type CL-6, High Security)

Payment for 6' Chain Link Fence (Type CL-6, High Security) shall be paid at the contract price per LINEAR FOOT (LF) for 6' Chain Link Fence (High Security) which shall include full compensation for furnishing all labor, materials, tools, and equipment for 6' Chain Link Fence (High Security), including but not limited to furnishing fence materials, excavation, disposal, concrete, and installation, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

19. Item 19: 4' Wide Man Gate

Payment for 4' Wide Man Gate shall be paid at the contract price per EACH (EA) for 4' Wide Man Gate which shall include full compensation for furnishing all labor, materials, tools, and equipment for 4' Wide Man Gate, including but not limited to furnishing fence materials, excavation, disposal, concrete, hardware, locks, and installation, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

20. Item 20: 6' Tall Sliding Gate (15' Width)

Payment for 6' Tall Sliding Gate shall be paid at the contract price per EACH (EA) for 6' Tall Sliding Gate which shall include full compensation for furnishing all labor, materials, tools, and equipment for 6' Tall Sliding Gate, including but not limited to furnishing fence materials, excavation, disposal, concrete, hardware, and installation, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

21. Item 21: Replacement Double Leaf Swing Gate (20' Total Width)

Payment for Replacement Double Leaf Swing Gate (20' Total Width) shall be paid at the contract price per EACH (EA) for Replacement Double Leaf Swing Gate (20' Total Width), which shall include full compensation for furnishing all labor, materials, tools, and equipment for Replacement Double Leaf Swing Gate (20' Total Width), including but not limited to furnishing fence materials, excavation, disposal, concrete, hardware, and installation, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

22. Item 22: Pedestrian Crossing Gate Foundation

Payment for Pedestrian Crossing Gate Foundation shall be paid for at the contract price per EACH (EA) for Pedestrian Crossing Gate Foundation which shall include full compensation for furnishing all labor, materials, tools, equipment for Pedestrian Crossing Gate Foundation, including but not limited to furnishing prefabricated foundation, excavation, disposal, concrete, backfill, conduits, boring for conduit installation, pull boxes, and adjustment of pull boxes to grade, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

23. Item 23: Pedestrian Crossing Emergency Swing Gate

Payment for Pedestrian Crossing Swing Gate shall be paid for at the contract price per EACH (EA) for Pedestrian Crossing Swing Gate which shall include full compensation for furnishing all labor, materials, tools, equipment for Pedestrian Crossing Swing Gate, including but not limited to furnishing swing gate, excavation, disposal, concrete, backfill, hardware, and signage, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

24. Item 24: Removable Bollard

Payment for Removable Bollards shall be paid for at the contract price PER EACH (EA) for Removable Bollard which shall include full compensation for furnishing all labor, materials, tools, equipment for Removable Bollard, including but not limited to furnishing bollard, excavation, backfill, concrete, hardware, and painting, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

25. Item 25: Vegetated Swale

Payment for Vegetated Swale shall be paid for at the contract price per LINEAR FOOT (LF) for Vegetated Swale which shall include full compensation for furnishing all labor, materials, tools, equipment for Vegetated Swale, including but not limited to excavation, disposal, import and transport, placement, compaction, fine grading, revegetation, and cleaning, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

26. Item 26: Rock Outfall

Payment for Rock Outfall shall be paid for at the contract price per CUBIC YARD (CY) for Rock Outfall which shall include full compensation for furnishing all labor, materials, tools, equipment to install Rock Outfall, including but not limited to excavation, disposal, placement of geotextile fabric, and placement of rock, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

27. Item 27 – Ballast Swale

Payment for Ballast Swale shall be paid for at the contract price per LINEAR FOOT (LF) of Ballast Swale which shall include full compensation for furnishing all labor, materials, tools, equipment including but not limited to excavation, disposal, import and transport, placement, compaction, fine grading, and cleaning, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

28. Item 28: Pathway Earthwork - Cut

Payment for Pathway Earthwork – Cut shall be paid for at the contract price per CUBIC YARD (CY) for Pathway Earthwork – Cut which shall include full compensation for furnishing all labor, materials, tools, equipment for Pathway Earthwork – Cut, including but not limited to excavation, off-haul and disposal, and cleaning, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

29. Item 29: Pathway Earthwork - Fill

Payment for Pathway Earthwork – Fill shall be paid for at the contract price per CUBIC YARD (CY) for Pathway Earthwork – Fill which shall include full compensation for furnishing all labor, materials, tools, equipment for Pathway Earthwork – Fill, including but not limited to material import and transport, placement, compaction, testing, and cleaning, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

30. Item 30: Detectable Warning Surface

Detectable Warning Surface shall be paid for at the contract unit price per EACH (EA), which price shall include full compensation of installation of the Detectable Warning Surface, which shall include full compensation for furnishing all labor, materials, tools, equipment including but not limited to site preparation and site clean-up, saw cutting, excavation removal, wet setting of Detectable Warning Surface with minimum 4-inch concrete band, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

31. Item 31: 10' ADA Precast Grade Crossing Concrete Panel

Payment for 10' ADA Precast Grade Crossing Concrete Panel shall be paid for at the contract LUMP SUM (LS) price for 10' Grade Crossing Concrete Panel shall include full compensation for furnishing all labor, materials, tools, equipment, for 10' Grade Crossing Concrete Panel, including furnishing and installing panels, gauge filler, hardware, asphalt filler, dielectric pad, expansions board, and coordination of timing of work as directed by SMART, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

32. Item 32: Pedestrian and Cyclist Urban Multi Eco Counter

Payment for Pedestrian and Cyclist Urban Multi Eco – Counter shall be paid for at the contract price per EACH (EA) for Pedestrian and Cyclist Urban Multi Eco – Counter which shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in installing Pedestrian and Cyclist Urban Multi Eco – Counter, including footings, conduits and sensor wire, manhole, trenching, backfill, and surface restoration, complete in place, per the contract documents.

33. Item 33: Relocate Sign

Payment for Relocate Sign shall be paid for at the contract price per EACH (EA) for sign relocation which shall include full compensation for furnishing all labor, materials, tools, equipment for the removal and reinstallation of Relocated Sign, including but not limited to excavation, backfill, concrete, disposal, sign pole, pole foundation, sign panels, brackets, braces, straps, screws, bolts, washers, nuts, and all other required hardware all in accordance with the requirements of the Contract Documents, salvaging the signs and reinstalling the existing signs in the proposed location per the contract documents.

34. Item 34: Roadside Sign and Post

Payment for Roadside Sign and Post shall be paid for at the contract price per EACH (EA) for Roadside Sign and Post which shall include full compensation for furnishing all labor, materials, tools, equipment to install Roadside Sign and Post, including but not limited to excavation, concrete, sign pole, pole foundation, sign panels, brackets, braces, straps, screws, bolts, washers, nuts, and all other required hardware, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

35. Item 35: Fence-Mounted Panel Sign

Payment for Fence-Mounted Panel Sign shall be paid for at the contract price per EACH (EA) for Fence-Mounted Panel Sign which shall include full compensation for furnishing all labor, materials, tools, and equipment for Fence-Mounted Panel Sign, including but not limited to sign panels, brackets, braces, straps, screws, bolts, washers, nuts, and all other required hardware, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

36. Item 36: Solar-Powered Pedestrian Activated Crossing System

Payment for Solar-Powered Pedestrian Activated Crossing System shall be paid at the contract price per LUMP SUM (LS) Solar-Powered Pedestrian Activated Crossing System, which shall include full compensation for furnishing all labor, materials, tools, and equipment for APS Push Button, including but not limited to furnishing 1-B poles, signage, solar panels, excavation, soil disposal, concrete, mounting signage and solar panels to pole, button with audible message, mounting button to 1-B Pole, hardware, wiring, testing, and disposal of unused materials, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

37. Item 37: Pavement Striping

Payment for Pavement Striping shall be paid at the contract price per LINEAR FOOT (LF) for Pavement Striping, which shall include full compensation for furnishing all labor, materials, tools, and equipment for Pavement Striping, including but not limited to surface preparation, establishing layout and alignment, thermoplastic, adhesive, pavement markers, and temporary striping all in accordance with the requirements of the Contract Documents and no additional compensation will be allowed therefor.

38. Item 38: Pavement Marking

Payment for Pavement Marking shall be paid at the contract price per SQUARE FOOT (SF) for Pavement Marking, which shall include full compensation for furnishing all labor, materials, tools, and equipment for Pavement Marking, including but not limited to surface preparation, establishing layout and alignment, thermoplastic, adhesive, and temporary striping, all in accordance with the requirements of the Contract Documents and no additional compensation will be allowed therefor.

39. Item 39: Watch for Train Stencils

Payment for Watch for Train Stencils shall be paid at the contract price per EACH (EA) for Watch for Train Stencils, which shall include full compensation for furnishing all labor, materials, tools, and equipment for Watch for Train Stencil, including but not limited to surface preparation, establishing layout and alignment, stencil, thermoplastic, and adhesive all in accordance with the requirements of the Contract Documents and no additional compensation will be allowed therefor.

40. Item 40: 4" Sch-80 PVC Culvert Pipe

Payment for each 4" Sch-80 PVC Culvert Pipe will be paid at the contract price per LINEAR FOOT (LF) for 4" Sch-80 PVC Culvert Pipe, which shall include full compensation for furnishing all labor, materials, tools, and equipment for 4" Sch-80 PVC Culvert Pipe, including but not limited to furnishing and installing drainage pipe including but not limited to all pipe fittings, as shown on the plans, complete in place, all excavation & disposal of excavated

material; hand digging to protect roots; root pruning; abandonment, temporary connections, removal, & disposal of existing materials; connecting to new or existing pipe, catch basins, or manholes; trenching and shoring; dewatering; ground water disposal; controlled density fill if used; temporary and permanent trench paving all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

41. Item 41: 6" Sch-80 PVC Culvert Pipe

Payment for each 6" Sch-80 PVC Culvert Pipe will be paid at the contract price per LINEAR FOOT (LF) for 6" Sch-80 PVC Culvert Pipe, which shall include full compensation for furnishing all labor, materials, tools, and equipment for 6" Sch-80 PVC Culvert including but not limited to all pipe fittings, as shown on the plans, complete in place, all excavation & disposal of excavated material; hand digging to protect roots; root pruning; abandonment, temporary connections, removal, & disposal of existing materials; connecting to new or existing pipe, catch basins, or manholes; trenching and shoring; dewatering; ground water disposal; controlled density fill if used; temporary and permanent trench paving all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

42. Item 42: 24" x 24" Precast Concrete Bottomless Box Culvert

Payment for each 24" x 24" Precast Concrete Bottomless Box Culvert will be paid at the contract price LUMP SUM (LS) which shall include full compensation for furnishing all labor, materials, tools, and equipment for 24" x 24" Precast Concrete Bottomless Box Culvert, including but not limited to furnishing box culvert to the site, site preparation, trenching, excavation and disposal of excavated material, and installation of the box culvert, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

43. Item 43: Extend 42" RCP Culvert

Payment to Extend 42" RCP Culvert will be made at the contract price LUMP SUM (LS) for Extend 42" RCP Culvert which shall include full compensation for furnishing all labor, materials, tools, and equipment for Extend 42" RCP Culvert , including but not limited to furnishing and installing drainage pipe including all pipe fittings, as shown on the plans, complete in place, all excavation & disposal of excavated material; hand digging to protect roots; root pruning; abandonment, temporary connections, removal, & disposal of existing materials; connecting to new or existing pipe, catch basins, or manholes; trenching and shoring; dewatering; ground water disposal; controlled density fill if used; temporary and permanent trench paving all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

44. Item 44: 18" Grade Inlet

Payment for 18" Grate Inlet shall be paid for at the contract price per EACH (EA) for 18" Grate Inlet which shall include full compensation for furnishing all labor, materials, tools, equipment for 18" Grate Inlet, including but not limited to providing grate inlet, excavation, subgrade preparation, drainage inlets, providing all pipe fittings, grouting, furnishing, placing, & compacting backfill material, and controlled density fill where required; furnishing, installing, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

45. Item 45: Adjust Utility Box to Finished Grade

Payment for Adjust Utility Box to Finished Grade shall be paid for at the contract price per EACH (EA) for Adjust Utility Box to Finished Grade which shall include full compensation for furnishing all labor, materials, tools, equipment to Adjust Utility Box to Finished Grade, including but not limited to excavation, backfill, concrete backfill, grade rings, adjusting structure and cover to grade, and cleaning, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

46. Item 46: Adjust Cleanout to Finished Grade

Payment for Adjust Cleanout to Finished Grade shall be paid for at the contract price per EACH (EA) for Adjust Cleanout to Finished Grade which shall include full compensation for furnishing all labor, materials, tools, equipment to Adjust Cleanout to Finished Grade, including but not limited to excavation, backfill, concrete backfill, grade rings, adjusting structure and cover to grade, and cleaning, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

47. Item 47: Rock Protection Slope

Payment for Rock Protection Slope shall be paid for at the contract price per CUBIC YARD (CY) for Rock Protection Slope which shall include full compensation for furnishing all labor, materials, tools, equipment for the installation of Rock Protection Slope, including but not limited to removal and disposal of existing materials, placement of geotextile fabric, and placement of rock, all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

48. Item 48: Mechanically Stabilized Embankment (Retaining Wall)

Payment for Mechanically Stabilized Embankment shall be paid for at the contract unit price per SQUARE FOOT (SF) of exposed face of wall which shall include full compensation for furnishing all labor, materials, tools, equipment for Mechanically Stabilized Embankment, including but not limited to furnishing and constructing the Mechanically Stabilized Embankment, site preparation and site clean-up, installation of concrete retaining wall, excavation and grading, root pruning, backfilling, 6-inch class II aggregate base, geogrid, geotextile, and compaction and restoration of any damages, in

accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

49. Item 49: Structure Excavation

Payment for Structure Excavation shall be paid for at the contract price per CUBIC YARD (CY) for Structure Excavation which shall include full compensation for furnishing all labor, materials, tools, equipment, for Structure Excavation all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

50. Item 50: Structure Backfill

Payment for Structure Backfill shall be paid for at the contract price per CUBIC YARD (CY) for Structure Backfill which shall include full compensation for furnishing all labor, materials, tools, equipment, for Structure Backfill all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

51. Item 51: 30" Cast-In-Drilled-Hole Concrete Piling

Payment for 30" Cast-In-Drilled-Hole Concrete Piling shall be paid for at the contract price per LINEAR FOOT (LF) for 30" Cast-In-Drilled-Hole Concrete Piling which shall include full compensation for furnishing all labor, materials, tools, equipment, and for doing all the work involved in constructing the 30" Cast-In-Drilled-Hole Concrete Piling, including gamma gamma test method, complete in place in accordance with the requirements of the Contract Documents and Caltrans spec 49-1.1.3 and no additional compensation will be made therefor.

52. Item 52: Structural Concrete

Payment for Structural Concrete shall be paid for at the contract price per CUBIC YARD (CY) for Structural Concrete which shall include full compensation for furnishing all labor, materials, tools, equipment, and for doing all the work involved in constructing the concrete work, complete in place in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

53. Item 53: Structural Concrete with Polymer Fiber

Payment for Structural Concrete with Polymer Fiber shall be paid for at the contract price per CUBIC YARD (CY) price for Structural Concrete with Polymer Fiber which shall include full compensation for furnishing all labor, materials, tools, equipment, and for doing all the work involved in constructing the concrete work, complete in place, in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

54. Item 54: Bar Reinforcing Steel (Epoxy Coated)

Payment for Bar Reinforcing Steel shall be paid for at the contract price per LUMP SUM (LS) for Bar Reinforcing Steel which shall include full compensation for furnishing all labor, materials, tools, equipment, and for doing all the work involved in furnishing and placing the for Bar Reinforcing Steel, including epoxy coating, complete in place, in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor. Full compensation for furnishing and testing sample splices is included in the price paid for Bar Reinforcing Steel (Epoxy Coated).

55. Item 55: Prefabricated Pedestrian Bridge

Payment for Prefabricated Pedestrian Bridge shall be paid for at the contract LUMP SUM (LS) price for Prefabricated Pedestrian Bridge shall include full compensation for furnishing all labor, materials, tools, equipment, and for doing all the work involved in furnishing and erecting the Prefabricated Pedestrian Bridge, complete in place, in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

56. Item 56: Structural Concrete, Approach Slab

Payment for Structural Concrete, Approach Slab shall be paid for at the contract price per CUBIC YARD (CY) for Structural Concrete, Approach Slab which shall include full compensation for furnishing all labor, materials, tools, equipment, and for doing all the work involved in constructing the concrete work, complete in place, in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor. Full compensation for approach drainage systems is included in the price paid for Structural Concrete, Approach Slab.

57. Item 57: Miscellaneous Metal, Bridge

Payment for Miscellaneous Metal, Bridge shall be paid for at the contract price per LUMPSUM (LS) for Miscellaneous Metal, Bridge which shall include full compensation for furnishing all labor, materials, tools, equipment, and for doing all the work involved in furnishing and placing the Miscellaneous Metal, Bridge, complete in place, in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

58. Item 58: Pull Boxes

Payment for Pull Boxes shall be paid for at the contract price per EAVH (EA) for Pull Boxes which shall include full compensation for furnishing all labor, materials, tools, equipment, and for doing all the work involved in furnishing and placing the pull boxes, complete in place, in accordance with the requirements of the Contract Documents and no additional compensation will

be made therefor.

59. Item 59: 4" Sch-80 PVC Signal Conduits (Bore)

Payment for each 4" Sch-80 PVC Signal Conduits (Bore) will be paid at the contract price per LINEAR FOOT (LF) for 4" Sch-80 PVC Signal Conduits (Bore), which shall include full compensation for furnishing all labor, materials, tools, and equipment for 4" Sch-80 PVC Signal Conduits (Bore), including but not limited to furnishing and installing signal pipe including but not limited to all pipe fittings, as shown on the plans, complete in place, all excavation & disposal of excavated material; boring, hand digging to protect roots; root pruning; removal, & disposal of existing materials; connecting to new or existing pipe, pullboxes; trenching and shoring; controlled density fill if used; compaction of fill all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

60. Item 60: 4" Sch-80 PVC Signal Conduits (Trench)

Payment for each 4" Sch-80 PVC Signal Conduits (Trench) will be paid at the contract price per LINEAR FOOT (LF) for 4" Sch-80 PVC Signal Conduits (Trench), which shall include full compensation for furnishing all labor, materials, tools, and equipment for 4" Sch-80 PVC Signal Conduits (Trench), including but not limited to furnishing and installing signal pipe including but not limited to all pipe fittings, as shown on the plans, complete in place, all excavation & disposal of excavated material; hand digging to protect roots; root pruning; removal, & disposal of existing materials; connecting to new or existing pipe, pullboxes; trenching and shoring if needed; controlled density fill if used; compaction of fill all in accordance with the requirements of the Contract Documents and no additional compensation will be made therefor.

61. Item 61: Allowance – Unforeseen Site Conditions

Unforeseen site conditions may include any site conditions that conflict with the improvements not anticipated or discovered during design or bidding.

This item includes compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in unforeseen site conditions. The work, scope and details shall be approved by the Engineer prior to beginning work.

**EXHIBIT B
FTA & DOT REQUIREMENTS**

**UNITED STATES DEPARTMENT OF TRANSPORTATION (DOT),
FEDERAL TRANSIT ADMINISTRATION (FTA) AND
CALIFORNIA DEPARTMENT OF TRANSPORTATION 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 FTA directives. The terms of the most recent amendment to any federal, state or local laws, regulations, FTA 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 FTA 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.

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, FTA 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.

(d) Access to the Site of Performance. The Contractor agrees to permit FTA 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. **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.

4. **Bonding Requirements**

Applicability: All Construction and Facility Improvement Contracts > \$150,000

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will,

upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

It is also understood and agreed that if the bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency’s damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof. It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency’s total damages so as to make Agency whole. The bidder understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive. Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten (10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable StandBy Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, “standby” Letter

of Credit.

4. The Agency is identified as the Beneficiary.
5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

5. Buy America.

Applicability: All Rollingstock Purchases, Materials and Supplies Contracts, and Construction Contracts >\$150,000.

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR §200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. §661.7.

Construction materials used are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L 117-58, div G, tit. IX §§70911-70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and the FTA. The recipient acknowledges that this agreement is neither a waiver of §70914(a) nor a finding under §70914(b).

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. §5323(u) and 49 C.F.R. §661.11. Domestic preferences for procurements.

The bidder or offeror must submit to SMART the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information, please see the FTA's Buy America webpage at: <https://www.transit.dot.gov/buyamerica>.

6. 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.

7. Cargo Preference Requirements.

Applicability: All Rolling Stock Purchases, Materials & Supplies, and Construction Contracts which require transportation by ocean vessels.

The Contractor agrees to:

(a) to use privately owned United States flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying Agreement to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels;

(b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph, to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Contractor in the case of a subcontractor's bill-of-lading); and

(c) to include these requirements in all subcontracts issued pursuant to this Agreement when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

8. Charter Service.

Applicability: All Operations & Management Contracts

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 C.F.R. part 604, which

provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be “incidental”, i.e., it must not interfere with or detract from the provision of mass transportation.

9. 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-Marín 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. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. 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. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
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. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.

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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
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.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA.

10. 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, the FTA, and the Regional Office of the Environmental Protection Agency.

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the FTA.

11. 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 assure notification to the FTA, and 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.
- (4) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

12. 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) and FTA Notice, “FTA National ITS Architecture Policy on Transit Projects”, 66FR 1455 et seq., January 8, 2001, and later published policies or implementing directives FTA may issue. 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.

13. 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.”

14. 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 and such other clauses as the FTA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. 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.

15. 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.

16. Disadvantaged Business Enterprise (DBE)

Applicability: All Contracts

The contractor 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 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as SMART deems appropriate, 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. 49 C.F.R. § 26.13(b).
- (5) Termination of the Contract

The Contractor shall report its DBE participation obtained through race-neutral means through the period of performance with all invoices submitted.

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.

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 consent 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.

It is the policy of SMART and the United States Department of Transportation (“DOT”) that Disadvantaged Business Enterprises (“DBE’s”), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

17. DHS Seal, Logo, and Flags.

Applicability: All Contracts

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FTA pre-approval.

18. Energy Conservation.

Applicability: All Contracts

The Consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act. The consultant agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, “Requirements for Energy Assessments,” 49 CFR part 622, subpart C.

19. Federal Changes.

Applicability: All Contracts

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Sonoma-Marín Area Rail Transit District and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

20. Fly America.

Applicability: All Contracts

The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10.131 – 301-10.143, which provide that recipients and sub-recipients of Federal funds and their consultants are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

21. Incorporation of Federal Transit Administration (FTA) Terms.

Applicability: All Contracts

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

22. No Obligation by the Federal Government.

Applicability: All Contracts

The Sonoma-Marín Area Rail Transit District (SMART) and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

23. Notice of Legal Matters.

Applicability: All Contracts > \$25,000

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the SMART is located. The Contractor must include a similar notification requirement in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- (3) Additional Notice to the U.S. DOT Inspector General. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

24. Patent Rights and Rights in Data and Copyrights Requirements.

Applicability: All Research Project Contracts

Intellectual Property Rights

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Sonoma-Marin Area Rail Transit District intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any

reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

25. Pre-Award and Post Delivery Audits Requirements.

Applicability: All Rolling Stock/Turnkey Acquisition Contracts

A Buy America certification under this part shall be issued in addition to any certification which may be required by 49 CFR Part 661. Nothing in this part precludes the FTA from conducting a Buy America investigation under part 661 of this title “Pre-Award and Post-Delivery Audit Requirements”.

The Contractor agrees to comply with “Buy America Requirements-Surface Transportation Assistance Act of 1982, as amended by 49 CFR 661.12, but has been modified to include FTA’s Buy America requirements codified at 49 U.S.C. A 5323(j).

Pre-Award and Post-Delivery Audit Requirements – The Contractor agrees to comply with 49 U.S.C. 5323(I) and FTA’s implementing regulation at 49 CFR Part 663 and to submit the following certifications:

- 1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the firm

certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

- 2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the solicitation specifications.
- 3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit a) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or b) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

26. Recycled Products.

Applicability: All Contracts > \$10,000

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.

27. Program Fraud and False or Fraudulent Statements and Related Acts

Applicability: All Contracts

(a) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the Agreement, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(b) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and

49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(c) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

28. Prompt Payment.

Applicability: All Contracts

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed. The contractor must promptly notify SMART, whenever a DBE subcontractor performing work related to this contract 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 consent of SMART.

29. 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:

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.

30. 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.

31. Transit Employee Protective Agreements

Applicability: All Transit Operations Contracts

The Transit Employee Protective Provisions apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator.

- i. General Transit Employee Protective Requirements – To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. The requirements of this subsection however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.
- ii. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. 5310(a)(2) for Elderly Individuals and Individuals with Disabilities – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. 5333(b) are necessary or appropriate for the state and SMART for which

work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. 5333(b), U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto.

- iii. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. 5311 in Non-Urbanized Areas – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.
- iv. The Contractor also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance by FTA.

32. 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), 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.

33. 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.

34. Termination.

Applicability: All Contracts > \$10,000

In addition to the Termination provisions contained in the Agreement, the following Termination provisions apply.

(a) Termination for Convenience. SMART may terminate this Agreement, in whole or in part, at any time by written notice to the Contractor when it is in SMART's best interest. The Contractor shall be paid its costs, including Agreement close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to SMART to be paid the Contractor. If the Contractor has any property in its possession belonging to SMART, the Contractor will account for the same, and dispose of it in the manner SMART directs.

(b) Termination for Default [Breach or Cause]. If the Contractor does not deliver supplies in accordance with the Agreement delivery schedule, or, if the Agreement is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, SMART may terminate this Agreement for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the Contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by SMART that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, then SMART, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

(c) Opportunity to Cure. SMART in its sole discretion may, in the case of a termination for breach or default, allow the Contractor up to ten (10) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to SMART's satisfaction the breach or default of any of the terms, covenants, or conditions of this Agreement within ten (10) calendar days after receipt by Contractor of written notice from SMART setting forth the nature of said breach or default, SMART shall have the right to terminate the Agreement without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude SMART from also pursuing all available remedies against Contractor and its sureties for said breach or default.

(d) Waiver of Remedies for any Breach. In the event that SMART elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, such waiver by SMART shall not limit SMART's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

(e) Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract,

the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

(f) Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.
3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

35. 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.

36. Violation and Breach of Contract.

Applicability: All Contracts

Rights and Remedies of SMART

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by SMART or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by SMART, the Contractor expressly agrees that no default, act or omission of SMART shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless SMART directs Contractor to do so) or to suspend or abandon performance.

Remedies

Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between SMART and the Contractor arising out of or relating to this Agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within California.

Disputes

Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties shall be decided in writing by SMART's General Manager. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the General Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the General Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance during Dispute

Unless otherwise directed by Agency, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose

acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

37. Geographic Restrictions.

Applicability: All Contracts

Contractor shall refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal statute.

38. Metric System.

Applicability: All Contracts

To the extent required by U.S. DOT or FTA, 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 or FTA. To the extent practicable and feasible, SMART agrees to accept products and services with dimensions expressed in the metric system of measurement.

39. Environmental Protection.

Applicability: All Contracts

Contractor shall comply with the following requirements:

(a) Contractor shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.* consistent with Executive Order. No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; PTA statutory requirements on environmental matters at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 *et seq.*; and joint FHWA/FTA regulations, "Environmental impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622.

(b) Contractor shall comply with all Federal transit laws, such as 49 U.S.C. §5323(c)(2) and 23 U.S.C. §139, as applicable.

(c) Contractor shall report and require each subcontractor at any tier to report any violation of these requirements resulting from any Contract activity of Contractor or subcontractor to FTA and the appropriate U.S. EPA Regional Office.

40. Privacy Act.

Applicability: All Contracts

Contractor agrees to comply with and assures the compliance of its employees with the

information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C § 552. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including civil and criminal penalties for violation of the Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

41. Transit Vehicle Manufacturer (TVM) Certifications

Applicability: All Rolling Stock Contracts

49 CFR 26.49 – Contractor must submit to SMART a certification from each transit vehicle manufacture that desires to bid or propose upon a DOT-assisted transit vehicle procurement that it has complied with the requirements of 49 CFR 26.49. SMART may, however, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the overall goal setting procedures.

42. Trafficking in Persons

Applicability: All Contracts

The Contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- (a) Engage in severe forms of trafficking in persons during the period of time that the Recipients Award is in effect;
- (b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- (c) Use forced labor in the performance of the Recipient's Award of Subagreements thereunder.

43. Federal Tax Liability and Recent Felony Convictions

Applicability: All Contracts

A. Contractor certifies that it does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that it is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

B. Contractor certifies that it was not convicted of felony criminal violation under any Federal law within the preceding twenty-four (24) months.

44. 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.

45. 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.

46. 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.

47. Severability

Applicability: All Contracts

Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

**EXHIBIT C
FEDERAL WAGE DETERMINATION**

[To be Attached Prior to Signature]



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

July 19, 2023

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

SUBJECT: SMART Freight Storage

Dear Board Members:

RECOMMENDATIONS:

Discuss freight storage and provide clarification to staff regarding storage limitations.

SUMMARY:

On November 17, 2021, the Board approved the removal of LPG tanker cars from the Schellville storage area. At the time, the railroad was earning approximately \$500,000 annually in storage fees plus revenue associated with switching cars in and out of the area. Although SMART Freight continues to have significant storage capacity, only \$7,488 was earned in FY23 for storage services. Through conversations with rail storage brokers, tanker cars are the best option to monetize SMART Freight's storage track. Staff understands the LPG tanker car decision, but requests clarification on other types of tanker cars.

In an effort to increase freight revenue, staff seeks to create clear storage guidelines to share with rail storage brokers. These guidelines will include acceptable car types, contents, and hazardous designation limitations. The purpose of this agenda item is to receive guidance and direction from the Board. After receiving guidance and direction, staff will develop guidelines and present them to the Board for approval at a future meeting.

Very truly yours,

/s/
Eddy Cumins
General Manager



Eric Lucan, Chair
Marin County Board of Supervisors

July 19, 2023

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

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

Kate Colin
Transportation Authority of Marin

SUBJECT: Marin County Civil Grand Jury Report, dated June 22, 2023, entitled
“SMART at a Crossroads – Here Today, Gone Tomorrow?”

Chris Coursey
Sonoma County Board of Supervisors

Rachel Farac
Transportation Authority of Marin

Dear Board Members:

Debora Fudge
Sonoma County Mayors’ and
Councilmembers Association

RECOMMENDATIONS:
Review and discuss Marin County Civil Grand Jury Report dated June 22, 2023

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

SUMMARY:
On June 22, 2023, The Marin County Civil Grand Jury released a report on SMART entitled “SMART at a Crossroads – Here Today, Gone Tomorrow?” The report consists of six findings and three recommendations. The purpose of this agenda item is to review the report’s findings/recommendations and discuss the collective response from the SMART Board of Directors. A response is due to the Marin County Civil Grand Jury no later than September 22, 2023

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

Very truly yours,

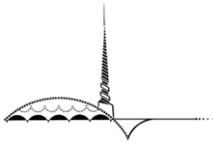
Mary Sackett
Marin County Board of Supervisors

/s/
Eddy Cumins
General Manager

Eddy Cumins
General Manager

Attachment(s): SMART at a Crossroads – Here Today, Gone Tomorrow ?,
dated June 22, 2023

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



SMART AT A CROSSROADS HERE TODAY, GONE TOMORROW?

June 22, 2023

SUMMARY

What is the Sonoma-Marín Area Rail Transit's (SMART) plan to continue operations after April 2029 when essential revenue from the ¼ percent sales tax expires?

Since Marin and Sonoma county voters in 2008 authorized levying the sales tax to finance SMART's construction and operation, the public has invested more than \$600 million. Since trains first began operating in 2017, the weekday average ridership has rarely exceeded 2,500. Even though SMART's ridership has rebounded after the Covid-19 pandemic, current ridership remains short of expectations.

Without more riders the public may not be convinced of SMART's value. Even though SMART's new leadership, especially its General Manager and Chief Financial Officer, appear qualified, energetic and motivated, SMART's Board of Directors (Board) has yet to engage in a comprehensive marketing and outreach strategy to increase the number of riders.

The Grand Jury has found that SMART is highly dependent on sales tax revenues for its operations. Without those funds SMART will not be able to continue even if it substantially increases the number of riders or obtains additional federal, state, or regional funds from existing programs.

In fact, SMART will likely be forced to discontinue services if Marin and Sonoma county voters do not approve a sales tax extension by the required supermajority in an election before 2029.

The Grand Jury's primary recommendation is that SMART's Board of Directors immediately begin a frank, straightforward conversation with voters delineating the value SMART brings to the community. It should, within the next twelve months, agree to a fully transparent plan that would do so.

SMART is at a Crossroads. Time for action is now.

BACKGROUND

In 2002, the California State Legislature created the Sonoma-Marín Area Rail Transit System as a special district to plan, construct and operate a suburban passenger train system (along with a small freight operation) within the two counties. SMART is governed by a Board of Directors consisting of equal numbers of elected officials from Sonoma and Marin counties. In addition, there is a Citizens Oversight Committee (COC) authorized to provide the Board and General Manager continuous feedback on the system's finances and operations.¹

SMART was designed to take advantage of a century-old route initially established as both a passenger and freight system in Marin and Sonoma counties.² This concept, while utilizing the existing right-of-way already in place, actually has limited its benefits and made it harder to meet what its advocates promised. It also impacts how it can be funded.

SMART's initial plan was to construct a 70 mile train corridor, build 14 stations, and purchase the necessary equipment. However, less than anticipated sales tax revenues required shortening the route to 43 miles with only 10 stations from downtown San Rafael to Santa Rosa. SMART thus began operations on the shorter route in August 2017, three years later than planned.³ Two years later SMART added the Larkspur and the Sonoma Airport Boulevard Road stations to the existing route.

While SMART has identified and obtained most of the needed funds to complete construction to the entire promised route, including stations in Windsor and Healdsburg, funds needed to achieve the goal of building a railway all the way to Cloverdale remain elusive.

SMART's enabling statute also authorized the creation of a complementary bicycle path designed, in part, to help address the issue of how train riders get to and from the station, i.e., the first-and-last mile connection. As of February 2023, 24 miles of the proposed 70 mile bicycle route have been constructed, and an additional 23 miles in planning or construction phases have received funding. Twenty additional miles from Windsor to Cloverdale are not yet funded.

Public transit systems in the United States have been built employing a combination of federal and state funds along with farebox revenue and local tax subsidies. Historically, federal and state transportation programs have financed constructing, not actually operating, public transit systems. SMART's advocates, however, created a plan whereby local taxpayers would pay a substantial share of the construction costs as well as subsidizing on-going operations.

¹ The Citizens Oversight Committee was the subject of a 2021 Sonoma County Grand Jury Report which recommended numerous improvements in its procedures and activities. The SMART Board has begun steps to implement those recommendations. <https://sonoma.courts.ca.gov/system/files/smart-decision-making.pdf>, Accessed on 4/3/23.

² Sonoma Marin Area Rail Transit Project, Final Environmental Impact Report, June 2006 http://scta.ca.gov/pdf/smart/final/final_eir.pdf, Accessed on 4/3/23.

³ Sonoma-Marín Transit District 2008 Expenditure Plan, July 2008, contained in Measure Q 2008. Page 13 MMM 14, <https://www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf>, Accessed on 4/24/23.

They recognized their plan could not rely on passenger revenues even though they claimed “based on the experience of other passenger train systems, fares are expected to fund approximately 36 percent of annual train system operating costs.”⁴ SMART has never been able to achieve this goal.

Accordingly, rather than deriving a substantial share of its revenue from passengers, SMART’s proponents and management recognized that both construction and on-going operations would have to be financed through a combination of (a) a locally approved sales tax and (b) one-time capital funds obtained through various federal, state and regional programs. Since its inception, management has constantly sought to obtain federal, state and regional grants.⁵

The first attempt to pass a sales tax, in 1998, demonstrated that while a majority of voters in both counties favored the train concept, they were unwilling to levy a tax on themselves. After SMART was created in 2002, its Board began a detailed process that included public hearings, an environmental review document, and a proposed expenditure plan. In 2006, the Board sought funding for this plan by passage of a ¼ percent sales tax measure (Measure R). It too failed to receive the required two-thirds approval by voters. However, two years later, in 2008, the Board tried again (Measure Q), and this time the sales tax measure was authorized with 69.6 percent approval.⁶

In 2008, Measure Q’s proponents argued that once the sales tax plan was enacted, SMART would accomplish what was promised in its expenditure plan. Specifically, they said SMART would “provide two-way passenger train service every 30 minutes during weekday rush hours...reduce gasoline consumption by 1.5 million gallons annually...relieve traffic, fight global warming, and increase transportation options...reduce congestion on Highway 101.” It would “serve between 7,000 and 10,000 projected users daily” referencing both train passengers and users of the bicycle/pedestrian pathway.⁷

In March 2020, SMART’s Board sought voters’ affirmation by seeking to have the sales tax extended for another 30 years (Measure I).⁸ However, Measure I was rejected when fewer than 54 percent of the voters supported the proposition.

At present, therefore, SMART’s voter-authorized sales tax will expire in April 2029. The train is operating now, but will it be here tomorrow?

⁴ Sonoma-Marín Transit District 2008 Expenditure Plan, July 2008, contained in Measure Q 2008. Page 13 MMM 14, www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf, Accessed on 4/24/23.

⁵ The latest report, February 15, 2023, is titled “Planning for the Future—Extensions,” <https://sonomamarintrain.org/sites/default/files/Documents/02-15-2023--Item8--BOD.pdf>, Accessed on 4/24/23.

⁶ In 2008, Sonoma County voters approved Measure Q by 73.7 percent vote while Marin voters voted just 62.3 percent in favor. The combined vote was 69.6 percent favorable in contrast to two years earlier in 2006 where 65.3 percent favored Measure R, just missing the needed two-thirds vote.

⁷ 2008 Marin County Voter Information Pamphlet, Measure Q www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf, Accessed on 3/31/23.

⁸ SMART Board of Directors, Regular Meeting Minutes, October 19, 2019, pages 11-13, https://sonomamarintrain.org/sites/default/files/Board/COC%20Documents/SMART%20Board%20of%20Directors%20Packet_10.16.2019.pdf, Accessed on 5/23/23.

APPROACH

The Grand Jury’s investigation, findings and recommendations are based upon a careful review of public documents, recorded public board and citizen “listening sessions,” interviews with key members of SMART’s Board of Directors and management team, interested parties and transit and communication experts. This is the third Marin County Civil Grand Jury Report (2009-2010 and 2013-2014) addressing SMART’s plans and operations. The Grand Jury reviewed those reports as well as those from the Sonoma Civil Grand Jury. The Grand Jury is mindful of all prior Grand Jury reports, each expressing the desire to see SMART “succeed far into the future.”⁹ The Grand Jury has taken all their views into consideration and is aware of their recommendations. This Grand Jury investigation was completed on May 23, 2023 and it included a review of the announced 2023-24 budget plan that will be decided in June 2023.¹⁰

DISCUSSION

As the March 2020 election results made clear, voters did not believe SMART’s Board and existing management had accomplished what they promised, nor did voters have confidence and trust in the Board’s performance.¹¹ The Board and management team have difficult tasks ahead of them. They must continue to construct and improve the system and regain public support in the organization’s mission.

In 2021, a newly hired General Manager and his new management team recognized their principal mission was to review ongoing operations and identify and plan for future challenges and opportunities. To help them accomplish these goals, last year they crafted a SWOT (Strengths, Weakness, Opportunities, and Threats) Analysis (a widely used model or technique designed to help organizations focus their projects more clearly and effectively). The Grand Jury applauds the General Manager for undertaking this effort. Since SMART is using this model to assess its own operations and future plans, the Grand Jury believes it can be the criteria against which SMART can be measured and also provide the general public an assessment of where SMART stands today.

⁹ “SMART Decision Making,” Sonoma County Civil Grand Jury, 2020-2021, page 2,

<https://sonoma.courts.ca.gov/system/files/smart-decision-making.pdf>, Accessed on April 3, 2023.

¹⁰ “SMART plans spending for rail, path projects,” Will Houston, *Marin Independent Journal*, May 22, 2023, <https://www.marinij.com/2023/05/21/smart-plans-spending-surge-for-rail-path-projects/>, Accessed on 5/23/24.

¹¹ “SMART, critics assess aftermath of tax extension failure,” Will Houston, *Marin Independent Journal*, March 4, 2020 <https://www.marinij.com/2020/03/04/smart-to-regroup-after-consequential-tax-extension-fails/>, Accessed on 4/9/23.

Figure 1

SMART's SWOT Analysis

S	<p style="text-align: center;"><u>Strengths</u></p> <ul style="list-style-type: none"> • Dedicated highly skilled staff • Safe and reliable service • Modern/comfortable train • Strong bi-directional commute patterns • Infrastructure in excellent condition • Bike/train synergy • Successful at identifying/securing funds • Strong organizational culture 	W	<p style="text-align: center;"><u>Weaknesses</u></p> <ul style="list-style-type: none"> • First and last mile connections • Single track system • Early/late service • Limited number of destination stations • Public perception/local support • Minimal staffing levels with long hiring timeline • Parking capacity/paid parking • Everything is a priority
O	<p style="text-align: center;"><u>Opportunities</u></p> <ul style="list-style-type: none"> • Improve strategic direction/alignment • Untapped markets (tourism, students, late night, recreation, and events) • Improve wayfinding, real-time info, apps, on-line presence • Improve first/last mile connections • Increase interaction with public and community leaders • Enhance marketing efforts to target key markets • Reactivate on-board amenities 	T	<p style="text-align: center;"><u>Threats</u></p> <ul style="list-style-type: none"> • Future sales tax funding • Well organized and funded opponents • Extension north of Windsor and east of Novato not in Plan Bay Area 2050 (limits ability to compete for grants) • On-going litigation slowing projects • Public trust/confidence • Post pandemic (work from home) • Cyber attacks • Rising capital/operating costs

Source: <https://sonomamarintrain.granicus.com/player/clip/598>, Accessed on 4/20/23.

SMART's Strengths and Accomplishments

Building the route, getting the money, and operating the trains

SMART recognized that a substantial share of the funds necessary to build the route would have to come from federal, state, and regional transportation programs. They have been successful in obtaining funding. Most recently, their continuing efforts have resulted in obtaining a substantial share of the funding from the Regional Measure 3 toll program required to finish constructing the route to Windsor and Healdsburg.¹²

¹² Regional Measure 3 funds totaling \$84 million plus \$146 million from federal programs; and \$1.8 million appropriated directly through a congressional earmark. See "Marin transit funding bolstered by state Supreme Court ruling," Will Houston, *Marin Independent Journal*, January 26, 2023, <https://www.marinij.com/2023/01/26/marin-transit-funding-bolstered-by-state-supreme-court-ruling/>, Accessed on 4/9/23. General Manager Report, SMART Board Meeting, January 4, 2023. https://www.sonomamarintrain.org/sites/default/files/Board/COC%20Documents/Agenda%20Item%20%234%20-%20General%20Manager%27s%20Report_5.pdf, Accessed on 4/23/23 ; "\$1.8 million in federal funding approved for the design of the SMART rail extension to Healdsburg" SMART press release, December 29, 2022, <https://mailchi.mp/sonomamarintrain.org/18m-in-federal-funding-for-design-of-smart-extension-to-healdsburg> Accessed on 4/9/23.

Last October, SMART announced it obtained \$10 million from the State of California's Transportation Agency and \$2 million from both the city of Petaluma and Sonoma County's Transportation Authority to build the 13th station, North Petaluma.¹³

SMART has operated its trains as planned with 30 minute headways. When the system expanded from Larkspur north, the number of daily weekday trips increased to 36. As a result of the Covid-19 pandemic the number of scheduled trains declined substantially. In October 2022, SMART finally reached its goal of 38 weekday daily round-trips.¹⁴

SMART reported in 2020 that “nearly 20 percent of its riders brought bicycles onboard” and “nearly 65,000 bike/walk trips monthly across nine locations in Marin and Sonoma counties.”¹⁵ The Grand Jury calculated from the monthly ridership reports that in 2022 approximately 15 percent of the boarders brought along bicycles.¹⁶ Evidently, SMART's connection with bicycle riders appears to be working.

SMART's Weaknesses

While a traditional “SWOT” analysis considers an organization's “weakness” to be reflective of an organization's internal deficiencies, the Grand Jury has focused on SMART's major weakness which is low ridership. Without more riders, public perception of the system's value will continue to decline.

¹³ “SMART allots \$14 M to build second Petaluma train station,” *Marin Independent Journal*, Will Houston, October 20, 2022
<https://mailchi.mp/sonomamarintrain.org/18m-in-federal-funding-for-design-of-smart-extension-to-healdsburg>, Accessed on 4/9/23.

¹⁴ SMART Fiscal Year 2022-2023 Budget, pages B-3, B-4,
https://www.sonomamarintrain.org/sites/default/files/Financial Documents/FY_2023_Approved_Budget_06_15_2022.pdf Accessed on 4/7/23.

¹⁵ <https://sonomamarintrain.org/node/519> February 8, 2023, MTC newsletter, Accessed on 4/3/23.

¹⁶ SMART Ridership Reports,
[https://www.sonomamarintrain.org/sites/default/files/Ridership%20Reports/SMART%20Ridership%20Web%20Pos ting_Apr.23.xlsx](https://www.sonomamarintrain.org/sites/default/files/Ridership%20Reports/SMART%20Ridership%20Web%20Posting_Apr.23.xlsx), Accessed on 4/28/23.

Low ridership

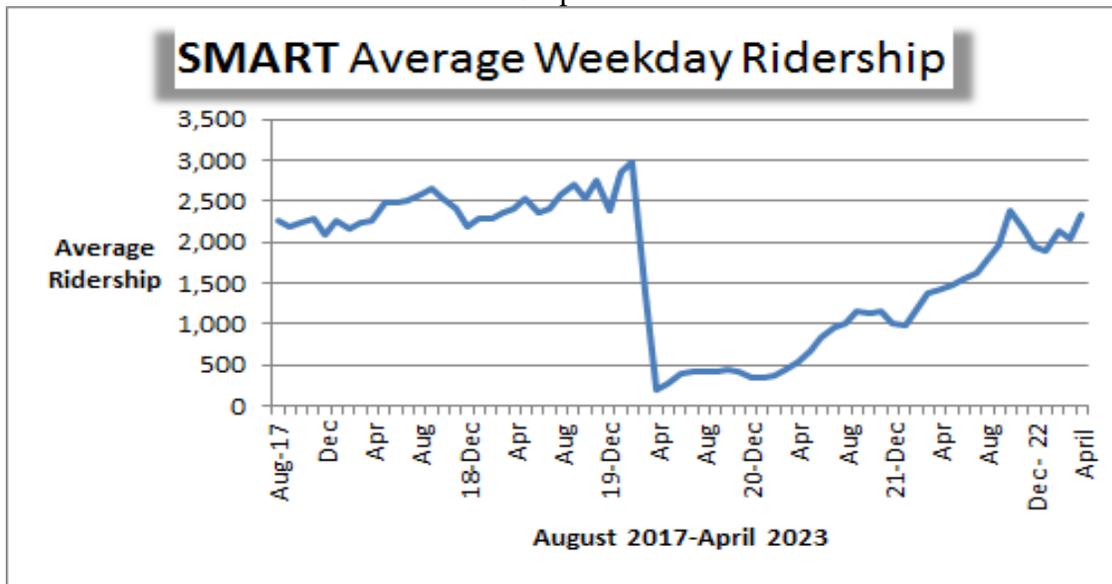
SMART has failed to meet its own projections or goals for ridership.

SMART’s 2006 Final Environmental Impact Report projected that by 2025 it would carry approximately 5,050 riders per weekday.¹⁷ When the trains began operating, SMART temporarily reduced its ridership goal to 3,000 riders each weekday. Yet, as of March 2023, SMART’s General Manager, Eddy Cumins, promoted the goal of 5,000 riders per weekday.¹⁸

Actual ridership on the SMART system since it commenced operations has been considerably less. Graph 1 illustrates the average number of weekday riders since the start of operations. The data illustrates a slight increase in the number of riders when service to Larkspur was initiated.

Graph 1 also illustrates that prior to the impact of COVID-19 in March 2020 SMART ridership fluctuated between 2,000-3,000 riders per weekday, rarely approaching or exceeding 3,000 riders per weekday. In April 2023, SMART’s weekday average ridership was 2,340 passengers.¹⁹

Graph 1



Source: SMART Ridership Reports,

https://www.sonomamarintrain.org/sites/default/files/Ridership%20Reports/SMART%20Ridership%20Web%20Posting_Apr.23.xlsx, Accessed on 4/28/23.

¹⁷ Sonoma Marin Area Rail Transit Project, Final Environmental Impact Report, June 2006,

http://scta.ca.gov/pdf/smart/final/final_eir.pdf, Accessed on 4/3/23.

¹⁸ “SMART train officials did well to avoid fiscal cliff facing some public transportation districts,” Dick Spotswood, *Marin Independent Journal*, March 18, 2003,

<https://www.marinij.com/2023/03/18/dick-spotswood-smart-train-officials-did-well-to-avoid-fiscal-cliff-facing-some-public-transportation-districts/>, Accessed on 4/9/23.

¹⁹

https://sonomamarintrain.org/sites/default/files/Board/COC%20Documents/Agenda%20Item%20%235_General%20Manager's%20Report_03.15.2023.pdf, Accessed on 4/9/23.

SMART's ridership has not fully recovered to its pre-pandemic level. On the plus side, over the past year SMART's average weekday ridership ranged between 68 and 97 percent of its pre-pandemic number. Its post-pandemic experience is better than both BART and San Francisco's Muni operations, which have been less than 40 percent.²⁰

Nevertheless, the system continues to experience lower than anticipated ridership. There are several factors which have contributed to this phenomenon. In the first place, the system was limited by the use of only a single track, minimizing the number of trains operating at one time and reducing the probability of more riders. A second cause is an underfunded marketing program. Most critically, however, less than anticipated riders occurs because of what is known in transit parlance as the "first/last mile" conundrum.

The "first/last mile challenge"

A major hurdle for all public transit operators, including SMART, is getting riders out of their automobiles and onto public transit. This is the "first/last mile challenge." The problem is the result of several factors, some in SMART's control and some not. Issues involving parking availability, bus and ferry system transfers, the bicycle pathway, and links with employers are all within SMART's control. SMART is a system that, in contrast to other Bay Area transit agencies, has fewer potential riders, operates on a route with stops that are not close to many residences or large employment centers, and its route is such that it does not serve as many commuters as do other public transit agencies.

SMART's Opportunities

"Opportunities," in the language of a SWOT analysis, tells the Board and management to look outside the organization for new customers. Increasing ridership should be SMART's number one operational goal. Increasing the number of riders is highly correlated to an attractive fare structure, reliability of service, improvement of first/last mile connections, and building public confidence in the Board and management.

A marketing plan

SMART's "shortage" of riders has been known and discussed since the system's inception and certainly once the trains began operating. At the time, numerous commentators noted it would be difficult for SMART to attract riders.²¹ SMART's 2022-2023 budget proposed spending only \$250,000 for communication and marketing purposes.²² Given SMART's ridership goals, the Grand Jury finds the lack of a comprehensive, multi-level communication and promotion effort to attract additional riders to be perplexing.

²⁰

https://sonomamarintrain.org/sites/default/files/Board/COC%20Documents/Agenda%20Item%20%235_General%20Manager's%20Report_03.15.2023.pdf, Accessed on 4/9/23.

²¹ "Arguments Against Measure Q," Measure Q, November 2008, Voter Handbook, <https://www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf%20pdf?la=en>, Accessed on 4/4/23.

²² SMART Fiscal Year 2022-2023 Budget, B18, B-23, https://sonomamarintrain.org/sites/default/files/Financial%20Documents/FY_2023_Approved_Budget_06_15_2022.pdf, Accessed on 4/9/23.

The “first/last mile” challenge—getting to work, home, jobs, and the airport

SMART has considerable “opportunities” to increase its ridership by focusing on improving its “first/last mile” connections. The 2009-2010 Marin Civil Grand Jury recognized this need and recommended that SMART create programs designed to encourage both employers and employees to use its trains.²³ The opportunity to help Marin’s workforce was clear. In 2018, the Transportation Authority of Marin (TAM) found that twenty eight percent of Marin’s commuters arrived each morning from Sonoma County locales.²⁴

Recently, SMART has made improvements in station parking, and two months ago established a three-year, \$1.1 million trial program to connect Sonoma County Airport with the Airport Station.²⁵

The “first/last mile” challenge—building residences, retail, and jobs near SMART’s stations

Public transit systems have cooperated with local governments and developers to increase housing adjacent to transit stops with the dual objectives of increasing ridership and building more housing.²⁶ For example, Novato is considering linking the San Marin station to a mixed housing/retail project, the former headquarters of Fireman’s Fund Insurance Company, less than ½ mile away.²⁷ Conversely, Petaluma’s City Council recently turned aside a housing plan adjacent to the new North Petaluma (Corona Road Station) that would have provided 500 residences, parking, and revenue for both the city and SMART.²⁸

SMART has begun making contacts with major retailers and employers.²⁹ The bicycle-pathway is another way SMART has chosen to deal with the first/last mile challenge.³⁰

²³ “SMART: Steep Grade Ahead,” Marin County Civil Grand Jury, 2009/10, Page 22, <https://www.marincounty.org/-/media/files/departments/gj/reports-responses/2009/smart.pdf> , Accessed on 4/28/23

²⁴ <http://www.tam.ca.gov/wp-content/uploads/2018/09/6d-OD-Rpt.pdf>, Accessed on 4/7/23. Tam is conducting a post-pandemic analysis of these commuter and employment numbers.

²⁵ SMART Board of Directors Packet, April 19, 2023, Item 8, https://www.sonomamarintrain.org/sites/default/files/Board/COC%20Documents/04.19.2023_Board%20of%20Directors%20Packet_0.pdf, Accessed on 4/26/23. Last year, the airport had 614,00 travelers, a 26 percent growth since 2019.

²⁶ <https://www.sfchronicle.com/bayarea/article/Caltrain-stop-in-Redwood-City-is-focus-of-major-16664448.php>, Accessed on 4/4/23.

²⁷ <https://www.novato.org/home/showdocument?id=35310&t=638095538412570000>, Accessed 4/28/23.

²⁸ “Smart allots \$14M to build second Petaluma train station,” Will Houston, *Marin Independent Journal*, October 21, 2022, <https://www.marinij.com/2022/10/20/smart-allots-14m-to-build-second-petaluma-train-station/>, Accessed on 4/3/23. see also SMART’s Final Environmental Impact Report, June 2006, projected a range of 400-1,000 additional daily riders if transit oriented housing projects are built. Sonoma Marin Area Rail Transit Project, Final Environmental Impact Report, June 2006, http://scta.ca.gov/pdf/smart/final/final_eir.pdf, Accessed on 4/3/23.

²⁹ <https://www.northbaybusinessjournal.com/article/article/smart-ridership-rebuilding-but-gm-says-increased-costs-will-temper-new-pro/>, Accessed on 4/7/23.

³⁰ “SMART Pathway funds programmed for Marin and Sonoma by the Metropolitan Transportation Commission,” <https://sonomamarintrain.org/node/519>, Accessed on 4/9/23

Regaining the public's trust and confidence

Another “opportunity” arises because the general public, as the Grand Jury has heard in interviews, via direct observation, and in published reports, lost confidence and trust in SMART’s Board and *prior* management team. The failed passage of the sales tax extension in March 2020 was attributed partially to the public’s questioning whether the Board and management were being fully transparent.³¹

When SMART was created and voters were asked in 2008 to approve a tax measure, advocates promoted the idea that it would be open to public input and scrutiny. Voters were promised the creation of a “Citizens Oversight Committee (COC)...to provide input and review on (SMART’s) Strategic Plan” and to conduct an ongoing review of the System’s finances.³² The value of this independent citizens oversight body was highlighted by both the 2013-14 Marin Grand Jury and the 2021-22 Sonoma County Grand Jury.³³

After the 2020 defeat of Measure I, the Sonoma County Grand Jury reiterated a concern that SMART’s Board and prior management team neglected or chose not to solicit input from the Citizens Oversight Committee.³⁴ It found that the SMART Board’s lack of citizen input contributed to voters’ distrust or disbelief of the system’s financial need and thus led to the defeat of the 2020 Measure I.³⁵ SMART’s Board just recently acknowledged the problem and agreed to accept the Sonoma Grand Jury’s recommendations “ensuring that COC will have an opportunity to provide timely feedback to the SMART Board of Directors.”³⁶

The SMART Board and new General Manager have taken several steps, including “listening tours,” designed to solicit greater public input from those who have been critical of SMART’s decisions. They also promised to have the COC’s reports become public and available on the SMART’s website.³⁷

³¹ “New SMART general manager must change the culture,” Mike Arnold, *Marin Independent Journal*, December 1, 2021, <https://www.marinij.com/2021/12/31/marin-voice-new-smart-general-manager-must-change-the-culture/> , Accessed on 4/7/23.

³² 2008 Marin County Voter Information Pamphlet, Measure Q <https://www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf>, Accessed on 3/31/23.

³³ Report: <https://www.marincounty.org/depts/gj/reports-and-responses/reports-responses/2013-14/smart-down-the-track> and Response: https://www.marincounty.org/-/media/files/departments/gj/reports-responses/2013/responses/smart_bos.pdf, Accessed on 4/23/23.

³⁴ <https://sonoma.courts.ca.gov/system/files/smart-decision-making.pdf>, Accessed on 4/23/23.

³⁵ “SMART Decision Making, Citizen Feedback is Critical For Success,” Sonoma County Civil Grand Jury, 2021-2022, page 2. <https://sonoma.courts.ca.gov/system/files/smart-decision-making.pdf>, Accessed on 4/7/23.

³⁶ <https://sonoma.courts.ca.gov/system/files/grand-jury/smart-decisionmaking-smartsbod.pdf> Accessed on 4/7/23.

³⁷ <https://sonoma.courts.ca.gov/system/files/grand-jury/smart-decisionmaking-smartsbod.pdf>, Accessed on 4/7/23.

SMART's Threats and Challenges

The primary “threat” to SMART is its dependency on the locally imposed sales tax. As recognized in its own SWOT analysis, a well-funded and organized opposition to the sales tax could very likely cause the service to end.

Lack of ridership not only contributes to public questioning of the system’s value, but it also means less revenue. SMART cannot survive on ridership revenue alone. Rather, it requires a public subsidy to continue operating. This is not atypical; all the largest public transit systems in the San Francisco Bay Area are financed by public subsidies. The question is how much of a subsidy will voters accept.

An operation such as SMART has significant fixed costs to operate. This means that regardless of the number of riders or the fares that it charges its riders, SMART’s operating expenses do not vary significantly over time. As demonstrated in Table 1 below, SMART’s annual operating expenses (which exclude capital expenditures and debt service) have remained about \$27 million since 2019. But in the past four years revenue from riders approached \$4 million just once.

The data speaks for itself and the lesson is clear: SMART cannot survive just from its farebox. It requires some form of public subsidy. SMART’s primary source of operating revenue is and has always been the local sales tax. In FY 2022, sales tax receipts were \$49 million compared to \$1.2 million obtained from the farebox. The current FY 23 budget forecasts \$51.6 million in sales tax collections.

As demonstrated in Table 1, SMART’s ridership, and therefore its farebox revenues, declined precipitously during the pandemic and have yet to recover.³⁸ SMART’s farebox recovery ratio, i.e., the amount received by paying customers relative to operating costs, dropped from 15 percent in 2019 to as low as 3 percent in 2021, and 5 percent in 2022. The end result is that the sales tax has subsidized SMART ridership, ranging from \$32 to \$75 per ride, with a high of \$196 in 2021.

³⁸ The pandemic has demonstrated that transit agencies highly dependent on riders are facing severe financial challenges, a phenomenon described as “facing a fiscal cliff.” see: “BART faces its ‘most challenging revenue outlook’ in history as low ridership numbers persist,” Ricardo Cano, *San Francisco Chronicle*, February 10, 2022, <https://www.sfchronicle.com/bayarea/article/BART-faces-its-most-challenging-revenue-16849200.php>. Accessed on 4/9/23.

Table 1
How Well is SMART Performing?

BASIC MEASURES & INDICATORS	2019	2020	2021	2022
Boardings	716,847	567,103	122,849	354,291
Passenger Miles	18,371,183	13,516,234	3,148,345	7,855,912
Operating Expense	\$ 27,490,190	\$ 28,757,008	\$ 24,833,822	\$ 27,834,598
Fare Revenues	\$ 4,094,540	\$ 3,090,457	\$ 706,938	\$ 1,283,112
Farebox Recovery (Fare Revenues/Operating	15%	11%	3%	5%
Subsidy per Boarding [(Cost - Fare)/ Boardings]	\$ 32.64	\$ 45.00	\$ 196.39	\$ 74.94

Source: SMART Fiscal Year 2022-2023 Budget, page B-8, and Audit for FY 2022

Other sources of available revenue

Even sales tax collections have been insufficient to both operate and build the complete system. Nearly every public transit agency in the country uses federal funds, and often state programs as well, to build their systems. Recently, the federal government and the State of California have expanded their programs to also help pay ongoing maintenance and operating costs. The federal government’s program provides SMART approximately \$4 million annually for preventive maintenance. By 2025, SMART will be eligible to receive funds from another federal program, called “State of Good Repair,” that is expected to provide about \$6 million annually.³⁹

State of California public transit assistance programs have supplied SMART with additional funds for both capital and operational purposes. SB 1, the State Rail Assistance program, allocated more than \$21 million for SMART’s operations.⁴⁰ Additional funds have been received from Metropolitan Transportation Commission programs designed to help construct the bicycle pathway.⁴¹

The Grand Jury has investigated possible alternative funding sources for SMART operations, besides the sales tax, that exist or might become available prior to 2029. One new source of funds San Francisco Bay Area voters approved in 2018 came from increasing bridge tolls (Regional Measure 3). The money, which is restricted to capital improvements, was not distributed until a court challenge was finally decided in January 2023. This measure allocated a large share of the funding necessary for completing the route to Windsor and Healdsburg (\$81 million) and finishing the bike paths (\$3 million).⁴²

³⁹ “Short Range Transit Plan (SRTP) Update – Metropolitan Transportation Commission (MTC)” report to the SMART Board, January 4, 2023, www.sonomamarintrain.org/sites/default/files/Board/COC%20Documents/Agenda%20Item%20%239%20-%20SRTP%20Bay%20Area%20Transit%20Recovery%20Scenario%20Planning.pdf, page 8, Accessed on 4/23/23.

⁴⁰ SB 1- State Rail Assistance Program, October 2022, calsta.ca.gov/-/media/calsta-media/documents/sra-approved-applications-update---20221018_a11y.pdf, Accessed on 4/9/23.

⁴¹ “SMART pathway funds programmed for Marin and Sonoma by the Metropolitan Transportation Commission” SMART press release February 8, 2023, <https://sonomamarintrain.org/node/519>, Accessed on 4/24/23.

⁴² “Marin transit funding bolstered by state Supreme Court ruling,” *Marin Independent Journal*, Will Houston, January 26, 2023, www.marinij.com/2023/01/26/marin-transit-funding-bolstered-by-state-supreme-court-ruling/,

A similar regional tax plan is currently being considered by the Governor and Legislature. The Bay Area’s regional planning and transit bodies, business community leaders, and legislators representing every county in the region are expressing alarm that the region’s major transportation operators are facing “a fiscal cliff.”⁴³ One possible legislative response being deliberated is another regional tax measure which could appear on either the November 2024 or 2026 ballot.⁴⁴ The Grand Jury recognizes that while such a regional tax or a similar plan may be developed and voter approval would be sought, its impact on SMART is uncertain. The timing of a regional tax measure could influence how voters might treat any Marin-Sonoma local sales tax measure. SMART’s Board of Directors should monitor the progress of this proposed alternative financing option.

The Grand Jury has not been able to identify any single or combination of federal, state, and regional funding programs sufficient to replace the projected \$51 million sales tax annual operating revenue needed to keep the trains running. Moreover, because the State of California’s anticipated revenues are projected to decline significantly, the Governor and Legislature are considering substantial reductions in state transportation funds. Other than locally generated sales tax revenues, no other funds are *guaranteed* to keep the trains operating.

SMART’s FUTURE

The General Manager’s SWOT analysis identifies SMART’s primary “threat” to be the future of the sales tax. The Grand Jury agrees that it should be the Board’s primary focus. In addressing this question, the Grand Jury reminds SMART’s Board of Directors that, while on four separate occasions since 1998, a *majority* of Marin and Sonoma county voters supported an inter-county passenger train, the plan to pay for it did not receive the required *super-majority* voter approval. Local taxpayers have funded a monumental capital infrastructure project and voters have directed SMART’s board as stewards of this investment to manage it wisely.

The table is now set for a critical decision. SMART’s management and Board of Directors need to make the case to voters in Marin and Sonoma why they should continue to support a project that has fallen short of its original goals and promises. SMART should address and acknowledge its performance to date and educate voters on why its continued operation is in the best interest of Marin and Sonoma counties. The analysis should include a clear explanation of its financing options and the likelihood of future success.

SMART is at a crossroads – will it be here tomorrow?

⁴³ “Could the Bay Area Lose BART?,” Richard Cano, *San Francisco Chronicle*, March 13, 2023, <https://www.sfchronicle.com/projects/2023/bart-finance-qa/> Accessed on 4/3/23.

⁴⁴ “Bay Area lawmakers urge state for more transit funding to avoid ‘irreversible’ service harm,” Richard Cano, *San Francisco Chronicle*, January 19, 2023, <https://www.sfchronicle.com/bayarea/article/Bay-Area-lawmakers-urge-state-for-more-transit-17728841.php> and <https://mtc.ca.gov/news/broad-coalition-urges-state-craft-budget-transit-operations-mind>, Accessed on 4/3/23.

FINDINGS

- F1. SMART is heavily dependent on revenue from voter approved Marin and Sonoma County sales taxes for funding its operations.
- F2. SMART has never attained the ridership levels that it promised in 2008.
- F3. SMART's *past* inability to be open and transparent about decision making and operations contributed to the erosion of public confidence leading to the defeat of the Measure I sales tax extension in 2020.
- F4. SMART will likely be forced to discontinue services if Marin and Sonoma County voters do not approve a sales tax extension by the required supermajority in an election before 2029.
- F5. SMART's new leadership, especially its General Manager and Chief Financial Officer, appear qualified, energetic and motivated to take on the many challenges that SMART is facing.
- F6. SMART does not have a comprehensive marketing and communications strategy.

RECOMMENDATIONS

- R1. By December 1, 2023, the Board of Directors should initiate a fully transparent, public process to be completed by April 1, 2024 that examines how SMART might continue funding its operations beyond April 2029, including an evaluation of when the voters would decide whether to continue levying a sales tax for SMART's operations.
- R2. 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.
- R3. SMART's Board of Directors should consider hiring consultants to help evaluate the feasibility and timing of future tax measures.

REQUIRED RESPONSES

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- The Sonoma-Marín Area Transit System Board of Directors (F1-F6, R1-R3)

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933 (c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

INVITED RESPONSES

- Transportation Authority of Marin (TAM) General Manager
- SMART Citizens Oversight Committee

Note: At the time this report was prepared information was available at the websites listed.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

APPENDIX A

The historical record

Beginning in the late 19th century, a private train system was established to provide freight and some passenger service from Marin to Eureka. After the Atkinson Pacific and Topeka Railroad sold its interest to Southern Pacific in 1929, its subsidiary, the Northwestern Pacific Railroad (NWP), operated the line until it too found the business no longer financially viable. Facing the loss of services deemed essential to numerous businesses along its route, the Legislature in 1989 created the North Coast Railroad Authority (NCRA) to save the NWP from total abandonment. This new agency was also not found to be financially viable.

SMART'S freight business

Because the original route was designed to offer freight services as well as passenger traffic, when SMART was created it was statutorily authorized to operate a freight operation from the Mendocino County border south. In 2018, the NCRA approached SMART requesting they take over the freight line. That year the Legislature passed, and the Governor signed SB 1029 and SB 69 which abolished the North Coast Railroad Authority and gave SMART complete control of the entire route.⁴⁵ On March 1, 2022, SMART formally took over management of the entire freight route from the Sonoma-Mendocino county line to a locale just east of the Napa River. The system thus can move freight onward to Vallejo and the main East-West train route between Sacramento and the East Bay.⁴⁶ But the single largest freight customer contract (storage of oil tankers on a siding) was discontinued in 2022. SMART's Board heard neighbors' complaints and responded by canceling the system's largest freight contract.⁴⁷ Currently, the freight line operates at night after passenger service stops on Tuesdays and Thursdays. The remaining line from Cloverdale to Willits was given to the Great Redwood trails and the NCRA was disbanded in May of 2022.

In December 2021, SMART published a 30 page "Analysis of SMART's Freight Market," characterized as an "unbiased evaluation of existing and potential freight rail customers." The consultants' report noted how future revenue would be highly dependent on the system's willingness to support and promote the business. They cautioned "with restrictive policies, minimal investment, and poor promotion of services, the freight business will likely decline.... On the other hand, by actively promoting... invest in facilities, soliciting grant funding... and providing additional track capacity for car storage, freight revenue can grow considerably from present levels."⁴⁸

⁴⁵ Chapter 934, Statutes of 2018. SB 69, Chapter 423, Statutes of 2021. The law gave SMART \$4 million to acquire the freight rights and equipment from the Northwestern Pacific Railroad.

⁴⁶ The California Rail Plan, March 2023,

<https://dot.ca.gov/-/media/dot-media/programs/rail-mass-transportation/documents/california-state-rail-plan/20230309-casrp-publicdraft-final.pdf>, Accessed on 4/9/23.

⁴⁷ "SMART board approves in-house freight rail operation, ditches gas tanker storage, at a loss," Andrew Graham, *The Press Democrat*, January 14, 2002, www.pressdemocrat.com/article/news/smart-board-approves-in-house-freight-rail-operation-ditches-gas-tanker-st/, Accessed on 4/27/23

⁴⁸ "Analysis of SMART's Freight Market," SMART, December 9, 2021, <https://www.sonomamarintrain.org/sites/default/files/Documents/Final%20Report%20Freight%20Market%20Analysis%20120921.pdf>, Accessed on 4/9/23.