



**BOARD OF DIRECTORS
MEETING AGENDA
January 19, 2022 – 1:30 PM**

In accordance with AB 361, Sonoma-Marin Area Rail Transit District Resolution No. 2021-24, Governor Newsom's March 4, 2020, State of Emergency due to the COVID-19 pandemic and Marin and Sonoma Counties Health Officials recommendations to continue measures that promote social distancing the SMART Board of Directors Meeting will continue to be held virtually through Zoom.

MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON

ZOOM TELECONFERENCE INSTRUCTIONS

PUBLIC COMMENT PRIOR TO MEETING:

If you wish to make a comment you are strongly encouraged to please submit your comment by 5:00 p.m. on Tuesday, January 18, 2022 at <https://www.surveymonkey.com/r/SMARTBoardComments>

PUBLIC COMMENT 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.

1. Call to Order
2. Approval of the January 5, 2022 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 – December 2021

Regular Calendar

7. Authorize the General Manager to Award Contract No. FR-PS-21-002 to Summit Signal, Inc. to perform interim freight rail operations and maintenance services with a not-to-exceed amount of \$344,680 for an interim period of three months with a month-to-month option to extend until SMART takes over these services in-house – *Presented by Ken Hendricks*
8. Planning for the Future (Discussion/Information Only) - *Presented by Eddy Cumins*

Closed Session

9. Conference with Legal Counsel regarding existing litigation pursuant to California Government Code Section 54956.9(a); Filemon Hernandez, et al. V. Sonoma-Marin Area Rail Transit District (SMART) – United States District Court for the Northern District of California – CIV No. 4:21-CV-01782
10. Report out Closed Session
11. Next Regular Meeting of the Board of Directors, February 2, 2022 – 1:30 PM
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-Mendoza, Clerk of the Board at lrosas-mendoza@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
January 5, 2022 - 1:30 PM**

In accordance with AB 361, Sonoma-Marin Area Rail Transit District Resolution No. 2021-24, Governor Newsom's March 4, 2020, State of Emergency due to the COVID-19 pandemic, and Marin and Sonoma Counties Health Officials recommendations to continue measures that promote social distancing, the SMART Board of Directors Meeting will continue to be held virtually through Zoom.

MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON

1. Call to Order

Chair Rabbitt called the meeting to order at 1:34pm. Directors Arnold, Bagby, Colin, Connolly, Fudge, Gorin, Hillmer, Lucan, Rogers and Pahre were present; Director Garbarino joined later.

2. Approval of the December 15, 2021, Board Meeting Minutes

MOTION: Director Arnold moved approval of December 15, 2021, Board Meeting Minutes as presented. Vice Chair Pahre second. The motion carried 11-0 (Directors Garbarino joined later).

3. Board Members Announcements

Director Bagby thanked Operations staff for cleaning the graffiti and the tracks in Cloverdale. She is very appreciative, and the City Manager wanted to make sure that gratitude on behalf of the city staff was mentioned. They really look forward to partnering with SMART since there are a lot of opportunities from Cloverdale traveling north. Chair Rabbitt thanked Operations staff for taking care of the clean up very quickly.

4. General Manager's Report

General Manager Cumins provided a brief PowerPoint presentation on the following:
Ridership Report

- He showed a historical chart since the start of passenger service in 2017 which also includes significant events. SMART has experienced challenges but has been very resilient and has begun to recover from the pandemic.

- SMART Fiscal Year 2020 to 2022 – In FY22 ridership reflects a gradual return to transit as restrictions lift. December generally sees a seasonal dip in weekday ridership due to the holidays; this change was 27% in fiscal year 2021 and 15% in fiscal year 2022
- Average weekday ridership is at 42% of pre-COVID numbers for December 2021 and fiscal year 2022 year to date.
- 12-month average continues to climb, despite monthly ridership fluctuations.
- Staff is looking forward to continued discussions and planning efforts to increase ridership.

Transit App

SMART utilizes three mobile apps for enhancing the use of the SMART train for riders: **SMART E-Ticket** for purchasing fares; **Parkmobile** for parking fees; and **Transit App** for trip planning and real time vehicle location.

- Transit App is a mobile phone-based **trip planning** and **real time transit vehicle locator** application
- The Transit App shows the **location of SMART trains in real-time and predicts arrival times** at the next station
- Download Transit App at the **Apple App Store** or **Google Play Store**; links can be found on the SMART website **Riders Guide** page

Director Garbarino joined at 1:40pm

Comments

Director Rabbitt stated that SMART ridership is higher than Golden Gate Bridge statistics.

Director Hillmer stated that the information was very helpful. He asked when will SMART start more constantly integrating Spanish language consideration into our communications including Transit App. General Manager Cumins responded that staff will start to look into it and we need to know SMART customers and what their needs are.

Director Gorin asked for clarification on the Transit App. General Manager Cumins will provide the link.

Direction Fudge suggested including the Transit App link on SMART's website. General Manager Cumins responded that it is currently on the website and he will work Communications and Marketing staff to make it more noticeable

Director Bagby stated that some board members in Sonoma and Marin work with some excellent Spanish language translators and researchers who do a lot of research reporting. She suggested contacting Zero Waste Sonoma who does excellent Spanish language materials and outreach and the Sonoma Clean Power is also working with a good group of translators.

5. Public Comment on Non-Agenda Items

Richard Brand asked about the report that was done by a consultant on the freight opportunities on the line since it is not on the Agenda and he thought it would be discussed

at this meeting.

Rick Luttmann stated that he does not understand SMART's point of view regarding Jennings Avenue crossing; everyone else thinks is a great idea. There are a lot of upset people in Santa Rosa who want the crossing. SMART will not get the tax measure passed unless this matter is settled.

Eris Weaver stated that she appreciates the ridership slides the way it was presented visually. She said that SMART had some challenges with the Nixle notification app, which has been fixed. She asked if Nixle communicates with Transit App for train information.

Sheila Baker stated that the City of Petaluma Council has an existing conditions report agenda item to prepare for the General Plan. She said that the McDowell and Penngrove pathway need to be completed.

6. Consent
 - a. Consider and Approve a Resolution to continue virtual Tele/Video Conference Meetings during the COVID-19 State of Emergency
 - b. Approval of Monthly Financial Reports

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

MOTION: Director Rogers moved approval of the Consent Agenda as presented. Director Lucan second. The motion carried 12-0

7. Approve a Resolution to revise Appendix B to Fiscal Year 2021-2022 Budget; reclassify the Supervising Accountant to Accounting Manager and reclassify the Fiscal Manager to Budget and Finance Manager; and adjust the pay scale authority related to the reclassification changes – *Presented by Heather McKillop*

Chief Financial Officer McKillop stated that the item before the Board today is to approve a resolution to reclassify two positions under the finance department. Recently SMARTs' Fiscal Manager resigned to work closer to home. This provided an opportunity to re-evaluate the job duties to streamline processes and improve internal control.

We are requesting to change the Supervising Accountant title to Accounting Manager with a change in the pay range increase; and change the Fiscal Manager title to Budget and Finance Manager with a change in pay range decrease. The difference between the two positions on an annual basis around \$4,000, this amount can be absorbed in the current budget, and then it will be included in future budgets if approved.

Comments

Chair Rabbitt thanked former Fiscal Manager Ms. Roa and understands that is the year of the resignation and there's a lot of shifting in jobs going on. He thanked Ms. McKillop for taking the opportunity to analyze the positions and evaluate what is needed going forward.

MOTION: Vice Chair Pahre moved to Approve a Resolution to revise Appendix B to Fiscal Year 2021-2022 Budget; reclassify the Supervising Accountant to Accounting Manager and reclassify the Fiscal Manager to Budget and Finance Manager; and adjust the pay scale authority related to the reclassification changes as presented. Director Garbarino second. The motion carried 12-0

8. Approve a Resolution to Amend Appendix B to Fiscal Year 2021-2022 Budget; Authorization to amend the Annual Budget to provide increased appropriation authority for costs associated with freight service and revised position authority related to freight operation and freight functions - *Presented by Heather McKillop*

Chief Financial Officer McKillop provided a PowerPoint Presentation. Highlights include:

Freight State Funding

- SMART received \$4M from SB 1029 for the acquisition of freight rights and equipment
- SMART received \$2M from AB 74 for maintenance and safety upgrades
- Another \$4M was included in the State's Fiscal Year 2022 Budget for maintenance and upgrades *(these funds have not been received and are not part of this budget revision)*

Freight Other Sources Funding

- Freight Fees
- Storage Fees

Freight Budget Revenues

- Freight Movement Fees
- Storage fees
- LPG Storage Revenue
- State funds

Freight Expenditures Assumptions

- NWPCo. will operate until February 28, 2022
- With the approval of this item, SMART will state the hiring process
- Most expenditures with the exception of payroll are based on 4 months
- Assuming the following capital/state of good repair expenditures

Freight Budget Expenditures

- Following positions are assumed: 1 FTE Freight Manager; 4.5 FTE Freight Utility Workers; and .5 FTE Administrative Assistant
- Administrative Cost will be allocated to freight
- \$2M of the \$4M allocated by the State was paid to NWPCo. at the end of December 2021
- The remaining \$2M of the of the State will be paid to NWPCo. on February 28, 2022

LPG Storage Impacts

- Assumptions for Fiscal Year 2022 – Two months of storage, with a revenue generated \$42,300 per month

- Assumptions for Fiscal Year 2023 – No revenue from LPG storage and will utilize state grant and need and estimate of \$200K to operate

Next Steps

- Acquire 3rd party operator interim period
- Contract will be brought to the Board in the next meeting
- Transfer existing freight contracts to SMART
- Notify Customers
- Hire employees
- Develop and Implement Policies and Procedures
- Develop Capital Plan
- Identify New Revenue Sources

Comments

Chair Rabbitt clarified that in fiscal year 2023 budget there is a \$200K expense. The acquisition is paid by the State. The third-party contractor will carry us over until a June and or a date where we have staffing in place and it's certainly understandable because of the timeframes involved, service will need to be provided without interruption so we don't lose those customers that we have.

Director Connolly stated that the presentation focused on getting through the next year, a combination of funds, including some revenue, and a heavy-duty emphasis on state grants. He is interested in the costs and revenues for year two and three as we continue to evaluate. Ms. McKillop responded that based on the information available the amount of \$200,000 per year came up. The competitive wages for the employees in this area is less than what was assumed. Staff has not had access to the records to verify the information. The Freight Manager will be working closely with General Manager Cumins and Chief Financial Officer McKillop to evaluate and look forward. The Capital Plan will assist to identify what the operational costs in the long term. There is language in the grant that states that the rail line was not in the best of shape and needed some work to be done, as well as there would be operating and maintenance concerns that would need to be addressed.

Director Lucan asked how freight is going to be included in the future SMART's budgets. Ms. McKillop responded that Freight has been set up as separate fund. The revenue and costs are being tracked separately and SMART will be able to track the passenger and pathway costs and revenue. The Financial Statements reports by revenues, expenditures, administration, operations, capital projects and freight. Director Lucan asked if the \$200K anticipated for FY 22/23 on the freight operation side and when does the Board anticipate receiving first look of the fiscal year 2023 budget. McKillop responded yes, and will have money available, and the board will receive a briefing in March or April.

Vice Chair Pahre thanked Ms. McKillop for all the work on freight and information provided. She said that the report states that it is not going to be easy to get more customers, which is the revenue source. She asked if there is another location to safely store the LPG tanks since the revenue is approximately \$42,000 a month.

Director Arnold stated that the revenue received from the LPG tanks is pretty dramatic and asked what the mindset is of continuing to store the LPG tanks at the same location or at another place for the revenue to continue.

Chair Rabbitt stated that the Board approved the removal of the LPG tanks. He asked if there is a market for empty LPG tanks and less risky and still receive some revenue.

Director Fudge stated that she certainly understands how the residents of Sonoma Valley feel about the LPG tanks and she voted to remove the tanks. She has been thinking of how to make up for the storing income. She hopes that freight staff can be creative about ideas starting in March, since there is business and finding a solution to receive the revenue.

Director Gorin reminded the Board members that the LPG discussion was a few weeks ago. The storing of the LPG tanks which are mostly empty have been in the Sonoma Valley in a very sensitive wetlands area and prone to flooding. The Board unanimously voted to remove the LPG tanks even though knowing it's going to be a financial challenge and would remove the tanks within six months, if possible. She encourages the Board to stick with the approved decision. She would like to absolutely explore different areas of funding, since that amount is difficult to absorb. The Sonoma Valley has no service by SMART, and yet this Board some years ago, decided to store the LPG tanker cars in the Sonoma Valley, adding insult to all the potential voters, tourists, business leaders, wineries, farmers, and Sonoma Valley. She suggested finding a different location to store the LPG tanker cars, maybe some would like to have it within their jurisdictions. She thanked the Board for the support a few short weeks ago to make the decision to move the LPG tanker cars and discontinue the storage.

Chair Rabbitt stated that he mentioned at the beginning that the Board approved the removal of the LPG storage tanks. He clarified that is not accurate to say that this Board decided to store the tanks. The previous freight hauler made the decision and SMART was prohibited and that's one of the primary reasons that this Board chose to control the freight business as opposed to another entity. We always knew that it was going to be a hit, the question is how we fill the revenue hole.

Director Gorin thanked Chair Rabbitt for the clarification and added: we did have a discussion with Doug Bosco and there was no movement, the conditions under which the previous board had an agreement for storage was not abided to by the freight hauler and it was the freight hauler's decision to store the tanks there and collect on the revenue; If in fact we're going to figure out another place to store the LPG tanks, let's find a safe location.

Chair Rabbitt stated that SMART has a freight yard, that will be unoccupied and he would like to understand any revenue sources that are available. He is biased since the four companies are in Petaluma and South County and we would like to have more customers, but it may be difficult to acquire future customers and undoubtedly a financial contribution. He asked District Counsel Lyons: as a public entity, what can SMART spend in terms of grant opportunities of deficit that might occur. Mr. Lyons responded that SMART has an obligation and responsibility to maintain the right-of-way to provide connections, which includes Schellville and north to Cloverdale and now to the Mendocino County line. Chair Rabbitt

asked if there were any gifts of public funds for operating freight service to private entities. Mr. Lyons responded that there is no gift of public funds, since SMART will be the operator and the rail line needs to be maintained whether there is freight operating or not. There are options for private and public partnership and there has been some grants received for the expansion of freight.

Director Colin stated that as the Board gets further into this and learns more, it is important to have the opportunity to further discuss. She appreciates the discussion regarding the LPG storage tanks; we are in a new territory and she hopes that as a Board, we continue to look at the information to make decisions.

Chair Rabbitt asked General Manager Cumins to provide an update and availability of the freight report. The report is worth reading to understand the opportunities and challenges with freight operations in the North Bay. General Manager Cumins responded that the report is easily accessible through SMART's website. He noted Ms. McKillop, Mr. Lyons and himself along with other staff, have spent a lot of time the last couple of weeks reviewing, researching, and discussing the freight operation. There are two levers: 1) decreasing operating costs; and 2) revenue. It is important that they are both analyzed to figure out how we can close the difference, he personally thinks that there may be some opportunities available.

Chair Rabbitt stated that the action before the Board today is to approve the budget adjustments for this fiscal year 2022.

Public Comment

Steve Birdleough commends the staff and the Board for all the work and information that has been provided regarding freight. He said that freight operations is different than passenger operation. Freight operation is not common in this country like it is in others.

Richard Brand appreciates the Board discussion in saying that there are freight issues. He said the Senator McGuire sold SMART a bill of goods and freight has many opportunities, and he believes that this railroad can get trucks off the highway. He suggested finding new customers and to do that you have to set up spurs to create connections to the rail line. He suggested creating an advisory committee board with elicit freight expertise.

Jack Swearengen believes that Ron Bain approached this Board some months ago about operating their steam locomotive as a tourist train on the Schellville branch. The Friends of SMART support rail and trails to Willits. There are 21 documented rail users which are a potential revenue.

Thomas Ells stated that running freight service will accrue lot of maintenance costs. He said that the tanks could be stored to the east if there were spurs available. Also, there are a lot of customers waiting for passenger rail to be effective for them and he thinks that is where the revenue source can be improved.

Eris Weaver asked for clarification of two paragraphs in page 28 of 35 of the packet, which states: All revenue and expenditures related to freight will be tracked in a separate fund from passenger transit and pathway and Administrative staff budgeted under the transit portion of the of the organization which sounds like those two sentences seem to contradict each other. She said that the public needs to be informed that Measure Q funds will not be used for freight service. The voters who are concerned about what this Agency was created to do, seeing the Agency do freight operations and possibly going east will be difficult to convince to approve another tax measure.

Sheila Baker stated that there have been excellent comments and agrees with them. She hopes that LPG tanks are not stored anywhere, and LPG storage is just not popular.

Lastly, Chair Rabbitt stated that action for the Board today is to approve the budget adjustments. Today's discussion has been good and will be ongoing. He said that this board very much knows and is very cognizant of the fact that the other responsibility and the financial obligations of taking on freight. This Board does not want to enter a business to lose money, we want to maximize revenue and make sure that we keep our costs as low and as safely possible. He thinks there is an obligation and a public benefit to freight hauling on the railroad. He thinks that that we're going to have to look at storage along the route as a line item of revenue source. There are going to be negotiations with staff regarding spurs along the rail line. The opportunities are there, the benefit to the Community is there, we just need to continue to do our due diligence. He clarified that there are no Measure Q funds being utilized for freight service other than the track maintenance done for the passenger service. District Counsel Lyons clarified that SMART is separating both entities it's almost a sub entity of SMART, and we are tracking both the employees, along with the retirement systems, as a separate item so it's an agency within an agency

MOTION: Director Hillmer moved to Approve a Resolution to Amend Appendix B to Fiscal Year 2021-2022 Budget; Authorization to amend the Annual Budget to provide increased appropriation authority for costs associated with freight service and revised position authority related to freight operation and freight functions as presented. Director Fudge second. The motion carried 12-0

9. Next Regular Meeting of the Board of Directors, January 19, 2022 – 1:30 PM
10. Adjournment - Meeting adjourned at 2:52PM

Respectfully submitted,

Leticia Rosas-Mendoza
Clerk of the Board

Approved on: _____



January 19, 2022

David Rabbitt, Chair
Sonoma County Board of Supervisors

Barbara Pahre, Vice Chair
Golden Gate Bridge,
Highway/Transportation District

Judy Arnold
Marin County Board of Supervisors

Melanie Bagby
Sonoma County Mayors' and
Councilmembers Association

Kate Colin
Transportation Authority of Marin

Damon Connolly
Marin County Board of Supervisors

Debora Fudge
Sonoma County Mayors' and
Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Susan Gorin
Sonoma County Board of Supervisors

Dan Hillmer
Marin County Council of Mayors and
Councilmembers

Eric Lucan
Transportation Authority of Marin

Chris Rogers
Sonoma County Mayors' and
Councilmembers Association

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 Ridership Report – December 2021

Dear Board Members:

RECOMMENDATIONS: Information Item

SUMMARY:

We are presenting the monthly ridership report for activity for the month of December 2021. This report shows trends in ridership for SMART by tracking Totals, Average Weekday riders, and Average Saturday/Holiday riders, as well as bicycles and mobility devices. We have added charts and graphs of the information to further illustrate system trends.

As discussed in prior presentations to Your Board, both Onboard Counts and Fare-based collection rider counts are shown to give a full picture of ridership. Onboard Counts capture all riders, including the riders who are riding during the Free Fare Days or Programs offered by Your Board, riders with passes who neglect to tag on or off, as well as categories of riders such as children under five years old. Clipper + Mobile App paid fare reports do not capture all riders.

This and future reports will compare 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. As this data collection and reporting process evolves, we will continue to revise data discussion and presentation in the reports.

SMART's rider data for November 2021 is posted on the SMART Ridership website (<http://sonomamarintrain.org/RidershipReports>) and SMART's detailed December 2021 data will be posted once validated.

The report covers the gradual return of riders to SMART as Bay Area Counties continue to adjust COVID-19 restrictions and phase the opening of schools, restaurants, retail shops, offices, and other places of work.

FISCAL IMPACT: None

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

Very truly yours,

/s/
Emily Betts
Principal Planner

Attachment(s): Monthly Ridership Report – December 2021

DECEMBER 2021 (COVID-19) SMART RIDERSHIP

SMART Ridership Report
Board of Directors,
January 19, 2022

SMART's December 2021 ridership was more than triple that of December 2020, which was heavily impacted by the COVID-19 shutdown. Average weekday ridership has risen steadily since February 2021, with December seeing a weekday average of 1,007 boardings per day, triple that of December 2020. December generally sees a seasonal dip in weekday ridership due to the holidays; this change was 27% in FY21 and 15% in FY22.

Throughout the region, automobile traffic levels have returned to pre-pandemic levels in some areas and transit agencies are seeing the gradual signs of ridership recovery. SMART has recovered to 42% of pre-pandemic ridership levels. However, the COVID variants and ongoing remote-work trends continue to have a detrimental effect on transit ridership throughout the Bay Area.

As a reminder, SMART modified services in March 2020 due to the COVID-19 pandemic, with weekend service annulled starting March 21 & 22, 2020, and weekday service reduced first by 4 trips (down to 34) on March 23, 2020, then by another 18 trips, (down to 16), on April 6, 2020. Beginning on Monday, May 24, 2021, SMART added service to the weekday schedule with two new morning trips and three new afternoon trips, resulting in 26 weekday trips. Saturday service was also restored the last two weekends in May, with 3 morning and 3 afternoon round trips. FY22 Saturday ridership has been very strong, seeing approximately 60% of average weekday ridership levels on less than half the number of train trips.

The tables below present data from December 2020 and 2021, year-over-year, and comparing fiscal years to date (July – December).

MONTHLY TOTALS YEAR-OVER-YEAR	DEC 2020	DEC 2021	% Change
Ridership (Onboard Counts)	7,414	24,050	224%
Paid Ridership (Clipper + App Only)	6,983	21,873	213%
Average Weekday Ridership (Onboard Counts)	337	1,007	199%
Average Saturday/Holiday Ridership (Onboard Counts)	0	583	N/A
Bicycles	1,690	2,920	73%
Mobility Devices	23	76	230%

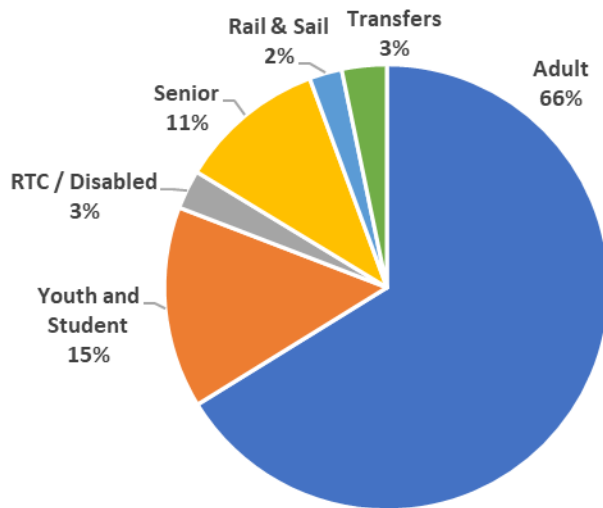
For FY22 to date, total ridership is nearly double that of FY21, the number of bicycles on board has doubled, and passenger using a mobility device have tripled.

FISCAL YEAR-TO-DATE (JUL-DEC)	Fiscal Year 2021	Fiscal Year 2022	% Change
Ridership (Onboard Counts)	52,450	155,237	196%
Paid Ridership (Clipper + App Only)	48,886	141,537	190%
Average Weekday Ridership (Onboard Counts)	410	1,077	163%
Average Saturday/Holiday Ridership (Onboard Counts)	0	637	N/A
Bicycles	11,112	23,492	111%
Mobility Devices	184	742	303%

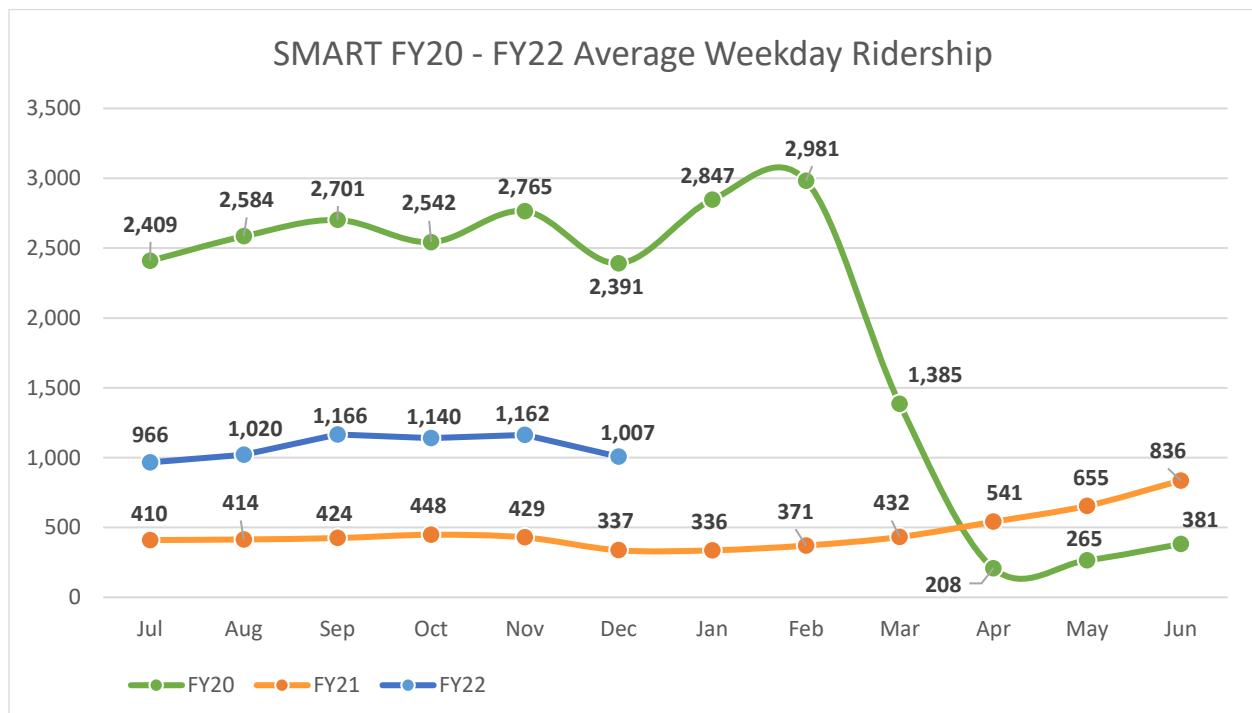
DECEMBER 2021 (COVID-19) SMART RIDERSHIP

SMART Ridership Report
Board of Directors,
January 19, 2022

Youth ridership saw an increase with the start of school in mid-August, making up 13% of ridership by fare type in August, and 18% of paid-fare ridership in September through November. Youth ridership fell to 15% in December, likely due to school holidays. The chart below shows the share of each fare category since July 1, 2022 (FY22 to date); adult fares make up over 60% of boardings. Non-farepaying boardings consist of monthly riders who only tag on once, free pass holders, children, and riders who forget to tag on before riding.

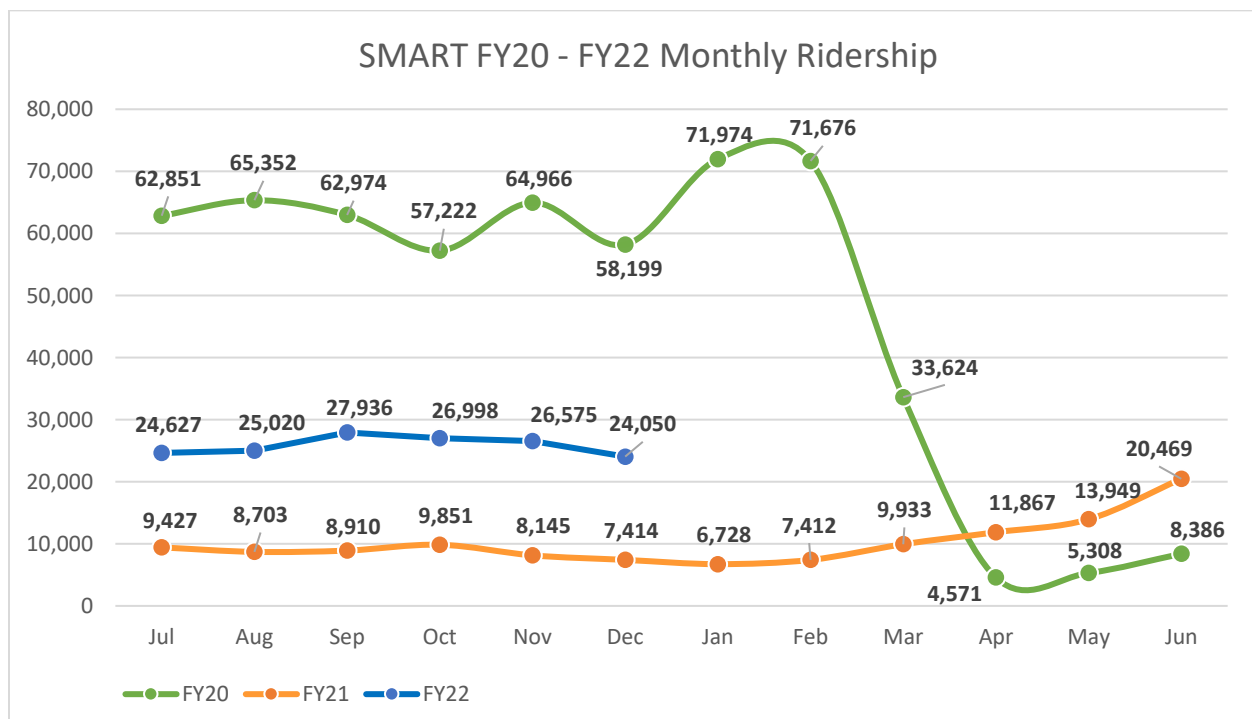
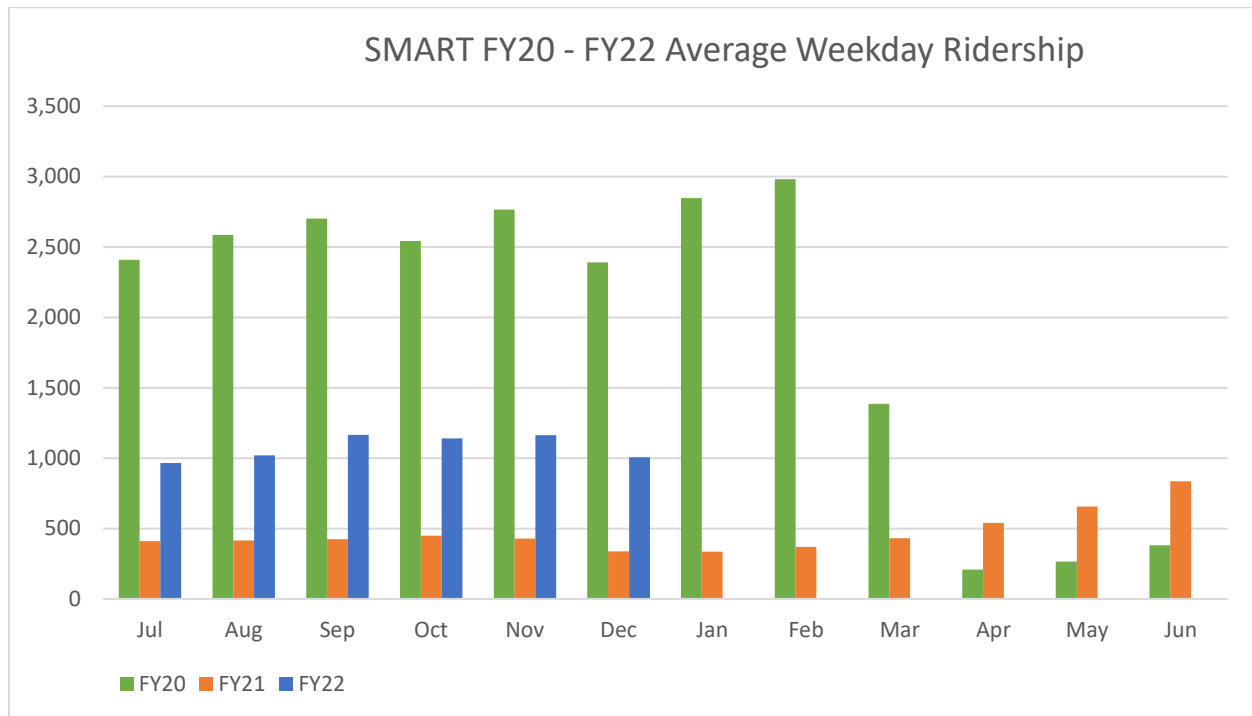


The following charts compare the monthly totals and average weekday ridership for FY20-FY22 to date and illustrate monthly and average weekday ridership trends.



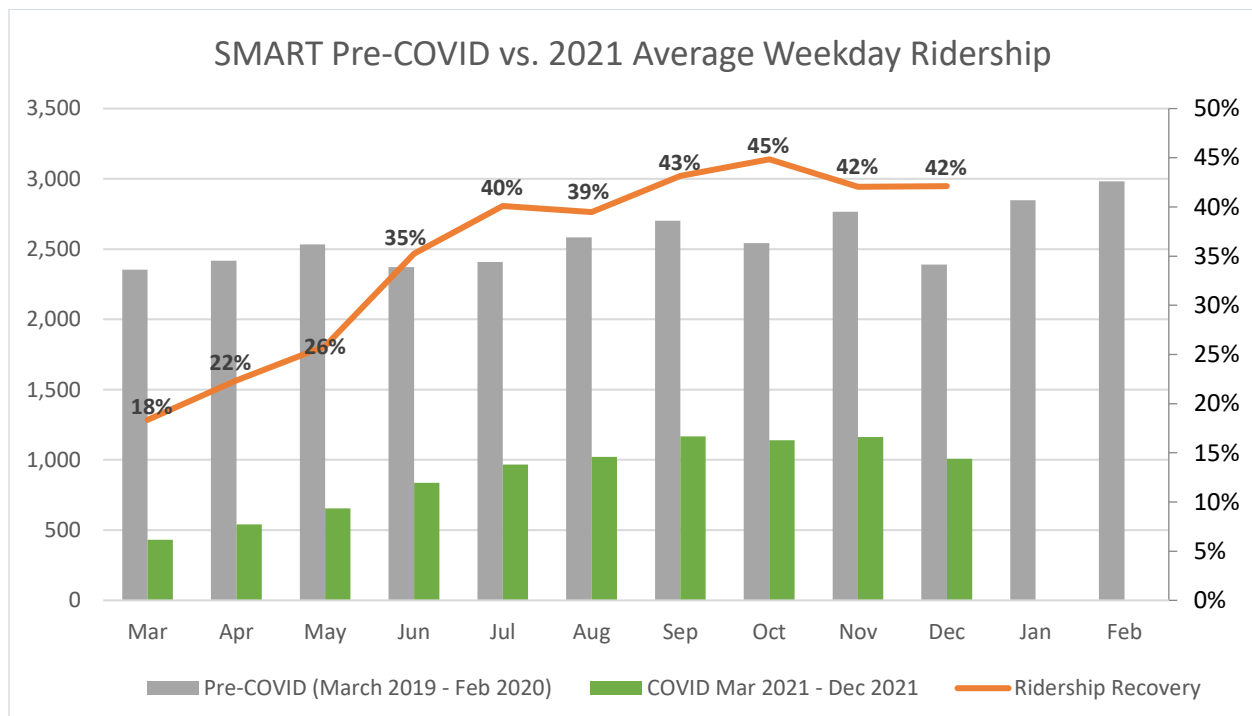
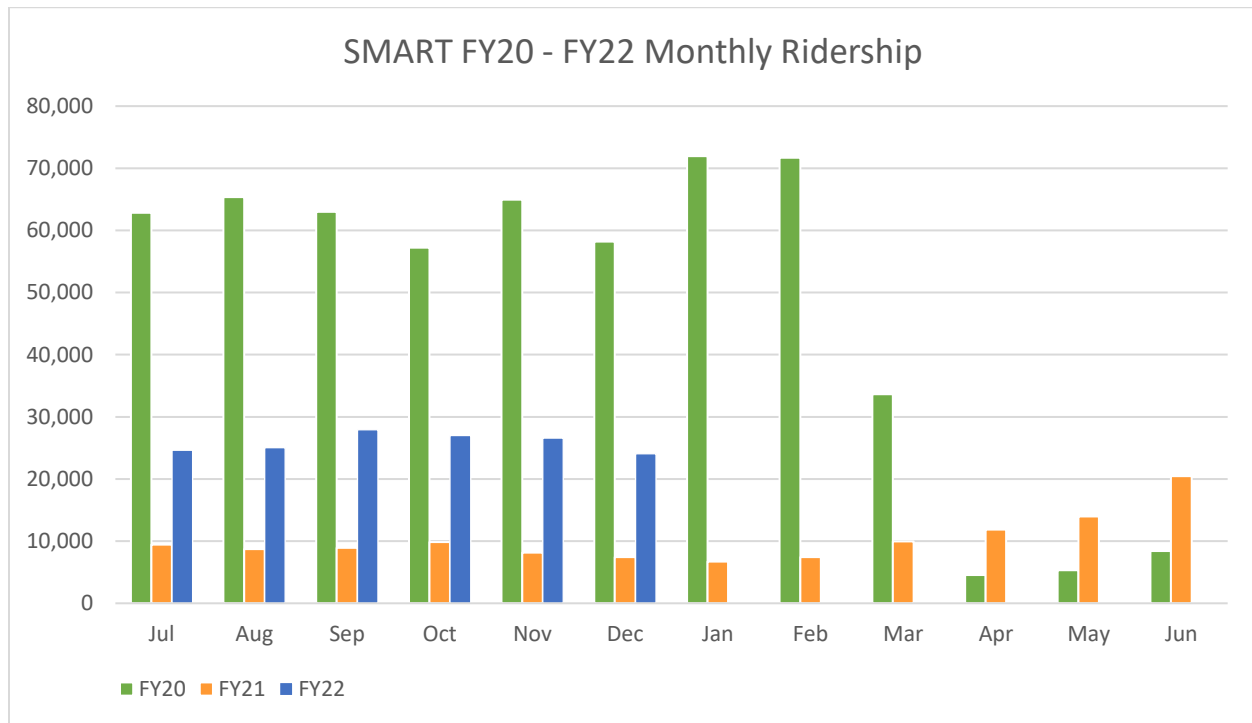
DECEMBER 2021 (COVID-19) SMART RIDERSHIP

SMART Ridership Report
Board of Directors,
January 19, 2022

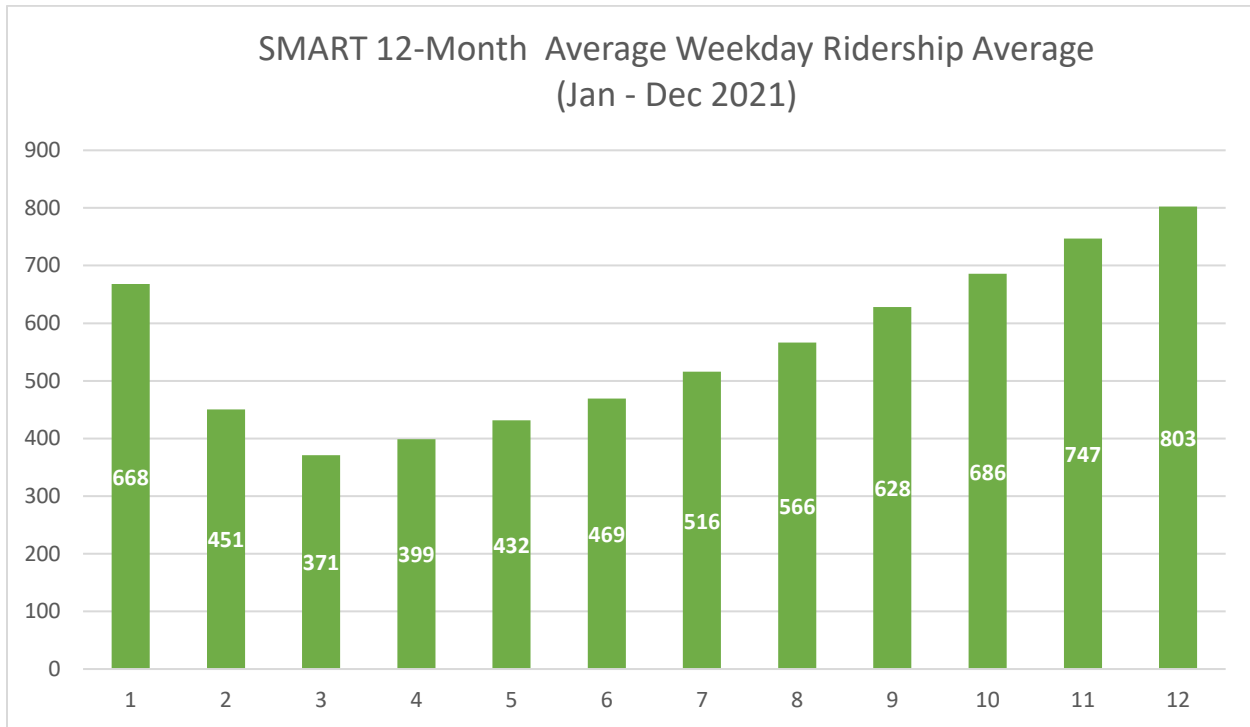


DECEMBER 2021 (COVID-19) SMART RIDERSHIP

SMART Ridership Report
Board of Directors,
January 19, 2022



The chart below shows the average weekday ridership over the last 12 months, cumulatively. Ridership continues to climb, despite monthly ridership fluctuations.





David Rabbitt, Chair
Sonoma County Board of Supervisors

Barbara Pahre, Vice Chair
Golden Gate Bridge,
Highway/Transportation District

Judy Arnold
Marin County Board of Supervisors

Melanie Bagby
Sonoma County Mayors' and
Councilmembers Association

Kate Colin
Transportation Authority of Marin

Damon Connolly
Marin County Board of Supervisors

Debora Fudge
Sonoma County Mayors' and
Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Susan Gorin
Sonoma County Board of Supervisors

Dan Hillmer
Marin County Council of Mayors and
Councilmembers

Eric Lucan
Transportation Authority of Marin

Chris Rogers
Sonoma County Mayors' and
Councilmembers Association

Eddy Cumins
General Manager

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

January 19, 2022

Sonoma-Marin Area Rail Transit Board of Directors
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SUBJECT: Authorize the General Manager to Award Contract No. FR-PS-21-002 to Summit Signal, Inc. to perform interim freight operations and maintenance services until SMART takes the service in-house.

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to Award Contract No. FR-PS-21-002 to Summit Signal, Inc. to perform interim freight rail operations and maintenance services with a not-to-exceed amount of \$344,680.00 for an interim period of three months with a month-to-month option to extend until SMART takes over these services in-house. The not-to-exceed amount includes the three-month base term and one additional month extension to be optioned in at SMART's discretion.

SUMMARY:

The Northwestern Pacific Railroad Company (NWPCo.) has served Sonoma County as the freight rail operator since 2011. On February 22, 2021, NWPCo petitioned the Surface Transportation Board (STB) for Discontinuance of Service Exemption to cease being the freight operator. In February of 2021, SMART hired a third-party consultant Project Finance Advisory Ltd, to conduct a thorough and unbiased analysis of existing and potential freight rail customers within the North Bay Area. The Executive Summary of the findings were distributed to the Board in August of 2021 with the final comprehensive freight report released on December 10, 2021.

On June 11, 2021, the STB approved NWPCo's petition for discontinuance of service and authorized SMART to assume freight operations and common carrier duties over the rail line. SMART and NWPCo had a mutual understanding that NWPCo would continue to provide service under the existing lease agreement until SMART replaced their operation by either self-performing the operation or contracting with a third-party operator to fulfill the service.

In anticipation of needing a third-party operator to perform all of the freight rail operations and maintenance services, SMART determined the need to obtain an understanding of the potential interest in the marketplace and what additional information would be required from SMART for potential third-party operators to be able to submit proposals should a Request for Proposal (“RFP”) follow.

SMART issued the Request for Information (“RFI”) for Freight Rail Operator Services (RFI No. FR-PS-21-001) on August 4, 2021 to determine whether there were any freight rail operations and maintenance contractors interested in performing the freight rail operations and maintenance services for SMART once SMART was approved by the Surface Transportation Board (“STB”) and becomes a common carrier. SMART widely advertised this Request for Information by posting the opportunity with the American Short Line and Regional Railroad Association (ASLRRA), posting the opportunity with the Mass Transit newsletter, and posting the opportunity on SMART’s Procurement website and directly notifying over 97 targeted firms. The intent of the Request for Information process was not only to understand the interest in the marketplace for this service, but to have these interested firms provide feedback to SMART as to the information that they would need in order to consider submitting a Proposal should a Request for Proposal follow.

SMART received a total of eleven (11) responses from firms, of which nine (9) declared interest in providing SMART’s freight rail operations and maintenance services. The information and feedback provided to SMART in these responses assisted SMART in performing a deeper dive into whether to perform these services in-house or by a third-party contractor.

On November 17, 2021, your Board received a freight activity update and were presented with three options for SMART to provide freight services to its customers: 1) Providing freight service with SMART freight staff 2) Contract out with a private contractor for all aspects of the service 3) Contract out only the operations portion of the service. Each option was presented with the anticipated costs and benefits for your consideration. Following the presentation and discussion, your board provided direction to SMART staff to concentrate on running freight service in-house.

In December of 2021, NWPCo. and SMART negotiated a final transfer date of the freight operations and maintenance services. SMART agreed to take over the freight and maintenance operations effective March 1, 2022. Given the anticipated time to hire the necessary staff and ramp up in-house operations, SMART identified the need to hire a third-party interim freight rail operations and maintenance service provider to ensure continuity of service to its customers.

SMART issued a Request for Proposal on December 10, 2021 for the interim freight rail operations and maintenance services under Solicitation No. FR-PS-21-002.

SMART advertised the Request for Proposal to all of the interested parties who responded to SMART’s Request for Information (RFI No. FR-PS-21-001) and all other parties who reached out to SMART showing interest since the RFI was conducted.

SMART received a total of four (4) proposals from the following Proposers:

1. Golden Gate Railroad Museum
2. Railmark Holdings (Yreka Railroad)
3. Sierra Northern Railroad
4. Summit Signal, Inc.

A Selection Committee was formed to evaluate the four proposals submitted. The Selection committee reviewed each proposal using the evaluation criteria identified in the Request for Proposal. The criteria included: the qualifications and experience of the firm, service approach, staffing plan, cost, and any other factors the evaluation committee deemed relevant. Following the review of the four proposals, the Selection Committee shortlisted three firms to move on to the final stage involving further review and interviews with each firm. The three shortlisted firms were Railmark Holdings Incorporated, Sierra Northern Railroad, and Summit Signal, Inc. The Selection Committee's review of the proposals resulted in the determination that each firm's proposal contained pros and cons if selected as SMART's interim freight rail operations and maintenance third-party contractor. The Request for Proposal procurement method is designed to allow the Selection Committee to consider both price and other factors when making the determination of which Proposal and firm provides the best value for the services to SMART. Based on the review of the proposals and interviews conducted, the Selection Committee is recommending that the Board authorize the General Manager to award Contract No. FR-PS-21-002 to Summit Signal, Inc. for the interim freight rail operations and maintenance services contract whose proposal provides the overall best benefit to SMART.

FISCAL IMPACT: Funding is included in the approved Fiscal Year 2021-22 Freight budget.

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

Very truly yours,

 /s/
Ken Hendricks
Procurement Manager

Attachment(s): Summit Signal, Inc. Agreement No. FR-PS-21-002

SERVICE AGREEMENT

This agreement (“Agreement”), dated as of January 19, 2022 (“Effective Date”) is by and between the Sonoma-Marín Area Rail Transit District (hereinafter “SMART”), and Summit Signal, Inc. (hereinafter “Service Provider”).

RECITALS

WHEREAS, Service Provider represents that it is a duly qualified and experienced in the areas of providing freight rail operations, maintenance, and related services; and

WHEREAS, in the judgment of the Board of Directors of SMART or District, it is necessary and desirable to employ the services of Service Provider to provide interim freight rail operation and maintenance services for SMART.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

ARTICLE 1. RECITALS.

Section 1.01 The above Recitals are true and correct.

ARTICLE 2. LIST OF EXHIBITS.

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

Exhibit A: Scope of Work & Timeline

Exhibit B: Schedule of Rates

ARTICLE 3. REQUEST FOR SERVICES.

Section 3.01 Initiation Conference. SMART’s General Manager or designee (hereinafter “SMART Manager”) will initiate all requests for services through an Initiation Conference, which may be in person, by telephone, or by email.

Section 3.02 Amount of Work. SMART does not guarantee a minimum or maximum amount of work under this Agreement.

ARTICLE 4. SCOPE OF SERVICES.

Section 4.01 Scope of Work. Service Provider shall perform services within the timeframe outlined in **Exhibit A** (cumulatively referred to as the “Scope of Work”).

Section 4.02 Cooperation With SMART. Service Provider shall cooperate with the SMART Manager in the performance of all work hereunder.

Section 4.03 Performance Standard. Service Provider shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Service Provider's profession and shall adhere to all applicable federal and state standards for operation as a common carrier. If SMART determines that any of Service Provider's work is not in accordance with such level of competency and standard of care, SMART, in its sole discretion, shall have the right to do any or all of the following: (a) require Service Provider to meet with SMART to review the quality of the work and resolve matters of concern; (b) require Service Provider to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 7; or (d) pursue any and all other remedies at law or in equity.

Section 4.04 Assigned Personnel.

Service Provider shall assign only competent personnel to perform work hereunder. In the event that at any time SMART, in its sole discretion, desires the removal of any person or persons assigned by Service Provider to perform work hereunder, Service Provider shall remove such person or persons immediately upon receiving written notice from SMART.

Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder on behalf of the Service Provider are deemed by SMART to be key personnel whose services were a material inducement to SMART to enter into this Agreement, and without whose services SMART would not have entered into this Agreement. Service Provider shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of SMART.

In the event that any of Service Provider's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Service Provider's control, Service Provider shall be responsible for timely provision of adequately qualified replacements.

Service Provider shall assign the following key personnel for the term of this Agreement:

Danny Mihelcic, Owner/Project Manager
Gregg Evensen, Crew Forman/Electrician

ARTICLE 5. PAYMENT.

For all services required hereunder, Service Provider shall be paid in accordance with the following terms:

Section 5.01 Service Provider shall invoice SMART on a monthly basis, detailing the tasks performed pursuant to the Scope of Work requested by the SMART Manager and the hours worked. SMART shall pay Service Provider within 30 days after submission of

the invoices.

Section 5.02 Service Provider shall be paid in accordance with the rates established in **Exhibit B**; provided, however, that total payments to Service Provider shall not exceed \$344,680.00, without the prior written approval of SMART. Service Provider shall submit its invoices in arrears on a monthly basis in a form approved by the Chief Financial Officer. The invoices shall show or include: (i) the task(s) performed corresponding to the Item # and Item Description included in the Exhibit B; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate or rates corresponding to the task(s); (iv) copies of receipts for consumable materials/expenses, if any; (v) pre-approvals for all consumables purchased; and (vi) certified payroll reports for all covered work performed under the contract. Service Provider's reimbursement for materials/expenses shall not include items already included in Service Provider's overhead as may be billed as a part of its labor rates set forth in **Exhibit B**. SMART does not reimburse Service Provider for travel time.

Section 5.03 Service Provider must submit all invoices on a timely basis, but no later than thirty (30) days from the date the services/charges were incurred. District shall not accept invoices submitted by Service Provider after the end of such thirty (30) day period without District pre-approval. Time is of the essence with respect to submission of invoices and failure by Service Provider to abide by these requirements may delay or prevent payment of invoices or cause such invoices to be returned to the Service Provider unpaid.

ARTICLE 6. TERM OF AGREEMENT.

Section 6.01 The term of this Agreement shall remain in effect through May 31, 2022, with month-to-month options to extend thereafter at SMART's sole discretion unless terminated earlier in accordance with the provisions of **Article 7** below.

ARTICLE 7. TERMINATION.

Section 7.01 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, SMART shall have the right, at their sole discretion, to terminate this Agreement by giving 30 days written notice to the other party.

Section 7.02 Termination for Cause. Notwithstanding any other provision of this Agreement, should Service Provider fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, SMART may immediately terminate this Agreement by giving Service Provider written notice of such termination, stating the reason for termination.

Section 7.03 Delivery of Work Product and Final Payment Upon Termination. In the event of termination by either party, Service Provider, within 14 days following the date of termination, shall deliver to SMART all materials, reports, documentation, and work product subject to **Section 12.08** and shall submit to SMART an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

Section 7.04 Payment Upon Termination. Upon termination of this Agreement by SMART, Service Provider shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Service Provider bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on an hourly or daily basis, then Service Provider shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination times the applicable hourly or daily rate; provided further that if SMART terminates the Agreement for cause pursuant to **Section 7.02**, SMART shall deduct from such amount the amount of damage, if any, sustained by SMART by virtue of the breach of the Agreement by Service Provider.

Section 7.05 Authority to Terminate. The Board of Directors has the authority to terminate this Agreement on behalf of SMART. In addition, the General Manager, in consultation with SMART Counsel, shall have the authority to terminate this Agreement on behalf of SMART.

ARTICLE 8. INDEMNIFICATION

Service Provider agrees to accept all responsibility for loss or damage to any person or entity, including SMART, and to indemnify, hold harmless, and release SMART, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, fines, fees or expenses, that may be asserted by any person, regulator, or entity, including Service Provider, to the extent caused by the Service Provider's negligence, recklessness or willful misconduct in its performance or obligations under this Agreement. Service Provider agrees to provide a complete defense for any claim or action brought against SMART based upon a claim relating to Service Provider's performance or obligations under this Agreement. Service Provider's obligations under this Section 8 apply whether or not there is concurrent negligence on SMART's part, but to the extent required by law, excluding liability due to SMART's conduct. SMART shall have the right to select its legal counsel at Service Provider's expense, subject to Service Provider's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Service Provider or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

ARTICLE 9. INSURANCE.

With respect to performance of work under this Agreement, Service Provider shall maintain and shall require all of its Subcontractors, Service Providers, and other agents to maintain, insurance as described below. If the Service Provider maintains broader coverage and/or higher limits than the minimums shown below, SMART requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Service Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to SMART.

Section 9.01 Workers' Compensation Insurance. The contractor shall provide and maintain, for all employees of the Contractor engaged in Work under this contract, Worker's Compensation Insurance required by the law of the state where an employee engages in work and/or Federal Employers Liability Act Insurance (FELA). The Contractor shall be responsible for Worker's Compensation Insurance and/or FELA for any Subcontractor who directly or indirectly provides services under this contract. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection of not less than \$1,000,000 per occurrence. An endorsement providing a waiver of subrogation in favor of SMART is required.

Section 9.02 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 \$5,000,000 per occurrence, and \$10,000,000 aggregate. Said policy shall include a Railroads CG 24 17 endorsement removing the exclusion of coverage, if applicable, for bodily injury or property damage arising out of operations within 50 feet of any railroad property and affecting any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing.

Section 9.03 Automobile Insurance. Automobile Liability insurance covering bodily injury and property damage in an amount no less than \$2,000,000 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 9.04 Pollution Liability Insurance. Pollution Liability insurance in an amount no less than \$2,000,000 per incident. The Pollution Liability policy shall be written on an occurrence or per claim 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 or operational activities related to the Contract. Coverage shall include the Service Provider as the named insured and shall include coverage for acts by others for whom the Service Provider is legally responsible.

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

Section 9.05 Railroad Liability Insurance. Prior to commencement of operations and maintenance activities, Service Provider shall procure and maintain Railroad Liability insurance with limits of liability of no less than \$10,000,000 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.

Section 9.06 Endorsements. Prior to commencing work, Service Provider 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:

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 and the professional services liability policy (if applicable).

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 Service Provider 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.

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 Service Provider. Said policy shall protect Service Provider 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.

Service Provider hereby grants to SMART a waiver of any right to subrogation which any insurer of said Service Provider may acquire against SMART by virtue of the payment of any loss under such insurance. Service Provider 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.

The insurance policy(ies) shall be written by an insurance company or companies acceptable to SMART. Such insurance company shall be authorized to transact business in the state of California.

SMART reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Section 9.07 Deductibles and Retentions. Service Provider shall be responsible for payment of any deductible or retention on Service Provider's policies without right of contribution from SMART. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the name insured is not acceptable.

Section 9.08 Claims Made Coverage. If any insurance specified above is written on a claims-made coverage form, Service Provider shall:

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;

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

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, Service Provider shall purchase “extending reporting” coverage for a minimum of three (3) years after completion of the work.

Section 9.09 Documentation. The following documentation shall be submitted to SMART:

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, Service Provider shall provide certified copies of the policies that correspond to the policies listed on the Certificates of Insurance. Service Provider agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with SMART for the duration of this Agreement.

Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement. Service Provider agrees to maintain current endorsements evidencing the above-specified requirements on file with SMART for the duration of this Agreement.

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 9.10 Policy Obligations. Service Provider’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 9.11 Material Breach. If Service Provider, 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 Service Provider resulting from said breach. Alternatively, SMART may purchase such required insurance coverage, and without further notice to Service Provider, SMART may deduct from sums due to Service Provider any premium costs advanced by SMART for such insurance. These remedies shall be in addition to any other remedies available to SMART.

Section 9.12 Default. (i) If Service Provider, for any reason, fails to provide common carrier rail freight service as required under this agreement, or fails (ii) to perform in any material respect any other provision of this Agreement after receipt of notice of such breach

from SMART and fails to commence to cure such default within fifteen (15) calendar days, or once commenced, fails to use due diligence to complete, SMART, in its sole option, may terminate this Agreement and obtain damages from Service Provider resulting from said breach. These remedies shall be in addition to any other remedies available to SMART.

ARTICLE 10. PROSECUTION OF WORK.

When work is requested of Service Provider by SMART, all due diligence shall be exercised and the work accomplished without undue delay, within the performance time specified in each Task Order or Work Order. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, or wildfire, the time for Service Provider's performance will be as mutually agreed upon.

ARTICLE 11. EXTRA OR CHANGED WORK.

Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the SMART Manager in a form approved by SMART Counsel. The Board of Directors or General Manager must authorize all other extra or changed work. The parties expressly recognize that SMART personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Service Provider to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Service Provider shall be entitled to no compensation whatsoever for the performance of such work. Service Provider further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of SMART.

ARTICLE 12. REPRESENTATIONS OF SERVICE PROVIDER.

Section 12.01 Standard of Care. SMART has relied upon the professional ability and training of Service Provider as a material inducement to enter into this Agreement. Service Provider hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the laws and requirements of all applicable federal, state and local laws, it being understood that acceptance of Service Provider's work by SMART shall not operate as a waiver or release.

Section 12.02 Status of Service Provider. The parties intend that Service Provider, in performing the services specified herein, shall act as an Independent Contractor and operator, and shall control the work and the manner in which it is performed. Service Provider is not to be considered an agent or employee of SMART and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits SMART provides its employees. In the event SMART exercises its right to terminate this Agreement pursuant to **Article 7**, above, Service Provider expressly agrees that it shall have no recourse or

right of appeal under rules, regulations, ordinances, or laws applicable to employees.

Section 12.03 Taxes. Service Provider agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including but not limited to state and federal income and FICA taxes. Service Provider agrees to indemnify and hold SMART harmless from any liability which it may incur to the United States or to the State of California as a consequence of Service Provider's failure to pay, when due, all such taxes and obligations. In case SMART is audited for compliance regarding any withholding or other applicable taxes, Service Provider agrees to furnish SMART with proof of payment of taxes on these earnings.

Section 12.04 Records Maintenance. Service Provider shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to SMART for inspection at any reasonable time. Service Provider shall maintain such records for a period of at least four (4) years following completion of work hereunder. Service Provider and Subcontractors shall permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by the State, for the purpose of any investigation to ascertain compliance with this document.

Section 12.05 Conflict of Interest. Service Provider covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Service Provider further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by SMART, Service Provider shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with SMART disclosing Service Provider's or such other person's financial interests.

Section 12.06 Nondiscrimination. Service Provider shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, SMART's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

Section 12.07 Assignment Of Rights. Service Provider assigns to SMART all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Service Provider in connection with this Agreement. Service Provider agrees to take such actions as are necessary to protect the rights assigned to SMART in this Agreement, and to refrain from taking any action which would impair those rights. Service Provider's

responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as SMART may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of SMART. Service Provider shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of SMART.

Section 12.08 Ownership And Disclosure Of Work Product. Any and all work product resulting from this Agreement is commissioned by SMART as a work for hire. SMART shall be considered, for all purposes, the author of the work product and shall have all rights of authorship to the work, including, but not limited to, the exclusive right to use, publish, reproduce, copy and make derivative use of, the work product or otherwise grant others limited rights to use the work product. To the extent Service Provider incorporates into the work product any pre-existing work product owned by Service Provider, Service Provider hereby acknowledges and agrees that ownership of such work product shall be transferred to SMART. All reports, original drawings, graphics, plans, studies, and other data or documents (“documents”), in whatever form or format, assembled or prepared by Service Provider and other agents in connection with this Agreement shall be the property of SMART. SMART shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Service Provider shall promptly deliver to SMART all such documents, which have not already been provided to SMART in such form or format, as SMART deems appropriate. Such documents shall be and will remain the property of SMART without restriction or limitation. Service Provider may retain copies of the above-described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of SMART.

ARTICLE 13. DEMAND FOR ASSURANCE.

Each party to this Agreement undertakes the obligation that the other’s expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. “Commercially reasonable” includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party’s right to demand adequate assurance of future performance. Nothing in this **Article 13** limits SMART’s right to terminate this Agreement pursuant to **Article 7**.

ARTICLE 14. ASSIGNMENT AND DELEGATION.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

ARTICLE 15. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING INVOICES AND MAKING PAYMENTS.

All notices, invoices, and payments shall be made in writing and shall be given by personal delivery, U.S. Mail or email. Notices, invoices, and payments shall be addressed as follows:

If to SMART Manager:	Sonoma-Marín Area Rail Transit District Attn: Eddy Cumins 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954 ecumins@sonomamarintrain.org 707-794-3330
If to SMART Billing:	Sonoma-Marín Area Rail Transit District Attn: Accounts Payable 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954 billing@sonomamarintrain.org 707-794-3330
If to Service Provider:	Summit Signal, Inc. Attn: Danny Mihelcic 260 Margie Drive Willits, CA 95490 summitsignal@pacific.net (o) 707-456-9515 (c) 707-756-0302

When a notice, invoice or payment is given by a generally recognized overnight courier service, the notice, invoice or payment shall be deemed received on the next business day. When a copy of a notice, invoice or payment is sent by facsimile or email, the notice, invoice or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, invoice or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, invoices and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

ARTICLE 16. MISCELLANEOUS PROVISIONS.

Section 16.01 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 16.02 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Service Provider and SMART acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Service Provider and SMART acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

Section 16.03 Prevailing Wages. Service Provider 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 Service Providers, 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.

Section 16.04 Licensing Laws. The Service Provider shall comply with the provisions of Chapter 9 Division 3 of the Business and Professions code concerning the licensing of contractors. All Service Providers shall be licensed in accordance with the applicable Federal and/or State laws and any Service Provider not so licensed is subject to the penalties imposed by such laws. Prior to commencing any work under contract, all Service Providers and subcontractors must show that they hold appropriate and current Contractor Licenses in the State of California. The Service Provider shall provide such subcontractor information, including the class type, license, number, and expiration date to SMART.

Section 16.05 Payment Bond. Service Provider shall be required to furnish a Payment Bond (Labor and Materials Bond) in an amount not less than 100 percent of the Contract Price, excluding allowances. Payment bond shall be executed by an admitted surety

insurer (California Civil Code Section 9554). An “admitted surety insurer” shall be defined as follows: A corporate insurer or reciprocal or interinsurance exchange to which the Insurance Commissioner has issued a certificate of authority to transact surety insurance in this state, as defined in Section 105 of the Insurance Code (California Code of Civil Procedures Section 995.120).

Section 16.06 Claims Made Against Service Provider. Service Provider shall provide SMART with copies of all correspondence and records relating to any claims made against the Service Provider while working on SMART’s property by SMART employees or third-party on a monthly basis.

Section 16.07 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

Section 16.08 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 16.09 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 16.10 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

Section 16.11 Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

Section 16.12 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 16.13 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.

SERVICE PROVIDER: SUMMIT SIGNAL, INC.

By: _____
Danny Mihelcic, Secretary

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 SCOPE OF WORK & TIMELINE

I. Overview

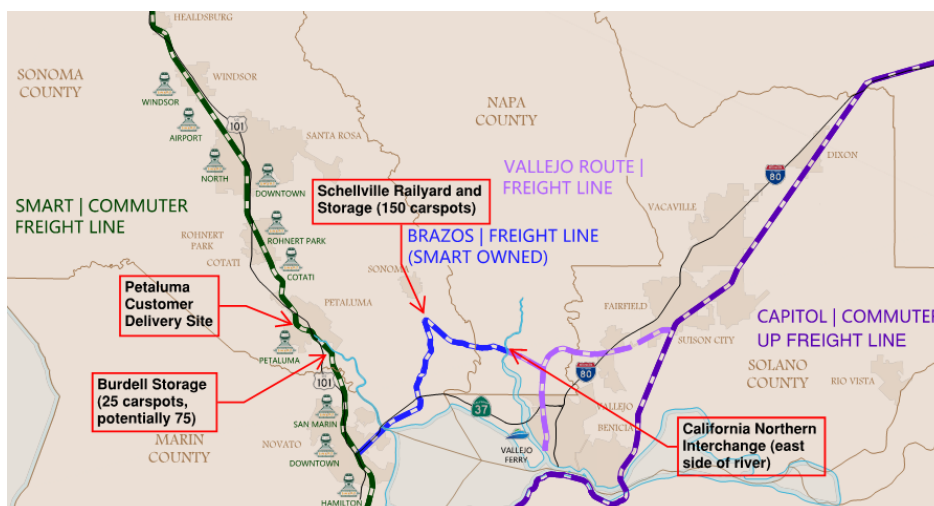
The Sonoma-Marin Area Rail Transit District (SMART) is contracting with Summit Signal, Inc. to provide interim freight rail operations and maintenance services for SMART for a period of three months with month-to-month options to extend thereafter. Service Provider is not permitted to perform any type of passenger service on SMART-owned right-of-way.

II. Project Management

All work shall be initiated, scheduled, and reviewed by SMART's General Manager or designee (hereinafter "SMART Manager"). Work may be initiated in writing or by teleconference.

III. Service Area & Track Information

The SMART-owned mainline runs South to North from Larkspur, CA to the Sonoma/Mendocino County Line, CA (MP 15 to MP 85.4). In-service track runs from Larkspur, CA to Airport Blvd (MP 60.0) in Santa Rosa, CA. At this time, there is no freight service allowed south of MP 25.4. The Mainline Subdivision track meets Class 4 track standards (maximum freight speed is 45 mph). Running East to West, the Brazos Jct Subdivision of SMART's property is currently only occupied by freight traffic and has no existing Positive Train Control ("PTC"). This section of track predominately meets Class 2 standards and stretches from Novato, CA (MP B25.6) to just east of the Napa River (MP B49.80).



The current track conditions on the Brazos Jct. Subdivision meet the following FRA Classes of Track:

MP B-48.60 to MP B-48.30 (BRAZOS MOVEABLE BRIDGE)Class 1
MP B-48.30 to MP B-40.75Class 2
MP B-40.75 to MP B-40.30 (SCHELLVILLE HORSESHOE)Class 1
MP B-40.30 to MP B-29.01Class 2
MP B-29.01 to MP B-28.80 (BLACK POINT MOVEABLE BRIDGE)Class 1
MP B-28.80 to MP B-25.80Class 2
MP B-25.80 to MP B-25.63 (IGNACIO NORTH LEG OF WYE)Class 1

IV. Scope of Work

A. Mobilization Requirements

- a. Service Provider shall begin mobilizing following SMART's issuance of a Notice to Proceed.
- b. Service Provider shall provide the SMART Manager with an initial condition report of all SMART-owned equipment that will be utilized during the course of this Agreement. This condition report will be reviewed and mutually agreed upon by the SMART Manager and the Service Provider in writing prior to the commencement of service.
- c. Service Provider shall be fully mobilized and prepared to begin interim freight operations and maintenance services starting March 1, 2022.

B. Operations Requirements

- a. Service Provider shall provide freight hauling services to SMART's existing customers and any new customers onboarded during the term of this Agreement.

i. Current Customers

There are currently four (4) customers using three (3) separate spurs all located in Petaluma, CA. The customers are:

1. Dairymen's Feed & Supply Co.
2. Hunt & Behrens, Inc.
3. Willowbrook Foods
4. Transload Logistics Company for Lagunitas Brewery

ii. Frequency of Service Provided

Deliveries to customers are typically completed on two (2) nights each week and interchanges with California Northern Railroad, a Genesee & Wyoming property, typically on two (2) other days of the week.

In addition to the twice weekly deliveries, SMART has agreements with nearby refineries to store full and empty Liquid Petroleum Gas (LPG) tank cars, as well as hoppers of refinery biproducts. In total, existing storage capacity is roughly 175 cars.

These are the typical delivery schedules and shall adjust as required.

iii. Operating Window

The current window for operations to Petaluma on the Mainline Subdivision is between 9:00pm (PST) and 3:00am (PST).

b. Communication Equipment

- i. SMART will provide mobile radios for Service Provider's personnel.
- ii. SMART locomotives are already equipped with radios and event recorders.
- iii. If Service Provider elects to utilize their own locomotives, the Service Provider will be responsible for furnishing and providing radios.

c. Communication Expectations:

- i. SMART will issue daily Train Bulletins to train crews via email notification.
- ii. SMART will issue daily work orders and switch lists in the form of task orders to the train crew via email notification. Each task order will include the service and delivery requirements and timelines that must be achieved. Service Provider shall be responsible for all costs associated with the failure to timely deliver/retrieve cars.

iii. Communication with Customers:

1. Freight customers will email SMART regarding all switching needs, spots, or pulls.
2. SMART will issue the work orders to the Service Provider.
3. Service Provider shall communicate with customers to coordinate all switching requirements.

iv. Communication with California Northern Railroad:

1. SMART is responsible for providing Interchange reports to and from the California Northern Railroad.
- v. Service Provider is required to report daily all car movements to SMART via email notification to the SMART Manager.

- d. Service Provider is required to operate under Track Warrant Control (“YWC”) and Yard Limits as the method for the Brazos Subdivision.
- e. Service Provider is required to operate under E-ATC/CTC as the method for SMART’s Mainline Subdivision.
- f. SMART is responsible for providing dispatching services.
- g. SMART is responsible for all revenue collection and related services.
- h. During this interim operating period, Service Provider may be required to assist SMART with moving ballast cars and other equipment along the alignment to support SMART’s Maintenance of Way and Vehicle Maintenance Teams. Service Provider shall cooperate with SMART with these objectives as they arise.

C. Maintenance of Way Requirements

- a. SMART is responsible for maintaining the SMART-owned mainline which runs South to North from Larkspur, CA to the Sonoma/Mendocino County Line, CA (MP 15 to MP 85.4).
- b. Service Provider is responsible for maintaining existing infrastructure on the Brazos Jct Subdivision which runs from the northbound control signal at Ignacio North in Novato, CA (MP B25.6) to just east of the Napa River (MP B49.80).
- c. Service Provider shall perform all track inspection and routine maintenance activities of all Railroad Right-of-Way and trackage required to support intended freight operation during the term of this Agreement per Federal Railroad Administration and California Public Utilities Commission (“CPUC”) regulations.

In this context “all Railroad Right-of-Way and trackage required” includes all main tracks, sidings, yard tracks, spur tracks, at-grade crossings, passive crossing warning devices, right-of-way signage, drainage ditches, channels, bridges, trestles, and culverts required for the intended operation on the Brazos Jct. Subdivision along with Park and Burdell Auxiliary tracks and commercial spurs at Dairyman’s, Petaluma, and Willowbrook. Maintenance activities shall be in accordance with all applicable Federal Railroad Administration (“FRA”) and California Public Utilities Commission (“CPUC”) regulations.

In this context, all routine maintenance” includes any work required to maintain all Railroad Right-of-Way and trackage to the FRA classes of track and conditions in effect at the time of contract commencement. It includes any required mechanical vegetation removal required to comply with FRA and CPUC regulations and General Orders.

SMART will be responsible for funding all capital improvements and upgrades including out of face rail and tie renewals, bridge repairs, complete crossing renewals, and complete turnout renewals.

Service Provider is responsible for the installation of all replacement plug rails.

- d. It is the responsibility of the Service Provider to properly dispose of any scrap materials generated by their work.
- e. No replacement rail or other materials utilized for routine maintenance shall be of lesser weight or size without the prior written approval of SMART.
- f. Service Provider shall perform operation and maintenance of the two moveable bridges (lift span, swing span).
- g. If during inspection and maintenance, the need for major repairs is discovered, SMART will be responsible for contracting out signal maintenance and major repairs.
- h. SMART shall have the right during normal business hours to inspect the Brazos Jct. Subdivision for conformity with the requirements of this section, provided that such inspections shall not reasonably interfere with Service Provider's operations. In the event it is determined that any Railroad Right-of-Way or Trackage fails to meet the requirements of this section that as a result of SMART's inspection, SMART shall advise Service Provider of the steps necessary to bring the Railroad Right-of-Way or Trackage into conformity. The Service Provider shall have a mutually agreed upon reasonable period of time to take corrective action.

D. Vehicle Maintenance Requirements

- a. Service Provider is responsible for performing all mechanical activities on the SMART-Owned equipment listed below:
 - i. NWP 2009 Railpower RP20DB Tier III (PTC Equipped)
 - ii. NWP 2611 Railpower RP20GE Tier III
 - iii. Hi-Rail Track Inspector Vehicle

The two (2) locomotives will require 92-day inspections in March of 2022.

This includes performing maintenance, repairs if bad order conditions are identified, and FRA required inspections on locomotive and railcars, etc.

All repairs, maintenance activities, and inspections shall be per FRA standards.

Service Provider is required to submit to the SMART Manager for pre-approval all repair needs and estimated costs for the repairs needed on SMART-owned locomotives.

- b. Service Provider shall perform all vehicle and equipment maintenance on Service Provider-owned or leased equipment.
 - i. If Service Provider chooses to use their own equipment, the equipment must be furnished with onboard Automatic Train Control equipment, which must be interoperable with SMART's Enhanced Automatic Train Control System and approved by SMART.
- c. Service Provider is responsible for fueling the locomotives. Contractor shall be responsible for coordinating fuel deliveries through SMART's existing fuel contract per the stated terms. SMART will be responsible for paying for fuel and fuel deliveries.
- d. Service Provider is responsible for the deliveries and cost of all lubricants and sand.
- e. Service Provider is responsible for repairing rail cars if bad order conditions are identified. Service Provider is responsible for all safety appliance repairs per FRA standards and submit all billings per AAR rates.

E. Staffing Requirements

- a. Service Provider shall only use Federal Railroad Administration ("FRA") qualified engineers, conductors, track inspection personnel, and mechanical QMPs.
- b. Service Provider's personnel must be qualified on the physical characteristics of the line and be trained on the operation of the moveable bridges prior to beginning interim freight operations and maintenance services. Unless otherwise permitted by law, the personnel will be required to pass a Physical Characteristics Written Exam per 49 CFR 240.12 (c), (e) and meet all requirements listed in 49 CFR Part 240 and 242 to become qualified. SMART will provide Operating Manuals and instructions regarding the moveable bridges. SMART will provide hands-on training only on the Brazos Jct. Subdivision.
- c. Service provider must be in compliance with all applicable Federal, State and Local laws and regulations as it pertains to its personnel, including the Railroad Retirement Act and Federal Employers Liability Act as applicable.
- d. Service Provider shall conduct all FRA-required employee training and qualification of its staff and personnel.

F. Emergency Information

- a. In the event of a derailment or incident involving a locomotive or train, Service Provider is responsible for the immediate rerailling and any repairs. SMART will only be responsible for events where force majeure applies.

G. Administrative Requirements

- a. Service Provider shall provide all personnel management for its staff.
- b. Service Provider shall provide enough qualified staff to perform the scope of services identified in this contract.
- c. Service Provider shall perform and provide all FRA-required reporting and safety plans and programs.
- d. Service Provider shall establish a training program to comply with the requirements of CFR 213, 214, 234, 236, 237, and 243. Records of training must be maintained by the Service Provider and made available for review by SMART upon request.
- e. SMART will make available to Service Provider the use of the existing Schellville Station in its existing “as is” condition to serve as a reporting location for the train crew.
- f. Service Provider is responsible for providing all necessary computer equipment needed to successfully perform the interim freight rail operations and maintenance services.
- g. Service Provider shall maintain full and complete maintenance and inspection records.
- h. Service Provider is responsible for maintaining and providing to SMART all track inspection reports, locomotive inspection reports, car repair billings, Hours of Service Reports for Engineers, Conductors, and Bridgetenders. Reports include all inspection reports conducted by FRA and CPUC inspectors and all notices of deficiencies or violations alleging a deficiency. Service Provider shall be responsible to promptly address and rectify any deficiencies or violations alleging a deficiency.
- i. SMART will be responsible for retaining and maintaining all car movement records, interchange records, and an accounting for car hire.
- j. SMART shall have the right at all reasonable times to inspect all records with copies being provided by the Service Provider promptly upon SMART’s request.

H. Service Termination or Transfer of Service Requirements

- a. At the conclusion of this Agreement, Service Provider shall cooperate and assist with SMART on the transfer of freight rail operations and maintenance services to SMART’s in-house team or other third-party contractor as required.

- b. Service Provider shall provide SMART with all requested reporting records and documentation.
- c. Service Provider shall provide an “end of contract” condition report of all SMART-owned equipment used during the course of the Agreement. The SMART Manager and Service Provider will review and agree on the condition report and compare it to the pre-service condition report agreed upon during the mobilization stage.
- d. The SMART Manager, at their discretion, will inspect all right-of-way and infrastructure to ensure the current condition meets the required conditions.
- e. The SMART Manager may provide a final punch-list of actions for contract close-out. Service Provider shall cooperate with SMART on ensuring a smooth transition of service.

V. Acceptance Criteria

The SMART Manager will be responsible for reviewing all work performed under this Agreement to ensure it conforms with the requirements of the contract. Any defective work shall be replaced by the Service Provider at no charge.

**EXHIBIT B
SCHEDULE OF RATES**

ITEM	DESCRIPTION	RATE	ESTIMATED MONTHLY COST
1	Train Crew (2 Locomotive Operators)	\$404.19 per Hour	\$32,335.20
2	Crossing Maintenance	\$400.00 per Hour	\$4,000.00
3	Bridge Maintenance (2 Operators for Bridge Maintenance)	\$404.19 per Hour	\$6,467.04
4	Wayside Signal Maintenance	\$300.00 per Hour	\$2,400.00
5	Track & ROW Maintenance (2 Operators for Track, ROW)	\$404.19 per Hour	\$25,868.16
6	Signal Labor Rates	Standard Time: \$133.98 per Hour Overtime: \$156.14 per Hour Double Time: \$178.29 per Hour	

NOTES

- ITEM # 1: Estimated at 20 Hours per week per Train Crew
ITEM # 2: Estimated at 10 Hours per week for Normal Railroad Grade Crossing Maintenance
ITEM # 3: Estimated at 4 Hours per week for 2-Person Bridge Operations Crew
ITEM # 4: Estimated at 8 Hours per week for Normal Wayside Signal Monthly Maintenance
ITEM # 5: Estimated at 16 Hours per week for 2-Person Operations Crew for Track & ROW Maintenance

INSURANCE & BONDING COSTS

ITEM	DESCRIPTION	COST
7	Labor and Materials Bond	Actual Cost + 5%
8	Railroad Liability Insurance	Actual Premium Cost + 10%

NOTES

- ITEM # 7: Billed on first monthly invoice.
ITEM # 8: Premium Cost to be spread across and billed on the first three monthly invoices.

CONSUMABLE MATERIALS COSTS

ITEM	DESCRIPTION	COST
9	Track & Locomotive Materials	Actual Cost + 20%
10	Signal Materials	Actual Cost + 20%

NOTES

ITEM # 9-10: All consumable expenses for track, ties, ballast, spikes, gauge rods, tie plates, and all other track related materials must receive approval from the SMART Manager prior to purchase or expenditure.

All consumable expenses to repair and maintain locomotives must receive approval from the SMART Manager prior to purchase or expenditure.

All consumable expenses for railroad signal materials for gates, flashers, bonding, shunts, and all other railroad signal materials must receive approval from the SMART Manager prior to purchase or expenditure.



January 19, 2022

David Rabbitt, Chair
Sonoma County Board of Supervisors

Barbara Pahre, Vice Chair
Golden Gate Bridge,
Highway/Transportation District

Judy Arnold
Marin County Board of Supervisors

Melanie Bagby
Sonoma County Mayors' and
Councilmembers Association

Kate Colin
Transportation Authority of Marin

Damon Connolly
Marin County Board of Supervisors

Debora Fudge
Sonoma County Mayors' and
Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Susan Gorin
Sonoma County Board of Supervisors

Dan Hillmer
Marin County Council of Mayors and
Councilmembers

Eric Lucan
Transportation Authority of Marin

Chris Rogers
Sonoma County Mayors' and
Councilmembers Association

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: Planning for the Future

Dear Board Members:

RECOMMENDATION: For Discussion/Informational Purposes Only

SUMMARY:

The new SMART General Manager began on November 29, 2021. A change in leadership coupled with the agency emerging from the COVID-19 pandemic presents an opportunity to assess the current state of the agency and plan for the future. The intent of this process is to ensure the SMART Board of Directors and staff are well aligned and focused on meeting the agency's strategic objectives.

This presentation will introduce a proposed planning model, provide a staff developed Strengths, Weaknesses, Opportunities and Threats Analysis (SWOT Analysis), and provide an opportunity to discuss next steps. The proposed planning model will include framework to enable the SMART Board of Directors to develop a vision and mission statement and establish strategic objectives for the agency. After this work is completed, staff will develop proposed goals and a strategy to achieve the agency's strategic objectives.

Very truly yours,

/s/
Eddy Cumins
General Manager