



**BOARD OF DIRECTORS  
REGULAR MEETING AGENDA**

**July 18, 2018 – 1:30 PM**

5401 Old Redwood Highway, 1<sup>st</sup> Floor  
Petaluma, CA 94954

1. Call to Order
2. Approval of the June 6, 2018 Board Meeting Minutes
3. Public Comment on Non-agenda Items
4. Board Member Announcements
5. General Manager's Report
6. Consent
  - a. Approve a Resolution to Authorize the Chair of the Board of Directors and the General Manager to Execute funding-related agreements for available funds from the Sonoma County Transportation Authority
7. Authorize SMART to hold a Community Celebration on August 18, 2018 and to add extra train trips and offer free service August 18-19 to mark SMART's First Year of Service
8. Authorize the General Manager to Execute Contract No. OT-PS-18-003 with Netwoven, Inc. in the amount of \$161,000 to perform Microsoft SharePoint Upgrades and Support Services
9. Authorize the General Manager to Enter into Purchase Agreements for a used Hyrail Rotary Dump Truck and a used Lowrailer Utilizing a Competitive Negotiation Process in an amount not to exceed \$270,000
10. Approve a Resolution and Authorize the General Manager to Enter into Purchase and Service Agreements in an aggregate amount of \$700,000 and to Award Contract No. VS-SV-18-001 to Alstom Transportation in an amount not to exceed \$300,000 for the major repair work of the Diesel Multiple Unit 110 and Provide Additional Expenditure of \$600,000

11. Authorize the General Manager to Execute a Funding Agreement with Sonoma County Transit for Sonoma County Transit Route 56 and Related Bus Stop Improvements at Airport Boulevard/Sonoma County Airport SMART Station
12. Approve the Resolutions Authorizing the General Manager to Execute Change Order NOV-001 to Contract No. CV-DB-16-001 with Stacy and Witbeck/Herzog JV and Amend the Fiscal Year 2018-19 budget in an amount of \$5,200,000 to complete the Novato Downtown Station
13. Authorize the General Manager to Execute a First Amendment to SMART's Lease Agreement with Cornerstone Properties, SA, LLC, the owner of the building housing SMART's administrative functions in Petaluma
14. Update on Senate Bill 1029 North Coast Rail Authority (NCRA): Right-of-Way: Great Redwood Trail Agency: Sonoma-Marin Area Rail Transit
15. Closed Session - Conference with General Manager, Farhad Mansourian, pursuant to California Government Code Section 54956.8 regarding real estate property negotiations.  
Property: Sonoma-Marin Area Rail Transit District – RR Sq. property  
2 w. 3rd Street and 34 W. 6th St, Santa Rosa  
APN (s) #: 010-171-019, 010-166-003  
Negotiating Parties: Farhad Mansourian, Cornerstone Properties, Forma LLC,  
Laulima Development and Lyon Street Ventures LLC
16. Report out of Closed Session
17. Next Regular Meeting Board of Directors, September 19, 2018 – 1:30 PM – 5401 Old Redwood Highway, 1<sup>st</sup> Floor, Petaluma, CA 94954
18. Adjournment

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

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



**BOARD OF DIRECTORS  
REGULAR MEETING MINUTES**

**June 6, 2018 - 1:30 PM**

5401 Old Redwood Highway, 1<sup>st</sup> Floor  
Petaluma, CA 94954

1. Call to Order

Chair Fudge called the meeting to order at 1:30pm. Directors Eddie, Lucan, Mackenzie, Hillmer, Pahre, Phillips, Rabbitt and Zane were present. Directors Arnold, Connolly, and Russell absent.

2. Approval of the May 16, 2018 Board Meeting Minutes

**MOTION:** Director Rabbitt moved approval of May 16, 2018 corrected minutes. Director Lucan second. The motion carried 8-0. (Director Fudge abstain; Directors Arnold, Connolly, and Russell absent).

3. Public Comment on Non-Agenda Items

Jack Swearingen voiced his concerns about the Jennings Avenue Crossing. He urged the Board to agendized this topic.

Duane Bellinger voiced his concerns about the Lomas contract. He illustrated a map of the Corona/McDowell property; however, the map does not disclose any provisions. He stated that the map would have avoided problems.

4. Board Member Announcements

Chair Fudge congratulated Director Rabbitt for his re-election as Sonoma County Board of Supervisor District 2 representative.

Director Mackenzie announced that the preliminary results for Regional Measure 3 are favorable.

Chair Fudge announced that SMART was awarded the 29<sup>th</sup> Annual California Transportation Foundation Award for Transit/Rail Project of the year.

Director Zane announced that she was invited to join the Board of the National Council for Science and Environment (NCSE) in Washington, DC.

5. General Manager's Report

General Manager Mansourian illustrated a video of the three finalists for the 29<sup>th</sup> Annual California Transportation Foundation Award for Transit/Rail Project of the year. SMART has carried approximately 537,000 passengers and 46,000 bicycles since start of passenger service in August 2017.

He announced that SMART received four (4) proposals for the Railroad Square Property in Santa Rosa. The firms are as follows in alphabetic order: 1) Cornerstone/Burbank Housing; 2) FORMA and EAH Housing; 3) Laulima Development Corp. and 4) Lyon Street Ventures, LLC. The Sub-Committee will be evaluating the proposals and report recommendations to the Board.

Director Mackenzie stated that Laulima Development Corporation owns the 33-acres property near the Rohnert Park Station (formerly State Farm site). They have submitted development plans to the City of Rohnert Park and have a website called "stationaverp.com" where you can find information regarding the project. Also, He will refrain himself from making comments since they have expressed interest in SMART.

General Manager Mansourian stated that Senate Bill 1029 was approved by the Senate with 36-0 vote and will move to Assembly. SMART will continue to work with Senator McGuire to secure all the cautionary language (liability and expenditure).

On Saturday, June 2nd, SMART and Directors Connolly and Phillips hosted the ceremony for the San Rafael Pedestrian–Bicycle Pathway. On Saturday, June 23, 2018 at 9:00am Directors Arnold and Lucan will host the ceremony at Novato San Marin Station.

Lastly, he stated that Chief Welch will give an update and presentation of the Truck/Train accident that occurred on May 31st. He explained because there is an ongoing investigation he will not be able to answer all questions. He illustrated a video of D Street/Washington intersection in Petaluma of a driver not following the traffic laws and asked the Board to encourage local officials to enforce traffic laws near railroad crossings.

Chief Welch gave a presentation of the accident and highlights as follows:

Incident Summary

- May 31<sup>st</sup> at 3:20pm
- 3- car train traveling north approaching Todd Road
- 47 passengers and 3 employees on board
- Container truck traveling west on Todd Road
- All safety equipment at crossing were working-bells, lights and gate arms

- Preliminary investigation stated that the truck made no attempt to stop, broke through gate and spun and sheered off utility pole (AT&T)
- Driver of the truck was taken by paramedics and transported to hospital
- Illustrated pictures of the accident

#### Post-Accident

- Checked on passengers and crew
- The damage train did not have power and the intercom did not function. The Engineer-Conductors provided verbal updates to passengers
- Passengers were moved to the undamaged train cars (power, restrooms snack bar were available)
- Uncoupled 3<sup>rd</sup> car (damaged car) from 2 train set and transported the passengers to the Rohnert Park Station
- California Highway Patrol (CHP) cleared roadway from debris in a timely manner
- Vehicle and Track was inspected and deemed safe to move
- Train control and signal system was inspected
- Maintenance of Way staff has safety equipment and repaired gate arms within 30 minutes
- Bus Bridge had been established and Golden Gate Transit was able to help, however the bus was unable to maneuver some streets in Rohnert Park and riders had to walk to Raley's down the street.

#### Next Steps

The CHP is conducting the investigation and once completed they will provide SMART with the written report. Also, SMART will continue its own investigation with vehicle, schedule, lessons learned and Administrative tasks.

Chief Welch thanked and acknowledged Firefighters, Paramedics, AT&T staff and CHP for their excellent response to the accident. She encouraged all riders to subscribe to SMART Nixle Alert System to receive updates.

#### Comments

Director Zane asked if SMART's Nixle Alert System has a separate sign up. Chief Welch responded yes and the public can sign up by texting the word SMART to 888777. Director Zane suggested that SMART conducts outreach regarding the notification system. Also, in Sonoma County and in Santa Rosa the topic of an Alert System has highly been discussed. She said that she has not been an opponent of Quiet Zones and think drivers are visually distracted with their cellular phones, so they need redundancy like hearing the bells, whistles and horn. She does not feel safe driving across grade crossing that are Quiet Zones. She asked the Board to agendize the topic of Quiet Zone, since it's a relative subject to alert drivers at grade crossings.

Director Rabbitt stated that if Petaluma Police were at the location when the driver violated traffic laws, the driver would have been cited. He asked if there were additional

resources that SMART could receive for traffic cameras at railroad crossings. Mr. Mansourian responded that Chief Welch worked with the Police and Fire Chiefs of Marin and Sonoma Counties to identify the most difficult intersections in both counties to submit a grant requesting safety cameras. The State of California awarded SMART approximately \$100K, however, it was rejected by the Federal Government since SMART had not had an accident or fatalities at that time. SMART will continue to pursue this grant for surveillance safety cameras.

Mr. Mansourian acknowledged and thanked Superintendent of Maintenance of Way, Marc Bader and his staff for their quick response and repairs after the accident. He also mentioned that the vehicle (train) can take several months to repair, and the cost will be several hundred thousand dollars. The Superintendent of Vehicle Maintenance, Husani Longstreet and his staff are inspecting the entire vehicle and will keep the Board informed of the progress.

Chief Welch stated that the train was traveling at 77 mph at the time of the accident where the maximum speed is 79 mph.

Director Phillips thanked the General Manager Mansourian and staff for all the efforts during the accident and is glad that nobody was seriously hurt. He asked if there are any lessons learned that he could inform the City of San Rafael Police and Fire Department. Chief Welch responded that SMART's process is to conduct a debriefing internally/externally with all involved partners, once that process is complete the information is shared with other agencies.

Director Zane asked if the truck driver represents a company. Additionally, she asked if the Board will be informed of the total accident cost? Mr. Mansourian responded that investigation and cost of repair is being conducted. Director Zane asked if SMART has cameras at railroad crossings. Mr. Mansourian responded no, the video of the accident was from a surveillance camera of a construction company near the intersection. She asked if SMART plans to install cameras at gate crossings to evaluate the most dangerous crossings. Mr. Mansourian responded that the installation of cameras at 63 gate crossing cost millions. SMART has applied for grants and was awarded \$100K, however the Federal Government overruled the grant, we will continue to pursue any available grants available.

Director Lucan clarified that based on Director Zane's comments to which crossing/intersections are more dangerous than others, the activities that we have seen (from videos) shows people behaving badly. The question is which crossing/intersections are prone for people to behave badly.

Director Eddie stated that SMART runs 34 trips a day and now will be short 1 train; that can cause problems with the schedule. Mr. Mansourian responded that SMART runs 6 trains a day and stores 2 trains for emergencies. Also, SMART will have to adjust the train

sets that were used during commute hours. SMART will be receiving four (4) additional trains by the end of 2018. Director Eddie suggested that SMART conducts outreach to inform the public that the train does not stop at intersections.

Director Mackenzie suggested that SMART continues to communicate with the public of any updates/changes to SMART schedule as most commuters are on a set schedule and like to be informed.

Chair Fudge stated that SMART's social media post, have improved tremendously and encouraged staff to continue to inform the public of any daily updates and/or changes to SMART's schedule.

Duane Bellinger congratulated SMART in receiving the award and the increase in ridership. He also watched a truck get hit by the arm gates at D Street/Washington Street, Petaluma last year. He asked if the arm gates are programmed to move up once it hits a vehicle. Chair Fudge stated that the vehicle drove under the gate arms on the video that was shown.

Daisy Pistey-Lyhne (Sonoma County Conservation Action Director) urged the Board member to direct SMART's staff to begin construction at the Jennings Avenue Crossing. She stated that California Public Utility Commission approved the crossing in 2016 and funding can be lost if the City of Santa Rosa and SMART can't reach an agreement. She suggested starting a mediation to reach an agreement. Mr. Mansourian responded that he is not aware of any funding being jeopardize. Also, Director Zane and Chair Fudge have requested various meetings with the City of Santa Rosa to discuss this topic and have not been successful. Chair Fudge and Director Zane suggested that any member of the public should contact the City of Santa Rosa Council to address their concerns regarding the Jennings Avenue Crossing.

6. Authorize the General Manager to Execute Contract Amendment No. 4 to Contract No. CV-PS-15-005 with RailPros, Inc. in the amount of \$475,000 for Professional Engineering Services Support for the Larkspur Extension Project

Chief Engineer, Bill Gamlen gave an overview of the project and stated that the approval of this Contract Amendment will allow RailPros to continue to provide support during the construction of the Larkspur Extension Project. Their support will assist SMART with key civil, track, bridge and coordination tasks. They will provide technical support services which include: Specialty Railroad Inspections; Structural Engineering and Surveying; and System Integrations Coordination.

Therefore, staff recommends approval of this Contract Amendment with RailPros.

**MOTION:** Director Eddie moved to approval to Authorize the General Manager to Execute Contract Amendment No. 4 to Contract No. CV-PS-15-005 with RailPros, Inc. in the amount of \$475,000 for Professional Engineering Services Support for the Larkspur Extension Project as presented. Director Lucan second. The motion carried 9-0-0. (Directors Arnold, Connolly, and Russell absent)

7. Authorize the General Manager to Execute Contract No. OP-SV-18-002 with Stacy and Witbeck, Inc., in the amount of \$463,776 to Perform Maintenance Surfacing along SMART's Right-of-Way

Operations Manager Duane Sayers gave an overview of the project and stated that the approval of this Contract will allow the contractor to perform maintenance track surfacing, lining and dressing. This type of work requires the use of specialized railroad equipment and operators and will allow to maintain ride quality and train speed.

Comments

Director Rabbitt asked if the work had anything to do with the track subsurface. Mr. Sayers responded that its for the geometry tolerance of the track and part of railroad maintenance.

Chair Fudge asked if this work will eliminate some areas that shake. Mr. Sayers responded yes.

Director Phillips asked if this type of work be conducted in-house. Mr. Sayers responded that expensive special equipment is needed to perform this task and specialized operators, however this contract is for 2 years.

Jack Swearingen asked why this type of work is needed after only 10 months of passenger service.

**MOTION:** Director Zane moved approval to Authorize the General Manager to Execute Contract No. OP-SV-18-002 with Stacy and Witbeck, Inc., in the amount of \$463,776 to Perform Maintenance Surfacing along SMART's Right-of-Way as presented. Director Rabbitt second. The motion carried 9-0-0. (Directors Arnold, Connolly, and Russell absent)

8. Approve a Resolution Authorizing the General Manager to Execute Change Order MUP-001 to Contract No. CV-DB-16-001 for the Construction of Approximately 0.5 miles of Bicycle and Pedestrian Pathway between Andersen Drive and Rice Drive for the City of San Rafael and to Amend the Existing 2017 Memorandum of Understanding between SMART and City of San Rafael for the Larkspur Extension Project

Chief Engineer Bill Gamlen stated that the approval of this Change Order will allow the construction of 0.5 miles of pathway in Downtown San Rafael between Anderson and Rice Drive that runs parallel to the Larkspur Extension Project and funded by the City of San

Rafael (City). The City has been developing plans to construct this Pathway for a couple of years and has worked with SMART. They have completed environmental clearance, prepared construction documents, obtained regulatory permits from three agencies and secured funding. The City has enough funds to construct approximately half of the pathway between Anderson and Rice Drive. This is the most difficult section of the pathway to construct once the SMART tracks are built.

At the City request, SMART solicited pricing and schedule from our contractor to determine if it is feasible to add to the Larkspur Extension Project Contract. The contractor provided a price of \$4,557,019 for the work and there is no scheduled impact if this work is added. The City is agreeable to the price and SMART identified and requested a 20% contingency to cover any unforeseen changes that might arise during the construction of the pathway.

The City of San Rafael Council on June 4<sup>th</sup> meeting approved the price, contingency and authorized staff to work with SMART and include this work in the Larkspur Extension Project Contract. Also, SMART is working to obtain concurrence with the Federal Transit Administration funding partner.

It is therefore recommended that your board approve the resolution to authorize the General Manager to approve Change Order MUP-001 in the amount of \$4,557,019 and to amend the existing Memorandum of Understanding with the City of San Rafael for the Larkspur Extension Project to include the construction of Anderson to Rice Drive Pathway and contingent upon approval of the Federal Transit Administration.

### Comments

Director Phillip acknowledge and thanked General Manager Mansourian and Chief Engineer Gamlen for their work on this project. He clarified that the funding is a joint effort from the Transportation Authority of Marin, County of Marin, City of San Rafael as well as receiving a grant. He is pleased that this work is not going to extend the timeframe to complete. This is a very important element for SMART.

Director Zane stated SMART is often criticized by the public and bicyclist community for not committing to the construction of the Multi-Use Pathway, however it should be noted that its very expensive to construct any Multi-Use Pathway along SMART's Right-of-Way. She thanked SMART and all parties involved for the construction of this pathway segment.

Director Hillmer mentioned the significant of this project, it is a seven-minute bicycle ride from the Larkspur Ferry to Downtown San Rafael. You can live/ work in San Francisco and San Rafael which now makes an easy commute. Also, this is a very important link to any bicycle rider.

Bjorn Gripenburg (Marin County Bicycle Coalition) state that this stretch of pathway has not been a priority or a responsibility for SMART, however in the last couple years this has

been community priority project for the residents of Marin. Without the help of the City of San Rafael, TAM, County, MTC and community groups the Larkspur Extension project would be moving forward without a parallel pathway. He thanked the Mayor Phillips, City of San Rafael Council and Staff, and consultants for moving this project to this crucial point. Also, thanked Directors Arnold and Connolly and County of Marin for funding the feasibility study. Today, he acknowledges SMART's staff for continuing to move this project forward. Lessons learned from this project or perhaps from the construction of Initial Operating Segment is the construction of the rail and pathways need to be built parallel. He urged the Board to consider building a parallel pathway for the Windsor Extension project.

**MOTION:** Director Phillips moved to Approve a Resolution Authorizing the General Manager to Execute Change Order MUP-001 to Contract No. CV-DB-16-001 for the Construction of Approximately 0.5 miles of Bicycle and Pedestrian Pathway between Andersen Drive and Rice Drive for the City of San Rafael and to Amend the Existing 2017 Memorandum of Understanding between SMART and City of San Rafael for the Larkspur Extension Project as presented. Director Mackenzie second. The motion carried 9-0-0. (Directors Arnold, Connolly, and Russell absent)

9. Authorize the General Manager to Execute Five (5) Consultant Contract Amendments Totaling \$848,805 as needed for Fiscal Year 2018-19

Chief Financial Officer, Erin McGrath stated that there are several ongoing contracts that SMART is requesting authority to extend the terms. Funding for the contract extensions are included in the proposed Fiscal Year 2018-19 budget.

Directors' Comments

Director Phillips asked if SMART plans to purchase a truing machine to perform the work inhouse. Ms. McGrath responded that SMART is considering purchasing a truing machine for the Rail Operation Center, however SMART does not have the capacity at this time and the contract will allow for the work to be performed until the machine is purchased.

**MOTION:** Director Pahre moved to Authorize the General Manager to Execute Five (5) Consultant Contract Amendments Totaling \$848,805 as needed for Fiscal Year 2018-19 as presented. Director Hillmer second. The motion carried 9-0-0. (Directors Arnold, Connolly, and Russell absent)

10. Approve the Resolutions for the Adoption of Fiscal Year 2017-18 Year-End Financial Report, Proposed Preliminary Fiscal Year 2018-19 Budget and Annual Appropriation Limit and Investment Policy

Chief Financial Officer Erin McGrath stated that this is your approval for the revised Fiscal Year 2017-18 and proposed Fiscal Year 2018-19 budget along with the required resolutions including the Appropriation Limits required by California Law. Also, an

updated PowerPoint presentation was included for Board reference. Highlights from last month's report included:

- Expenditure Shifts – Shift of \$489,490 due to operations projects and purchases happening after July 1<sup>st</sup>. This includes a major ballast restoration project and DMU wheel purchase. None of the shifts change the overall proposed budget amount.
- New Expenditures - Construct a pathway in San Rafael as part of the Larkspur extension project. The total expense in the Capital budget was increased in Fiscal Year 2017-18 by \$200,000 and in Fiscal Year 2018-19 by \$4,357,019; 17M Agency reserve will be set aside; there are significant revenues associated with SB 1 in the proposed budget, should SB 1 be repealed, we will come back to you to discuss the impacts.
- Investment Policy and Delegation Authority – This is the same delegation and policy review that your Board approved as part of the budget last year.
- Fiscal Year 2018-19 Appropriation Limits - The Appropriation Limit for Fiscal Year 2018-19 is \$137,563,577 this limit is adjusted to reflect population growth and inflation. Revenues expenses associated with most capital improvements and debt service are exempt from this limit. We estimate conservatively that \$35,824,029 of our expenditures fall under the Proposition 4 limit, well below the cap.

#### Comments

Director Phillips asked for the construction cost to complete the Larkspur Extension Project Segment. Ms. McGrath responded the entire project cost not including those sections funded by others is approximately \$54.5M, which includes \$2.5M funds used for construction design. He asked for clarification on the Operations Budget Table 4 Sales/Use Taxes from \$14M to \$11M. Ms. McGrath responded that the entire amount of Sales Tax is on Table 1, Page 77 of report and the amount allocated to Operations changes depending on year-end revenues and expenses. Also asked for clarification of the Maintenance-Revenue Vehicle approved (\$274,169), actuals (\$459,014) and proposed (\$1,026,097) amounts. Ms. McGrath responded that last year budget was based on assumptions since SMART has not started passenger service. Next Fiscal Year increase is partly for the need to purchase wheels and other non-capitalized spare train parts.

Duane Bellinger asked why funds are not being allocated for the Corona Station project. He suggested that SMART constructs a platform at the Corona Station and to include it in the proposed budget.

**MOTION:** Director Eddie moved to Adopt a Resolution to approve the Revised Fiscal Year 2017-18 budget, the Fiscal Year 2018-19 Proposed Budget including annual position authorization and the Investment Policy for Fiscal Year 2018-19 as presented. Director Mackenzie second. The motion carried 9-0-0. (Directors Arnold, Connolly, and Russell absent)

**MOTION:** Director Eddie moved to Approve a Resolution Ratifying the Annual Appropriation Limit for Fiscal Year 2018-19 as presented as presented. Director Mackenzie second. The motion carried 9-0-0. (Directors Arnold, Connolly, and Russell absent)

11. Next Regular Meeting Board of Directors, June 20, 2018 – 1:30 PM – 5401 Old Redwood Highway, 1<sup>st</sup> Floor, Petaluma, CA 94954
12. Adjournment – Meeting adjourned at 2:55 pm.

Respectfully submitted,

Leticia Rosas-Mendoza  
Clerk of the Board

Approved as corrected: \_\_\_\_\_



**Debora Fudge, Chair**  
 Sonoma County Mayors' and  
 Councilmembers Association

**Judy Arnold, Vice Chair**  
 Marin County Board of Supervisors

**Damon Connolly**  
 Marin County Board of Supervisors

**Jim Eddie**  
 Golden Gate Bridge,  
 Highway/Transportation District

**Dan Hillmer**  
 Marin County Council of Mayors and  
 Councilmembers

**Eric Lucan**  
 Transportation Authority of Marin

**Jake Mackenzie**  
 Sonoma County Mayors' and  
 Councilmembers Association

**Barbara Pahre**  
 Golden Gate Bridge,  
 Highway/Transportation District

**Gary Phillips**  
 Transportation Authority of Marin

**David Rabbitt**  
 Sonoma County Board of Supervisors

**Carol Russell**  
 Sonoma County Mayors' and  
 Councilmembers Association

**Shirlee Zane**  
 Sonoma County Board of Supervisors

**Farhad Mansourian**  
 General Manager

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July 18, 2018

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

**SUBJECT:** Authorize the Chair of the Board of Directors and the General Manager to execute funding-related agreements for available funds from the Sonoma County Transportation Authority

Dear Board Members:

**RECOMMENDATION:**

Approve Resolution Number 2018-16 authorizing the Chair of the Board of Directors and the General Manager to execute funding-related agreements for available funds from the Sonoma County Transportation Authority.

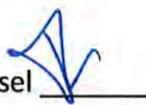
**SUMMARY:**

The Sonoma County Transportation Authority (SCTA) governs the disbursement of the 2004 Traffic Relief Act for Sonoma County Measure M sales tax funds. Five percent of Measure M is directed to Rail and four percent of the measure is directed to Bicycle/Pedestrian projects, including the Northwestern Pacific Railroad Bicycle Trail, now known as the SMART Pathway Program.

Periodically, agreements and required fund reporting documents associated with Measure M need to be updated for both Rail and Pathway funds. For example, an existing Cooperative Agreement with SCTA for Measure M funds for Environmental and Design work on the SMART Pathway needs to be updated to reflect a pending request from SMART to move the remaining balance of funds from the Environmental phase to the Design phase. This request, included as an attachment to this staff report, is being made to advance the design of the SMART Pathway project between Santa Rosa and Rohnert Park.

The SCTA agreements include signatures from both the Chair of the Board and General Manager/Executive Director of the agencies entering into the agreement.

**FISCAL IMPACT:** None.

**REVIEWED BY:**  Finance   Counsel 

Very truly yours,

  
Joanne Parker  
Programming and Grants Manager

Attachment(s):

- 1) Resolution No. 2018-16
- 2) Letter to SCTA, dated June 11, 2018

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AUTHORIZING THE EXECUTION OF FUNDING-RELATED AGREEMENTS WITH THE SONOMA COUNTY TRANSPORTATION AUTHORITY**

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**WHEREAS**, the Sonoma-Marin Area Rail Transit District (SMART) is an eligible project sponsor and may receive Measure M 2004 Traffic Relief Act for Sonoma County funding from the Sonoma County Transportation Authority (SCTA) for transportation projects; and

**WHEREAS**, the Sonoma County Transportation Authority determines SMART project eligibility for Measure M 2004 Traffic Relief Act for Sonoma County; and

**WHEREAS**, acceptance of Measure M 2004 Traffic Relief Act for Sonoma County funds imposes certain standard obligations upon the recipient, including annual reporting letters, annual provision of SMART audit documents to SCTA and an annual project progress presentation by SMART to the Sonoma County Transportation Authority's Citizens' Advisory Committee; and

**WHEREAS**, it would be in the best interests of the SMART District for the Chair of the SMART Board of Directors and the General Manager to have standing authorization to file necessary documents and execute necessary funding agreements with the Sonoma County Transportation Authority

**NOW, THEREFORE, BE IT RESOLVED THAT THE** Board of Directors of the SMART District hereby designates the Chair of SMART's Board and SMART's General Manager be authorized to file all necessary documents and execute necessary funding agreements with the Sonoma County Transportation Authority.

**PASSED AND ADOPTED** at a regular meeting of the Board of Directors of the Sonoma-Marin Area Rail Transit District held on the 18<sup>th</sup> day of July, 2018, by the following vote:

**Resolution No. 2018-16**  
**Sonoma-Marin Area Rail Transit District**  
**July 18, 2018**

**DIRECTORS:**

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTEST:

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



**Debora Fudge, Chair**  
Sonoma County Mayors' and  
Councilmembers Association

**Judy Arnold, Vice Chair**  
Marin County Board of Supervisors

**Damon Connolly**  
Marin County Board of Supervisors

**Jim Eddie**  
Golden Gate Bridge,  
Highway/Transportation District

**Dan Hillmer**  
Marin County Council of Mayors and  
Councilmembers

**Eric Lucan**  
Transportation Authority of Marin

**Jake Mackenzie**  
Sonoma County Mayors' and  
Councilmembers Association

**Barbara Pahre**  
Golden Gate Bridge,  
Highway/Transportation District

**Gary Phillips**  
Transportation Authority of Marin

**David Rabbitt**  
Sonoma County Board of Supervisors

**Carol Russell**  
Sonoma County Mayors' and  
Councilmembers Association

**Shirlee Zane**  
Sonoma County Board of Supervisors

**Farhad Mansourian**  
General Manager

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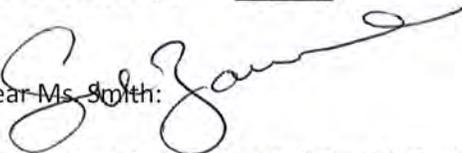
June 11, 2018

Ms. Suzanne Smith, Executive Director  
Sonoma County Transportation Authority  
490 Mendocino Avenue, Suite 206  
Santa Rosa, CA 95401

**FUNDING RE-PROGRAM and RE-APPROPRIATION REQUEST**

**PROJECT NAME:** SMART Pathway Program Improvements

**AGREEMENT NO.** M71300

Dear Ms. Smith: 

The Sonoma-Marine Area Rail Transit District (SMART) hereby requests that the Sonoma County Transportation Authority (SCTA) re-program and re-appropriate funds for the SMART Pathway Program Improvements project, known as the Northwestern Pacific Railroad Bike Trail in the Measure M Expenditure Plan.

**BACKGROUND**

At the February 14, 2011, meeting, the SCTA Board took action to program \$1 million in Fiscal Year 2014-2015 Measure M funds to the Northwestern Pacific Railroad Bicycle Trail project. Of the \$1 million, \$350,000 was designated to provide National Environmental Policy Act (NEPA) compliance for SMART Pathway and \$650,000 was designated to provide final design work within the SMART "Initial Operating Segment". SMART submitted a request to the SCTA dated June 17, 2011, to be allowed to advance these programmed Measure M funds under Measure M 2009 Strategic Plan Policy 4.8. The request for advancement of programmed funds was approved on June 20, 2011, and a subsequent Measure M Cooperative Agreement (M71300) was signed by SMART and SCTA.

Federal environmental phase work on the SMART Pathway began with Caltrans as the Lead Agency in the summer of 2012. The scope and boundaries of that work for the NEPA process was determined in consultation with Caltrans. A Categorical Exclusion (CE) was finalized April 13, 2015, that included Sonoma County SMART Pathway segments from Guerneville Road in Santa Rosa south to Lakeville Street in Petaluma. Further NEPA work on the pathway north of Guerneville Road would be needed to expend federal funds to construct on those usable segments.

Since the 2015 NEPA completion, SMART completed Final Design on pathway segments in Santa Rosa (Guerneville to College, 8<sup>th</sup> to 6<sup>th</sup>, 4<sup>th</sup> to 3<sup>rd</sup>, and Hearn to Bellevue), Rohnert Park/Cotati (Golf Course to East Railroad) and Petaluma (Southpoint to Payran). All of these segments were constructed and open for service by 2018, with the Southpoint to Payran segment scheduled to start construction in the summer of 2018. SMART's annual presentation from April 2018 to the SCTA Citizens Advisory Committee included photographs of the SMART Pathway segments completed in part thanks to these Measure M Environmental and Final Design funds. The presentation can be found here: <http://scta.ca.gov/wp-content/uploads/2018/05/SCTA-CAC-Mtg-043018.pdf>

SMART has continued to pursue grants in an effort to leverage local funds to construct SMART Pathway segments. SMART has several grants pending and upcoming to construct pathway segments and requests that the unspent balance of the Measure M Environmental funds appropriated to the SMART Pathway be re-programmed and re-appropriated to the Final Design phase of the project to advance completion of several key segments of the pathway, including the portion of the project located between Rohnert Park (Golf Course) and Southwest Santa Rosa (Bellevue).

With this action, the total Measure M appropriation for the SMART Pathway Program Improvements (Northwestern Pacific Railroad Bicycle Trail) project would remain at \$1,000,000, with 184,359.04 in Environmental and \$815,640.96 in PSE/Final Design. To date, \$184,359.04 of Measure M ENV funds have been expended and \$587,796.77 of Measure M PSE funds have been expended, leaving a balance of \$227,844.20 in Measure M funds for SMART Pathway Program Improvements.

**Revised Appropriations Totals**

<b>Project Name &amp; Description</b>	<b>SMART Pathway Program Improvements (Northwestern Pacific Railroad Bicycle Trail)</b>
Project Category	Bicycle/Pedestrian
Project Phase for this Appropriation	<b>ENV (NEPA - CE) &amp; PSE (Final Design)</b>
Measure M Appropriation Request Total	\$ 184,359.04 & \$815,640.96, respectively.
Amount of Local/Other Funding Match	Varies by Segment
Sources of Local/Other Funding	Measure Q, Active Transportation Funds, State Transportation Improvement Funds, Safe Routes to Transit, Enhanced Environmental Mitigation, Matching Grant Program, and others To Be Determined.
Total Project Cost	Varies by Segment

Thank you for your consideration.

Sincerely,  
  
 Farhad Mansourian  
 General Manager

Cc: SMART Board of Directors



**Debora Fudge, Chair**  
 Sonoma County Mayors' and  
 Councilmembers Association

**Judy Arnold, Vice Chair**  
 Marin County Board of Supervisors

**Damon Connolly**  
 Marin County Board of Supervisors

**Jim Eddie**  
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 Highway/Transportation District

**Dan Hillmer**  
 Marin County Council of Mayors and  
 Councilmembers

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**Carol Russell**  
 Sonoma County Mayors' and  
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**Shirlee Zane**  
 Sonoma County Board of Supervisors

**Farhad Mansourian**  
 General Manager

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 Suite 200  
 Petaluma, CA 94954  
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July 18, 2018

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

**SUBJECT:** SMART's 1-Year Anniversary Community Celebration

Dear Board Members:

**RECOMMENDATION:**

Authorize SMART to hold a community celebration on August 18, 2018 to mark SMART's first year of service, and to thank our community and our community partners for contributing to the success of SMART's passenger rail service. As part of that celebration, SMART will add extra train trips and offer free service the weekend of August 18-19.

**SUMMARY:**

SMART will mark a major milestone in August, as we celebrate the 1-year anniversary of the start of our passenger rail service. Since opening our doors, we have had more than 600,000 passenger trips, carried more than 55,000 bicycles, and have issued more than 6,000 monthly and eco-passes. We have reached more than 36,000 school children and their teachers through our safety presentations and developed a new program for group trips that has touched more than 500 seniors, children, and community groups. And we now have more 13,000 Facebook followers. Our dedicated staff has worked 24/7 to build a strong and loyal community of supporters who use our service each day.

Our success is largely due to a supportive community and a network of strong partners. To celebrate our first year of service and to thank our North Bay community, it is proposed that we hold a community celebration on **August 18 from 10 a.m. to 3 p.m.** at our **Novato Hamilton Station**. This event will feature some of the North Bay's best food trucks, live music, local beer and wine, North Bay vendors, and activities for children.

Our celebration will also include dozens of booths featuring our advertising partners. Since our very first day of service, advertisers have shown their support by purchasing ads onboard SMART trains and at our stations. We are grateful for their support. We will also invite our transit partners to participate with information regarding connectivity and partnerships to provide a seamless commuting experience for the North Bay.

**KEY EVENT DETAILS:**

- In honor of our 1-year Anniversary and to thank our North Bay community for their support, SMART will hold a community celebration on August 18, from 10 a.m. to 3 p.m. at SMART's Novato Hamilton Station.
- The event will feature live music, food trucks, and our community partner and onboard concessionaire, Becoming Independent, will sell local beer and wine.
- Our advertisers and community partners, which includes retail businesses, healthcare providers, home builders, banks, public transit agencies, local police and fire agencies, and nonprofit organizations, will have booths at the event.
- The event will feature a special area for kids, with snow cones, kettle corn, face painting, chalk art and family fun activities.
- As our way of saying 'thank you', SMART will add extra train trips and offer free service during the weekend of Aug. 18-19.
- For the event, the parking lot will be closed, with the exception of ADA parking and drop-off access.
- Parking is available at a City of Novato parking lot at 500 Palm Drive.
- Novato Fire Protection District & Novato Police Department will be participating in our celebration.
- Event marketing includes a full media roll out, social media messaging, advertising, business partnerships and onboard promotions.

**FISCAL IMPACT:** Projected cost of event and free trips is \$24,000. This would be absorbed in our Fiscal Year 2018-19 budget through other savings in contracts and administration.

Very truly yours,



Farhad Mansourian  
General Manager

Attachment(s): Revised Train Schedule for August 18 & 19



# SMART ANNIVERSARY FREE SERVICE TRAIN SCHEDULE August 18 & 19, 2018

## SOUTHBOUND - Sonoma County Airport to San Rafael

Sonoma County Airport	9:13	10:13	12:13	1:13	3:16	7:23
Santa Rosa North	9:20	10:20	12:20	1:20	3:23	7:30
Santa Rosa Downtown	9:25	10:25	12:25	1:25	3:28	7:35
Rohnert Park	9:32	10:32	12:32	1:32	3:35	7:42
Cotati	9:36	10:36	12:36	1:36	3:39	7:46
Petaluma Downtown	9:49	10:49	12:49	1:49	3:52	7:59
Novato San Marin	10:00	11:00	1:00	2:00	4:03	8:10
Novato Hamilton	10:08	11:08	1:08	2:08	4:11	8:18
Marin Civic Center	10:14	11:14	1:14	2:14	4:17	8:24
San Rafael	10:20	11:20	1:20	2:20	4:23	8:30

## NORTHBOUND - San Rafael to Sonoma County Airport

San Rafael	10:52	11:52	1:52	2:55	4:55	8:50
Marin Civic Center	10:58	11:58	1:58	3:01	5:01	8:56
Novato Hamilton	11:04	12:04	2:04	3:07	5:07	9:02
Novato San Marin	11:12	12:12	2:12	3:15	5:15	9:10
Petaluma Downtown	11:23	12:23	2:23	3:26	5:26	9:21
Cotati	11:36	12:36	2:36	3:39	5:39	9:34
Rohnert Park	11:40	12:40	2:40	3:43	5:43	9:38
Santa Rosa Downtown	11:47	12:47	2:47	3:50	5:50	9:45
Santa Rosa North	11:52	12:52	2:52	3:55	5:55	9:50
Sonoma County Airport	11:59	12:59	2:59	4:02	6:02	9:57

AM Times    
  PM Times    
  Special Added AM Run



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July 18, 2018

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

**SUBJECT:** Approval of Netwoven, Inc. Contract No. OT-PS-18-003

Dear Board Members:

**RECOMMENDATION:**

Authorize the General Manager to execute Contract No. OT-PS-18-003 with Netwoven, Inc. in the amount of \$161,000 to perform Microsoft SharePoint upgrades and support services over the next two years.

**SUMMARY:**

SMART utilizes Microsoft software known as SharePoint to provide document management, shared workplace collaboration, process control and other project needs. The support services also include weekly health check reports, service pack installations, administrative configuration changes, diagnosis and troubleshooting of software issues, monitoring of Microsoft Exchange, Active Directory, and Data Protection Managers. In addition to these core maintenance services, we are planning a critical upgrade to the latest software version, 2016 Microsoft SharePoint, which will require comprehensive data migration expertise and customization support.

A formal Request for Proposal (RFP) was issued for the work required. SMART received a total of five responsive proposals of which, Netwoven, Inc. is the most advantageous to the District in terms of both qualifications and cost.

We recommend authorizing the General Manager to execute Contract No. OT-PS-18-003 with Netwoven, Inc. in the amount of \$161,000 over a two-year period to perform Microsoft SharePoint upgrades and support services.

**FISCAL IMPACT:** Contract is assumed in the Fiscal Year 2018-19 budget.

**REVIEWED BY:**  Finance   Counsel 

Very truly yours,



Dan Hurlbutt  
Information Technology Manager

Attachment(s): Netwoven Contract No. OT-PS-18-003

## AGREEMENT FOR CONSULTANT SERVICES

This agreement (“Agreement”), dated as of \_\_\_\_\_, 2018 (“Effective Date”) is by and between the Sonoma-Marín Area Rail Transit District (hereinafter “SMART”), and Netwoven, Inc. (hereinafter “Consultant”).

### RECITALS

WHEREAS, Consultant represents that it is duly qualified and experienced in the areas of Microsoft SharePoint maintenance support, implementation, and related services; and

WHEREAS, in the judgment of the Board of Directors of SMART, it is necessary and desirable to employ the services of Consultant for SharePoint maintenance support, implementation, and related services.

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:

- (a) Exhibit A: Scope of Work & Timeline
- (b) Exhibit B: Fee Schedule

Article 3.      **REQUEST FOR SERVICES.**

Section 3.01            Initiation Conference. SMART’s IT Manager, Dan Hurlbutt, will initiate all requests for services through an Initiation Conference, which may be in person, by telephone, or by email. During the Initiation Conference,

SMART's IT Manager and Consultant will establish and agree on a specific task for the project.

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. Consultant shall perform services within the timeframe outlined in **Exhibit A** (cumulatively referred to as the "Scope of Work").

Section 4.02                    Cooperation With SMART. Consultant shall cooperate with the SMART's IT Manager in the performance of all work hereunder.

Section 4.03                    Performance Standard. Consultant 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 Consultant's profession. If SMART determines that any of Consultant'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 Consultant to meet with SMART to review the quality of the work and resolve matters of concern; (b) require Consultant 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.

- (a) Consultant 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 Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from SMART.
- (b) 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 Consultant 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. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of SMART. Key personnel shall be as listed in the applicable Task Order.
- (c) In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of

NETWOVEN, INC.

AGREEMENT

CONTRACT NO. OT-PS-18-003

Page 2 of 15

Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

(d) Consultant shall assign the following key personnel for the term of this Agreement:

- 1) Niraj Tenany, President & CEO
- 2) Asijit Giri, Principal Engineer,
- 3) Dhruva Moitra, Principal Engineer.

#### Article 5. Payment.

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

Section 5.01 Consultant shall invoice SMART on a monthly basis, detailing the tasks performed pursuant to the Scope of Work requested by SMART's Representative, and the hours worked. SMART shall pay Consultant within 30 days after submission of the invoices.

Section 5.02 Consultant shall be paid in accordance with **Exhibit B**; provided, however, that total payments to Consultant shall not exceed **\$161,000**, without the prior written approval of SMART. Consultant 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; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate or rates of the persons performing the task(s); and (iv) copies of receipts for reimbursable materials/expenses, if any. All reimbursable expenses must comply with SMART's Travel Guidelines and must receive prior approval. Consultant's reimbursement for materials/expenses shall not include items already included in Consultant's overhead as may be billed as a part of its labor rates set forth in **Exhibit B**. SMART does not reimburse Consultant for travel time.

Section 5.03 Consultant 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 Consultant 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 Consultant to abide by these requirements may

delay or prevent payment of invoices or cause such invoices to be returned to the Consultant unpaid.

Article 6. Term of Agreement.

Section 6.01 The term of this Agreement shall remain in effect for two years with an option to renew at SMART's discretion for one (1) additional year 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, both parties 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 Consultant 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 Consultant 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, Consultant, within 14 days following the date of termination, shall deliver to SMART all materials 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, Consultant 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 Consultant 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 Consultant 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 Consultant.

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

Article 8.            **Indemnification**

Consultant 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, or expenses, that may be asserted by any person or entity, including Consultant, to the extent caused by the Consultant's negligence, recklessness or willful misconduct in its performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against SMART based upon a claim relating to Consultant's performance or obligations under this Agreement. Consultant'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 Consultant's expense, subject to Consultant'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 Consultant 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, Consultant shall maintain and shall require all of its Subconsultants, Consultants, and other agents to maintain, insurance as described below.

Section 9.01                    Workers' Compensation Insurance. Workers' Compensation as required by the State of California, with Statutory Limits, and Employer's Liability insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

Section 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 \$1,000,000 per occurrence, and \$2,000,000 aggregate.

Section 9.03                      Professional Liability Insurance. Professional liability insurance for all activities of Consultant arising out of or in connection with this Agreement in an amount no less than \$2,000,000 combined single limit for each claim.

Section 9.04                      Endorsements. Prior to commencing work, Consultant shall file Certificate(s) of Insurance with SMART evidencing the required coverage and endorsement(s) and, upon request, a certified duplicate original of any of those policies. Said endorsements and Certificate(s) of Insurance shall stipulate:

- (a) SMART, its officers, and employees shall be named as additional insured on all policies listed above.
- (b) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which Licensee is liable, up to and including the total limit of liability, without right of contribution from any other insurance effected or which may be affected by the Insureds.
- (c) Inclusion of the Insureds as additional insureds shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Licensee. Said policy shall protect Consultant and the Insureds in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.
- (d) Consultant hereby grants to SMART a waiver of any right to subrogation which any insurer of said Consultant may acquire against SMART by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of

whether or not SMART has received a waiver of subrogation endorsement from the insurer.

- (e) The insurance policy(ies) shall be written by an insurance company or companies acceptable to SMART. 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 9.05                      Deductibles and Retentions. Consultant shall be responsible for payment of any deductible or retention on Consultant'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 of retention provision limiting payment to the name insured is not acceptable.

Section 9.06                      Claims Made Coverage. If any insurance specified above is written on a claims-made coverage form, Consultant shall:

- (a) Ensure that the retroactive date is shown on the policy, and such date must be before the date of this Agreement or beginning of any work under this Agreement;
- (b) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
- (c) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to Agreement effective date, Consultant shall purchase "extending reporting" coverage for a minimum of three (3) years after completion of the work.

Section 9.07                      Documentation. The following documentation shall be submitted to SMART:

- (a) Properly executed Certificates of Insurance clearly evidencing all coverages and limits required above. Said Certificates shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with SMART for the duration of this Agreement.
- (b) Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement.

Consultant agrees to maintain current endorsements evidencing the above-specified requirements on file with SMART for the duration of this Agreement.

- (c) Upon SMART's written request, Consultant shall provide certified copies of the insurance policies to SMART. Said policy copies shall be submitted within thirty (30) days of SMART's request. 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.

Section 9.08                      Policy Obligations. Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 9.09                      Material Breach. If Consultant, 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 Consultant resulting from said breach. Alternatively, SMART may purchase such required insurance coverage, and without further notice to Consultant, SMART may deduct from sums due to Consultant any premium costs advanced by SMART for such insurance. These remedies shall be in addition to any other remedies available to SMART.

#### Article 10.    Prosecution of Work.

When work is requested of Consultant by SMART, all due diligence shall be exercised and the work accomplished without undue delay, within the performance time specified in the Task 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, high water, or other Act of God, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

#### 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 General Manager in a form approved by SMART Counsel. The Board of Directors, General Manager or SMART's Representative 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 Consultant 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 Consultant shall be entitled to

NETWOVEN, INC.

AGREEMENT

CONTRACT NO. OT-PS-18-003

Page 8 of 15

no compensation whatsoever for the performance of such work. Consultant 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 Consultant.

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

Section 12.02 Status of Consultant. The parties intend that Consultant, in performing the services specified herein, shall act as an independent Consultant and shall control the work and the manner in which it is performed. Consultant 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, Consultant 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. Consultant 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. Consultant 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 Consultant'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, Consultant agrees to furnish SMART with proof of payment of taxes on these earnings.

Section 12.04 Records Maintenance. Consultant 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. Consultant shall

maintain such records for a period of four (4) years following completion of work hereunder.

Section 12.05            Conflict of Interest. Consultant 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. Consultant 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, Consultant 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 Consultant’s or such other person’s financial interests.

Section 12.06            Nondiscrimination. Consultant 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. Consultant 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 Consultant in connection with this Agreement. Consultant 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. Consultant’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. Consultant 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. All reports, original drawings, graphics, plans, studies, and other data or documents (“documents”), in whatever form or format, assembled or prepared by Consultant or Consultant’s Subconsultants, Consultants, 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.

NETWOVEN, INC.

AGREEMENT

CONTRACT NO. OT-PS-18-003

Page 10 of 15

Upon expiration or termination of this Agreement, Consultant 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. Consultant 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: Sonoma-Marín Area Rail Transit District  
5401 Old Redwood Highway, Suite 200  
Petaluma, CA 94954  
[billing@sonomamarintrain.org](mailto:billing@sonomamarintrain.org)

If to Consultant: Netwoven, Inc.  
Attn: Niraj Tenany  
4000 Pimlico Drive, Suite 114-103  
Pleasanton, CA 94588  
(925) 931-9390  
ntenany@netwoven.com

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. Consultant 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. Consultant 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 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 16.04 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 16.05 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. Any action to enforce the terms of this

Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

Section 16.06            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 16.07            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 16.08            Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

Section 16.09            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 the signature of a party is delivered by scanned image as an attachment to electronic mail. Such scanned signature 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**CONSULTANT:** \_\_\_\_\_

By: \_\_\_\_\_

Its : \_\_\_\_\_

Date: \_\_\_\_\_

**SONOMA-MARIN AREA RAIL TRANSIT (SMART)**

By: \_\_\_\_\_  
Farhad Mansourian, General Manager

Date: \_\_\_\_\_

**CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR SMART:**

By: \_\_\_\_\_  
Katherine DiPasqua, Administrative Analyst

Date: \_\_\_\_\_

**APPROVED AS TO FORM FOR SMART:**

By: \_\_\_\_\_  
District Counsel

Date: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF WORK & TIMELINE**

**1. General Objective**

The Scope of Work is divided into two categories; (1) SharePoint Managed Services, and (2) Optional Implementation Projects.

**2. Project Managers**

All work will be initiated, coordinated, and approved by IT Manager, Dan Hurlbutt, or his designee. Each request for work should be delivered to Consultant in writing.

**3. Detailed Scope of Work**

**A. SharePoint Managed Services Scope:**

- a) Consultant will perform daily monitoring of server health and usage and provide SMART with weekly reports.
- b) Diagnostic Logging Configuration, Monitoring, and Support
- c) Event Throttling Configuration, Monitoring, and Support.
  - 1. Logging events depending on severity with events of the highest severity being logged both at the Windows Event Log and SharePoint ULS/Trace logs. Events of lower severity shall be logged only at the ULS/Trace logs.
  - 2. Event throttling controls will be category specific that directly map to SharePoint Server functionalities. These categories to be reviewed and approved by SMART's IT Manager.
- d) Health and Usage Data Collection
  - 1. Trace Log Management Best Practices Implemented to ensure disk space does not fill up too quickly.
  - 2. Timer job configuration to perform monitoring tasks and data collection monitoring.
- e) SharePoint Health Analyzer Configuration, Monitoring, and Support
  - 1. Creation of rules to set up logging of failures.
  - 2. Custom Views will be set-up per SMART's requirements and will be reviewed and approved by SMART IT Manager.
- f) Report Creation
  - 1. Out of Box reports to be configured and new reports specific to SMART to be created.
    - a. These reports may include, but are not limited to, the following:

- Administrative Reports such as search reports
- Information Management Policy usage reports
- Health Reports
- Web Analytics reports that include Web Site Traffic Reports, Search Query Reports, etc.
- Custom Reports (Report Builder).

2. All reports will be reviewed and approved by SMART's IT Manager.

**B. Exchange Online, Data Protection Manager (DPM), and Active Directory (AD) Managed Services Scopes:**

a) Data Protection Manager Monitoring Scope:

- Daily Monitoring of Backup Activities
- Manage Weekly Scheduled Data Protection Activities
- Monitor Daily Schedules and Reports
- Provide Comprehensive information about alerts and job status
- Weekly Review of Backup Disc Space.

b) Active Directory Monitoring Scope:

- Daily Monitoring of Directory Replication
- Troubleshoot DNS Issues
- Weekly monitoring of Active Directory audit logs and alerts
- Performance metrics for Active Directory Server and publish weekly reports

c) Exchange Online Monitoring and Support Scope:

- Daily Performance Metrics of Exchange Server Online
- Daily Monitoring of mail transport and tracking failure report
- Daily spam transaction monitoring
- Shared Mailbox, user mailbox growth monitoring and analysis
- Analysis and proactive troubleshooting based on Mail Protection Report
- Message Tracing
- Support email flow issue and troubleshooting

**C. OPTIONAL IMPLEMENTATION PROJECTS:**

1) OPTIONAL PROJECT 1 – UPGRADE TO SHAREPOINT 2016

- Currently, SMART is on SharePoint 2010 and would like to upgrade to SharePoint 2016.
- Consultant to prepare SMART's current system and data for upgrade and would be responsible for all migration of data, configurations, testing, back-ups, customizations, and any other set-up services required to ensure a smooth transition for SMART.
- Consultant will invoice as a lump sum price for this project.

3) **OPTION PROJECT 2 – ACTIVE DIRECTORY (AD) FUNCTIONALITY UPGRADE TO 2012 R2**

- There are (5) AD servers that require the functional level to be raised to Server 2012 R2
- Consultant to upgrade AD schema and forest functionality to Server 2012 R2
- Perform testing and ensure smooth functionality.
- Consultant will invoice as a lump sum price for this project.

**D. ACCEPTANCE OF WORK**

All optional project work will be reviewed, tested, and signed off by SMART's IT Manager, Dan Hurlbutt, or his designee. Upon approval, SMART will issue a written letter to the consultant formally accepting completion of the work for the consultant's records.

All maintenance work will be reviewed and approved by SMART's IT Manager prior to monthly invoice being paid to consultant.

**E. SMART PROVISIONS**

1. Sonoma-Marin Area Rail Transit will be responsible for the prioritization decisions and overall team direction; making final decisions about scope, approach, risk management, and issue resolution.
2. All Sonoma-Marin Area Rail Transit sponsors, stakeholders, and other resources required for all projects will be accessible in a reasonable amount of time.
3. Sonoma-Marin Area Rail Transit will provide all required permissions in order to complete all scopes of work when projects are initiated.
4. Sonoma-Marin Area Rail Transit will install and provide access to appropriate hardware and software required for the project team to perform the tasks outlined in this proposal in a timely manner.
5. Remote access to Sonoma-Marin Area Rail Transit's internal network for the project team will be provided promptly at the beginning of each project.

**EXHIBIT B  
FEE SCHEDULE**

DESCRIPTION OF WORK	MONTHLY COST
**SharePoint, Exchange Online, Data Protection Manager (DPM), and Active Directory (AD) Maintenance Services	<b>\$4,000.00</b>
OPTIONAL PROJECTS	PROJECT COST
Optional Project 1 – Upgrade to SharePoint 2016	<b>\$42,000.00</b>
Optional Project 2 – Active Directory Functionality Upgrade To 2012 R2	<b>\$3,000.00</b>
<b>TOTAL OF ALL OPTIONAL PROJECTS</b>	<b>\$45,000.00</b>

\*\*SharePoint, Exchange Online, Data Protection Manager (DPM), and Active Directory (AD) managed services will be invoiced on a monthly frequency in arrears\*\*

The amounts listed above include all labor, supervision, insurance costs, all applicable taxes, and any other direct or indirect cost associated with each project and scope of work.

In the event that emergency or unforeseen out-of-scope work is required which is not listed in the Exhibit A above, consultant will be paid on a time and materials basis. Consultant shall prepare a written quote containing labor hours by job classification for the work. SMART's IT Manager or his designee will be required to provide written approval of the work prior to any work being performed. The following are the agreed upon rates by classification for any time and materials work. All required equipment or materials (if any) to perform the job shall be invoiced to SMART at cost.

CLASSIFICATION	HOURLY RATE
Offshore Infrastructure Architect / Project Manager	\$55.00
Offshore Senior SharePoint Admin	\$32.00
Offshore Senior SharePoint Developer	\$32.00



**Debora Fudge, Chair**  
Sonoma County Mayors' and  
Councilmembers Association

**Judy Arnold, Vice Chair**  
Marin County Board of Supervisors

**Damon Connolly**  
Marin County Board of Supervisors

**Jim Eddie**  
Golden Gate Bridge,  
Highway/Transportation District

**Dan Hillmer**  
Marin County Council of Mayors and  
Councilmembers

**Eric Lucan**  
Transportation Authority of Marin

**Jake Mackenzie**  
Sonoma County Mayors' and  
Councilmembers Association

**Barbara Pahre**  
Golden Gate Bridge,  
Highway/Transportation District

**Gary Phillips**  
Transportation Authority of Marin

**David Rabbitt**  
Sonoma County Board of Supervisors

**Carol Russell**  
Sonoma County Mayors' and  
Councilmembers Association

**Shirlee Zane**  
Sonoma County Board of Supervisors

**Farhad Mansourian**  
General Manager

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

July 18, 2018

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

**SUBJECT:** Authorize the General Manager to solicit Proposals, Negotiate, and Enter into Purchase Agreements for a used Hyrail Rotary Dump Truck and a used Lowrailer utilizing a competitive negotiation process.

Dear Board Members:

**RECOMMENDATION:**

Authorize the General Manager to solicit Proposals to competitively negotiate and enter into purchase contracts for a used Hyrail Rotary Dump Truck and a used Lowrailer up to a combined not-to-exceed amount of \$270,000.

**DISCUSSION:**

For SMART to solicit proposals to competitively negotiate for specialized rail transit equipment, your Board is required to authorize this action (by 2/3 vote). This process will allow for the consideration of technical and commercial factors, as well as price, in the purchasing evaluation. The technical and commercial factors evaluated include, but are not limited to, vehicle performance, age, quality, reliability, and life cycle. Authorization in advance is necessary due to the limited availability of these pieces of equipment in the used market and the time constraint with funding availability.

The addition of the Hyrail Rotary Dump Truck will enable SMART to perform ballast restoration along the right-of-way and to haul debris and material on the track and off. The image on the following page is an example of a Hyrail Rotary Dump Truck SMART may purchase.



The addition of the Lowrailer will enable SMART to accommodate and transport most highway vehicles (cement trucks, water trucks, etc.) as well as, off-road equipment (excavators, loaders, high reach vehicles, skid steers, etc.) to rail-only accessible locations along the right-of-way. This versatile piece of equipment will be used for Maintenance of Way projects including, vegetation removal, machinery hauling, ditch maintenance, and drainage repair. The image below is an example of a Lowrailer SMART may purchase.



SMART has identified cost savings to the District by purchasing these pieces of equipment used as opposed to new. The cost of a new Hyrail Rotary Dump Truck is approximately \$210,000. The cost of a new Lowrailer is approximately \$370,000. Purchasing both pieces of equipment pre-owned provides SMART with a cost savings of approximately \$310,000. The Hyrail Rotary Dump Truck and used Lowrailer will be expected to have ten or more years of useful life remaining on them. Time is of the essence with purchasing these pieces of equipment as SMART is receiving dollar-for-dollar matching funds from the State of California.

Staff recommends authorizing the General Manager to enter into purchase agreements for a used Hyrail Rotary Dump Truck and a used Lowrailer utilizing a competitive negotiation process up to a combined not-to-exceed amount of \$270,000 for both purchases. This is to allow for flexibility in the negotiation process within budgetary constraints.

**FISCAL IMPACT:** The Operations budget for Fiscal Year 2018-19 includes funding for the purchases based on receiving a dollar-for-dollar match grant from the State of California.

**REVIEWED BY:**  Finance   Counsel 

Very Truly Yours,



Duane Sayers  
Operations Manager



**Debora Fudge, Chair**  
 Sonoma County Mayors' and  
 Councilmembers Association

**Judy Arnold, Vice Chair**  
 Marin County Board of Supervisors

**Damon Connolly**  
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July 18, 2018

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

**SUBJECT:** Authorize the General Manager to enter into various purchase and service agreements up to an aggregate amount of \$700,000, including awarding a sole source Contract No. VS-SV-18-001 to Alstom Transportation Inc. to perform the major repair work to Diesel Multiple Unit (DMU) 110 for a not-to-exceed amount of \$300,000, and provide additional expenditure authority of \$600,000.

Dear Board Members:

**RECOMMENDATION:**

- 1) Authorize the General Manager to enter into various purchase and service agreements up to an aggregate amount of \$700,000 to repair DMU 110, including awarding sole source Contract No. VS-SV-18-001 to Alstom Transportation Inc. for the major repair work for an amount not-to-exceed \$300,000.
- 2) Approve Resolution No. 2018-19 providing an additional \$600,000 in Fiscal Year 2018-19 for repairs funded by insurance reimbursements.

**SUMMARY:**

On May 31, 2018, DMU 110 was involved in an accident at Todd Road that caused extensive damage to the train. The DMU has since been removed from service pending major repair work. The removal of DMU 110 from service has left the District with fewer vehicle reserve options and has limited the number of three car sets that can be in operation during peak commute times.

Since the accident occurred, we have been working on expediting the repairs and returning DMU 110 back into service in a timely manner. Our preliminary estimate of the cost to fully repair the vehicle is \$700,000. The parts and work required are highly specialized and will require sole source purchases, as well as limited choices of who can undertake the work. We anticipate the need for more than one sole source service contract to complete the work. The General Manager or Chief Financial Officer, in accordance with SMART's enabling legislation (Section 20355.4) will track all purchases and contract expenditures related to the DMU 110 repairs and will report back to the Board at a later date a full list of all actions taken.

At this time, we have identified Alstom Transportation Inc. as a qualified local vendor with expertise in performing collision-damaged repair work similar in scope to SMART's DMU repair needs. The experience that Alstom Transportation Inc. brings, combined with the proximity of their Mare Island facility in Vallejo, will assist in expediting repairs and getting DMU 110 back into service as quickly as possible. We are seeking authorization to award sole source Contract No. VS-SV-18-001 to Alstom Transportation Inc. to perform the major repair work to DMU 110, for a not-to-exceed amount of \$300,000.

As part of our comprehensive risk management strategy, we carry insurance coverage for the rail cars with a \$100,000 deductible. Our deductible is budgeted in the Fiscal Year 2018-19 budget. We have received a commitment that expenditures higher than \$100,000 will be reimbursed by the carrier. We also anticipate receiving an advance toward that reimbursement by the end of July. Thus, we request an additional \$600,000 in appropriation authority to pay any outstanding costs in the Fiscal Year 2018-19 budget to be reimbursed by the insurer.

**FISCAL IMPACT:** Approval of the award and Resolution No. 2018-19 are budget neutral. Attached Resolution No. 2018-19 would increase revenue with matching expense in Fiscal Year 2018-19 by \$600,000.

**REVIEWED BY:** [ ] Finance \_\_\_\_\_ [ x ] Counsel  \_\_\_\_\_

Very Truly Yours,

  
Erin McGrath  
Chief Financial Officer

Attachment(s):

- 1) Resolution No. 2018-19
- 2) Contract No. VS-SV-18-001

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, AMENDING RESOLUTION NO. 2018-12 TO REVISE THE ANNUAL BUDGET FOR FISCAL YEAR 2018-19 TO PROVIDE FOR INCREASED EXPENDITURE AUTHORITY**

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**WHEREAS**, as part of its approval of the Annual Budget for Fiscal Year 2018-19, the Board duly considered the annual expenditures necessary for the Sonoma-Marín Area Rail Transit District; and

**WHEREAS**, on June 6, 2018, the Board adopted Resolution No. 2018-12 approving the Annual Budget for Fiscal Year 2018-19; and

**WHEREAS**, Resolution No. 2018-12 considered the appropriation of funds for Operating expenses as part of the Annual Budget; and

**WHEREAS**, the Board desires to amend the Annual Budget to provide increased appropriation authority for repairs to damages to SMART property funded by reimbursements from others.

**NOW, THEREFORE, BE IT RESOLVED** that the Fiscal Year 2018-19 Budget for the Sonoma-Marín Area Rail Transit District attached as Exhibit A to Resolution No. 2018-12 is hereby amended to increase expenditure authority by adding the following amounts:

<b>OPERATIONS EXPENDITURES:</b>	
Services and Supplies	\$600,000
<b>OPERATIONS REVENUES:</b>	
Charges for Services	\$600,000

**BE IT FURTHER RESOLVED** except as specifically amended or supplemented by this Resolution, Resolution No. 2018-12, together with all supplements, amendments and exhibits thereto is, and shall continue to be, in full force and effect as originally adopted, and nothing contained herein shall, or shall be construed to, modify, invalidate, or otherwise affect any provision of Resolution No. 2018-12.

**Resolution No. 2018-19**  
**Sonoma-Marín Area Rail Transit District**  
**July 18, 2018**

**PASSED AND ADOPTED** at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18<sup>th</sup> day of July, by the following vote:

**DIRECTORS:**

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTEST:

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

## **AGREEMENT FOR CONTRACTOR SERVICES**

This agreement (“Agreement”), dated as of \_\_\_\_\_, 2018 (“Effective Date”) is by and between the Sonoma-Marín Area Rail Transit District (hereinafter “SMART”), and Alstom Transportation Inc. (hereinafter “Contractor”).

### RECITALS

WHEREAS, Contractor represents that it is a duly qualified contractor, experienced in the areas of diesel multiple unit (DMU) collision-damaged repair work, vehicle overhauls, rebuilds, and related services; and

WHEREAS, in the judgment of the Board of Directors of SMART, it is necessary and desirable to employ the services of Contractor to perform major repair work to collision-damaged DMU Train 110.

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

### AGREEMENT

#### **ARTICLE 1. RECITALS.**

The above Recitals are true and correct.

#### **ARTICLE 2. LIST OF EXHIBITS.**

The following exhibits are attached hereto and incorporated herein:

- (a) Exhibit A: Scope of Work & Timeline
- (b) Exhibit B: Fee Schedule

#### **ARTICLE 3. REQUEST FOR SERVICES.**

Section 3.01 Initiation Conference. SMART’s Superintendent of Vehicle Maintenance, Husani Longstreet, will initiate all requests for services through an Initiation Conference, which may be in person, by telephone, or by email. During the Initiation Conference, the Superintendent of Vehicle Maintenance and Contractor will establish and agree on a specific task for the project.

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

ALSTOM TRANSPORTATION INC.  
AGREEMENT  
VS-SV-18-001

**ARTICLE 4. SCOPE OF SERVICES.**

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

Section 4.02 Cooperation With SMART. Contractor shall cooperate with the Superintendent of Vehicle Maintenance in the performance of all work hereunder.

Section 4.03 Performance Standard. Contractor 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 Contractor’s profession. If SMART determines that any of Contractor’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 Contractor to meet with SMART to review the quality of the work and resolve matters of concern; (b) require Contractor 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.

- (a) Contractor 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 Contractor to perform work hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from SMART.
- (b) 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 Contractor 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. Contractor shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of SMART. Key personnel shall be as listed in the applicable Task Order.
- (c) In the event that any of Contractor’s personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Contractor’s control, Contractor shall be responsible for timely provision of adequately qualified replacements.
- (d) Contractor shall assign the following key personnel for the term of this Agreement:

Barry Fong, Administrative Manager

Shawn Gavne, Project Manager

**ARTICLE 5. PAYMENT.**

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

Section 5.01 Contractor shall invoice SMART on a monthly basis, detailing the tasks performed pursuant to the Scope of Work requested by the SMART Superintendent of Vehicle Maintenance, and the hours worked. SMART shall pay Contractor within 30 days after submission of the invoices.

Section 5.02 Contractor shall be paid, as full compensation for the satisfactory completion of the work described in the Scope of Work (**Exhibit A**) on a Task basis in accordance with the budget established in **Exhibit B**, provided, however, that Contractor agrees to perform all services described in the Scope of Work for the negotiated amount of \$300,000, regardless of whether it takes Contractor more time to complete or costs are more than anticipated. The not-to-exceed (NTE) amount of \$300,000 for this Agreement includes labor, supervision, applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance, equipment, materials and supplies; in no case shall Contractor be reimbursed for an amount in excess of the NTE amount without a formal written amendment to this Agreement. The hourly rates included herein are for SMART's evaluation, review and auditing purposes only. Contractor 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; (ii) the time in hours devoted to the task(s); and (iii) the hourly rate or rates of the persons performing the task(s). SMART does not reimburse Contractor for travel time.

Section 5.03 Contractor 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 Contractor 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 Contractor to abide by these requirements may delay or prevent payment of invoices or cause such invoices to be returned to the Contractor unpaid.

**ARTICLE 6. TERM OF AGREEMENT.**

Section 6.01 The term of this Agreement shall remain in effect until December 31, 2019 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, both parties 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 Contractor 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 Contractor 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, Contractor, within 14 days following the date of termination, shall deliver to SMART all materials 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, Contractor 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 Contractor 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 Contractor 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 Contractor.

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

## ARTICLE 8. INDEMNIFICATION

Section 8.01 Contractor 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, or expenses, that may be asserted by any person or entity, including Contractor, to the extent caused by the Contractor's negligence, recklessness or willful misconduct in its performance or obligations under this Agreement. Contractor agrees to provide a complete defense for any claim or action brought against SMART based upon a claim relating to Contractor's performance or obligations under this Agreement. Contractor's obligations under ALSTOM TRANSPORTATION INC.

AGREEMENT  
VS-SV-18-001

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 Contractor's expense, subject to Contractor'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 Contractor 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, Contractor shall maintain and shall require all of its subcontractors, Contractors, and other agents to maintain, insurance as described below.

Section 9.01 Workers' Compensation Insurance. Workers' Compensation as required by the State of California, with Statutory Limits, and Employer's Liability insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

Section 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 \$2,000,000 per occurrence. 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 Inland Marine Insurance. Inland Marine insurance covering SMART's DMU 110, in an amount no less than \$4,000,000 for the entire time the vehicle is in Contractor's care, custody, and control.

Section 9.05 Professional Liability Insurance. Professional Liability insurance covering liability arising out of any negligent act, error or omission in performance of design or engineering services for the Project in an amount no less than \$2,000,000 per claim. If any Design Professional Services are furnished by a Subcontractor, the Subcontractor shall be required to provide professional liability coverage.

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

- (a) SMART, its officers, and employees shall be named as additional insured on all policies listed above.
- (b) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which Contractor is liable, up to and including the total limit of liability, without right of contribution from any other insurance effected or which may be effected by the Insureds.
- (c) Inclusion of the Insureds as additional insureds shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Contractor. Said policy shall protect Contractor and the Insureds in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.
- (d) Contractor hereby grants to SMART a waiver of any right to subrogation which any insurer of said Contractor may acquire against SMART by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not SMART has received a waiver of subrogation endorsement from the insurer.
- (e) The insurance policy(ies) shall be written by an insurance company or companies acceptable to SMART. 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 9.05 Deductibles and Retentions. Contractor shall be responsible for payment of any deductible or retention on Contractor'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 9.06 Claims Made Coverage. If any insurance specified above is written on a claims-made coverage form, Contractor shall:

- (f) 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;
- (g) 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
- (h) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to Agreement effective date, Contractor shall purchase “extending reporting” coverage for a minimum of three (3) years after completion of the work.

Section 9.07      Documentation. The following documentation shall be submitted to SMART:

- (i) 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. Contractor agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with SMART for the duration of this Agreement.
- (j) Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current endorsements evidencing the above-specified requirements on file with SMART for the duration of this Agreement.
- (k) Upon SMART’s written request, Contractor shall provide certified copies of the insurance policies to SMART. Said policy copies shall be submitted within thirty (30) days of SMART’s request. 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.

Section 9.08      Policy Obligations. Contractor’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 9.09      Material Breach. If Contractor, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of this Agreement. SMART, in its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, SMART may purchase such required insurance coverage, and without further notice to Contractor, SMART may deduct from sums due to Contractor any premium costs advanced by SMART for such insurance. These remedies shall be in addition to any other remedies available to SMART.

## **ARTICLE 10. PROSECUTION OF WORK.**

Section 10.01 When work is requested of Contractor by SMART, all due diligence shall be exercised and the work accomplished without undue delay, within the performance time specified in the Task 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, high water, or other Act of God, the time for Contractor's performance of this Agreement shall be extended by a number of days equal to the number of days Contractor has been delayed.

## **ARTICLE 11. EXTRA OR CHANGED WORK.**

Section 11.01 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 General Manager in a form approved by SMART Counsel. The Board of Directors, General Manager or Superintendent of Vehicle Maintenance 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 Contractor 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 Contractor shall be entitled to no compensation whatsoever for the performance of such work. Contractor 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 CONTRACTOR.**

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

Section 12.02 Status of Contractor. The parties intend that Contractor, in performing the services specified herein, shall act as an independent Contractor and shall control the work and the manner in which it is performed. Contractor 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, Contractor 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. Contractor 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. Contractor 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 Contractor'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, Contractor agrees to furnish SMART with proof of payment of taxes on these earnings.

Section 12.04 Records Maintenance. Contractor 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. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder.

Section 12.05 Conflict of Interest. Contractor 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. Contractor 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, Contractor 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 Contractor's or such other person's financial interests.

Section 12.06 Nondiscrimination. Contractor 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. Contractor 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 Contractor in connection with this Agreement. Contractor 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. Contractor'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. Contractor 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. All reports, original drawings, graphics, plans, studies, and other data or documents (“documents”), in whatever form or format, assembled or prepared by Contractor or Contractor’s subcontractors, Contractors, 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, Contractor 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. Contractor 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.**

Section 13.01 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: Sonoma-Marín Area Rail Transit District  
5401 Old Redwood Highway, Suite 200

ALSTOM TRANSPORTATION INC.  
AGREEMENT  
VS-SV-18-001

Petaluma, CA 94954  
[billing@sonomamarintrain.org](mailto:billing@sonomamarintrain.org)

If to Contractor: Alstom Transportation Inc.  
Attn: Barry Fong  
210 Pintado Street  
Vallejo, CA 94592  
(347) 277-6621  
[Barry.fong@alstomgroup.com](mailto:Barry.fong@alstomgroup.com)

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. Contractor 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. Contractor 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 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 16.04 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 16.05 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 16.06 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 16.07 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 16.08 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 the signature of a party is delivered by scanned image as an attachment to electronic mail. Such scanned signature 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 16.09 Prevailing Wage. Contractor and each Subcontractor shall pay to all workers employed on the Work not less than the prevailing rate of wages as determined in accordance with the Labor Code as indicated herein.

All contractors/vendors doing business with public agencies throughout 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 Program, 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 16.10 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**CONTRACTOR:** \_\_\_\_\_

By: \_\_\_\_\_

Its : \_\_\_\_\_

Date: \_\_\_\_\_

**SONOMA-MARIN AREA RAIL TRANSIT (SMART)**

By: \_\_\_\_\_  
Farhad Mansourian, General Manager

Date: \_\_\_\_\_

**CERTIFICATES OF INSURANCE ON FILE WITH AND APPROVED AS TO SUBSTANCE FOR SMART:**

By: \_\_\_\_\_  
Katherine DiPasqua, Sr. Administrative Analyst

Date: \_\_\_\_\_

**APPROVED AS TO FORM FOR SMART:**

By: \_\_\_\_\_  
District Counsel

Date: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF WORK & TIMELINE**

**I. PURPOSE**

SMART's Diesel-Multiple Unit (DMU) 110 requires repairs after its collision on 5/31/2018. Initial repair assessments made by SMART, Nippon Sharyo, and Alstom Transportation Inc. identify the visible damage to be primarily focused to the Front Mask of the DMU and to Nippon Sharyo fabricated brackets throughout the front of the vehicle. SMART is contracting with Alstom Transportation Inc. to perform these major repairs to DMU 110.

**II. PROJECT MANAGEMENT**

All work to be initiated, coordinated, and authorized in writing by SMART's Superintendent of Vehicle Maintenance, Husani Longstreet.

**III. DETAILED SCOPE OF WORK**

- A. SMART will arrange, coordinate, and be responsible for all costs associated with transporting DMU 110 to Alstom Transportation Inc.'s Mare Island Repair Facility located at:

Alstom Transportation Inc. Mare Island Repair Facility  
Attn: Shawn Gavne  
210 Pintado St  
Vallejo, CA 94592

- B. Upon receiving DMU 110 at Alstom Transportation Inc.'s Mare Island Facility, the DMU will be thoroughly examined.
1. All exterior sheeting, interior panels, and fixtures will be removed, evaluated, and cataloged.
  2. Alstom Transportation Inc. will assess each part removed and identify any parts that can be reconditioned and reused. This list will be provided to SMART with the report of any latent damage identified in Section 3.

3. Any latent damage that is exposed during this evaluation process will be documented in a report that will be immediately sent to SMART's Superintendent of Vehicle Maintenance for review and next step determination.
4. The initial repair assessment performed by SMART, Nippon Sharyo, and Alstom Transportation Inc. identified the following bolt on components that require replacement:

<b>ITEM</b>	<b>QUANTITY</b>
Front End Cab	1
Pilot	1
Cab Window – Center	1
Cab Window – Left	1
Cab Window – Right	1
Headlight Glass	1
Emergency Side Window Gasket	1
Uncoupling Device – Cab End	1
Windshield Wipers – Center	1
Windshield Wipers – Left	1
480V Receptacle Kit	1
Ethernet Receptacle	1
MU Receptacle	1
Common Receptacle	2
Ditchlight Seal Beams	11
Handhold Front Mask	1
Handhold Cab Side	1
Sill Steps – Left	1
Sill Steps – Right	1
Red Marker Lights	2
Dual Headlight Assembly	1
End Hose Assembly w/ Gladhand	1
MR Hose Assembly w/ Gladhand	1
Leveling Valve	1

SMART will provide Alstom Transportation Inc. with the above listed parts and Alstom Transportation Inc. will perform the replacement and repair labor.

5. In addition to the parts and labor identified in Section 4, Alstom Transportation Inc. has identified and will perform the following repair work:
  - i. The brackets behind the fiberglass nose are severely damaged and will be replaced.
  - ii. The secondary structure has substantial damage with some of the bent brackets welded to plates, which are also welded to the structure. Alstom Transportation Inc. will cut these damaged brackets from the plate and weld the new brackets on.
  - iii. As Alstom Transportation Inc. repairs the front end of the DMU, which consists of mostly bolt-on components identified in Section 4, contractor will replace the electrical connects as required.
6. All latent damage identified in Section 3 that SMART authorizes Alstom Transportation Inc. to repair in writing will be invoiced separately using a technician rate of \$135 per hour. If replacement of materials and other components not listed above are required in regards to the latent damage, Alstom Transportation Inc. will provide SMART with a written list of all components needed. SMART will have the option to provide these materials and components directly to Alstom Transportation Inc. for the repairs or authorize Alstom Transportation Inc. to procure the required parts. If contractor procures the required parts, they will be invoiced to SMART at a cost plus 20% rate. Contractor will be required to provide receipts as part of the invoice to SMART.
7. Alstom Transportation Inc. shall perform all repair labor per Federal Railroad Administration (FRA) standard and to original manufacturer specifications for DMU 110.
8. Once Alstom Transportation Inc. has completed the repair work on DMU 110, contractor will reassemble all panels, create a report of all repair work, part replacement, and any other action Alstom Transportation Inc. performed and immediately contact SMART's Superintendent of Vehicle Maintenance, Husani Longstreet, that the vehicle is ready for final inspection.
9. SMART will perform a final on-site inspection of DMU 110 and review the written report of all work with Alstom Transportation Inc.'s project manager.
10. Upon successful review, SMART will authorize acceptance of all work in writing.

11. Alstom Transportation Inc. repair scope does not provide painting and final finishing work for DMU 110.
12. Alstom Transportation Inc. will be responsible for preparing DMU 110 for transport in accordance with SMART's Superintendent of Vehicle Maintenance's requirements. SMART will be responsible for arranging, coordinating, and all costs related to the transportation of DMU 110 from Alstom Transportation Inc.'s Mare Island Repair Facility back to SMART's Rail Operation Center (ROC).

#### **IV. WEEKLY INSPECTIONS**

SMART will perform weekly on-site inspections and monitor all progress of the repair work being performed on DMU 110.

#### **V. WORK TIMELINES**

Alstom Transportation Inc. shall complete the repair work described above 12 weeks from when Alstom Transportation Inc. receives DMU 110 at their Mare Island Repair Facility. If additional time is needed due to unforeseen circumstances, Alstom Transportation Inc. will immediately request approval from SMART's Superintendent of Vehicle Maintenance for an extension.

#### **VI. WARRANTY**

Alstom Transportation Inc. shall provide SMART with a [REDACTED] day warranty period on all labor performed on DMU 110 and a [REDACTED] day warranty period on all parts purchased by Alstom Transportation Inc on behalf of SMART for DMU 110.

#### **VII. ACCEPTANCE CRITERIA**

Upon final completion of all repair work listed above, SMART will perform a final on-site inspection. Alstom Transportation Inc.'s project manager will walk SMART staff through all repair work and part replacement work performed on DMU 110. SMART will review all work to ensure it meets or exceeds all Federal Railroad Administration (FRA) standards and original manufacturer specifications. Upon a successful evaluation, SMART will provide a written letter of acceptance for all repair work performed and direct Alstom Transportation Inc. to prepare DMU 110 for transportation back to SMART's Rail Operation Center.

**EXHIBIT B  
SCHEDULE OF RATES**

DESCRIPTION	PAYMENT %	COST
Upon Alstom's receipt of SMART's Purchase Order	20%	\$38,983.00
Upon Delivery of the Vehicle to Alstom's Mare Island Facility	30%	\$58,474.00
Upon SMART's final acceptance of the completed work in Alstom's facility	50%	\$97,456.00
<b>TOTAL</b>	<b>100%</b>	<b>\$194,913.00</b>

\*The pricing listed above is limited to the visible scope of work based on the initial inspections performed at SMART's Rail Operation Center (ROC). Any latent and unforeseen damage that is identified will require authorization and approval by SMART's Superintendent of Vehicle Maintenance.

\*\*In the event that latent damage is identified and SMART does not have the required materials to provide Alstom Transportation Inc., contractor shall procure these at SMART's written authorization and provide them to SMART at a **cost plus 20% rate**. Should SMART authorize Alstom to perform repairs to the latent damage, the technician rate will be **\$135 per hour**.



**Debora Fudge, Chair**  
Sonoma County Mayors' and  
Councilmembers Association

**Judy Arnold, Vice Chair**  
Marin County Board of Supervisors

**Damon Connolly**  
Marin County Board of Supervisors

**Jim Eddie**  
Golden Gate Bridge,  
Highway/Transportation District

**Dan Hillmer**  
Marin County Council of Mayors and  
Councilmembers

**Eric Lucan**  
Transportation Authority of Marin

**Jake Mackenzie**  
Sonoma County Mayors' and  
Councilmembers Association

**Barbara Pahre**  
Golden Gate Bridge,  
Highway/Transportation District

**Gary Phillips**  
Transportation Authority of Marin

**David Rabbitt**  
Sonoma County Board of Supervisors

**Carol Russell**  
Sonoma County Mayors' and  
Councilmembers Association

**Shirlee Zane**  
Sonoma County Board of Supervisors

**Farhad Mansourian**  
General Manager



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

July 18, 2018

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

**SUBJECT:** Authorization to enter into Funding Agreement with Sonoma County Transit for Sonoma County Transit Route 56 (SMART's North County Express Bus Service) and Related Bus Stop Improvements at Airport Boulevard/Sonoma County Airport SMART Station

Dear Board Members:

**RECOMMENDATIONS:**

Authorize the General Manager to execute a Funding Agreement with Sonoma County Transit for the Sonoma County Transit Route 56 and Related Bus Stop Improvements at Airport Boulevard/Sonoma County Airport SMART Station.

**SUMMARY:**

In preparation for the start of SMART passenger rail service in the summer of 2017, Sonoma County and SMART collaborated through 2016 and 2017 to improve access between northern Sonoma County communities and the SMART system via the Sonoma County Airport SMART Station. The collaboration resulted in two cooperative access improvements: First, the creation of the Sonoma County Transit Route 56, SMART's North County Express Bus Service; and second, the construction of a bus turnout on SMART property along Airport Boulevard. The agreement under consideration today memorializes the financial arrangement between SMART and Sonoma County in support of SCT Route 56 and the construction of the bus turnout.

**Sonoma County Transit Route 56**

In early 2016, SMART requested Sonoma County Transit provide fixed-route bus service connecting the Sonoma County Airport SMART Station with the future SMART Stations in Windsor, Healdsburg and Cloverdale. In anticipation of the creation of this service, SMART and Sonoma County Transit worked with Clipper during the development of system fare business rules to provide for this future SCT bus line to be free for riders transferring to or from SMART. To gather community input on the potential bus service schedule, SMART and Sonoma County Transit co-hosted community meetings in Cloverdale (March 29, 2016), Windsor (June 16, 2016) and Healdsburg (September 26, 2016).



*Completed Bus Turnout at Sonoma County Airport Station*

The resulting schedule of service was launched with the start of SMART’s full passenger service in the summer of 2017 and run through March 11, 2018 to test passenger demand and provide fixed route transit service for the first time connecting Cloverdale, Healdsburg and Windsor to the Sonoma County Airport SMART Station. Due to lack of passenger demand and comments received by Sonoma County Transit, Route 56 service modifications were made effective March 12, 2018, including offering the service on weekdays only and providing both northbound and southbound service in each weekday commute period. The current schedule is shown below:

*Weekday Service / Servicio los días de semana*

Southbound Commute				Northbound Commute			
Route		56	56	Route		56	56
<b>CLOVERDALE</b> Cloverdale Depot	A	6:20	4:50	<b>Airport Station</b> (Northbound train arrives)	D	7:06	5:36
<b>HEALDSBURG</b> Healdsburg Depot	B	6:41	5:11	<b>SANTA ROSA</b> Airport Blvd - SMART Station	D	7:15	5:45
<b>WINDSOR</b> Windsor Depot	C	6:54	5:24	<b>WINDSOR</b> Windsor Depot	C	7:25	5:55
<b>SANTA ROSA</b> Airport Blvd - SMART Station	D	7:04	5:34	<b>HEALDSBURG</b> Healdsburg Depot	B	7:38	6:08
<b>Airport Station</b> (Southbound train departs)	D	7:19	5:49	<b>CLOVERDALE</b> Cloverdale Depot	A	7:58	6:28

The agreement details the service costs for three fiscal years, which are \$196,435 for Fiscal Year 2017-18, \$185,028 for Fiscal Year 2018-19 and \$192,109 for Fiscal Year 2019-20. The terms of the agreement include the ability for Sonoma County Transit and SMART to change or terminate the agreement with 90 days notice. We will work cooperatively with Sonoma County Transit over the coming months to ensure that the cost is justified and the service is aligned with the needs of our riders.

**Sonoma County Bus Pullout**

In addition to added bus service, SMART and Sonoma County worked cooperatively to increase access to our Airport station by all transit routes and providers. As part of that collaboration, Sonoma agreed to partner in building a bus turnout at the new Airport Boulevard station. This turnout facilitates not only the new route 56, but also two other SCT routes and two Mendocino County transit routes. To build the turnout, SMART's initiated a change order with its design-build contractor Stacy-Witbek/Herzog for \$137,066. The turnout work included constructing a new sidewalk and bus shelter pad, installation of new shelter, lighting, curbs and gutters, new drainage inlets, and fence modifications among other work. This agreement provides reimbursement from the County of \$115,200 for this work.

**FISCAL IMPACT:** Funding for this agreement was included in the Fiscal Year 2017-18 and 2018-19 budgets.

**REVIEWED BY:** [ ] Finance \_\_\_\_\_ [ x ] Counsel  \_\_\_\_\_

Very Truly Yours,



Erin McGrath  
Chief Financial Officer

Attachment(s): Funding Agreement for Sonoma County Transit Route 56 and Related Bus Stop Improvements at Airport Blvd. Station with Attachments

## SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

### FUNDING AGREEMENT FOR SONOMA COUNTY TRANSIT ROUTE 56 AND RELATED BUS STOP IMPROVEMENTS AT AIRPORT BLVD. STATION

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_, 2018 by and between the SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, hereinafter referred to as "SMART" and the COUNTY of SONOMA/SONOMA COUNTY TRANSIT, hereinafter referred to as "SCT".

#### **RECITALS:**

**WHEREAS**, SMART opened its initial operating segment between Santa Rosa and San Rafael during the second quarter of 2017 and full build out of the SMART service includes extensions to stations in Windsor, Healdsburg and Cloverdale that will be completed at an unknown date in the future; and

**WHEREAS**, SMART requests that SCT provide, on a contractual basis, fixed-route bus service that provides service between SMART's Sonoma County Airport Station and future SMART stations in Windsor, Healdsburg and Cloverdale. The service, funded by SMART, will operate as SCT Route 56 in accordance with Exhibit 1; and

**WHEREAS**, the proposed service will begin with commencement of SMART's full passenger rail service schedule on August 25, 2017; and

**WHEREAS**, to facilitate safe, efficient and convenient bus passenger access to the SMART Sonoma County Airport Blvd. Station, SMART will design and construct a two-bus turnout for use by Sonoma County Transit and other public transit operators. SCT agrees to provide funding assistance towards this improvement as illustrated in Attachment "C."

**WHEREAS**, on \_\_\_\_\_, 2018, the SMART Board of Directors authorized execution of an agreement between SMART and SCT to operate Route 56 as defined in Exhibit 1 and to provide funding to support its operation.

**NOW, THEREFORE**, in consideration of the covenants and conditions set forth below, the parties agree to the following:

#### **1. SCOPE OF SERVICES:**

SCT agrees to provide public bus service between the SMART Sonoma County Airport Blvd. Station, and the Windsor, Healdsburg and Cloverdale stations as described in Exhibit 1. This service shall hereinafter be referred to as "SCT Route 56" and operated as part of the Sonoma County Transit system as "Route 56." It is understood that SCT will be providing services using Americans with Disabilities Act-compliant vehicles equipped with Clipper® regional fare collection equipment and that the cost of the SCT Route 56 scheduled service will be reimbursed by SMART. In the event of a conflict between the terms and conditions of this Agreement and Exhibit 1, the terms of this Agreement will prevail.

SMART agrees to design and construct a fully developed, ADA accessible, two-bus turnout located immediately in front of its Sonoma County Airport Station/Park & Ride for use by Sonoma County Transit as shown on Attachment "B." SCT agrees provide up to \$115,200 to fund this SMART coordinated improvement.

**2. FEES:**

SMART agrees to reimburse SCT on an in-service hour basis as it relates to the operation of SCT Route 56. Annual In-Service Hours and Hourly rates are defined in Exhibit 1. The annual estimated cost for SCT Route 56 is \$196,435 for FY 17/18, \$185,028 for FY 18/19 and \$192,109 for FY 19/20.

Upon execution of this agreement and SMART's completion of the construction of a new two-bus turnout immediately in front of its Sonoma County Airport Station/Park & Ride, SMART will invoice SCT for an amount not to exceed \$115,200 for the improvements detailed in Attachment "C."

**3. PAYMENT:**

SCT will submit an invoice, on a bi-monthly basis, detailing the level of service provided and associated costs as established in Exhibit 1. The fees for services under this Agreement shall be due within thirty (30) calendar days after SMART's receipt of an invoice for services rendered.

**4. CONTRACT PERFORMANCE TIME:**

Billing for Route 56 will begin service on August 25, 2017 and terminate at a future date to be determined.

**5. TERM:**

The term of this Agreement shall commence as of the date first written above ("Effective Date") and shall terminate on June 30, 2020, ("Expiration Date"), unless earlier terminated pursuant to Section 12 below, or modified by agreement of the parties.

**6. INSURANCE AND INDEMNIFICATION:**

SMART shall be named as an additional insured relative to the operation of the SCT Route 56 on all applicable SCT liability policies that may be in effect during the term of the Agreement.

SCT agrees to indemnify, hold harmless and defend SMART, its directors, officers, agents and employees against any action, claim or liability, including, but not limited to, litigation costs and reasonable attorneys' fees, arising from any and all claims or losses to anyone who may be injured or damaged by reason of SCT's willful misconduct or negligent performance under this Agreement. SCT shall not be obligated hereunder to indemnify SMART with respect to the negligence or willful misconduct of SMART.

SMART agrees to indemnify, hold harmless and defend SCT, its directors, officers, agents and employees against any action, claim or liability, including, but not limited to, litigation costs and reasonable attorneys' fees from any and all claims or losses to anyone who may be incurred or damaged by reason of SMART's willful misconduct or negligent performance under this Agreement. SMART shall not be obligated hereunder to indemnify SCT with respect to the negligence or willful misconduct of SCT.

**7. FARES:**

Fare payment for passengers transferring between SCT Route 56 and the SMART rail system will be by means of Clipper card payment. For passengers transferring between the SCT Route 56 and SMART rail system, the SCT Route 56 fare would be included in the payment of the SMART rail journey, and no additional payment will be necessary.

Bus passengers travelling only on the SCT Route 56 and not boarding or disembarking from the SMART rail system, or passengers not utilizing Clipper as the fare media for both the rail and bus portions of their journey, will be charged the regular SCT fare for their SCT Route 56 trip. In this case, SCT will retain the local fare for this bus service. In all cases, patrons of the SCT Route 56 service will be counted as SCT's riders for reporting requirements. SCT Agrees to report ridership and fares collected on the Route 56 to SMART.

**8. ASSIGNMENT:**

The respective rights, responsibilities and duties of each party under this Agreement may not be transferred or assigned without the express prior written consent of the other party.

**9. BOOKS OF RECORD AND AUDIT RIGHTS.**

SCT shall maintain on a current basis complete books and records relating to this Agreement. SCT will permit SMART to audit books, accounts or records relating to this Agreement during regular business hours upon request. If SMART objects to any amount on an invoice or seeks to audit that period of activity, SMART shall set forth, in writing, its objection or its request for an audit with sufficient specificity for the District to meaningfully respond.

**10. INDEPENDENT CONTRACTOR:**

SCT shall render the services under this Agreement to SMART as an independent contractor and not as an employee or agent. Nothing contained in this Agreement shall be construed to create an employment relationship between SMART and SCT or between SMART's and the SCT's employees. SCT shall exercise its own judgment as to the persons it retains to provide the services and shall have the fullest discretion as to the methods and means of operation, subject to SMART's authority to determine the scope of service to be provided.

**11. TERMINATION:**

- A. If SCT fails to provide the services required under this Agreement or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation or other law which applies to its performance herein, SMART may terminate this Agreement by giving five (5) calendar days written notice to SCT.
- B. SCT shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which SCT has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving ninety (90) calendar days written notice to the other. Notice of termination shall be by written notice and be sent by registered mail.
- D. In the event of termination not the fault of SCT, SCT shall be paid for services performed to the date of termination in accordance with the terms of this Agreement.

**12. AMENDMENT:**

This Agreement may be amended or modified only by written agreement of both parties.

**13. JURISDICTION AND VENUE:**

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Sonoma County, California.

**14. COMPLIANCE WITH APPLICABLE LAWS:**

SCT shall comply with any and all applicable federal, state and local laws affecting the services covered by this Agreement.

**15. SCT WARRANTIES**

SCT makes no warranties, representations or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

**16. DISPUTE RESOLUTION**

SCT and SMART agree to attempt in good faith to resolve all disputes informally. If agreed to by both parties, alternate methods of dispute resolution, such as mediation, may be utilized. Unless otherwise directed by SCT, SMART shall continue performance under this Agreement while matters in dispute are being resolved.

**17. ADDITIONAL SERVICES**

Based on its ability to provide, within Federal Transit Administration Charter Service regulations, SCT will make available, upon SMART's request, back-up buses in times of emergency for evacuation or bus-bridge purposes. Additional services provided will be billed at the applicable hourly rate defined in Exhibit 1.

**18. NO THIRD PARTY BENEFICIARIES**

This Agreement is not for the benefit of any person or entity other than the parties.

**19. ENTIRE AGREEMENT; MODIFICATION**

This Agreement, including any attachments, constitutes the entire Agreement between the parties with respect to the subject matter hereof and may not be amended except by a written amendment executed by authorized representatives of both parties.

**20. NOTICES:**

This Agreement shall be managed and administered on SMART's behalf by the contact as set forth below. All invoices shall be submitted and approved by SMART and all notices shall be given to SMART at the following location:

Joanne Parker, Programming and Grants Manager  
Sonoma-Marin Area Rail Transit District  
5401 Old Redwood Highway, Suite 200  
Petaluma, CA 94954

Notices shall be given to SCT at the following address:

Bryan Albee, Transit Systems Manager  
Sonoma County Transit  
355 W. Robles Ave.  
Santa Rosa, CA 95407

**IN WITNESS WHEREOF**, the parties hereunto have executed this Agreement on the date first above written.

**SONOMA-MARIN AREA RAIL TRANSIT SONOMA COUNTY TRANSIT DISTRICT**

By: \_\_\_\_\_  
General Manager

By: \_\_\_\_\_  
Chair, Board of Supervisors

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
ATTORNEY FOR SMART

By: \_\_\_\_\_  
ATTORNEY FOR SCT

**EXHIBIT 1**

**SERVICE DESCRIPTION FOR SCT OPERATION OF BUS SERVICE BETWEEN THE SMART SONOMA COUNTY AIRPORT BLVD. STATION, WINDSOR DEPOT, HEALDSBURG DEPOT AND CLOVERDALE DEPOT**

Sonoma-Marin Area Rail Transit District (SMART) requests that Sonoma County Transit (SCT) provide fixed-route transit service that connects SMART’s Sonoma County Airport station with depots in Windsor, Healdsburg and Cloverdale. The service will be operated as Sonoma County Transit Route 56. The level of service is illustrated in Attachment “A.”

**Service Description/Design**

This bus service will operate between SMART’s Sonoma County Airport Station, the Windsor Depot, the Healdsburg Depot and the Cloverdale Depot. The service will operate per the weekday schedule included at Attachment “A.” Approximately 6.7 in-service hours will be operated each weekday day. Route 56 will be coordinated with select SMART train arrivals and departures.

Like all SCT routes, Route 56 will not operate on the following holidays: New Year’s Day, Memorial Day, Independence Day, Labor Day Thanksgiving Day and Christmas Day. Route 56 will also not operate on the following holidays, when SCT operates on its Saturday schedules: Martin Luther King Day, Presidents’ Day, Day after Thanksgiving, Christmas Eve, New Year’s Eve as Route 56 does not operate on Saturdays.

Service modifications, such as departure time, stop location, or service frequency, can be made to this agreement via modifications to this exhibit or Attachment A, subject to mutual agreement between SCT and SMART.

**Service Cost**

Operating costs have been estimated using current systemwide hourly rates for Sonoma County Transit service These hourly rates include all costs associated with operating SCT Route 56, including fuel and consumables. . The corresponding hourly rate for FY 17/18 is shown below, as well as, an estimate of the FY 18/19 rate.

	FY 17/18	FY 18/19	FY 19/20
Cost per in-Service Hour	\$108.00	\$111.24	\$114.58
Estimated Service Hours	1,819	1,663	1,677
<b>Estimated Annual Cost</b>	<b>\$196,435</b>	<b>\$185,028</b>	<b>\$192,109</b>

**Cost Estimate**

The cost estimate for FY 17/18 is \$196,435. This covers the Route 56 costs commencing with the start of SMART’s scheduled service on August 25, 2017. From that time until March, 11, 2018, Saturday and Sunday service was operated. Due to lack of demand for weekend service, Route 56 began operating as weekday only service on March 12, 2018, per the schedule contained in Attachment “A.”

The projected cost for FY 18/19 anticipates a full year of weekday service per the schedule shown in Attachment “A.” The cost per in-service hour will increase 3.0% over the FY 17/18 rate.

The projected cost for FY 19/20 anticipates a full year of weekday service per the schedule shown in Attachment “A.” The cost per in-service hour will increase 3.0% over the FY 18/19 rate.

Annual in-service hour and cost projections are contained in Attachment “B.”

**ATTACHMENT A**

**WEEKDAY ROUTE 56 SCHEDULE CONNECTING THE CITY OF CLOVERDALE, CITY OF HEALDSBURG, TOWN OF WINDSOR AND SMART AT SONOMA COUNTY AIRPORT BLVD. STATION – Schedule Effective March 12, 2018.**



**North County Connector to Airport SMART Station**

*Weekday Service / Servicio los días de semana*

Southbound Commute		Bold type = PM	
	Route	56	56
<b>CLOVERDALE</b> Cloverdale Depot	A	6:20	4:50
<b>HEALDSBURG</b> Healdsburg Depot	B	6:41	5:11
<b>WINDSOR</b> Windsor Depot	C	6:54	5:24
<b>SANTA ROSA</b> Airport Blvd - SMART Station	D	7:04	5:34
<b>Airport Station</b> (Southbound train departs)	D	7:19	5:49

Northbound Commute		Bold type = PM	
	Route	56	56
<b>Airport Station</b> (Northbound train arrives)	D	7:06	5:36
<b>SANTA ROSA</b> Airport Blvd - SMART Station	D	7:15	5:45
<b>WINDSOR</b> Windsor Depot	C	7:25	5:55
<b>HEALDSBURG</b> Healdsburg Depot	B	7:38	6:08
<b>CLOVERDALE</b> Cloverdale Depot	A	7:58	6:28

# ATTACHMENT B – Three-Year In-Service Hour and Cost Projection

Sonoma County Transit  
Route 56 - Three-Year Projected Service Hour & Cost Summary

Attachment "B"

### Projected FY 2017-18 Service Hours

Month	Year	Operating Days			Total	In-Service Hours			Total In-Service Hours			Total In-Service Hours	Cost per In-Service Hr	Monthly Cost
		Weekday	Saturday	Sunday		Weekday	Saturday	Sunday	Weekday	Saturday	Sunday			
August	2017	5	1	1	7	7.22	7.62	7.62	36.10	7.62	7.62	51.34	\$108.00	\$5,545
September	2017	20	5	4	29	7.22	7.62	7.62	144.40	38.1	30.48	212.98	108.00	23,002
October	2017	13	2	2	17	7.22	7.62	7.62	93.86	15.24	15.24	124.34	108.00	13,429
November	2017	20	4	4	28	7.22	7.62	7.62	144.40	30.48	30.48	205.36	108.00	22,179
December	2017	20	4	4	28	7.22	7.62	7.62	144.40	30.48	30.48	205.36	108.00	22,179
January	2018	21	4	4	29	7.22	7.62	7.62	151.62	30.48	30.48	212.58	108.00	22,959
February	2018	19	4	4	27	7.22	7.62	7.62	137.18	30.48	30.48	198.14	108.00	21,399
March (1 thru 11)	2018	7	2	2	11	7.22	7.62	7.62	50.54	15.24	15.24	81.02	108.00	8,750
March (12 thru 31)	2018	15	2	3	20	6.68	0	0	100.20	0	0	100.2	108.00	10,822
April	2018	21	4	4	29	6.68	0	0	140.28	0	0	140.28	108.00	15,150
May	2018	22	4	4	30	6.68	0	0	146.96	0	0	146.96	108.00	15,872
June	2018	21	5	4	30	6.68	0	0	140.28	0	0	140.28	108.00	15,150
<b>Totals</b>		<b>204</b>	<b>41</b>	<b>40</b>	<b>285</b>				<b>1,430.22</b>	<b>198.12</b>	<b>190.5</b>	<b>1818.84</b>	<b>\$108.00</b>	<b>\$196,435</b>

### Projected FY 2018-19 Service Hours

Month	Year	Operating Days			Total	In-Service Hours			Total In-Service Hours			Total In-Service Hours	Cost per In-Service Hr	Monthly Cost
		Weekday	Saturday	Sunday		Weekday	Saturday	Sunday	Weekday	Saturday	Sunday			
July	2018	21	4	5	30	6.68	0	0	140.28	0	0	140.28	\$111.24	\$15,605
August	2018	23	4	4	31	6.68	0	0	153.64	0	0	153.64	111.24	17,091
September	2018	19	5	5	29	6.68	0	0	126.92	0	0	126.92	111.24	14,119
October	2018	23	4	4	31	6.68	0	0	153.64	0	0	153.64	111.24	17,091
November	2018	20	4	4	28	6.68	0	0	133.60	0	0	133.60	111.24	14,862
December	2019	18	5	5	28	6.68	0	0	120.24	0	0	120.24	111.24	13,375
January	2019	21	4	4	29	6.68	0	0	140.28	0	0	140.28	111.24	15,605
February	2019	19	4	4	27	6.68	0	0	126.92	0	0	126.92	111.24	14,119
March	2019	21	5	5	31	6.68	0	0	140.28	0	0	140.28	111.24	15,605
April	2019	22	4	3	29	6.68	0	0	146.96	0	0	146.96	111.24	16,348
May	2019	22	4	4	30	6.68	0	0	146.96	0	0	146.96	111.24	16,348
June	2019	20	5	5	30	6.68	0	0	133.60	0	0	133.60	111.24	14,862
<b>Totals</b>		<b>249</b>	<b>52</b>	<b>52</b>	<b>353</b>				<b>1,663.32</b>	<b>0</b>	<b>0</b>	<b>1,663.32</b>	<b>\$111.24</b>	<b>\$185,028</b>

### Projected FY 2019-20 Service Hours

Month	Year	Operating Days			Total	In-Service Hours			Total In-Service Hours			Total In-Service Hours	Cost per In-Service Hr	Monthly Cost
		Weekday	Saturday	Sunday		Weekday	Saturday	Sunday	Weekday	Saturday	Sunday			
July	2019	22	4	4	30	6.68	0	0	146.96	0	0	146.96	\$114.58	\$16,838
August	2019	22	5	4	31	6.68	0	0	146.96	0	0	146.96	114.58	16,838
September	2019	20	4	5	29	6.68	0	0	133.60	0	0	133.60	114.58	15,308
October	2019	23	4	4	31	6.68	0	0	153.64	0	0	153.64	114.58	17,604
November	2019	19	5	4	28	6.68	0	0	126.92	0	0	126.92	114.58	14,542
December	2020	19	4	5	28	6.68	0	0	126.92	0	0	126.92	114.58	14,542
January	2020	21	4	4	29	6.68	0	0	140.28	0	0	140.28	114.58	16,073
February	2020	19	5	4	28	6.68	0	0	126.92	0	0	126.92	114.58	14,542
March	2020	22	4	5	31	6.68	0	0	146.96	0	0	146.96	114.58	16,838
April	2020	22	4	3	29	6.68	0	0	146.96	0	0	146.96	114.58	16,838
May	2020	20	5	5	30	6.68	0	0	133.60	0	0	133.60	114.58	15,308
June	2020	22	4	4	30	6.68	0	0	146.96	0	0	146.96	114.58	16,838
<b>Totals</b>		<b>251</b>	<b>52</b>	<b>51</b>	<b>354</b>				<b>1,676.68</b>	<b>0</b>	<b>0</b>	<b>1,676.68</b>	<b>\$114.58</b>	<b>\$192,109</b>

ATTACHMENT C – Airport Station Park & Ride Two-Bus Turnout

# Change Order 0095

Contract No.: CV-DB-11-001  
Contract Title:IOS-1 & 1A



**Issued to:** Sonoma-Marín Area Rail Transit  
5401 Old Redwood Hwy  
Petaluma, California, 94951

Change Notice Reference:  
121

CO Title: Sonoma County Airport Bus Pullout

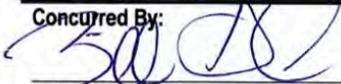
The Contract Price due to this CO will change by: \$137,066.06  
The Contract Performance Time due to the CO will change by: 0 calendar days

EXCEPT AS MODIFIED BY THIS CHANGE ORDER, ALL TERMS AND CONDITIONS OF THE CONTRACT, AS PREVIOUSLY MODIFIED, REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. THE PARTIES AGREE THAT THIS CHANGE ORDER IS A FINAL AND EQUITABLE ADJUSTMENT OF THE CONTRACT TIME AND CONTRACT AMOUNT AND CONSTITUTES A MUTUAL ACCORD AND SATISFACTION OF ALL CLAIMS, CURRENT OR FUTURE, OF WHATEVER NATURE CAUSED BY OR ARISING OUT OF THE FACTS AND CIRCUMSTANCES SURROUNDING THIS CHANGE ORDER INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT AND CONSEQUENTIAL COSTS; ADDITIONAL TIME FOR PERFORMANCE; AND THE IMPACT OF THE CHANGE SPECIFIED IN THIS CHANGE ORDER, ALONE OR TAKEN WITH OTHER CHANGES, ON THE UNCHANGED WORK.

Description of change:

**Construct Bus Pullout with Bus Shelter at Airport Parking Lot**

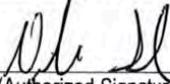
1. Construct bus pullout and shelter per Exhibit
  - Sidewalk and bus shelter pad grades to be ADA compliant, and to conform to new ADA parking area
  - Shelter and shelter wiring by others
2. 1,500sf concrete bus pullout with 30ft tapers and 90ft landing
  - Begins at edge of existing Airport paving

Concurred By:   
Chief Engineer Date: 7/29/17

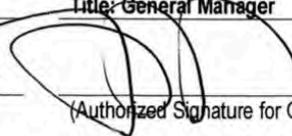
Bill Gamlen  
(Print Name)

The undersigned agrees to the terms and conditions described herein.

**Contractor Acceptance** **Sonoma-Marín Area Rail Transit**

Title: Project Representative  
  
(Authorized Signature for Contractor) Date: 7/25/17

Nick Slama  
(Print Name)

Title: General Manager  
  
(Authorized Signature for Owner) Date: 7/26/17

Farhad Mansourian  
(Print Name)

# Change Order 0095

Contract No.: CV-DB-11-001  
 Contract Title: IOS-1 & 1A



- Requires 6 inch high curb
- 6in PCC on 6in Class 2 AB
- 3. 150lf Caltrans type A2 curb and gutter
- 4. 110lf concrete sidewalk, 5ft width minimum
  - 4in PCC on 4in Class 2 AB
- 5. 6ft x 10ft bus shelter concrete pad
  - 4in PCC on 4in Class 2 AB
  - Electrical to stub up 1ft from each side on back corner (southeast) to align with shelter frame
- 6. 4 each 4ft bollards at 4ft centers at back (south) side of bus shelter
- 7. 12in x 12in H20 rated drainage drop inlet
  - Connect to new drop inlet near new entrance
- 8. 20ft 4in drainpipe
- 9. Modify fence location per Exhibit
- 10. +/-470ft of 3/4" electrical conduit from bus shelter pad to electrical panel on back side of station platform
- 11. +/-470ft of #8THWN wire x3 (hot, neutral, ground)
  - SMART to connect at electrical panel end circuit
  - SCT to connect at bus stop end of circuit

Compensation for this Change Order will be made by adding the following Pay Item(s):

Pay Item No.	Funding Source	Description	Unit	Qty.	Unit Price	Item Total
CO0095-01	S1013PC	Airport Station Bus Pullout	LS	1.00	\$115,165.17	\$115,165.17
CO0095-02	S1002KC	AC Sidewalk North of Airport Blvd	LS	1.00	\$21,900.89	\$21,900.89

Initials:	Resident Engineer	Contractor
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**Debora Fudge, Chair**  
Sonoma County Mayors' and Councilmembers Association

**Judy Arnold, Vice Chair**  
Marin County Board of Supervisors

**Damon Connolly**  
Marin County Board of Supervisors

**Jim Eddie**  
Golden Gate Bridge,  
Highway/Transportation District

**Dan Hillmer**  
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**Eric Lucan**  
Transportation Authority of Marin

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**David Rabbitt**  
Sonoma County Board of Supervisors

**Carol Russell**  
Sonoma County Mayors' and Councilmembers Association

**Shirlee Zane**  
Sonoma County Board of Supervisors

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

July 18, 2018

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

**SUBJECT:** Approve Change Order No. NOV-001 to Contract No. CV-DB-16-001 with Stacy and Witbeck/Herzog JV and amend the Fiscal Year 2018-19 budget in an amount of \$5,200,000 to complete the Downtown Novato Station.

Dear Board Members:

**RECOMMENDATIONS:**

- 1) Adopt Resolution Number 2018-17 to authorize the General Manager to execute Change Order NOV-001 to Contract No. CV-DB-16-001 for \$4,649,758 and a time extension of sixty (60) calendar days to the Larkspur Extension Project to complete the Downtown Novato Station.
- 2) Adopt Resolution Number 2018-18 to amend the Fiscal Year 2018-19 budget to add \$5,200,000 in expenditure authority and corresponding revenue.
- 3) Authorize the General Manager to execute a Funding Agreement with the City of Noavto to include this additional work to complete the downtown Novato Station. The City is funding all of the work.

**SUMMARY:**

On April 6, 2016 your Board approved a third station in Novato at Grant Street at the request of the City (Resolution No. 2016-07). Because this station was a third for the City and SMART had already constructed two, the City committed to pay for all of the construction costs. SMART agreed to own, operate and maintain the third station. At that time, the City had only secured enough funding to build the concrete platform, install some of the underground electrical conduits and modify the trackwork – essentially, complete work that would be much more difficult to complete once SMART was in revenue service. This first phase of work cost \$2.4 million.

The City has identified funding for the remaining work to complete the Downtown Station and is requesting that SMART construct the remaining improvements consisting of installing two platform shelters, platform amenities, railings, lighting and modifying the train control system to control the gauntlet tracks that shift the train to the platform. The shift is necessary to provide state mandated clearance for freight trains. The cost of the remaining work is estimated to cost \$5.2 million which includes contingency and support costs.

The City has committed to pay for all of the costs associated to complete the remaining station work. The attached letter from Novato City Manager indicates that the City has developed a funding plan for the work with the assistance of the Metropolitan Transportation Commission (MTC) and the Transportation Authority of Marin (TAM) which is included with this staff report for reference and was approved by the Novato City Council at their July 10<sup>th</sup> meeting.

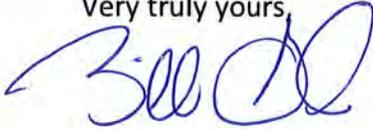
We have determined that it is most efficient to utilize the Larkspur Extension design-build contract (Contract No. CV-DB-16-001) to complete the work, primarily because the train control subcontractor is the same firm that designed, installed and commissioned the train control system on the Initial Operating Segment. Thus, they are best positioned to modify the train control system to integrate the station gauntlet control system for the Downtown Station. In addition, the station finishes for the Larkspur station are the same for the Downtown Station. Thus, staff has negotiated a change order for \$4,649,758 for the remaining construction work to complete the Downtown Station. The Federal Transit Administration (FTA), one of our funding partners, has approved this major addition to the Larkspur Extension design-build contract.

We therefore recommend that your Board adopt Resolution Number 2018-17 authorizing the General Manager to execute Change Order NOV-001 to Contract No. CV-DB-16-001 for the Larkspur Extension Project to complete the Downtown Novato Station. The Change Order is for an amount of \$4,649,758 and extends the term of the contract by sixty (60) calendar days; and Resolution Number 2018-18 Amending the Fiscal Year 2018-19 budget to add both revenue and expense of \$5,200,000; and that you authorize the General Manager to execute a Funding Agreement with the City of Novato for the remaining work to complete the Downtown Novato Station.

**FISCAL IMPACT:** This action will provide additional appropriation authority for the Fiscal Year 2018-19 budget of \$5,200,000 which is fully funded by the City of Novato.

REVIEWED BY: [ x ] Finance  [ x ] Counsel 

Very truly yours,



Bill Gamlen, P.E.  
Chief Engineer

Attachment(s):

- 1) Resolution No. 2018-17
- 2) Resolution No. 2018-18
- 3) Letter from City of Novato, dated July 6, 2018
- 4) Novato Funding Plan
- 5) Change Order NOV-001
- 6) April 6, 2016 Staff Report on Phase 1 Downtown Station

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT APPROVING A CHANGE ORDER TO CONTRACT NO. CV-DB-16-001 RELATED TO DOWNTOWN NOVATO STATION CONSTRUCTION**

---

**WHEREAS**, the District entered into Contract No. CV-DB-16-001 with Stacy and Witbeck/Herzog, JV for the Larkspur Extension; and

**WHEREAS**, the City of Novato requested a third station at Grant Street in Downtown Novato in 2016; and

**WHEREAS**, the District approved the Downtown Station with the caveat that the City of Novato pay for all of the costs associated with the construction of the station (Resolution No. 2016-07); and

**WHEREAS**, due to funding limitations, a portion of the downtown station was constructed in 2016 consisting of the concrete platform, ramp and track modifications; and

**WHEREAS**, the City of Novato has secured funding to complete the construction of the downtown station and is requesting that SMART complete the work; and

**WHEREAS**, Contract Change Order No. NOV-001 provides for the design and construction of the of remaining work to complete the Novato Downtown Station, including the installation of a shelter and station amenities, modifying gauntlet trackwork, modifications to the train control system, crossing improvements at Grant Avenue, and power service; and

**WHEREAS**, District and City of Novato entered into a funding agreement to compensate the District for design and construction associated with the additional station; and

**WHEREAS**, Contract No. CV-DB-16-001 was approved through a competitive solicitation and procurement process and the work included in this Change Order is consistent with the scope of work previously awarded; and

**WHEREAS**, the Federal Transit Administration (FTA), a funding partner for the Larkspur Extension Project allows concurrent non-project activities to be included in a federally funded project as long as the activities are funded and treated separately from the federally funded project; and

**WHEREAS**, this Change Order meets the specifications and requirements of Contract No. CV-DB-16-001; and

**WHEREAS**, Contractor and SMART staff negotiated a final cost of \$4,649,758 and a time extension of 60 calendar days for this Change Order; and

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. That the foregoing recitals are true and correct.
2. That Change Order No. NOV-001, a copy of which is attached hereto and incorporated herein as Exhibit "A", is hereby approved.

**PASSED AND ADOPTED** at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18th day of July, 2018, by the following vote:

**DIRECTORS:**

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTEST:

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

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, AMENDING RESOLUTION NO. 2018-12 TO REVISE THE ANNUAL BUDGET FOR FISCAL YEAR 2018-19 TO PROVIDE FOR INCREASED EXPENDITURE AUTHORITY**

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**WHEREAS**, as part of its approval of the Annual Budget for Fiscal Year 2018-19, the Board duly considered the annual expenditures necessary for the Sonoma-Marín Area Rail Transit District; and

**WHEREAS**, on June 6, 2018, the Board adopted Resolution No. 2018-12 approving the Annual Budget for Fiscal Year 2018-19; and

**WHEREAS**, Resolution No. 2018-12 considered the appropriation of funds for Operating expenses as part of the Annual Budget; and

**WHEREAS**, the Board desires to amend the Annual Budget to provide increased appropriation authority for capital project expenditures.

**NOW, THEREFORE, BE IT RESOLVED** that the Fiscal Year 2018-19 budget for the Sonoma-Marín Area Rail Transit District attached as Exhibit A to Resolution No. 2018-12 is hereby amended to increase expenditure authority by adding the following amounts:

**CAPITAL EXPENDITURES:**

Other Charges and Payments	\$5,200,000
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**CAPITAL REVENUES:**

Intergovernmental Revenue	\$5,200,000
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**BE IT FURTHER RESOLVED** except as specifically amended or supplemented by this Resolution, Resolution No. 2018-12, together with all supplements, amendments and exhibits thereto is, and shall continue to be, in full force and effect as originally adopted, and nothing contained herein shall, or shall be construed to, modify, invalidate, or otherwise affect any provision of Resolution No. 2018-12.

**PASSED AND ADOPTED** at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 18<sup>th</sup> day of July 2018, by the following vote:

**DIRECTORS:**

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

ATTEST:

---

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



THE CITY OF  
**NOVATO**  
CALIFORNIA

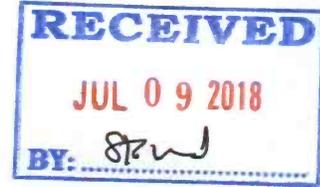
922 Machin Avenue  
Novato, CA 94945  
415/899-8900  
FAX 415/899-8213  
[www.novato.org](http://www.novato.org)

Mayor  
Josh Fryday  
Mayor Pro Tem  
Pam Drew  
Councilmembers  
Denise Athas  
Pat Eklund  
Eric Lucan

City Manager  
Regan M. Candelario

July 6, 2018

Farhad Mansourian, General Manager  
Sonoma-Marín Area Rail Transit District (SMART)  
5401 Old Redwood Hwy., Suite 200  
Petaluma, CA 94954



**RE: Notice to Proceed, Novato Downtown SMART Station Phase II**

Dear Farhad,

Thank you for attending and supporting our Novato efforts at the MTC meeting on June 19th. Please accept this letter as formal *Notice to Proceed* for your staff and contractors to finalize the change order needed to design and construct the Novato Downtown SMART Station Phase II project. As we know, SMART's design and construction team has established the total cost for the Phase II improvements at \$5.2M. This letter will serve as confirmation that the City of Novato will fund all of the remaining Phase II work. The City will also coordinate with you and your staff regarding any needed funding agreement amendments, which will include the following terms:

- SMART to design and construct Phase II improvements
- SMART to own, operate and maintain the station
- City of Novato to fund the work

We are looking forward to a great 2018 and continued partnerships between the City of Novato and SMART. Your willingness to work with Novato as well as TAM and MTC to ensure that all of the funding needed is addressed is very much appreciated.

The City looks forward to the completion of the Downtown Station and is optimistic that you and the SMART team will be able to get the station open and operational in 2019. Of course, the City of Novato will be ready and available to assist and provide support at every turn.

Sincerely,

Regan M. Candelario  
City Manager, City of Novato

Cc Public Works Director, Russ Thompson  
SMART Chief Engineer, Bill Gamlen

**Novato Downtown SMART Station Funding -- DRAFT -- For Discussion Only**

	<b>Amount</b>	<b>Funder</b>	<b>Fund Source</b>
<b>Phase 1 Rails and Platform</b>	<b>\$ 2,400,000</b>	City of Novato	20-year loan from Hamilton trust

<b>Phase 2 Signaling, electrical system, &amp; amenities for functional station</b>	<b>\$ 5,200,000</b>		
	\$ 1,448,000	MTC/TAM	OBAG 2 County Program
Committed Funding	\$ 1,490,900	City of Novato	Gas tax [local match for OBAG 2]/Equip. Replacement Fund/Long Term Maint. Fund
	\$ 161,100	City of Novato/TAM	TAM Measure A/TAM Measure B/Novato Long Term Maintenance (fund swap related)
<i>Subtotal Funded</i>	\$ 3,100,000		
Additional Need --	\$ 617,000	MTC	STP/CMAQ (exchange needed), or RM3 North Bay Transit Access (project 26)
Funding Possibilities	\$ 500,000	MTC	TPI shifted from Phase 3, exchange needed
	\$ 483,000	TAM	LPP County share
	\$ 500,000	Novato	City general fund
<i>Remaining Need</i>	\$ -		

<b>Phase 3 Parking lot improvements</b>	<b>\$ 610,000</b>		
	\$ 500,000	Local/future other	Replace TPI Investment funding shifted to Phase 2
	\$ 110,000	Local match	TBD

# Change Order NOV-001

Contract No.: CV-DB-16-001

Contract Title: Larkspur Extension Project



Issued to: Stacy and Witbeck/Herzog, A Joint Venture  
2800 Harbor Bay Parkway  
Alameda, California 94502  
Phone: (510) 393-2520

Change Notice Reference:  
003

CO Title: Novato Downtown Station Phase 2 Work

Funding Source: City of Novato

The Contract Price due to this CO will change by: **\$4,649,758**  
The Contract Performance Time due to the CO will be change by: 60 calendar days

EXCEPT AS MODIFIED BY THIS CHANGE ORDER, ALL TERMS AND CONDITIONS OF THE CONTRACT, AS PREVIOUSLY MODIFIED, REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. THE PARTIES AGREE THAT THIS CHANGE ORDER IS A FINAL AND EQUITABLE ADJUSTMENT OF THE CONTRACT TIME AND CONTRACT AMOUNT AND CONSTITUTES A MUTUAL ACCORD AND SATISFACTION OF ALL CLAIMS, CURRENT OR FUTURE, OF WHATEVER NATURE CAUSED BY OR ARISING OUT OF THE FACTS AND CIRCUMSTANCES SURROUNDING THIS CHANGE ORDER INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT AND CONSEQUENTIAL COSTS; ADDITIONAL TIME FOR PERFORMANCE; AND THE IMPACT OF THE CHANGE SPECIFIED IN THIS CHANGE ORDER, ALONE OR TAKEN WITH OTHER CHANGES, ON THE UNCHANGED WORK.

### Description of change:

This change orders directs the contractor to complete the Novato Downtown Station. This work includes purchasing and installing platform amenities and systems & signaling train control modifications as detailed and referenced in CN 003 and the contractor’s final cost proposal.

Concurred By:		Concurred By:	
Project Engineer	Date	District Chief Engineer	Date
Ahmed Thleiji		Bill Gamlen	

The undersigned agrees to the terms and conditions described herein.

Contractor Acceptance		Sonoma-Marín Area Rail Transit	
Title: Project Representative		Title: General Manager	
(Authorized Signature for Contractor)	Date	(Authorized Signature for Owner)	Date
Dan Elshire		Farhad Mansourian	

# Change Order NOV-001

Contract No.: CV-DB-16-001

Contract Title: Larkspur Extension Project



The contractor shall furnish and install the platform amenities including, but not limited to: two (2) shelters, one information Kiosk, railings, platform lighting (including street access lighting), benches, trash receptacles, and provisions for fare collection equipment.

The preparations for the fare collection equipment shall include the installation of three (3) Card Reader poles (poles to be provided by SMART), and preparations for one (1) Card Vending Machine (CVM), power provisions, communications systems, and the integration with existing SMART communication system. The Card Readers and CVM will be furnished by others.

The contractor shall also make the necessary modifications to the train control system to integrate the control of the gauntlet tracks to shift passenger trains from the mainline track to the station track. This work includes, but it is not limited to: furnishing and installing a Central Instruments Location (CIL) bungalow, platform Communications Cabinet, Pedestrian swing gates, (2) Gauntlet Turnout Switch machines, all truck circuit connections, and all station networking and communication equipment and cabling. All installations shall include conduits, wiring, pullboxes, testing, and full functionality of the system and signaling equipment.

The contractor shall furnish and install the Novato Station Networking and Communication systems that is integrated into the overall SMART communications system. This work includes, but is not limited to; Network hardware (switches, power supplies, patch cables, etc.); Data Cable installation, termination, and testing for Fare Collection; Rail network hardware for cabinet; Fiber installation; Network hardware at the Rail Operations Center (ROC); Emergency call box and installation; Security cameras and installation. All installations shall include conduits, wiring, pullboxes, testing, and full functionality of the Station Networking and Communication.

Please reference Attachment A and the contractor’s proposal attached.

Compensation for this Change Order will be made by adding the following Pay Item(s):

Pay Item No.	Funding Source	Description	Unit	Qty.	Unit Price	Item Total
NOV 001	1003Q.C	Novato station Phase 2 Work	LS	1	\$4,649,758	\$4,649,758

Initials: _____ <div style="text-align: center; margin-top: 5px;">Project Engineer</div>	_____ <div style="text-align: center; margin-top: 5px;">Contractor</div>	_____ <div style="text-align: center; margin-top: 5px;">Chief Engineer</div>
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**Judy Arnold, Chair**  
Marin County Board of Supervisors

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

**Jim Eddie**  
Golden Gate Bridge,  
Highway/Transportation District

**Debora Fudge**  
Sonoma County Mayors and  
Councilmembers Association

**Eric Lucan**  
Transportation Authority of Marin

**Jake Mackenzie**  
Sonoma Mayors and  
Councilmembers Association

**Stephanie Moulton-Peters**  
Marin Council of Mayors and  
Councilmembers

**Gary Phillips**  
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**Kathrin Sears**  
Marin County Board of Supervisors

**Shirlee Zane**  
Sonoma County Board of  
Supervisors

**Farhad Mansourian**  
General Manager

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

April 6, 2016

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

**SUBJECT:** City of Novato’s request for SMART to take the following actions:

- 1) Designate and construct at the City’s expense a third station in Downtown Novato;
- 2) Approve Phase I construction for a Downtown Novato Station; and
- 3) Execute a funding agreement with the City of Novato to compensate SMART for design and construction expenses associated with the requested Station.

Dear Board Members:

**RECOMMENDATION:**

Adopt Resolution No. 2016-07 which provides for designating additional station in Downtown Novato; approving Phase 1 construction of this station both at City of Novato’s cost and authorizing the General Manager to execute the funding agreement with the City of Novato; and making California Environmental Quality Act (CEQA) findings.

**SUMMARY:**

On March 1, 2016 the City of Novato requested (Attachment 1) to (1) Designate a third station located in Downtown Novato to be constructed at the City of Novato’s expense; (2) Proceed with approval of Phase I construction of the requested Station; and (3) Enter into a funding agreement (Attachment 2) with the City of Novato for payment of SMART’s costs associated with construction of the requested station project.

The City’s request was the culmination of a series of actions including: a feasibility study, a public workshop, and online survey of Novato residents; and finally City Council action appropriating funds and approving a funding agreement for the requested downtown station project.

In October of 2015, the City of Novato funded a feasibility study that evaluated adding a downtown station at Grant Avenue in Novato. We evaluated the operational impacts of a downtown station prepared by LTK Engineering (Attachment 3), developed a conceptual design for the station, and prepared a rough-order-of-magnitude cost estimate to construct the station (Attachment 4).

The conclusion reached by staff's evaluation demonstrated that (1) a Downtown Novato station can be added, (2) a stop would only be able to occur at either the San Marin station or the Downtown station but not both within the existing schedule, (3) the present-day estimate to add a downtown station was approximately \$4.9 million dollars; and (4) phased construction, at a cost of approximately \$2.4 million dollars, could be accomplished to preserve the opportunity to create a completed station in the future when additional City funding was available.

Specifically we developed a conceptual design that located the platform in front of the historic station building just south of Grant Avenue. The design includes a gauntlet track to provide the required clearances for freight service. The design includes the standard SMART station elements – one shelter, lighting, ticket vending machine, information kiosk and stations other amenities. The design does not provide for parking or landscaping. The estimate for all of the work is \$4.9 million. The cost estimate includes a premium for night and weekend construction since construction will have to be done in available “work windows” between train and system testing.

At the request of the City, SMART also developed a two-phased approach to construction. Phase 1 would include construction of all elements that could interfere with revenue operations. These elements would consist of track reconstruction, addition of gauntlet track, station platform and infrastructure to support future construction of a complete station and necessary electrical and systems elements. The estimate for this initial work is \$2.4 million. The City has identified funding to construct this Phase 1. Phase 2 would add the necessary systems elements, electrical elements and station platform amenities as well as compliance with the American with Disability Act (ADA) facilities for access to the station. The cost of the Phase 2 work could cost more than simply the balance of the \$4.9M estimate depending upon when it occurs due to additional costs associated with a new contract, and cost escalation. Upon completion of Phase 2, the station would be fully functional. The City has not yet identified funding for this work.

At its January 26, 2016 meeting, the Novato City Council approved the following actions:

1. Identified appropriate funding for the phased construction of a Downtown Novato station;
2. Approved a funding agreement with SMART (subject to your Board's approval) to pay for the costs of construction and authorized the interim City Manager to execute a funding agreement; and
3. Made CEQA findings.

Our Planning staff has provided a report (Attachment 5) demonstrating that the proposed project is consistent with the project previously described in the 2006 FEIR and 2008 FSEIR and that no substantial changes or new information would change the analysis provided in the referenced environmental documents. This finding of consistency is based on the feasibility study conducted by LTK Engineering and our Chief Engineer, the City of Novato's findings as a Responsible Agency and the supporting evidence contained in Attachment 5.

On February 9, 2016, the City of Novato outlined their review of the project's associated impacts and mitigation measures, finding that the existing impacts and mitigation measures are substantially the same as those previously analyzed in SMART's environmental documents.

With the approval of your Board, Phase 1 construction of the Downtown Novato Station consisting of track construction, gauntlet track work grade, gauntlet switches, crossing improvements at Grant Avenue, and power service would begin as quickly as possible at City of Novato's expense. Those Phase 1 improvements would significantly enhance the opportunity to complete the station when additional City funding becomes available.

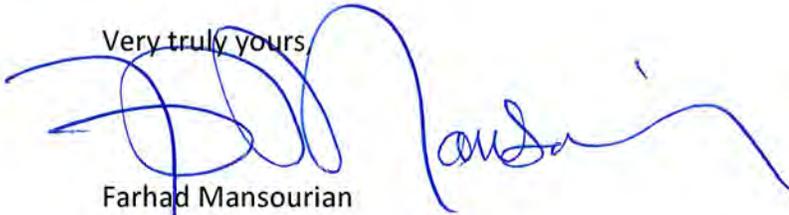
Adoption of the attached resolution would approve the request of the City of Novato to designate and construct Phase 1 for a Downtown Novato station at Novato's expense.

Although not originally selected by the City as one of the two locations for a SMART station in Novato, there has always been interest in the downtown site. For SMART and its future riders, a downtown station in Novato would mean greater access to the train for a number of people. Over a quarter of the of the city's population lives within a one-mile distance from the proposed new station. Additionally, almost 30% of the city's jobs were located within that same mile. Additionally, the downtown station site provides a pedestrian-friendly connection to shopping on Grant Avenue, community events, or business at the Novato Civic Center. Finally, transit connectivity would be improved as the Redwood and Grant Bus transit facility is only a third of a mile away and will connect SMART riders to other destinations in Novato. The fully funded renovation of the Downtown Bus Facility has been approved by the City of Novato and Marin County Transit District and is currently in final design. An additional station in Novato, paid for by the City creates additional investment in SMART's system overall by adding potential riders. Thus, Novato Downtown station is proposal that is worthy of your Board's consideration.

**FISCAL IMPACT:**

The Cost of Design and Construction and all other related expenses for the proposed 3<sup>rd</sup> station are to be paid by City of Novato. However, once the station is completed and fully operational SMART will own and maintain at its expense this new station. Our maintenance staff believes that adding one more station to our facilities does not require purchase of additional equipment or hiring additional staff but of course it will have annual estimated maintenance cost of \$32,245 per year which \$15,385 is maintenance for Clipper® ticket vending machine. If approved, we will bring a budget amendment to your Board's next meeting for approval.

Very truly yours,



Farhad Mansourian  
General Manager

cc: Cathy Capriola – Novato City Manager  
Russ Thompson – Novato Public works Director

Attachments:

- 1) Letter from the City of Novato
- 2) Funding Agreement
- 3) Operational Analysis by LTK Engineers
- 4) Conceptual Design and Cost Estimates
- 5) CEQA analysis
- 6) Resolution No. 2016-07 Adopting a Downtown Novato Station



**Debora Fudge, Chair**  
Sonoma County Mayors' and  
Councilmembers Association

**Judy Arnold, Vice Chair**  
Marin County Board of Supervisors

**Damon Connolly**  
Marin County Board of Supervisors

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**Eric Lucan**  
Transportation Authority of Marin

**Jake Mackenzie**  
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**Barbara Pahre**  
Golden Gate Bridge,  
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Sonoma County Board of Supervisors

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**Shirlee Zane**  
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**Farhad Mansourian**  
General Manager

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Phone: 707-794-3330  
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www.sonomamarintrain.org

July 18, 2018

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

**SUBJECT:** Authorization to enter into a First Amendment to SMART'S Lease with Cornerstone Properties SA, LLC for the Administrative Office Space in Petaluma.

Dear Board Members:

**RECOMMENDATIONS:**

Authorize the General Manager to execute a First Amendment to our Lease Agreement with Cornerstone Properties, SA, LLC, the owner of the building housing SMART's administrative functions in Petaluma.

**SUMMARY:**

In September 2012, SMART entered into a 6-year lease for 28,112 square feet of office space for the administrative functions of the District and providing office space for the consultants and contractor.

Construction of our other rail facilities have allowed us to grow and locate many of the employees to the Rail Operations Center, the Signals and Way Facility, and our Roblar Road Facility. In order to save money, we have evaluated the current and future staffing needs for the administrative functions and negotiated with the landlord to consolidate all of SMART's office space to the south portion of the building. Attached is the proposed new lease area of 17,342 square feet. The Board room is not affected and the use will remain as is.

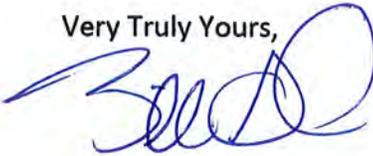
The amendment is for an additional 4 years, with no increase the first year and a 2.5% increase each additional year, with the tenant improvements and move costs to be at SMART's expense. We are working to secure a move date and start of the new lease terms in the next 60 days.

The office consolidation will result in a savings of over \$1,170,000 the next 4 years of this amendment. We are working to finalize consolidation and move costs, which are anticipated to be approximately \$150,000. At this time we anticipate using available funds from rent savings to pay most of that cost.

**FISCAL IMPACT:** The Fiscal Year 2018-19 budget includes funding for the lease at the current space allocation. Savings from the lease in the current year will be reallocated for consolidation/moving costs.

**REVIEWED BY:** [ x ] Finance  [ x ] Counsel 

Very Truly Yours,



Bill Gamlen, P.E.  
Chief Engineer

Attachment(s): First Amendment to Lease – Sonoma-Marin Area Rail Transit District and Cornerstone Properties SA, LLC, a California Limited Liability Company

## FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("First Amendment"), made on \_\_\_\_\_ ("Effective Date"), is by and between CORNERSTONE PROPERTIES SA, LLC, a California limited liability company ("Landlord"), and SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, a public agency duly formed and lawfully operating under the laws of the State of California ("Tenant"). All capitalized terms used herein shall, unless otherwise defined, have the meaning ascribed to those terms in the Lease (as defined below). Landlord and Tenant are sometimes referred to herein individually as a "party" and collectively as the "parties".

### RECITALS

WHEREAS, Landlord and Tenant entered into that certain Office Lease, dated July 25, 2012 ("Lease"), for premises consisting of twenty-eight thousand one hundred twelve (28,112) square feet of rentable area ("Original Premises"), located at 5401 Old Redwood Highway, Second Floor, Petaluma, California ("Building"), as more particularly described in said Lease; and

WHEREAS, Landlord and Tenant desire to amend the Lease in order to: (i) extend the Lease Term for a period of four (4) years; (ii) reduce the size of the Premises from 28,112 square feet to 17,342 square feet; (iii) provide for certain work of improvement to be performed by Landlord at Tenant's sole cost, not to exceed One Hundred Thirty-Two Thousand and No/100 Dollars (\$132,000.00); (iv) specify that the Base Rent shall be \$1.97 per square foot per month with no increases for the first year of the extended term with a 2.5% increase per year for the three (3) years following thereafter; (v) provide for one, 5-year renewal option; (vi) delete Tenant's Right of First Offer and Purchase Option; (vii) confirm that tenant will be given priority to use the large conference room on the first floor for any and all official SMART Board meetings; and (viii) modify certain other terms and provisions thereof, all as more particularly described below.

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

### AGREEMENT

1. Effective as of the Effective Date of this First Amendment, the Basic Lease Provisions of the Lease are modified as follows:

A. Section 1.2 of the Lease is hereby deleted in its entirety and replaced with the following section:

"1.2 Address of Landlord: Cornerstone Properties SA, LLC  
1435 N. McDowell Boulevard, Suite 110  
Petaluma, California 94954"

B. Section 1.3 of the Lease is hereby deleted in its entirety and replaced with the following section:

"1.3 Landlord Phone Number: 707-526-4799"

C. Section 1.4 of the Lease is hereby deleted in its entirety.

D. Section 1.5 of the Lease is hereby deleted in its entirety and replaced with the following section:

"1.5 Landlord Contact: Jennifer McKinzy, Asset Manager  
[jennifer@cornerstone-prop.com](mailto:jennifer@cornerstone-prop.com)"

E. Section 1.8 of the Lease is hereby deleted in its entirety and replaced with the following section:

"1.8 Tenant Phone No.: 707-794-3330"

F. Section 1.9 of the Lease is hereby deleted in its entirety.

G. Section 1.15 of the Lease is hereby deleted in its entirety and replaced with the following section:

"1.15 Rentable Area of Premises (See Article 3):

From September 1, 2012, until the Reduced Premises Effective Date (as defined below): **28,112 sq. ft.** as shown on Exhibit B ("Initial Premises").

From the Reduced Premises Effective Date (as defined below) through Lease Expiration Date: **17,342 sq. ft.** as shown on Exhibit B (as amended by that certain First Amendment to Lease executed by the parties)("Reduced Premises").

As used in this Lease, the term "Initial Premises" shall mean the 28,112-sq. ft. Premises and the term "Reduced Premises" shall mean the 17,342-sq. ft. Premises, both as described above in this Section 1.15. From the Commencement Date until the date which is one (1) day prior to the Reduced Premises Effective Date (as defined below), all references in this Lease to the Premises shall mean the Initial Premises. Effective as of the Reduced Premises Effective Date (as defined below), all references in this Lease to the Premises shall mean the Reduced Premises.

As used in this Lease, the term "Reduced Premises Effective Date" shall mean the date upon which Landlord has substantially completed the Reduction Improvements (as defined below).

As used in this Lease, the term "Reduction Improvements" shall mean the work of improvement described in Section 1.36."

H. Section 1.17 is hereby deleted in its entirety and replaced with the following section:

“1.17 Lease Expiration Date: August 31, 2022 (see Article 4)”

I. Section 1.18 is hereby deleted in its entirety and replaced with the following section:

“1.18 Lease Term: Ten (10) years (see Article 4)”

J. Section 1.20 is hereby deleted in its entirety and replaced with the following section:

“1.20 Rent Schedule (See Article 5):

Lease Year	Date (From-To)	Rentable Area In Sq. Ft.	Price Per Sq. Ft. Per Mo.	Monthly Rent
1	Sept. 1, 2012-Dec. 31, 2012	28,112	\$ -	\$ -
1	Jan. 1, 2013-Aug. 31, 2013	28,112	\$ 1.70	\$47,790.40
2	Sept. 1, 2013-Aug. 31, 2014	28,112	\$ 1.75	\$49,196.00
3	Sept. 1, 2014-Aug. 31, 2015	28,112	\$ 1.80	\$50,601.60
4	Sept. 1, 2015-Aug. 31, 2016	28,112	\$ 1.86	\$52,288.32
5	Sept. 1, 2016-Aug. 31, 2017	28,112	\$ 1.91	\$53,693.92
6	Sept. 1, 2017-Aug. 31, 2018	28,112	\$ 1.97	\$55,380.64
7	Sept. 1, 2018-Aug. 31, 2019	17,342	\$ 1.97	\$34,163.74
8	Sept. 1, 2019-Aug. 31, 2020	17,342	\$ 2.02	\$35,017.83
9	Sept. 1, 2020-Aug. 31, 2021	17,342	\$ 2.07	\$35,893.28
10	Sept. 1, 2021-Aug. 31, 2022	17,342	\$ 2.12	\$36,790.61

K. Section 1.26 of the Lease is hereby deleted in its entirety and replaced with the following section:

“1.26 Tenant’s Proportionate Share of Operating Expenses: 30.90%”

L. Section 1.31 of the Lease is hereby deleted in its entirety and replaced with the following section:

“1.31 Renewal Option: Landlord shall grant Tenant one (1) option to extend the Lease (see Article 4 and Rider Nos. 1&2)”

M. Section 4.2 of the Lease is hereby deleted in its entirety and replaced with the following section:

“4.2 Option to Extend: Tenant shall have one (1) options (the “Extension Option”) to extend the Term of this Lease for an additional period of five

(5) years in accordance with the terms of Rider No.1 and Rider No. 2 attached hereto and expressly made a part of this Lease.”

N. Section 1 of Rider No. 1 to Lease is hereby amended and interpreted such that Tenant has one (1) remaining option to extend the Term of this Lease for an additional period of five (5) years.

M. Section 1.32 Right of First Offer of the Lease is hereby deleted in its entirety.

N. Section 1.33 Purchase Option of the Lease is hereby deleted in its entirety.

O. Section 1.35 (Additional Bldg/Suite Occupied by Tenant) of the Lease is hereby deleted in its entirety and replaced with the following section”

“1.35 Additional Bldg/Suite Occupied by Tenant: Tenant will be given priority to use the large conference room on the first floor for any and all official meetings at no charge, consistent with prior use.”

P. Exhibit H attached to this First Amendment is hereby deemed attached to the Lease as Exhibit H.

Q. The following is hereby added to the Lease as Section 1.36:

“Reduction Improvements: Landlord shall provide, construct and install certain tenant improvement in and about the Premises, as described in Exhibit H attached to this Lease and made a part hereof. Tenant shall reimburse Landlord, within thirty (30) days of invoice therefor, for the actual cost of such Reduction Improvements in an amount not to exceed One Hundred Thirty-Two Thousand and No/100 Dollars (\$132,000.00).”

R. Section 2.1 of the Lease is hereby modified as follows:

Exhibit F attached to the Lease is hereby deleted in its entirety.  
Exhibit G attached to the Lease is hereby deleted in its entirety.

2. Effective as of the Reduced Premises Effective Date, the Lease is modified as follows:

A. Exhibit B attached to the Lease is hereby deleted in its entirety and replaced with Exhibit B attached to this First Amendment.

B. Section 1.30 of the Lease is hereby deleted in its entirety and replaced with the following section:

“1.30 Parking: Landlord, at no cost to Tenant, shall provide Tenant with unreserved parking at a ratio of 4 spaces per 1,000 rentable sq. ft. of Premises, or sixty-nine (69) spaces, whichever is greater. (See Article 3)”

C. Section 3.5 of the Lease is modified to reflect the parking ratios and quantities reflected in Section 1.30 as amended.

3. Neither party has had any contact or dealings regarding this First Amendment or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cause of this Lease. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contract, dealing or communication, the party through whom the broker or finder makes his or her claim shall be responsible for said commission or fee and all costs and expenses (including reasonable attorneys' fees) incurred by the other party in defending against the same.

4. Except to the extent the Lease is specifically amended or supplemented hereby, the Lease, together with Amendments, exhibits and addenda is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be constructed to modify, invalidate or otherwise affect any provision of the Lease or any right of Landlord arising thereunder.

5. This First Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this First Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

LANDLORD AND TENANT HAVE CAREFULLY READ AND REVIEWED THIS FIRST AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS FIRST AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

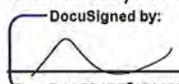
IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the Effective Date.

TENANT: SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, a public agency duly formed and lawfully operating under the laws of the State of California

By: \_\_\_\_\_  
Farhad Mansourian, General Manager

[Affix Seal or SMART Board Resolution]

LANDLORD: CORNERSTONE PROPERTIES SA, LLC, a California limited liability company

By:  \_\_\_\_\_  
Steve Kaufman, Member



## Exhibit H

### Reduction Improvements

1. As soon as practicable after the Effective Date of that certain First Amendment to Lease executed between Landlord and Tenant, Landlord shall provide, construct and install the tenant improvements described below ("Landlord's Work"):

- a. Demolish/construct walls in order to realize the configuration shown on the plan attached hereto as Attachment H-1;
- b. Re-paint the Premises with building standard paint in colors (up to three) to be mutually approved by Landlord and Tenant; Tenant shall be responsible for any personal property relocation needed to effect said re-painting;
- c. Reconfigure HVAC system as necessary to properly zone the Reduced Premises;
- d. Repair ceiling tiles as needed to achieve uniform appearance; and
- e. Replace fluorescent light bulbs to achieve uniform appearance.
- f. Reconfigure Tenant's Herman Miller modular systems furniture ("MSF") pursuant to a professionally prepared furniture plan ("MSF Plan") to be provided by Tenant to Landlord no later than August 1, 2018, provided, however, that:
  - a. Tenant shall be responsible, at Tenant's cost, to purchase any and all additional MSF parts necessary to realize the configuration shown on the MSF Plan (including any MSF parts or accessories desired by Tenant which are not needed to realize the MSF Plan);
  - b. In the event Landlord's actual cost to reconfigure the MSF pursuant to the MSF Plan exceeds Seven Thousand Five Hundred and No/100 Dollars (\$7,500.00)("MSF Allowance"), then Tenant shall reimburse Landlord the excess within thirty (30) days of invoice therefor;
  - c. Changes to the MSF Plan after delivery to Landlord which result in additional cost shall be billed to Tenant as change orders, which Tenant shall pay to Landlord within thirty (30) days of invoice;
  - d. Low voltage wiring, computer wiring, office equipment wiring and similar costs are not included;
  - e. Core drilling, power poles and changes to existing electrical service shall be billed to Tenant as change orders which Tenant shall pay to Landlord within thirty (30) days of invoice.

2. Landlord and Tenant acknowledge and agree that Landlord may not obtain a building permit for Landlord's Work.

3. All other improvements shall be deemed Tenant's Work and shall be the responsibility of Tenant, at Tenant's sole cost. Landlord shall not be responsible for the following:

- a. Reconfiguration, relocation or new low voltage wiring or other improvements;
- b. Reconfiguration or relocation of any of Tenant's information technology equipment;
- c. Reconfiguration or relocation of any of Tenant's communications equipment;
- d. Furniture, fixtures and equipment relocation (other than MSF relocation as described above);
- e. Any improvements or modifications that are not described in Section 1 of this Exhibit H.

4. The provisions of Exhibit D of the Lease shall not apply to the Reduction Improvements or Landlord's Work.

### Attachment H-1

### Reduction Improvements Plan



SECOND FLOOR PLAN - 5401 OLD REDWOOD HIGHWAY, PETALUMA



**Debora Fudge, Chair**  
 Sonoma County Mayors' and  
 Councilmembers Association

**Judy Arnold, Vice Chair**  
 Marin County Board of Supervisors

**Damon Connolly**  
 Marin County Board of Supervisors

**Jim Eddie**  
 Golden Gate Bridge,  
 Highway/Transportation District

**Dan Hillmer**  
 Marin County Council of Mayors and  
 Councilmembers

**Eric Lucan**  
 Transportation Authority of Marin

**Jake Mackenzie**  
 Sonoma County Mayors' and  
 Councilmembers Association

**Barbara Pahre**  
 Golden Gate Bridge,  
 Highway/Transportation District

**Gary Phillips**  
 Transportation Authority of Marin

**David Rabbitt**  
 Sonoma County Board of Supervisors

**Carol Russell**  
 Sonoma County Mayors' and  
 Councilmembers Association

**Shirlee Zane**  
 Sonoma County Board of Supervisors

**Farhad Mansourian**  
 General Manager

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

July 18, 2018

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

**SUBJECT:** Update on Senate Bill 1029 North Coast Rail Authority (NCRA) Right-of-Way: Great Redwood Trail Agency: Sonoma-Marín Area Rail Transit

Dear Board Members:

**RECOMMENDATION:**

Continue working with the State Legislators and the Governor's Office in supporting SB-1029 and ensure SMART's financial interests are protected in the final language of the Bill.

**SUMMARY:**

At your Board meeting on May 16, 2018, your Board voted to support SB-1029. Since that date, the California Senate approved this bill by a vote of 36-0. The proposed Bill is now going through the legislative process in the California Assembly. So far, the State Assembly has had its first time reading of the Bill and on a vote of 10-0 its Transportation Committee approved the Bill. Thereafter it was referred to its Appropriation Committee. We have been working with Senator McGuire's staff to ensure that SMART's financial interests are protected in the legislation and that we do not inherit any liability or contractual duties or obligation as a result of the transfer of property and assets from NCRA and North Western Pacific Railroad Company to us. Attached is the latest version of the Bill, dated June 20, 2018 along with edits and amendments we have requested.

**FISCAL IMPACT:** As the Bill continues to move through the legislative process, we will continue to monitor and coordinate with Senator McGuire to ensure appropriate funding is allocated to SMART and that all liability and obligations are settled prior to the transfer of the properties and assets.

Yours Truly,

Farhad Mansourian  
 General Manager

Attachment(s)



**SB-1029 North Coast Railroad Authority: right-of-way: Great Redwood Trail Agency: Sonoma-Marín Area Rail Transit District. (2017-2018)**

SHARE THIS:  

Date Published: 06/20/2018 09:00 PM

- AMENDED IN ASSEMBLY JUNE 20, 2018
- AMENDED IN SENATE MAY 25, 2018
- AMENDED IN SENATE APRIL 30, 2018
- AMENDED IN SENATE APRIL 16, 2018
- AMENDED IN SENATE APRIL 05, 2018
- AMENDED IN SENATE MARCH 15, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

**SENATE BILL**

**No. 1029**

**Introduced by Senator McGuire**

**February 08, 2018**

An act to add Chapter 4 (commencing with Section 93030) to Title 12 of, and to add and repeal Section 14533.4 of, the Government Code, to add Chapter 14 (commencing with Section 5880) to Division 5 of the Public Resources Code, and to amend Sections 105001, 105003, 105012, 105020, and 105095 of, to add Sections 105032.5 and 105088 to, and to repeal Sections 105104, 105105, and 105180 of, the Public Utilities Code, relating to transportation.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1029, as amended, McGuire. North Coast Railroad Authority: right-of-way: Great Redwood Trail Agency: Sonoma-Marín Area Rail Transit District.

(1) Existing law creates the North Coast Railroad Authority with various powers and duties relating to rail service in the north coast area of the state, including the authority to acquire, own, operate, and lease real and personal property reasonably related to the operation and maintenance of railroads.

Existing law establishes in state government the California Transportation Commission with specified powers and duties relative to the programming of transportation capital improvement projects and other related matters.

This bill would require the commission to conduct an assessment of the authority's preexisting liabilities related to debt, litigation, or contractual obligations and report that information to the Legislature before July 1, 2019.

This bill would require the authority, before April 1, 2019, to transfer its rights, privileges, and responsibilities,

excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to ~~both~~ its right-of-way south of ~~a point in the City of Willits mile post 142.5, its licenses and certificates of public convenience and necessity, common carrier obligations held by the authority or an associated freight operator,~~ and the railroad assets the authority owns to the Sonoma-Marín Area Rail Transit District, and would require the authority, before July 1, 2019, to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to its right-of-way north of ~~that point in the City of Willits mile post 142.5~~ to the Great Redwood Trail Agency. The bill would abolish the authority after those transfers are made.

This bill would create the Great Redwood Trail Agency, and provide for the appointment of its board of directors. The bill would, to the extent funding is available, require the agency ~~to to, among other things,~~ inventory any ~~parcel parcel, easement,~~ or contract related to the northern ~~portion of the~~ right-of-way, complete an environmental assessment of the ~~conditions of the~~ northern ~~portion of the~~ right-of-way, ~~create plan, construct, operate,~~ and maintain a trail in, or next to, the northern ~~portion of the~~ right-of-way, and complete ~~the a~~ railbanking ~~process on a portion of the northern right-of-way, and authorize the agency to contract with an operator to operate freight or excursion rail service on the remaining portion of the northern right-of-way, as specified; process, if and where appropriate. The bill would also provide that the agency has certain enumerated rights and powers, including to fix and collect fees, make grants, acquire interests in real property, and to enter into contracts and joint powers agreements.~~

*This bill would create the Great Redwood Trail Program Fund, and would require certain moneys to be deposited into the fund and to be available for certain purposes.*

(2) Existing law creates, within the Counties of Sonoma and Marin, the Sonoma-Marín Area Rail Transit District, which is governed by a 12-member board of directors, with specified duties and powers. Existing law requires the district to work with specified authorities to achieve a safe, efficient, and compatible system of passenger and freight rail service and authorizes the district to own, operate, manage, and maintain a passenger rail system within the territory of the district.

This bill would authorize the district to consider the need and financing for employee workforce housing, and would add a member to the district's board of directors, to be appointed by the Mendocino County Board of Supervisors. The bill would require the district to conduct a freight rail study incorporating the southern ~~portion of the~~ right-of-way transferred to the district as described in paragraph ~~(1)~~. *(1), and would require the district to create and maintain a trail that begins at mile post 142.5, runs in, or parallel to, the southern portion of the right-of-way, as appropriate, and connects to the district's bicycle and pedestrian pathways to the extent feasible.* The bill would also make various conforming changes to the district's provisions relating to the abolishment of the North Coast Rail Authority. The bill would repeal the requirement that the district obtain coverage for itself and its employees under certain federal laws.

(3) Because this bill would impose new requirements on local entities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** This bill shall be known, and may be cited, as the Great Redwood Trail Act.

**SEC. 2.** It is the intent of the Legislature to do all of the following:

(a) Create a systemwide hiking, biking, and riding trail along or parallel to the North Coast Railroad Authority's railroad tracks on the north ~~coast~~. *coast, which will be known as the Great Redwood Trail.*

(b) Ascertain all liabilities, debts, contractual obligations, and leasehold interests held by the Northwestern Pacific Railroad Company, and other legal obligations of the North Coast Railroad Authority, transfer the authority's assets and the right-of-way as provided for in this act, and abolish the North Coast Railroad Authority, which was established by statute in 1989.

(c) *(1)* Transfer the North Coast Railroad Authority's real property, rail assets, rail easements, licenses and

certificates of public convenience and necessity, common carrier obligations, and right-of-way south of mile post 142.5 ~~in Willits, California,~~ to the Sonoma-Marine Area Rail Transit District.

*(2) To the extent funding is available from nonlocal sources, the Sonoma-Marine Area Rail Transit District will be responsible for creating and maintaining a trail that begins at mile post 142.5, runs in, or parallel to, the southern portion of the right-of-way, as appropriate, and connects to the district's bicycle and pedestrian pathways to the extent feasible.*

(d) *(1) Create the Great Redwood Trail Agency, which will be responsible for constructing and maintaining a hiking, biking, and riding trail in, or parallel to, the northern portion of the right-of-way, from mile post 142.5 to mile post 300.5.*

*(e)*

*(2) Transfer the northern portion of the North Coast Railroad Authority's right-of-way, from mile post 142.5 to mile post 300.5, to the Great Redwood Trail Agency.*

*(3) Authorize the Great Redwood Trail Agency to work with landowners and fishing organizations to locate and provide appropriate fishing access sites along the northern portion of the right-of-way.*

*(f)*

*(e) Ensure each portion of the right-of-way not used for rail is railbanked or otherwise used as a trail.*

*(g)*

*(f) Ensure each portion of the right-of-way used for rail also has a trail created and maintained in, or next parallel to, it.*

*(h)(1) Provide*

*(g) As the right-of-way runs through working ranch lands and farms, much of it very remote, the Sonoma-Marine Area Rail Transit District and the Great Redwood Trail Agency should take special concern to work with landowners and businesses to mitigate concerns raised by the changes to the right-of-way.*

*(h) For the portion of the right-of-way from mile post 85 at the Cloverdale Depot to mile post 300.5:*

*(1) Provide for the creation of ~~the trail the Great Redwood Trail~~ as a multiuse trail wherever practical, provide a safe, ~~continuous~~ contiguous alignment with appropriate and flexible design standards for site conditions, and support the intended uses of the trail. To the extent possible, trail alignments should promote connectivity between communities adjacent, or in close proximity, to established ~~right-of-ways~~ rights-of-way in order to link populations and population centers and to provide enhanced recreation and commuter opportunities. As such, it is the intent of the Legislature to authorize the applicable ~~successor agencies~~ entities to identify nodes that promote connectivity along the route.*

*(2) Provide for the specific trail use types, including hiking, biking, and equestrian uses, to be determined by site specific studies and a broad community engagement process.*

**SEC. 3.** Section 14533.4 is added to the Government Code, to read:

**14533.4.** (a) The commission shall conduct an assessment of the North Coast Railroad Authority's preexisting liabilities related to debt, litigation, or contractual obligations and report that information to the Legislature before July 1, 2019.

*(b) The commission may request the Department of Finance, or contract with another entity, to perform the work the commission deems necessary to carry out the duties described in subdivision (a).*

*(b)*

*(c) (1) The report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795.*

*(2) Pursuant to Section 10231.5, this section is repealed on January 1, 2023.*

**SEC. 4.** Chapter 4 (commencing with Section 93030) is added to Title 12 of the Government Code, to read:

**CHAPTER 4. Abolishment**

**93030.** Before April 1, 2019, the authority shall transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to ~~both~~ its right-of-way south of mile post ~~142.5 in the City of Willits, 142.5,~~ including any associated real property, rail easements, and branch or spur lines, ~~its~~ licenses and certificates of public convenience and necessity, common carrier ~~obligations,~~ *obligations held by the authority or an associated freight operator,* and the railroad assets the authority owns to the Sonoma-Marín Area Rail Transit District created pursuant to Section 105010 of the Public Utilities Code.

*93030.5. In making the transfer pursuant to Section 93030, it is the intent of the legislature to make the Sonoma-Marín Area Rail Transit District the exclusive holder of the right to restart or operate freight service along that portion of the right-of-way and that no third party shall acquire that right.*

**93031. (a)** Before July 1, 2019, the authority shall transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to its right-of-way north of mile post ~~142.5 in the City of Willits, 142.5,~~ including any associated branch or spur lines, to the Great Redwood Trail Agency created pursuant to Section 5880 of the Public Resources Code.

*(b) The transfer made pursuant to subdivision (a) shall not affect or negate any rights under Memorandum of Agreement 1991-2324, which was filed on January 31, 1991, with the county clerk-recorder's office for the County of Humboldt.*

**93032.** In making the transfers pursuant to Sections 93030 and 93031, the authority shall transfer all of its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to any right-of-way.

~~93032.5. The transfers made pursuant to this chapter shall not effect or negate rights under the Memorandum of Agreement 1991-2324, which was filed on January 31, 1991, with the county clerk-recorder's office for the County of Humboldt.~~

**93033.** Upon making all of the transfers described in this chapter, the authority shall be abolished.

**SEC. 5.** Chapter 14 (commencing with Section 5880) is added to Division 5 of the Public Resources Code, to read:

**CHAPTER 14. Great Redwood Trail Agency**

**5880. (a)** The Great Redwood Trail Agency is hereby created.

*(b) The goal of this chapter is for the agency to use the existing right-of-way, or paths parallel to the right-of-way, to plan, design, construct, operate, and maintain the northern portion of the Great Redwood Trail in, or parallel to, the right-of-way.*

**5881.** For purposes of this chapter, the following definitions shall apply:

(a) "Agency" means the Great Redwood Trail Agency.

(b) "Board" means the agency's board of directors described in Section 5882.

*(c) "Northern portion of the Great Redwood Trail" means the trail planned, designed, constructed, operated, and maintained in, or parallel to, the right-of-way pursuant to paragraph (4) of subdivision (a) of Section 5883.*

~~(c)~~

*(d) "Right-of-way" means the entire length of the right-of-way transferred to the agency pursuant to Section 93031 of the Government Code.*

**5882.** (a) The agency shall be governed by a board of directors, composed as follows:

(a)

(1) The Governor shall appoint two board members, one representing the Department of Transportation and one representing the Natural Resources Agency, who are knowledgeable about trails, parks, railroads, or rivers.

(b)

(2) The Senate Committee on Rules shall appoint one board member who is knowledgeable about trails, parks, railroads, or rivers.

(c)

(3) The Speaker of the Assembly shall appoint one board member who is knowledgeable about trails, parks, railroads, or rivers.

(d)

(4) The Board of Supervisors of the County of Mendocino may appoint one of its members to serve as a board member.

(e)

(5) The Board of Supervisors of the County of Humboldt may appoint one of its members to serve as a board member.

(f) ~~\_\_\_\_\_ may appoint one board member.~~

*(6) The Redwood Empire Division of the League of California Cities, or its successor, may appoint one member who is a mayor, or city council member, of a city or town on the right-of-way in the County of Mendocino or Humboldt.*

*(b) (1) Each member of the board shall serve a term of four years, except that the term of a member appointed pursuant to paragraph (4), (5), or (6) of subdivision (a) shall cease if the member no longer serves as a member of the specified board of supervisors or specified city council, or as the mayor of the specified city.*

*(2) Notwithstanding paragraph (1), each member shall serve on the board until his or her successor has been appointed.*

**5883.** Upon receiving the North Coast Railroad Authority's rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to the authority's right-of-way north of mile post ~~142.5 in the City of Willits, 142.5~~, including any associated branch or spur lines, pursuant to Section 93031, ~~the agency shall do both of the following as soon as possible, to the extent funding is available: both of the following subdivisions shall become effective:~~

*(a) To the extent funding is available, the agency shall do all of the following:*

(a)

*(1) Inventory any ~~parcel~~ parcel, easement, or contract related to the right-of-way.*

(b)

*(2) Complete an environmental assessment of the ~~right-of-way~~. conditions of the right-of-way for purposes of trail development.*

*(3) If and where appropriate to further the goal of this chapter, initiate and complete the federal Surface Transportation Board's railbanking process.*

*(4) Plan, design, construct, operate, and maintain a trail in, or parallel to, the right-of-way.*

*(5) Conduct a thorough community engagement process that includes landowners, trail advocates, environmental groups, and the community at large. Items to be discussed during this process include, but are not limited to, trail configurations parallel to the right-of-way, including those on public lands, connecting the northern portion of the Great Redwood Trail to existing trails, and rail-crossing fees.*

*(6) Honor existing trail licenses and work with local and state governments and community groups to*

*expeditiously provide new trail license agreements that meet the goal of this chapter.*

*(7) Utilize the services of the California Conservation Corps, wherever feasible, for projects related to trails, environmental enhancements and restoration, and other improvement projects.*

*(8) Utilize the services of conservation organizations, wherever feasible, for projects related to fishing access, fish passage barrier restoration, and other environmental enhancement, restoration, and improvement projects.*

*(9) Prepare a master plan for the northern portion of the Great Redwood Trail, including any environmental analysis required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).*

*(10) Before January 1, 2020, and annually thereafter, submit a report to the Legislature, in compliance with Section 9795 of the Government Code, describing the agency's progress towards fulfilling the requirements and goal relating to the right-of-way.*

*(11) Restrict public access to each segment of the right-of-way until the construction of the trail segment is completed, as determined by the agency.*

*(b) To the extent funding is available, the agency may do any of the following:*

*(1) Contract with a trail manager or organization to meet the requirements of this section.*

*(2) Contract with an operator to operate freight or excursion rail service except that the service shall not interfere with or harm the northern portion of the Great Redwood Trail.*

*(3) Work with landowners and fishing organizations to locate and provide appropriate fishing access sites along the right-of-way. In doing so, the agency shall seek to discourage and prevent trespassing on private property.*

~~5885. The agency shall do all of the following, to the extent funding is available:~~

~~(a) For the portion of the right-of-way between mile post 142.5 and mile post 284, including any associated branch or spur lines, the agency shall complete the railbanking process on, and create and maintain a trail in, or next to, that portion of the right-of-way. The agency may contract with a trail manager or organization to meet the requirements of this subdivision.~~

~~(b) For the portion of the right-of-way between mile post 284 and mile post 300.5, including any associated branch or spur lines, the agency shall create and maintain a trail in, or next to, that portion of the right-of-way, and may contract with a trail manager or organization to meet these requirements. The agency may contract with an operator to operate freight or excursion rail service on this portion of the right-of-way, except that the service shall not interfere with or harm the agency's trail.~~

~~(c) Before January 1, 2020, and annually thereafter, submit a report to the Legislature, in compliance with Section 9795 of the Government Code, describing its progress towards fulfilling the requirements and goals relating to the right-of-way.~~

~~(d) Utilize the services of the California Conservation Corps wherever possible on projects related to trails, environmental enhancements and restoration, and other improvement projects.~~

**5884.** *Upon the completion of the planning, design, and construction of the northern portion of the Great Redwood Trail, the agency may transfer the responsibility of performing the acts described in this chapter to a more appropriate permanent operating entity for the operation and maintenance of the northern portion of the Great Redwood Trail.*

**5885.** *(a) The Great Redwood Trail Program Fund is hereby created. Moneys in the fund shall accrue interest and be available for the purposes of this chapter.*

*(b) All revenue, including fee revenue, received pursuant to this chapter shall be deposited in the fund.*

**5886.** The agency shall have and may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this chapter, including, but not limited to, to ~~enter~~ **enter** all of the following:

*(a) To enter into and perform all necessary contracts pursuant to Article 53.5 (commencing with Section 20815) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.*

*(b) To fix and collect fees for the use of any land owned or controlled, or for any service provided, by the agency.*

*(c) To make grants.*

*(d) To acquire interests in real property.*

*(e) To lease, rent, sell, exchange, or transfer interests in real property.*

*(f) To undertake or fund projects and programs implementing this chapter or relating to the northern portion of the Great Redwood Trail.*

*(g) To provide for the management of the right-of-way and the northern portion of the Great Redwood Trail.*

*(h) To apply for and accept grants, gifts, donations of money and property, subventions, rents, royalties, or other assistance from public or private sources.*

*(i) To recruit and coordinate volunteers and experts to conduct interpretive and recreational programs and to assist with construction projects and the maintenance of facilities.*

*(j) To enter into contracts and joint powers agreements.*

*(k) To sue and be sued.*

**5887.** The agency shall be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

**SEC. 6.** Section 105001 of the Public Utilities Code is amended to read:

**105001.** It is the intent of the Legislature in enacting this part to provide for a unified, comprehensive institutional structure for the ownership and governance of a passenger rail system within the Counties of Sonoma and Marin and a freight service that operates upon the same rail line and serves the Counties of Humboldt, Marin, Mendocino, Napa, and Sonoma.

**SEC. 7.** Section 105003 of the Public Utilities Code is amended to read:

**105003.** As used in this part, the following terms have the following meanings:

(a) "District" means the Sonoma-Marín Area Rail Transit District.

(b) "Rail transit" means the transportation of passengers and their incidental baggage by rail and provision of freight service by rail.

(c) "Rail transit works" or "rail transit facilities" means any or all real and personal property, equipment, rights, or interests owned or to be acquired by the district for rail transit service purposes, including ancillary bicycle and pedestrian pathways that provide connections between and access to station sites.

(d) "Board of directors," "board," or "directors" means the board of directors of the district.

(e) "Public agency" includes the state, and any county, city and county, city, district, or other political subdivision or public entity of, or organized under the laws of, this state, or any department, instrumentality, or agency thereof.

**SEC. 8.** Section 105012 of the Public Utilities Code is amended to read:

**105012.** (a) Upon the dissolution of the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, the district shall succeed to any or all of the powers, duties, rights, obligations, liabilities, indebtedness, bonded and otherwise, immunities, and exemptions of the commission and its board of commissioners and the authority and its board of directors.

(b) Upon the dissolution of the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, the district shall assume the rights and obligations of the commission and the authority under any contract to which the commission or the authority is a party and that is to be performed, in whole or in part, on or after the date of dissolution of the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority.

(c) All real and personal property owned by the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority may be transferred to the district.

(d) Upon the dissolution of the Sonoma-Marin Area Rail Transit Commission, the district shall assume, without any condition whatsoever, all responsibilities and obligations previously assumed by the commission with respect to its fund transfer agreement with the Department of Transportation for the funding of the Sonoma-Marin Area Rail Transit Project.

(e) On and after the date of dissolution of the Sonoma-Marin Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, any reference in any provision of law or regulation to the commission or the authority shall be deemed to refer to the district.

**SEC. 9.** Section 105020 of the Public Utilities Code is amended to read:

**105020.** The government of the district shall be vested in a board of directors, which shall consist of 12 or 13 members, appointed as follows:

(a) Two members of the Sonoma County Board of Supervisors, each of whom shall also serve on the Board of Directors of the Sonoma County Transportation Authority, appointed by the Sonoma County Board of Supervisors.

(b) Two members of the Marin County Board of Supervisors, appointed by the Marin County Board of Supervisors.

(c) Three members, each of whom shall be a mayor or council member of a city or town within the County of Sonoma, appointed by the Sonoma County Mayors and Council Members Association or its successor, provided the following conditions are met:

(1) At least two members are also city representatives for the Sonoma County Transportation Authority.

(2) All of the members are from cities on the rail line in Sonoma County.

(3) No city has more than one member.

(d) The member of the City Council of the City of Novato who also serves on the Marin County Congestion Management Agency, appointed by the Marin County Congestion Management Agency or its successor.

(e) The member of the City Council of the City of San Rafael who also serves on the Marin County Congestion Management Agency, appointed by the Marin County Congestion Management Agency or its successor.

(f) One member, who shall be a mayor or council member of a city or town within the County of Marin and a member of the Marin County Congestion Management Agency, appointed by the Marin County Council of Mayors and Council Members or its successor.

(g) Two members of the Golden Gate Bridge, Highway and Transportation District, neither of whom shall be a member of the Marin or Sonoma County Boards of Supervisors, appointed by the Golden Gate Bridge, Highway and Transportation District or its successor.

(h) One member, who shall be a member of the Mendocino County Board of Supervisors, appointed by the Mendocino County Board of Supervisors, if it chooses to do so.

**SEC. 10.** Section 105032.5 is added to the Public Utilities Code, to read:

**105032.5.** The board may consider the need and financing for employee workforce housing.

**SEC. 11.** Section 105088 is added to the Public Utilities Code, to read:

**105088.** Upon receiving the North Coast Railroad Authority's rights, privileges, and responsibilities relating to the authority's right-of-way south of mile post 142.5 ~~in the City of Willits~~ pursuant to Section 93030 of the Government Code, and upon receiving ~~funding~~, *funding from nonlocal sources*, the district shall do all of the following:

(a) Conduct a freight rail study incorporating the portion of the right-of-way between mile post 0.0 and mile post 142.5.

*(b) Create and maintain a trail that begins at mile post 142.5, runs in, or parallel to, the southern portion of the right-of-way, as appropriate, and connects to the district's bicycle and pedestrian pathways to the extent feasible. This trail shall be the southern portion of the Great Redwood Trail.*

*(c) Conduct a thorough community engagement process that includes landowners, trail advocates, environmental groups, and the community at large. Items to be discussed during this process include, but are not limited to,*

*trail configurations parallel to the southern portion of the right-of-way, including those on public lands, connecting the southern portion of the right-of-way to existing trails, and rail-crossing fees.*

(b)

(d) Create or assign the positions of trail manager and freight rail manager.

(c)

(e) Before January 1, 2020, and annually thereafter, submit a report to the Legislature, in compliance with Section 9795 of the Government Code, describing its progress towards fulfilling the requirements and goals relating to the *southern portion of the* right-of-way.

**SEC. 12.** Section 105095 of the Public Utilities Code is amended to read:

**105095.** The district may provide a rail transit system for the transportation of passengers and their incidental baggage by rail and provision of freight service by rail.

**SEC. 13.** Section 105104 of the Public Utilities Code is repealed.

**SEC. 14.** Section 105105 of the Public Utilities Code is repealed.

**SEC. 15.** Section 105180 of the Public Utilities Code is repealed.

**SEC. 16.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

## Farhad Mansourian

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**From:** Tom Lyons  
**Sent:** Tuesday, July 10, 2018 5:31 PM  
**To:** Farhad Mansourian  
**Subject:** FW: SB-1029

### SEC. 2.

It is the intent of the Legislature to do all of the following:

(b) Ascertain **and settle** all liabilities, debts, contractual obligations, **consent decrees** of the **North Coast Railroad Authority** and leasehold interests held by the Northwestern Pacific Railroad Company, and other legal obligations of the North Coast Railroad Authority, transfer the authority's assets and the right-of-way as provided for in this act, and abolish the North Coast Railroad Authority, which was established by statute in 1989.

### SEC. 3.

Section 14533.4 is added to the Government Code, to read:

## CHAPTER 4. Abolishment

### 93030.

Before April 1, 2019, the authority shall transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, **consent decrees**, or contractual obligations, relating to its right-of-way south of mile post 142.5, including any associated real property, rail easements, and branch or spur lines, *its* licenses and certificates of public convenience and necessity, common carrier *obligations held by the authority or an associated freight operator*, and the railroad assets the authority owns to the Sonoma-Marin Area Rail Transit District created pursuant to Section 105010 of the Public Utilities Code.

### 93031.

(a) Before July 1, 2019, the authority shall transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, **and consent decrees**, or contractual obligations, relating to its right-of-way north of mile post 142.5, including any associated branch or spur lines, to the Great Redwood Trail Agency created pursuant to Section 5880 of the Public Resources Code.

### 93032.

In making the transfers pursuant to Sections 93030 and 93031, the authority shall transfer all of its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, **and consent decree**, contractual obligations, relating to any right-of-way.

**5883.**

Upon receiving the North Coast Railroad Authority's rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, **and consent decrees**, or contractual obligations, relating to the authority's right-of-way north of mile post 142.5, including any associated branch or spur lines, pursuant to Section 93031, both of the following subdivisions shall become effective:

**SEC. 7.**

Section 105003 of the Public Utilities Code is amended to read:

(c) "Rail transit works" or "rail transit facilities" means any or all real and personal property, equipment, rights, or interests owned or to be acquired by the district for rail transit service purposes, including **workforce housing and** ancillary bicycle and pedestrian pathways that provide connections between and access to station sites.

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**SB-1029 North Coast Railroad Authority: right-of-way: Great Redwood Trail Agency: Sonoma-Marin Area Rail Transit District.** (2017-2018)

Date	Action
06/26/18	From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 0.) (June 25). Re-referred to Com. on APPR.
06/14/18	Referred to Com. on TRANS.
05/31/18	In Assembly. Read first time. Held at Desk.
05/30/18	Read third time. Passed. (Ayes 31. Noes 0.) Ordered to the Assembly.
05/29/18	Read second time. Ordered to third reading.
05/25/18	Read second time and amended. Ordered to second reading.
05/25/18	From committee: Do pass as amended. (Ayes 7. Noes 0. Page 4302.) (May 25).
05/18/18	Set for hearing May 25.
05/14/18	May 14 hearing: Placed on APPR. suspense file.
05/04/18	Set for hearing May 14.
04/30/18	Read second time and amended. Re-referred to Com. on APPR.
04/26/18	From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 9. Noes 0. Page 4787.) (April 24).
04/16/18	From committee with author's amendments. Read second time and amended. Re-referred to Com. on N.R. & W.
04/12/18	Set for hearing April 24.
04/10/18	From committee: Do pass and re-refer to Com. on N.R. & W. (Ayes 12. Noes 0. Page 4606.) (April 10). Re-referred to Com. on N.R. & W.
04/06/18	Set for hearing April 10.
04/05/18	From committee with author's amendments. Read second time and amended. Re-referred to Com. on T. & H.
04/04/18	Re-referred to Coms. on T. & H. and N.R. & W.
03/15/18	From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
02/22/18	Referred to Com. on RLS.
02/09/18	From printer. May be acted upon on or after March 11.
02/08/18	Introduced. Read first time. To Com. on RLS. for assignment. To print.

Date of Hearing: June 25, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 1029 (McGuire) – As Amended June 20, 2018

**SENATE VOTE:** 36-0

**SUBJECT:** North Coast Railroad Authority; right-of-way; Great Redwood Trail Agency; Sonoma-Marín Area Rail Transit District

**SUMMARY:** Dissolves the North Coast Railroad Authority (NCRA) and transfers its responsibilities for its southern portion to the Sonoma-Marín Area Rail Transit District (SMART); also creates and transfers its responsibilities to the Great Redwood Trail Agency (GRTA) in order to construct and manage a trail network on the northern end of NCRA's right-of-way. Specifically, **this bill:**

- 1) Creates GRTA and establishes its governing Board of Directors as follows:
  - a) Two Governor's appointees, one from the Department of Transportation (Caltrans) and one from the Natural Resources Agency;
  - b) One Senate appointee and one Assembly appointee;
  - c) One Mendocino County appointee and one Humboldt County appointee;
  - d) One mayor or city council member from a community along the right of way appointed by the Redwood Empire Division of the League of California Cities.
- 2) Requires NCRA to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, to SMART for right-of-way south of Willits by April 1, 2019.
- 3) Requires NCRA to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, to GRTA for right-of-way north of Willits by July 1, 2019.
- 4) Abolishes NCRA upon completion of the transfers.
- 5) Assigns GRTA the following responsibilities, to the extent funding is available:
  - a) Inventory every parcel, easement, or contract related to its right-of-way;
  - b) Complete an environmental assessment of the conditions of the right-of-way for purposes of trail development;
  - c) Complete the federal railbanking process where appropriate;
  - d) Plan, construct, operate, and maintain a trail in, or parallel to, the right-of-way;
  - e) Conduct a thorough community engagement process;

- f) Honor existing trail licenses and work to provide new agreements;
  - g) Utilize the California Conservation Corps and other conservation organizations;
  - h) Prepare a master plan for the trail, including any environmental analysis required pursuant to the California Environmental Quality Act; and,
  - i) Report to the Legislature annually beginning January 1, 2020.
- 6) Authorizes GRTA to exercise all rights and powers necessary to carry out its purpose, including, but not limited to:
- a) Entering into and performing all necessary contracts, suing or being sued;
  - b) Fixing and collecting fees for the use of any land owned or controlled, or for any service provided by the agency;
  - c) Making grants or acquiring interests in real property;
  - d) Leasing, renting, selling, exchanging, or transferring interests in real property;
  - e) Undertaking or finding projects and programs related to the trail;
  - f) Providing for the management of the right-of-way and the trail;
  - g) Applying for and accepting grants, donations, or other assistance from public or private sources; and,
  - h) Recruiting and coordinating volunteers and experts to assist with the trail.
- 7) Requires the California Transportation Commission (CTC) to conduct an assessment of NCRA's preexisting liabilities related to debt, litigation, or contractual obligations and report that information to the Legislature prior to July 1, 2019.

**EXISTING LAW:**

- 1) Establishes NCRA, which traverses the Counties of Humboldt, Mendocino, Sonoma, and Trinity, intended to provide passenger and freight rail service to the north coast area.
- 2) Establishes a governing Board of Directors and grants NCRA the authority to acquire real and personal property and operate passenger and freight rail services, as specified.
- 3) Provides NCRA financing authority to carry out the abovementioned duties.
- 4) Creates SMART, within the Counties of Marin and Sonoma, for potential freight and transit services and to operate and maintain a passenger rail system within its territory.
- 5) Establishes CTC and directs CTC to advise and assist the Secretary of Transportation and the Legislature in formulating and evaluating state policies and plans for transportation programs in the state.

**FISCAL EFFECT:** Unknown

**COMMENTS:** NCRA was formed in 1989 by the Legislature under the North Coast Railroad Authority Act. At that time, the Act was intended to ensure continuation of railroad service in Northwestern California and envisioned the railroad playing a significant role in the transportation infrastructure serving a part of the State that faced transportation challenges due to restricted access and limited transport options. The approximate 300 mile rail line is broken down into two sections: the southern Russian River Division (from Lombard in Napa County to Willits in Mendocino County) and the northern Eel River Division (north of Willits to Samoa in Humboldt County).

From 1991 through 2008, CTC provided NCRA with an estimated \$63 million through various grant programs for purchasing right-of-way, rolling stock, equipment, and making repairs to the existing rail line. Additionally, in 2006, NCRA entered into an agreement with the Northwestern Pacific Railroad Company (NWPCo) to operate service on the NCRA rail line. Currently, NWPCo is the exclusive contract freight operator for NCRA. NWPCo runs minimal and limited freight rail service, operating up to two trains a week with several cars on each run, from the Lombard Interchange into Windsor California, approximately 62 miles in distance.

Since its inception, NCRA has been unable to secure stable and/or ongoing funding and also has struggled to provide adequate service along the rail line. In June of 2017, NCRA testified at a CTC hearing informing commissioners that NCRA has never been financially self-sufficient, operates with an annual loss, is routinely unable to pay its obligations, and possesses outstanding debts due to legal fees from environmental lawsuits. NCRA further testified that it was having difficulty maintaining and expanding rail service and that it was in the process of selling excess property to pay its debt obligations. Overall, NCRA does not generate sufficient revenue from its operating contract with NWPCo to cover its expenditures. Additionally, since 2011, NCRA has annually held anywhere from an estimated \$7 million to \$10.6 million in debt obligations while simultaneously operating with significant cash flow constraints. CTC requested that NCRA develop a strategic plan and return to the Commission to explain how NCRA was going to continue.

In a follow-up presentation to CTC in January of this year, NCRA provided an overview of its strategic plan. NCRA proposed to accomplish several key objectives, including railbanking a 120-mile segment of right-of-way to raise necessary funding to retire debt, and working toward obtaining grant and private funding required to complete phased improvements and restore freight service. CTC indicated that the plan did not present sufficient information for the Legislature and other stakeholders to make informed decisions concerning the future of NCRA, noting specifically that plans for railbanking and establishing the freight belt line and tourist train around Humboldt Bay did not include information on cost, schedule, partnerships, and other necessary requirements. In summary, CTC concluded that NCRA could not be expected to continue as it is, and suggested a legislative solution was the only remedy to the problem.

According to the author, he introduced this bill “to proactively replace the nearly defunct NCRA, a state-created agency, with a solution that will benefit all of California and the North Coast for generations to come. With an annual deficit, crumbling and aging infrastructure, no potential income, and no way to repair the northern 240 miles of track, it is simply impossible for NCRA to complete its mission. In addition, NCRA recently lost its appeal regarding an environmental analysis and, if the decision stands, NCRA will be liable for up to \$2 million in plaintiff’s

attorney fees. This bill would render the case moot and be able to resolve the issues presented in the suit.”

Writing in opposition to the measure, the California Farm Bureau Federation raises a number of concerns, including the lack of funding details in the bill and the need for local engagement. One particular concern the Farm Bureau raises relates to the potential impacts this new trail could have on the private landholders adjacent to the trail. The Farm Bureau’s letter points out that these landowners will likely feel the brunt of the trail’s negative impacts, including noise, lack of privacy, littering, property damage, vandalism, trespassing, burglary, overnight camping, fire risk, and claims of liability.

Writing in response, the author acknowledges that it is understandable that landowners, farmers, and ranchers would have fears about a change in the use of the right-of-way, especially since there has been no rail use on these lands for over 20 years and they are used to having the line abandoned. The author notes that these are very valid and common concerns that come up whenever a “rails to trails” project occurs, and the national Rails to Trails Conservancy, who is work working with the author, has dealt with these issues hundreds of times all over the country and is experienced at working out solutions. According to the author, there will be an extensive community input process, long before any trail is ever built, and it will include input from landowners and farmers.

Train Riders Association of California write in opposition to the bill based on the likelihood that it would result in the tearing out of the tracks that could be resurrected for rail excursion service. According to the author, the good news is that the bill helps maintain the current short run of freight in the southern portion of the line where it currently exists, and the railbanking process he is anticipating for the rest of this project will keep the right of way available to trains for all time. If NCRA goes away without a proactive plan for the line, the adjacent property owners would have a very good case that the easement contracts have been violated and they could be cancelled. Sadly, freight rail has not been successful or financially viable on the northern portions of this right-of-way since the mid-1970s and it’s hard to imagine it happening any time in the future.

*Committee Comments:*

- 1) One of the largest unknowns related to this bill is the amount of financial liability associated with NCRA, and what the outcomes of that liability may be with or without this legislation. Related to the NCRA’s proposed strategic plan presented to CTC, questions arose regarding the following:
  - a) Federal and state approvals required, including the cost, schedule, and plan to obtain approvals;
  - b) Environmental remediation necessary, including the cost, barriers and timeline to remediate;
  - c) Easements or other subordinated property interests that create a barrier to constructing and operating a trail;

- d) Funding source(s) secured or to be secured for implementation and operation of any rail service;
- e) Responsibility for construction, maintenance and operation of the trail;
- f) Partnerships that must be formed or approvals required from federal, state, local and private stakeholders; and,
- g) Market analysis, projected costs/revenues, funds required to pay outstanding debts, likelihood of private funding, and identification of any state or federal subsidies that may be required to maintain and expand operations.

While NCRA seemed to have no answers to these pertinent questions, it appears this bill suffers from a similar lack of details. It is clear that something needs to be done with NCRA as it is flatly unsustainable and any delay in addressing the problem only exacerbates the potential costs associated with it. As the author continues to pursue this measure, he will need to resolve concerns related to these financial unknowns and what the state's role in the outstanding liabilities may become.

- 2) In addition to the financial uncertainties related to this bill, it is unclear how the administration of the new agency will be accomplished and with what funding. The author is attempting to resolve this concern by balancing the need for effective, experienced administrators with shielding any potential new entity from the debts and obligations of the existing agency. Before becoming law, the author will have to resolve this issue.

#### **REGISTERED SUPPORT / OPPOSITION :**

##### **Support**

Adventure Cycling Association  
 California Bicycle Association  
 California Transportation Commission  
 CalTrout  
 CalWild  
 Coalition for Responsible Transportation Priorities  
 Environmental Protection Information Center  
 Friends of the Eel River  
 Greenbelt Alliance  
 Humboldt County Association of Governments  
 Humboldt Baykeeper  
 Humboldt Trails Council  
 Marin County Board of Supervisors  
 Mendocino Council of Governments  
 Northcoast Environmental Center  
 Pacific Forest Trust  
 Rails to Trails Conservancy  
 Redwood Community Action Agency  
 Redwood Region Audubon Society  
 Save the Redwoods League

Sierra Club  
Sonoma County Board of Supervisors  
Sonoma County Regional Parks  
Sonoma-Marín Area Rail Transit District (SMART)  
Wildlands Conservancy

**Opposition**

California Farm Bureau Federation  
Train Riders Association of California

**Analysis Prepared by:** Eric Thronson / TRANS. / (916) 319-2093



**Debora Fudge, Chair**  
Sonoma County Mayors' and  
Councilmembers Association

**Judy Arnold, Vice Chair**  
Marin County Board of Supervisors

**Damon Connolly**  
Marin County Board of Supervisors

**Jim Eddie**  
Golden Gate Bridge,  
Highway/Transportation District

**Dan Hillmer**  
Marin County Council of Mayors and  
Councilmembers

**Eric Lucan**  
Transportation Authority of Marin

**Jake Mackenzie**  
Sonoma County Mayors' and  
Councilmembers Association

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Transportation Authority of Marin

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May 16, 2018

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

**SUBJECT:** Senate Bill 1029 North Coast Railroad Authority: right-of-way: Great Redwood Trail Agency: Sonoma-Marin Area Rail Transit

Dear Board Members:

**RECOMMENDATIONS:**

Adopt a support position on Senate Bill 1029. This measure would implement needed changes in the public administration and preservation of the North Coast Rail Corridor.

**BACKGROUND:**

Existing law created the North Coast Railroad Authority ("Authority") with various powers and duties relating to rail service in the north coast area of the state, including the authority to acquire, own, operate, and lease real and personal property reasonably related to the operation and maintenance of railroads.

This bill would require the authority, before April 1, 2019, to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to both its right-of-way south of a point in the City of Willits and the railroad assets the authority owns to the Sonoma-Marin Area Rail Transit District, and to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to its right-of-way north of that point in the City of Willits to the Department of Transportation. The bill would abolish the authority after those transfers are made.

Existing law created, within the Counties of Sonoma and Marin, the Sonoma-Marin Area Rail Transit District ("District"), which is governed by a 12-member board of directors, with specified duties and powers. Existing law requires the district to work with specified authorities to achieve a safe, efficient, and compatible system of passenger and freight rail service and authorizes the district to own, operate, manage, and maintain a passenger rail system within the territory of the district.

This bill would additionally require the district to consider the need and financing for employee workforce housing and would add an additional member to the district's board of directors, to be appointed by the Mendocino County Board of Supervisors. The bill would authorize the District to provide freight services and require the district to conduct a freight rail study incorporating the entire right-of-way south of Willis. The bill would also make various conforming changes to the district's provisions relating to the abolishment of the North Coast Rail Authority. The bill would repeal the requirement that the district obtain coverage for itself and its employees under certain federal laws.

Because this bill would impose new requirements on local entities, it would impose a state-mandate on local programs. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

As it specifically pertains to the District the intent of the Legislature is to do all of the following:

- Transfer the North Coast Railroad Authority's real property, rail assets, rail easements, and right-of-way south of mile post 142.5 in Willits, California, to the Sonoma-Marín Area Rail Transit District for the purposes of creating and maintaining a passenger and freight railroad service and trail system.
- Provide funding for the construction and maintenance of the systemwide trail and railroad line, including funding for any related design needs, environmental assessment, permits, mitigation measures, or associated property interests

In addition, the legislation would make conforming changes to the District existing legislation as follows:

Section 105001 of the Public Utilities Code is amended to read:

- **105001.** It is the intent of the Legislature in enacting this part to provide for a unified, comprehensive institutional structure for the ownership and governance of a passenger rail system within the Counties of Sonoma and Marin and a freight service that operates upon the same rail line and serves the Counties of Humboldt, Marin, Mendocino, Napa, and Sonoma.

Section 105003 of the Public Utilities Code is amended to read:

**105003.** As used in this part, the following terms have the following meanings:

- "District" means the Sonoma-Marín Area Rail Transit District.
- "Rail transit" means the transportation of passengers and their incidental baggage by rail and provision of freight service by rail.
- "Rail transit works" or "rail transit facilities" means any or all real and personal property, equipment, rights, or interests owned or to be acquired by the district for rail transit service purposes, including ancillary bicycle and pedestrian pathways that provide connections between and access to station sites.
- "Board of directors," "board," or "directors" means the board of directors of the district.
- "Public agency" includes the state, and any county, city and county, city, district, or other political subdivision or public entity of, or organized under the laws of, this state, or any department, instrumentality, or agency thereof.

Section **105032** of the Public Utilities Code is amended to include authority to:

- Consider the need and financing for employee workforce housing.

Section 105088 is added to the Public Utilities Code, to read:

**105088.** upon receiving the North Coast Railroad Authority's rights, privileges, and responsibilities relating to the authority's right-of-way south of mile post 142.5 in the City of Willits pursuant to Section 93030 of the Government Code, and upon receiving funding, the district shall do all of the following:

- Conduct a freight rail study incorporating the portion of the right-of-way between mile post 0.0 and mile post 142.5.
- Create or assign the positions of trail manager and freight rail manager.
- Before January 1, 2020, and annually thereafter, submit a report to the Legislature, in compliance with Section 9795 of the Government Code, describing its progress towards fulfilling the requirements and goals relating to the right-of-way.

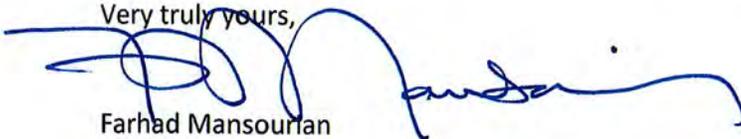
**CURRENT STATUS:**

On April 10, 2018, the bill was heard and approved by the Senate Transportation and Housing Committee. On April 24, 2018, the bill was heard and approved by the Senate Natural Resources and Water Committee. The bill is scheduled for hearing at the Senate Appropriation Committee on May 14, 2018. We will provide you with and an update on that hearing.

**FISCAL IMPACT:**

As the bill continues to move through the legislation process, we will monitor and coordinate with Senator McGuire to insure appropriate funding is allocated to SMART.

Very truly yours,



Farhad Mansourian  
General Manager

Attachment(s): Senate Bill 1029



**SB-1029 North Coast Railroad Authority: right-of-way: Great Redwood Trail Agency: Sonoma-Marín Area Rail Transit District.** (2017-2018)

SHARE THIS:

Date Published: 04/30/2018 02:00 PM

AMENDED IN SENATE APRIL 30, 2018

AMENDED IN SENATE APRIL 16, 2018

AMENDED IN SENATE APRIL 05, 2018

AMENDED IN SENATE MARCH 15, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

**SENATE BILL**

**No. 1029**

**Introduced by Senator McGuire**

**February 08, 2018**

An act to add Section 14111 to, and to add Chapter 4 (commencing with Section 93030) to Title 12 of, the Government Code, to add Chapter 14 (commencing with Section 5880) to Division 5 of, and to repeal Section 5883 of, the Public Resources Code, and to amend Sections 105001, 105003, 105012, 105020, 105032, and 105095 of, to add Section 105088 to, and to repeal Sections 105104, 105105, and 105180 of, the Public Utilities Code, relating to transportation.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1029, as amended, McGuire. North Coast Railroad Authority: right-of-way: Great Redwood Trail Agency: Sonoma-Marín Area Rail Transit District.

(1) Existing law creates the North Coast Railroad Authority with various powers and duties relating to rail service in the north coast area of the state, including the authority to acquire, own, operate, and lease real and personal property reasonably related to the operation and maintenance of railroads.

This bill would require the authority, before April 1, 2019, to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to both its right-of-way south of a point in the City of Willits and the railroad assets the authority owns to the Sonoma-Marín Area Rail Transit District, and to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to its right-of-way north of that point in the City of Willits to the Department of Transportation. The bill would abolish the authority after those transfers are made.

(2) Existing law establishes the Active Transportation Program, within the Department of Transportation, to fund projects that promote active modes of transportation, such as biking and walking.

This bill would require the department, within 2 years of being transferred the rights, privileges, and responsibilities relating to the northern right-of-way described in paragraph (1), to inventory any parcel or contract related to the right-of-way and complete an environmental assessment of the right-of-way. The bill would require the department, before January 1, 2021, to transfer those rights, privileges, and responsibilities to the Great Redwood Trail Agency.

This bill would create the Great Redwood Trail Agency, and provide for the appointment of its board of directors. The bill would require the agency, upon 4 board members joining the agency's initial board of directors, to advise the department on certain issues relating to the northern right-of-way. The bill would require the agency to create and maintain a trail in, or next to, the northern right-of-way. The bill would require the agency to complete the railbanking process on a portion of the northern right-of-way, and would authorize the agency to contract with an operator to operate freight or excursion rail service on the remaining portion of the northern right-of-way, as specified.

(3) Existing law creates, within the Counties of Sonoma and Marin, the Sonoma-Marín Area Rail Transit District, which is governed by a 12-member board of directors, with specified duties and powers. Existing law requires the district to work with specified authorities to achieve a safe, efficient, and compatible system of passenger and freight rail service and authorizes the district to own, operate, manage, and maintain a passenger rail system within the territory of the district.

This bill would additionally require the district to ~~provide~~ *consider the need and financing for* employee workforce housing and the means to finance it, housing, and would add a member to the district's board of directors, to be appointed by the Mendocino County Board of Supervisors. The bill would require the district to conduct a freight rail study incorporating the ~~entire length of the~~ southern right-of-way transferred to the district as described in paragraph (1). The bill would also make various conforming changes to the district's provisions relating to the abolishment of the North Coast Rail Authority. The bill would repeal the requirement that the district obtain coverage for itself and its employees under certain federal laws.

(4) Because this bill would impose new requirements on local entities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** This bill shall be known, and may be cited, as the Great Redwood Trail Act.

**SEC. 2.** It is the intent of the Legislature to do all of the following:

(a) Create a systemwide hiking, biking, and riding trail along or parallel to the North Coast Railroad Authority's railroad tracks on the north coast.

(b) Settle all liabilities, debts, contractual obligations, and leasehold interests held by the Northwestern Pacific Railroad Company, and other legal obligations of the North Coast Railroad Authority, transfer the authority's assets and the right-of-way as provided for in this act, and abolish the North Coast Railroad Authority, which was established by statute in 1989.

(c) Transfer the North Coast Railroad Authority's real property, rail assets, rail easements, and right-of-way south of mile post 142.5 in Willits, California, to the Sonoma-Marín Area Rail Transit District for the purposes of creating and maintaining a passenger and freight railroad service and trail system.

(d) Provide funding for the construction and maintenance of the systemwide trail and railroad line, including funding for any related design needs, environmental assessment, permits, mitigation measures, or associated property interests.

(e) Create the Great Redwood Trail Agency, which will be responsible for constructing and maintaining a hiking, biking, and riding trail in the northern portion of the right-of-way, from mile post 142.5 to mile post 300.5.

(f) Transfer the northern portion of the North Coast Railroad Authority's right-of-way, from mile post 142.5 to mile post 300.5, to the Department of Transportation for a period of not more than two years, and then have it transferred to the Great Redwood Trail Agency.

(g) Ensure each portion of the right-of-way not used for rail is railbanked or otherwise used as a trail.

(h) Ensure each portion of the right-of-way used for rail also has a trail created and maintained in, or next to, it.

(i) (1) Provide for the creation of the trail as a multiuse trail wherever practical, provide a safe, continuous alignment with appropriate and flexible design standards for site conditions, and support the intended uses of the trail.

(2) Provide for the specific trail use types, including hiking, biking, and equestrian uses, to be determined by site specific studies and a broad community engagement process.

~~(j) Any successor agency to North Coast Railroad Authority shall be subject to the California Environmental Quality Act (CEQA), to the extent indicated by Friends of the Eel River v. North Coast Railroad Authority (2017) 3 Cal.5th 677.~~

**SEC. 3.** Section 14111 is added to the Government Code, to read:

**14111.** (a) Within two years of receiving the North Coast Railroad Authority's rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to the authority's right-of-way north of mile post 142.5 in the City of Willits, including any associated branch or spur lines, pursuant to Section 93031, the department shall do both of the following:

(1) Inventory any parcel or contract related to the right-of-way.

(2) Complete an environmental assessment of the right-of-way.

(b) Before January 1, 2021, and after receiving notice from the Great Redwood Trail Agency pursuant to Section 5884 of the Public Resources Code, the department shall transfer those rights, privileges, and responsibilities described in subdivision (a) to the Great Redwood Trail Agency.

**SEC. 4.** Chapter 4 (commencing with Section 93030) is added to Title 12 of the Government Code, to read:

**CHAPTER 4. Abolishment**

**93030.** Before April 1, 2019, the authority shall transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to both its right-of-way south of mile post 142.5 in the City of Willits, including any associated real property, rail easements, and branch or spur lines, and the railroad assets the authority owns to the Sonoma-Marín Area Rail Transit District created pursuant to Section 105010 of the Public Utilities Code.

**93031.** Before April 1, 2019, the authority shall transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to its right-of-way north of mile post 142.5 in the City of Willits, including any associated branch or spur lines, to the Department of Transportation.

**93032.** In making the transfers pursuant to Sections 93030 and 93031, the authority shall transfer all of its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, relating to any right-of-way.

**93033.** Upon making all of the transfers described in this chapter, the authority shall be abolished.

**SEC. 5.** Chapter 14 (commencing with Section 5880) is added to Division 5 of the Public Resources Code, to read:

**CHAPTER 14. Great Redwood Trail Agency**

**5880.** The Great Redwood Trail Agency is hereby created.

**5881.** For purposes of this chapter, the following definitions shall apply:

(a) "Agency" means the Great Redwood Trail Agency.

(b) "Board" means the agency's board of directors described in Section 5882.

(c) "Department" means the Department of Transportation.

(d) "Right-of-way" means the entire length of the right-of-way transferred to the department pursuant to Section 93031 of the Government Code.

**5882.** The agency shall be governed by a board of directors, composed as follows:

(a) The Governor shall appoint two board members, one representing the department and one representing the Natural Resources Agency, who are knowledgeable about trails, parks, railroads, or rivers.

(b) The Senate Committee on Rules shall appoint one board member who is knowledgeable about trails, parks, railroads, or rivers.

(c) The Speaker of the Assembly shall appoint one board member who is knowledgeable about trails, parks, railroads, or rivers.

(d) The Board of Supervisors of the County of Mendocino may appoint one board member.

(e) The Board of Supervisors of the County of Humboldt may appoint one board member.

(f) \_\_\_\_ may appoint one board member.

**5883.** (a) Upon four board members joining the agency's initial board, the agency shall advise the department on issues relating to railbanking and the creation and maintenance of a trail in, or next to, the right-of-way.

(b) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

**5884.** (a) Before January 1, 2021, the board of directors shall notify the department that the agency is ready to assume ownership of the right-of-way.

(b) Upon the department making the transfer described in Section 14111 of the Government Code, the agency shall assume ownership of the right-of-way.

**5885.** The agency shall do all of the following:

(a) For the portion of the right-of-way between mile post 142.5 and mile post 284, including any associated branch or spur lines, the agency shall complete the railbanking process on, and create and maintain a trail in, or next to, that portion of the right-of-way. The agency may contract with a trail manager or organization to meet the requirements of this subdivision.

(b) For the portion of the right-of-way between mile post 284 and mile post 300.5, including any associated branch or spur lines, the agency shall create and maintain a trail in, or next to, that portion of the right-of-way, and may contract with a trail manager or organization to meet these requirements. The agency may contract with an operator to operate freight or excursion rail service on this portion of the right-of-way, except that the service shall not interfere with or harm the agency's trail.

(c) Before January 1, 2020, and annually thereafter, submit a report to the Legislature, in compliance with Section 9795 of the Government Code, describing its progress towards fulfilling the requirements and goals relating to the right-of-way.

**5886.** The agency shall have and may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this chapter, including, but not limited to, to enter into and perform all necessary contracts pursuant to Article 53.5 (commencing with Section 20815) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.

**5887.** The agency shall be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

**SEC. 6.** Section 105001 of the Public Utilities Code is amended to read:

**105001.** It is the intent of the Legislature in enacting this part to provide for a unified, comprehensive institutional structure for the ownership and governance of a passenger rail system within the Counties of Sonoma and Marin

and a freight service that operates upon the same rail line and serves the Counties of Humboldt, Marin, Mendocino, Napa, and Sonoma.

**SEC. 7.** Section 105003 of the Public Utilities Code is amended to read:

**105003.** As used in this part, the following terms have the following meanings:

(a) "District" means the Sonoma-Marine Area Rail Transit District.

(b) "Rail transit" means the transportation of passengers and their incidental baggage by rail and provision of freight service by rail.

(c) "Rail transit works" or "rail transit facilities" means any or all real and personal property, equipment, rights, or interests owned or to be acquired by the district for rail transit service purposes, including ancillary bicycle and pedestrian pathways that provide connections between and access to station sites.

(d) "Board of directors," "board," or "directors" means the board of directors of the district.

(e) "Public agency" includes the state, and any county, city and county, city, district, or other political subdivision or public entity of, or organized under the laws of, this state, or any department, instrumentality, or agency thereof.

**SEC. 8.** Section 105012 of the Public Utilities Code is amended to read:

**105012.** (a) Upon the dissolution of the Sonoma-Marine Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, the district shall succeed to any or all of the powers, duties, rights, obligations, liabilities, indebtedness, bonded and otherwise, immunities, and exemptions of the commission and its board of commissioners and the authority and its board of directors.

(b) Upon the dissolution of the Sonoma-Marine Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, the district shall assume the rights and obligations of the commission and the authority under any contract to which the commission or the authority is a party and ~~which that~~ is to be performed, in whole or in part, on or after the date of dissolution of the Sonoma-Marine Area Rail Transit Commission and the Northwestern Pacific Railroad Authority.

(c) All real and personal property owned by the Sonoma-Marine Area Rail Transit Commission and the Northwestern Pacific Railroad Authority may be transferred to the district.

(d) Upon the dissolution of the Sonoma-Marine Area Rail Transit Commission, the district shall assume, without any condition whatsoever, all responsibilities and obligations previously assumed by the commission with respect to its fund transfer agreement with the Department of Transportation for the funding of the Sonoma-Marine Area Rail Transit Project.

(e) On and after the date of dissolution of the Sonoma-Marine Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, any reference in any provision of law or regulation to the commission or the authority shall be deemed to refer to the district.

**SEC. 9.** Section 105020 of the Public Utilities Code is amended to read:

**105020.** The government of the district shall be vested in a board of directors, which shall consist of 12 or 13 members, appointed as follows:

(a) Two members of the Sonoma County Board of Supervisors, each of whom shall also serve on the Board of Directors of the Sonoma County Transportation Authority, appointed by the Sonoma County Board of Supervisors.

(b) Two members of the Marin County Board of Supervisors, appointed by the Marin County Board of Supervisors.

(c) Three members, each of whom shall be a mayor or council member of a city or town within the County of Sonoma, appointed by the Sonoma County Mayors and Council Members Association or its successor, provided the following conditions are met:

(1) At least two members are also city representatives for the Sonoma County Transportation Authority.

(2) All of the members are from cities on the rail line in Sonoma County.

(3) No city has more than one member.

(d) The member of the City Council of the City of Novato who also serves on the Marin County Congestion Management Agency, appointed by the Marin County Congestion Management Agency or its successor.

(e) The member of the City Council of the City of San Rafael who also serves on the Marin County Congestion Management Agency, appointed by the Marin County Congestion Management Agency or its successor.

(f) One member, who shall be a mayor or council member of a city or town within the County of Marin and a member of the Marin County Congestion Management Agency, appointed by the Marin County Council of Mayors and Council Members or its successor.

(g) Two members of the Golden Gate Bridge, Highway and Transportation District, neither of whom shall be a member of the Marin or Sonoma County Boards of Supervisors, appointed by the Golden Gate Bridge, Highway and Transportation District or its successor.

(h) One member appointed by the Mendocino County Board of Supervisors, if it chooses to do so.

**SEC. 10.** Section 105032 of the Public Utilities Code is amended to read:

**105032.** It shall be the duty of the board and it shall have the power to:

- (a) Own, operate, manage, and maintain a passenger rail system within the territory of the district.
- (b) Determine the rail transit facilities, including ancillary bicycle and pedestrian pathways, to be acquired and constructed by the district, the manner of operation, and the means to finance them.
- (c) Adopt an annual budget for the district that provides for the compensation of its officers and employees.
- (d) Fix rates, rentals, charges, and classifications of rail transit service operated by the district.
- (e) Adopt an administrative code that prescribes the powers and duties of district officers, the method of appointment of district employees, and the methods, procedures, and systems for the operation and management of the district.
- (f) Adopt rules and regulations governing the use of rail transit facilities owned or operated by the district.
- (g) Cause a postaudit of the financial transactions and records of the district to be made at least annually by a certified public accountant.
- (h) Adopt rules and regulations providing for the administration of employer-employee relations.
- (i) ~~Provide~~ *Consider the need and financing for* employee workforce ~~housing and the means to finance it:~~ *housing.*
- (j) Do any and all things necessary to carry out the purposes of this part.

**SEC. 11.** Section 105088 is added to the Public Utilities Code, to read:

**105088.** Upon receiving the North Coast Railroad Authority's rights, privileges, and responsibilities relating to the authority's right-of-way south of mile post 142 142.5 in the City of Willits pursuant to Section 93030 of the Government Code, and upon receiving funding, the district shall do all of the following:

- (a) Conduct a freight rail study incorporating the ~~entire length portion~~ of the ~~right-of-way: right-of-way between~~ mile post 0.0 and mile post 142.5.
- (b) Create or assign the positions of trail manager and freight rail manager.
- (c) Before January 1, 2020, and annually thereafter, submit a report to the Legislature, in compliance with Section 9795 of the Government Code, describing its progress towards fulfilling the requirements and goals relating to the right-of-way.

**SEC. 12.** Section 105095 of the Public Utilities Code is amended to read:

**105095.** The district may provide a rail transit system for the transportation of passengers and their incidental baggage by rail and provision of freight service by rail.

**SEC. 13.** Section 105104 of the Public Utilities Code is repealed.

**SEC. 14.** Section 105105 of the Public Utilities Code is repealed.

**SEC. 15.** Section 105180 of the Public Utilities Code is repealed.

**SEC. 16.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.