



BOARD OF DIRECTORS MEETING AGENDA

January 18, 2023 – 1:30 PM

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

MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON

[ZOOM TELECONFERENCE INSTRUCTIONS](#)

PUBLIC COMMENT PRIOR TO MEETING:

If you wish to make a comment you are strongly encouraged to please submit your comment by 5:00 p.m. on Tuesday, January 17, 2023 at <https://www.surveymonkey.com/r/SMARTBoardComments>

PUBLIC COMMENT DURING THE MEETING:

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

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

Consent Calendar

- 6a. Accept Monthly Ridership Report – December 2022
- 6b. Determine there is a continued need for emergency action and continue to approve contract No. FR-ER-22-001 for emergency repairs to the Timber Trestle Bridge at Railroad Slough, MP-B38.97, for a total contract amount not to exceed \$425,000
- 6c. Approve Resolutions Regarding the application of One Bay Area Grants (OBAG 3) for SMART Pathway: Great Redwood Trail – Novato and SMART Pathway: Great Redwood Trail – Santa Rosa

Regular Calendar

7. Real-Time Information System (Information) - *Presented by Emily Betts*

8. Authorize the General Manager to Execute Contract No. PL-PS-22-002 with The Routing Company to furnish, implement, customize, and maintain a Microtransit Software as a Service (“SaaS”) software platform and solution, for a total not-to-exceed amount of \$60,000 - *Presented by Emily Betts*

9. Property Purchase of Petaluma Properties - *Presented by General Manager Cumins*
 - a. Approve Resolution No. 2023-05 authorizing the General Manager to execute a Property Purchase Agreement Between the Sonoma-Marin Area Rail Transit District and Basin Street Properties for Five (5) Parcels at the Corner of Lakeville & D Streets in Petaluma across the street from SMART’s Downtown Petaluma Station for \$240,000, and any documents reasonably necessary to complete the purchase transaction
 - b. Approve Resolution No. 2023-06 finding that the Property Purchase Agreement Between SMART and Basin Street Properties for the acquisition of five parcels in downtown Petaluma is exempt from environmental review under the California Environmental Quality Act (CEQA)

10. Next Regular Meeting of the Board of Directors, February 1, 2023 – 1:30 PM

11. Adjournment

DISABLED ACCOMODATIONS:

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



**BOARD OF DIRECTORS
REGULAR MEETING MINUTES
January 4, 2023 - 1:30 PM**

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

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1. Call to Order

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

2. Approval of the December 7, 2022, Board Meeting Minutes

MOTION: Director Garbarino moved approval of December 7, 2022, Board Meeting Minutes as presented. Director Lucan second. The motion carried 10-0

3. Board Members Announcements

Chair Rabbitt welcomed Director Paulson to the SMART Board of Directors. Director Paulson stated that he is very happy to be on the Board of Directors. He has attended the last three meetings and is very eager to contribute.

Chair Rabbitt stated that the election of new Chair and Vice Chair would be more appropriate to take action when there is a full contingent board, this will give everyone the opportunity to participate.

4. General Manager's Report

General Manager Cumins provided a brief update on the following:

- Emergency Bridge Repair (Update)
- Ridership
- Grant Applications
- Downtown Santa Rosa Parking

- January Service Change
- Storm Watch 2023
- Questions

Emergency Bridge Repair (Brazos Branch)

- On November 2, 2022, the Board of Directors approved an emergency contract with Koppers Railroad Structures, Inc. and Resolution to repair the Brazos Branch Bridge
- As required by the Public Contract Code, the Board of Directors must review the action item at its regular scheduled meetings until the action is completed, therefore, this item is on today's consent agenda and will continue to be
- There has not been a change since last Board meeting
- Long-lead bridge timbers ordered and expected to arrive in January 2023
- The Contractor will return to make permanent repairs in January/February timeframe

Ridership

- SMART saw the highest ridership recovery rate for October in the Bay Area. SMART was ranked No. 1
- December weekday boarding was 1,958, 94% above December 2021 and 9% down from November
- Ridership currently at 82% of pre-COVID
- December 2022 monthly ridership is up 98% over last year
- In December 2022, SMART carried 47,606 passengers
- SMART established an aggressive annual ridership goal of 594,028 with monthly goals based on historical ridership. SMART met the goals for each month except August and September
- SMART Mid-Year ridership is 299,475

Grant Applications

- SMART has three Major grant applications pending: 1) Solutions for Congested Corridor Funds- \$30M for Windsor (June); 2) Consolidated Rail Infrastructure & Safety Improvements (CRISI) Grant - \$30M for rail systems to Healdsburg (June); and 3) Transit and Intercity Rail Capital Program (TIRCP) -\$125M Windsor to Healdsburg(January)
- TIRCP received 43 Letters of Support from the following:
 - Joint Letter: Congressman Jared Huffman and Congressman Mike Thompson
 - Senator Mike McGuire, Senator Bill Dodd, Assemblymember Jim Wood, Assemblymember Marc Levine, and Assemblymember Cecilia Aguiar-Curry
 - Local Jurisdictions - SMART Corridor Beneficiaries (14)
 - SMART District - Transportation Agencies and Advocates (7)
 - SMART District – Education & Health Institutions (8)
 - SMART District – Business & Economic Development (6)
 - SMART District – Community Organizations (2)

Downtown Santa Rosa Parking

- City of Santa Rosa partnering with SMART to offer a Commuter Parking rate in two lots close to the Downtown Santa Rosa Station which began on January 1, 2023
- Monthly rate reduced from \$50 to \$31 for transit commuters
- Commuters can park for up to 72 hours

- Commuters submit Clipper verification every 3 months
- Two lots under freeway; less than 5-min walk from SMART
 - Lot 14: 5th & Morgan (68 spots)
 - Lot 13: 3rd & Morgan (97 spots)

January 2023 Service Changes

- SMART made a minor service change this week due to a Golden Gate Ferry schedule change
 - One weekend trip moved five minutes later to allow for a 20-minute transfer: Trip 10 moved from 6:25pm NB to 6:30pm NB
- Marketing and Outreach:
 - Printing new paper schedules
 - Posted patch over existing schedules on platforms
 - Sent Nixle alerts

Storm Watch 2023

General Manager Cumins stated that December recorded 15 days of rain, which is twice the average for December. The ground is very saturated, and more rain is on the way. A significant storm is forecasted for Wednesday and Thursday with up to 6 inches of rain and wind gusts ranging from 35-55mph. There is a chance for flooding and downed trees and power lines.

Staff established an Action Plan as follows:

- Proactively clearing drains, addressing suspect branches, ordered extra ballast for Freight and Passenger Rail
- Ensuring Generators, chainsaws, dump trucks equipment is ready
- Conducting hi-rail inspections on bridges, culverts, and ditches
- Attending daily EOC Meetings with Marin and Sonoma County
- Remaining vigilant and focused on mitigating/minimizing delays

Comments

Director Rogers thanked General Manager Cumins for working with the City of Santa Rosa on the Downtown Santa Rosa parking pilot program. He asked if there has been any communication for the day-trippers and not just the commuters. Ms. Betts responded that the parking lots have added 8-10 hours, which is plenty of time for day trips. We can explore adding a discounted rate for SMART riders and the Visitor Center lot is keeping the 3 hour limit and could also discuss changing the time for SMART riders. Director Rogers said that there are various businesses and non-profit organizations in the area that have extra spaces that could be interested in a partnership.

Director Coursey stated that the ridership recovery chart is amazing. He asked if SMART's data shows any change in riders destination prior to the pandemic. General Manager Cumins responded that there are far more day trippers and strong weekend ridership. Also, in October 2019 there were fires and limited the ridership. Director Coursey asked if staff can provide the board information regarding the City of Santa Rosa parking to share on social media.

Director Lucan stated that it is great to see that recovery. He asked with the new workforce model has there been any consideration to re-evaluate the Eco Pass for riders. When in 2023 might we have a bigger discussion on ridership and some of these pilot programs. General Manager Cumins stated that once SMART offered the discounted zone rates the monthly pass was more affordable.

Chief Financial Officer McKillop stated that various options need to be considered especially for riders that don't ride daily. We're also looking at the work that's being done by MTC with the Institutional Pass, which Santa Rosa Junior College is participating in. Director Lucan stated he really appreciates the focus on ridership, and we need to keep finding innovative programs that work for the changing workforce.

Lastly, Chair Rabbitt thanked General Manager Cumins for all the updates and work. He said he looks forward to having a more robust discussion on ridership in a future meeting.

Director Garbarino stated that the story in the North Bay Biz is wonderful and thanked the staff for all their hard work.

5. Public Comment on Non-Agenda Items

Richard Brand congratulated General Manager Cumins and staff for being No. 1 in ridership recovery. He will be sending a letter to MTC addressing that they need to continue to support SMART. Very excited to hear of all the elected officials support for the TIRCP grant. He said he read in the Press Democrat that SMART received funds for repairs of the Healdsburg Bridge.

Steve Birdlebough suggested that SMART start to consider a ridership calculation for 3 day of week riders. He would like SMART to start considering how to reduce vehicles on the road.

Jack Swaengen stated that Friends of SMART will be happy to contribute letters of support for grant applications. The ridership recovery illustrates that commuter rail is beneficial in non-density areas. He met a senior commuter that takes the train from Downtown Santa Rosa to Sonoma State University, and she would like both organizations to work together and provide alternative last mile options. She also has had a difficult time receiving a Senior Clipper card and would like the process to be more transparent.

General Manager Cumins clarified that the \$1.8M funds received were for preliminary design for the Healdsburg Extension, not specifically for the Bridge. He thanked Congressman Huffman for working hard on getting funds for SMART.

6. Consent

- a. Consider and Approve a Resolution to continue virtual Tele/Video Conference Meetings during the COVID-19 State of Emergency
- b. Accept Monthly Ridership Report – November 2022
- c. Approval of Monthly Financial Reports – November 2022
- d. Determine if there is a continued need for emergency action and continue to approve contract No. FR-ER-22-001 for emergency repairs to the Timber Trestle Bridge at Railroad Slough, MP-B38.97, for a total contract amount not to exceed \$425,000

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

MOTION: Vice Chair Pahre moved approval of the Consent Agenda Items as presented. Director Fudge second. The motion carried 10-0

7. Authorize the General Manager to Execute Contract Amendment No. 1 to Contract No. OP-SV-20-007 with Nick Barbieri Trucking, LLC DBA Redwood Coast Fuels - North Bay Petroleum to extend the current fuel delivery Service Agreement for one additional year utilizing the first optional period available in the contract and to increase the not-to-exceed amount by \$1,365,000 for a total not-to-exceed amount of \$4,165,000 - *Presented by Ken Hendricks*

Procurement Manager, Ken Hendricks stated Nick Barbieri Trucking, LLC DBA Redwood Coast Fuels – North Bay Petroleum was the lowest responsive responsible bidder in response to an Invitation for Bid that was issued late 2020 and awarded the Service Agreement at the February 3, 2021, Board Meeting. SMART has received excellent service from Nick Barbieri Trucking, LLC during the initial two-year base term. The initial two-year term is ending, and SMART’s Vehicle Maintenance team is requesting to extend the Agreement for the first optional period available in the contract.

Therefore, staff recommends authorizing the General Manager to execute Amendment No. 1 to Contract OP-SV-20-007 with Nick Barbieri Trucking to extend the current fuel delivery Service Agreement for one additional year in the amount not-to-exceed amount by \$1,365,000 for a total not-to-exceed amount of \$4,165,000.

Comments

Director Coursey asked for clarification if it also includes diesel. Mr. Hendrick responded it includes the amount of fuel in bulk, fueling service and delivery.

Chair Rabbitt asked if the fuel is priced at the time of purchase. Mr. Hendricks responded that SMART received daily deliveries and priced on the Oil Index Price of the region and the fixed price remains the same. This is common in most transit agencies especially for SMART since it does not have storage capabilities.

Jack Swarengen asked if SMART has considered bringing in petroleum in storage tanks.

Richard Brand suggested that SMART consider having petroleum delivered via train to get trucks off the highway.

General Manager Cumins responded that SMART is open to ideas and willing to explore different methods of fuel delivery.

Director Paulson asked if the contract is structured on the variance of ridership. General Manager Cumins responded that is considered the miles of train operation.

MOTION: Director Rogers moved to Authorize the General Manager to Execute Contract Amendment No. 1 to Contract No. OP-SV-20-007 with Nick Barbieri Trucking, LLC DBA Redwood Coast Fuels - North Bay Petroleum to extend the current fuel delivery Service Agreement for one additional year utilizing the first optional period available in the contract and to increase the not-to-exceed amount by \$1,365,000 for a total not-to-exceed amount of \$4,165,000 as presented. Director Lucan second. The motion carried 10-0

8. Approve a Resolution Authorizing the General Manager to Award Contract No. CV-PS-22-003 with CSW Stuber- Stroeh Engineering Group, Inc. (CSW|ST2) for the Design of the Petaluma North Station and Minor Design Modifications to Pathways and Grade Crossings in a total contract amount of \$1,300,019 - *Presented by Bill Gamlen*

Chief Engineer, Bill Gamlen stated he is pleased to be recommending the award for the civil and systems engineering design for the Petaluma North Station and Pathway project. Highlights include:

- Petaluma North Station at Corona Road
- North McDowell Blvd Grade Crossing Reconstruction
- Pathway - Southpoint Blvd to Main Street (Petaluma to Penngrove, 2.9 miles)
- Pathway – Golf Course Drive to Bellevue Avenue (Rohnert Park to Santa Rosa, 2.7 miles)

These project components are being brought together into a single design and construction package due to their geographic overlap and the benefit of having a single contractor within the SMART right-of-way and funding requirements.

Mr. Gamlen illustrated a draft conceptual development plan for the Petaluma North Station.

Therefore, staff recommends authorizing the General Manager to award Contract No. CV-PS-22-003 with CSW Stuber- Stroeh Engineering Group, Inc in an amount of \$1,300,019 and a term through June 2023 and approve Resolution No. 2023-02.

Comments

Chair Rabbitt asked for clarification of the parking lot design and the access. Mr. Gamlen responded that the design of the parking lot is included in this contract and access will most likely be on Corona, since McDowell will be too close to the intersection as stated by the City of Petaluma. Chair Rabbitt stated that he heard that Lagunitas would like to have direct access to the station and not sure the direction of the pathway. Mr. Gamlen responded that the pathway will be on the east side of the tracks.

Director Coursey asked what is needed for the McDowell reconstruction crossing since its active. Mr. Gamlen responded that the McDowell crossing was not reconstructed when passenger service started and in need of construction. Director Coursey asked when the station is expected to be operational. Mr. Gamlen responded that construction should start late summer early fall and anticipate the station opening late 2024.

Chair Rabbitt stated that the McDowell Blvd intersection is being reconstructed with a better pathway system. Perhaps SMART can have a partnership with Lagunitas to participate in a connection.

Duane Bellinger asked when the public can provide input for the design.

Matthew Hartzell welcomed Director Paulson and thanked SMART staff for their continued work to expand and optimize the North Bay multimodal transportation network. He voiced his support for this contract and the North Petaluma Station which is a positive addition to the SMART network. It is great to see the SMART pathway segments and McDowell Blvd Crossing included in this contract. He encourages SMART to be in conversation with the City of Petaluma and County of

Sonoma Planning Department in the decision making to improve the land use around this future North Petaluma Station and make it more transit oriented.

Rick Luttmann asked for clarification of the draft conceptual plan. Mr. Gamlen responded that the parcel was recently purchased by an affordable housing developer, Danko Properties. He believes they're looking for funding to construct affordable housing on that site.

Dani Sheehan welcomed Director Paulson to the SMART Board. This is a precedent for public/private partnerships, and tourism being part of our growth projections that are not projected and yet to be developed, and how we really incorporate this train as a tourism attraction to build revenue. She encouraged the Board and SMART to consider partnership, to make it a better destination for tourism.

Richard Brand stated that Heineken (formerly Lagunitas) can also help with advertising SMART and the destination.

MOTION: Director Garbarino moved to Approve a Resolution Authorizing the General Manager to Award Contract No. CV-PS-22-003 with CSW Stuber- Stroeh Engineering Group, Inc. (CSW|ST2) for the Design of the Petaluma North Station and Minor Design Modifications to Pathways and Grade Crossings in a total contract amount of \$1,300,019 as presented. Director Bagby second. The motion carried 10-0

9. Approve the Short-Range Transit Plan: Bay Area Transit Recovery Scenario Planning Document – *Presented by Heather McKillop*

Chief Financial Officer, Heather McKillop stated that at the December 7, 2022, Board meeting she provided information regarding this item and presented SMART's response to MTC's request for an updated SRTP with scenario planning. On December 8, 2022, SMART received questions from MTC staff regarding the submittal. She provided a PowerPoint presentation, which is located on SMART's website. Highlights include:

- Short-Range Transit Plan Purpose
- Scenarios Planning
- Scenarios
 - Scenario #1 – Robust Recovery
 - Scenario #2 – Revenue Recovery, Fewer Riders
 - Scenario #3 – Some Progress
 - Scenario #4 – SMART Projections
- Questions

Comments

Chair Rabbitt thanked Ms. McKillop for all the work on the SRTP, which was an unexpected burden. As mentioned before, throughout the entire Bay Area and the State of California they are looking for ways to fund transit going forward. Especially, now that we are not expecting the large Federal inflow of funds that we have received through COVID to this point. In California it is about the unallocated cap and trade funds to provide a 5 year funding period for transit. MTC wants to use this data to figure out what funds are going to be needed moving forward.

Director Coursey asked if SMART is receiving any indication that Scenario #4 will not be accepted or just wants clarification. Ms. McKillop responded that they wanted clarification and information.

Lastly, Chair Rabbitt said that MTC staff is always comparing apples to apples and is reminded that that one size does not fit all. It is great that SMART prepared Scenario #4 and he feels confident that we will be treated fairly moving forward.

Rick Luttmann stated he is very impressed with the Friends of SMART knowledge of railroads. At a recent Friends of SMART meeting, it was mentioned by former Northwestern Pacific Railroad employees who took a field trip to see the Healdsburg Bridge that there is evidence of scouring around the north pier due to flooding on the Russian River. They said that according to the Federal Railroad Administration Regulations the Healdsburg Bridge is usable, however the speed limit would be 5 mph and if ballast is added in the pier it could increase to 20 mph. He said that the people in the north are upset that they are paying for the tax and do not have passenger service. He urged the Board to consider making minor repairs to the bridge to get passenger service to Healdsburg.

Steve Birdleough thanked staff for preparing Scenario #4. At the MTC level it is hard for them to understand the North Bay and other parts of the Bay Area ridership. They must realize if you don't have frequent service, you lose ridership. Hopefully, we can get their support for the approach, which is to provide frequent passenger service.

Richard Brand stated he is surprised by the informal request. He suggested that the Board write a letter asking how the information/data will be used.

Chair Rabbitt added as a MTC Commissioner, and as the Chair of the Programming and Allocations Committee that allocates dollars, this was a request to the Commission to gather information. This will not be used against SMART; however, it will be used in benefit of SMART going forward. As for Mr. Luttmann analysis of Healdsburg Bridge, we should leave that to the license qualified engineers to analyze and design the structure. We trust our staff, our consultants, and the system has worked well to date.

Director Paulson asked what percent of our budget is from the gasoline sales tax. Ms. McKillop responded that its about 30 percent.

MOTION: Vice Chair Pahre moved to Approve the Short-Range Transit Plan: Bay Area Transit Recovery Scenario Planning Document as presented. Director Bagby Second. The motion carried 10-0

10. Approval to Establish an Ad Hoc Committee to review applications and recommend appointments of the Citizens Oversight Committee – *Presented by General Manager Cumins*

General Manager Cumins provided a brief overview presentation of the COC Selection Process, which is located on SMART's website. Highlights include:

Background:

- December 7, 2022 – SMART Board of Directors approved COC Bylaws

- December 19, 2022 – SMART Staff posted the application and advertised positions
 - Press release, Email blast and social media
- Applications will continue to be accepted through January 13, 2023
- Received 17 applications to date
 - Only one current COC member has applied

Therefore, staff recommends that the Board of Directors establish an Ad Hoc Committee to review applications and recommend appointments to the COC.

Comments:

Director Colin asked if the meeting will be held in person or virtual and how many positions are available and do they have a geographic requirement. General Manager Cumins responded that they would be in person starting in March like the Board of Directors meetings. It is identified in the COC Bylaws that they needed to be a Marin or Sonoma County resident. Director Colin asked if the applications received are geographically distributed. General Manager Cumins responded that he has not reviewed the applications. Director Colin stated she can participate and be part of the committee.

District Counsel Lyons stated that the meeting can be held in Marin and Sonoma County.

Director Coursey said that this is a Brown Act Committee, and it will be held in person. District Counsel Lyons responded that once the emergency order is rescinded, then it becomes a Brown Act and would follow the same rules as the Board of Directors. Director Coursey asked if the current COC members have been informed that they would need to apply to serve again. General Manager Cumins responded yes and will do some follow-up.

Chair Rabbitt asked what the majority is right now, given the couple of vacancies that we have. District Counsel Lyons responded 7 regardless of the number of Board members that are available. For the Ad Hoc Committee preferably 5 members or less.

Chair Rabbitt asked for volunteers to serve on the Ad Hoc Committee. The following Directors Bagby, Colin, Garbarino, Lucan and Rogers were appointed to the Ad Hoc Committee to review applications and recommend appointments of the Citizens Oversight Committee as presented.

Director Bagby suggested extending the application period to January 20, 2023. The Board gave direction to staff to extend the application period to January 20, 2023.

Vice Chair Pahre suggested that the Ad Hoc Committee consider the same equity for both counties when evaluating applicants.

11. Appoint Two SMART Board Members to attend the Metropolitan Transportation Commission Regional Network Management Webinar – *Presented by Emily Betts*

Principal Planner, Emily Betts stated that MTC is hosting a webinar on January 12th at 4:00pm for Transit Agency Board of Directors and General Managers. She provided a brief PowerPoint Presentation, which is located on SMART’s website. Highlights include:

- Regional Network Management Background

- Update Short/Near-Term Regional Network Management
- Draft Charter for Short/Near-Term Regional Network Management
- Questions

Therefore, staff recommends appointing two Board members to attend the Regional Network Management Webinar on Thursday, January 12, 2023.

Comments

Chair Rabbitt stated that he participated in the Blue Ribbon Transit Recovery Task Force. Chair Rabbitt asked for volunteers. Directors Bagby and Lucan will participate.

Steve Birdlebough stated that this is an important issue and difficult. They have been working on this issue for 7 years and have made very little progress. The difficult part is that 90% of the riders on every system are within the system and are not going to transfer. He hopes SMART can make a lot of progress on this because 10% from all over the region is a big number

Director Coursey asked what staff involvement in this effort is. General Manager Cumins responded that he has been briefed on this issue at the Small Operators meetings he attends every Tuesday. He believes that the webinar will go into depth of how this will work for transit agencies.

Vice Chair Pahre asked what the expectation of the two representatives that will be attending. General Manager Cumins responded that MTC is hosting the webinar and anticipates there will be an opportunity for questions and clarification probably at the end. This is a difficult situation, and it will be interesting to see how it works.

Director Lucan asked if there is a suggested end time. General Manager Cumins responded that it could last 1 hour.

Chair Rabbitt said that the idea is to have coordination among all transit agencies. SMART is a good example of coordinating with other transit agencies and local systems. In the North Bay we have been spoiled because we have transit agencies that work well together. That's not the case throughout the entire Bay Area. The idea of having two Board members was to expand the voice and get the Board members or the elected officials (?) involved.

Lastly, Directors Bagby and Lucan were appointed to attend the Metropolitan Transportation Commission Regional Network Management Webinar on January 12, 2023.

Closed Session Comments

Duane Bellinger stated that a survey was conducted and there were 55 people that wanted to park Downtown and 45 that wanted to park at Corona. He suggested that staff negotiate to have 55 parking spaces Downtown which would guarantee the people of West Petaluma to have an opportunity to park.

Chair Rabbitt adjourned the Board to Closed Session at 3:25pm on the following:

12. Closed Session - Conference with General Manager Cumins, pursuant to California Government Code Section 54956.8 regarding real estate property negotiations
Property: APN's: 007-153-014 through 007-153-018
D Street and Lakeville, Petaluma, CA
Negotiating Parties: General Manager Cumins – Petaluma Riverfront LLC.
13. Report Out Closed Session

District Counsel Lyons reported out of Closed Session at 4:15pm on the following:

Closed Session - Conference with General Manager Cumins, pursuant to California Government Code Section 54956.8 regarding real estate property negotiations
Property: APN's: 007-153-014 through 007-153-018
D Street and Lakeville, Petaluma, CA
Negotiating Parties: General Manager Cumins – Petaluma Riverfront LLC.
Report Out: The Board of Directors gave direction to staff.

14. Next Regular Meeting of the Board of Directors, January 18 , 2023 – 1:30 PM
15. Adjournment - Meeting adjourned at 4:17pm.

Respectfully submitted,

Leticia Rosas
Clerk of the Board

Approved on: _____



David Rabbitt, Chair
Sonoma County Board of Supervisors

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

Vacant
Marin County Board of Supervisors

Melanie Bagby
Sonoma County Mayors' and
Councilmembers Association

Kate Colin
Transportation Authority of Marin

Vacant
Marin County Board of Supervisors

Chris Coursey
Sonoma County Board of Supervisors

Debora Fudge
Sonoma County Mayors' and
Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Eric Lucan
Transportation Authority of Marin

Gabe Paulson
Marin County Council of Mayors and
Councilmembers

Chris Rogers
Sonoma County Mayors' and
Councilmembers Association

Eddy Cumins
General Manager

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

January 18, 2023

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

SUBJECT: Monthly Ridership Report

Dear Board Members:

RECOMMENDATIONS: Accept Monthly Ridership Report – December 2022

SUMMARY:

We are presenting the monthly ridership report for activity for the month of December 2022. This report shows trends in ridership for SMART by tracking Totals, Average Weekday riders, and Average Saturday riders, Average Sunday/Holiday riders, as well as bicycles and mobility devices.

With the transition to the Automatic Passenger Counter (APC), SMART now has a highly accurate method of tracking boardings and alightings at stations that does not depend on manual counts by the conductors. The APC system has been tested and validated at a 99% accuracy level and has been certified for passenger count use by the Federal Transit Administration (FTA).

As discussed in prior presentations to the Board, both Passenger Counts and Fare-based collection rider counts are shown to give a full picture of ridership. Passenger Counts capture all riders, including riders with passes who neglect to tag on or off, riders who fail to activate their mobile app tickets, as well as categories of riders such as children under five years old. Clipper + Mobile App paid fare reports do not capture all riders.

This report compares the most recent month to the same month during the prior year, as is standard industry practice for tracking trends over time. The report also shows progress so far in the Fiscal Year compared to the same time in the last Fiscal Year, to enable tracking of riders relative to budget expectations. These reports also note relevant details associated with fare program discount usage and trends in riders bringing bicycles onboard.

SMART's rider data for December is posted on the SMART Ridership website (<http://sonomamarintrain.org/RidershipReports>) and SMART's January 2023 data will be posted once validated.

FISCAL IMPACT: None

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

Respectfully,

/s/
Emily Betts
Principal Planner

Attachment(s): Monthly Ridership Report – December 2022

DECEMBER 2022 SMART RIDERSHIP REPORT

December 2022 saw a continued ridership gains for SMART, with total boardings 98% over December 2021. Youth ridership remains high, at 13% of total boardings, and SMART had 1,955 Clipper BayPass tagged boardings in December (SRJC pass). Both weekday and weekend ridership are strong, with total average weekday ridership up 93% and Saturday up 49% over November 2021.

December average weekday ridership (1,941) was down from November, likely due to the rainy weather and staggered school holidays. December 2022 ridership was at 82% of December 2019 (pre-COVID).

As a reminder, SMART modified services in March 2020 due to the COVID-19 pandemic, with weekend service annulled and weekday service reduced to 16 trips. In May 2021, SMART added back 10 weekday trips, resulting in the current 26 weekday trip schedule. Saturday service was also restored the last two weekends in May 2021, with 3 morning and 3 afternoon round trips. On May 1, 2022, SMART began Sunday service with 12 trips per day, and added 10 additional weekday trips on June 12, 2022. On October 3, 2022, SMART added 2 additional midday trips, for a total of 38 trips per weekday.

The tables below present data for December 2021 and 2022, year-over-year. Ridership for the fiscal year to date is up 93% over the same time period for FY22.

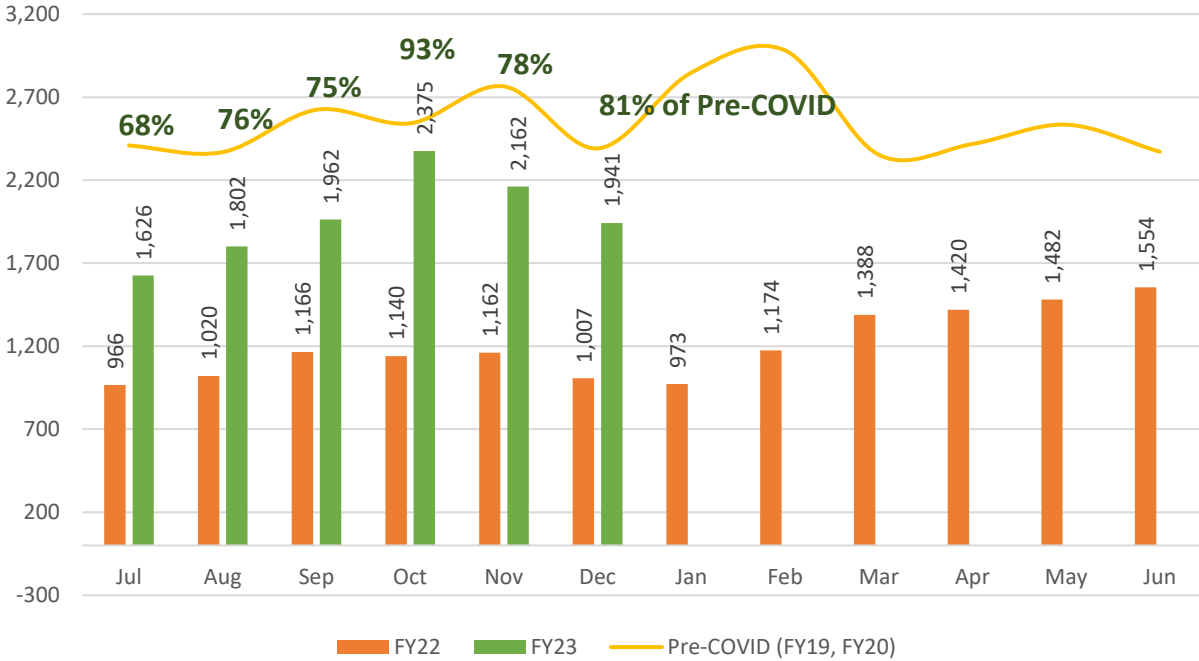
FISCAL YEAR-TO-DATE (JUL - DEC)	Fiscal Year 2022	Fiscal Year 2023	% Change
Ridership	155,237	299,475	93%
Fare Payments (Clipper + App Only)	141,540	253,482	79%
Average Weekday Ridership	1,291	1,979	53%
Average Saturday/Holiday Ridership	636	991	56%
Average Sunday Ridership	0	803	N/A
Bicycles	23,492	47,445	102%
Mobility Devices	742	991	34%

Total December ridership has nearly doubled over last December. Bicycles on board are up 86% and passengers boarding with mobility devices is up 25%. In December, 12% of riders brought bikes on board the train, down from an average of 18% during the summer months.

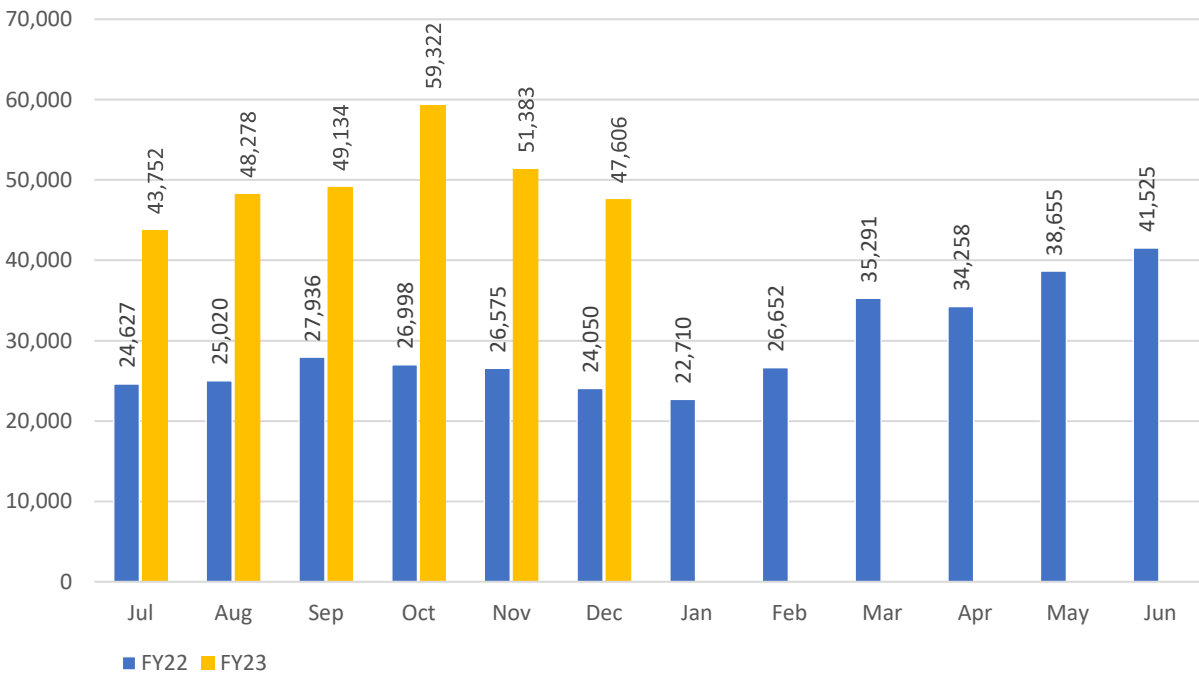
MONTHLY TOTALS YEAR-OVER-YEAR	DEC 2021	DEC 2022	% Change
Ridership	24,050	47,606	98%
Fare Payments (Clipper + App Only)	21,857	37,795	73%
Average Weekday Ridership	1,007	1,941	93%
Average Saturday Ridership	538	803	49%
Average Sunday Ridership	0	708	N/A
Bicycles	2,920	5,419	86%
Mobility Devices	76	95	25%

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

SMART Average Weekday Ridership



SMART Monthly Ridership (FY22 v FY23)





January 18, 2023

David Rabbitt, Chair
Sonoma County Board of Supervisors

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

Vacant
Marin County Board of Supervisors

Melanie Bagby
Sonoma County Mayors' and
Councilmembers Association

Kate Colin
Transportation Authority of Marin

Vacant
Marin County Board of Supervisors

Chris Coursey
Sonoma County Board of Supervisors

Debora Fudge
Sonoma County Mayors' and
Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Eric Lucan
Transportation Authority of Marin

Gabe Paulson
Marin County Council of Mayors and
Councilmembers

Chris Rogers
Sonoma County Mayors' and
Councilmembers Association

Eddy Cumins
General Manager

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

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

SUBJECT: Contract No. FR-ER-22-001 for the Timber Trestle Bridge at Railroad Slough
MP B38.97 Emergency Repairs

Dear Board of Directors:

RECOMMENDATION:

Determine there is a continued need for emergency action and continue to approve contract No. FR-ER-22-001 for emergency repairs to the Timber Trestle Bridge at Railroad Slough, MP-B38.97, for a total contract amount not to exceed \$425,000.

SUMMARY:

This emergency item first came to the District's attention on Friday, October 28, 2022, after the posting of the Agenda for the regularly Scheduled November 2, 2022 Board of Directors' meeting. As you will recall the bridge is a critical link to the SMART main line and must be traveled over to serve freight customers in Petaluma. Given that this critical connection is required for SMART to fulfill its common carrier obligations, immediate repairs to the bridge were necessary.

Accordingly, at the November 2, 2022 Board Meeting, the Board determined that there was a need to take immediate action required by the emergency, and approved Resolution No. 2022-37 authorizing the General Manager to execute the emergency contract to perform the emergency repairs in an amount not to exceed \$425,000 (Agenda Item A).

The contractor has already initiated temporary repairs on the pile caps that were crushed, repaired the split timber beams and has begun the procurement of the longer lead items needed to make the proper repairs the bridge.

As previously indicated staff will continue to provide an update on the status of this emergency action, and as required by Public Contract Code §22050, the Board of Directors must continue to review the emergency action at its regularly scheduled meeting and at every regularly scheduled meeting thereafter to determine that there is a need to continue the action.

FISCAL IMPACT: Funding has been identified in the FY 2023 freight budget.

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

Very truly yours,
/s/
Eddy Cumins
General Manager



January 18, 2023

David Rabbitt, Chair
Sonoma County Board of Supervisors

Barbara Pahre, Vice Chair
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Highway/Transportation District

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General Manager

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

SUBJECT: One Bay Area Grants

Dear Board Members:

RECOMMENDATIONS:

Adopt Resolution Nos. 2023-03 and 2023-04 regarding the application of One Bay Area Grants (OBAG 3) for SMART Pathway: Great Redwood Trail – Novato and SMART Pathway: Great Redwood Trail – Santa Rosa

SUMMARY:

The OBAG 3 program, adopted by the Metropolitan Transportation Commission (MTC) in January 2022, establishes the policy and programming framework for investing federal Surface Transportation Block Grant Program (STP) and Congestion Mitigation and Air Quality Improvement program (CMAQ) funds for FY 2022-23 through FY 2025-26.

The OBAG 3 framework directs \$375 million to local transportation projects through the County and Local Program, of which 20% was already programmed to County Transportation Agencies for planning and programming activities and Safe Routes to School programs. The remaining 80% or \$302 million was allocated by MTC's Program and Allocations Committee at their meeting on Wednesday, January 11th.

In cooperation with the Sonoma County Transportation Authority (SCTA) and the Transportation Authority of Marin (TAM) two of SMART's pathway projects were recommended and approved. See details below:

Project Description	Total Budget	OBAG 3 Funds	SMART Funds
SMART Pathway/ Great Redwood Trail – Santa Rosa (Airport Blvd. to San Miguel Road): Construct 3.1 miles.	\$5,644,980	\$2,000,000	\$3,644,980
SMART Pathway/ Great Redwood Trail – Novato (Hanna Ranch to Rowland): Construct 0.4 miles.	\$2,259,272	\$1,000,000	\$1,259,272

These projects are in SMART's approved Capital Plan and consistent with the Short-Range Transit Plan.

These segments are currently under design and are estimated to be able to go to construction in Fiscal Year 2024.

FISCAL IMPACT: The projects would have to be funded in their entirety with SMART sales tax dollars without these OBAG 3 grant funds.

Very Truly Yours,

/s/

Heather McKillop
Chief Financial Officer

Attachments:

- 1) Resolution No. 2023-03
- 2) Resolution No. 2023-04
- 3) MTC Resolution No. 4505 – Attachment B-2

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO THE MTC AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCE TO COMPLETE THE PROJECT

WHEREAS, Sonoma-Marín Area Rail Transit District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$1,000,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the SMART Pathway/ Great Redwood Trail – Novato (Hanna Ranch to Rowland) (herein referred to as PROJECT) for the One Bay Area Grant (OBAG 3) (herein referred to as PROGRAM); and

WHEREAS, the United States Congress enacted the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the Bipartisan Infrastructure Law) providing funding for transportation programs including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

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

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

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

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

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

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

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and

- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and
- in the case of a transit project, the PROJECT will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; and

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and be it further

RESOLVED that APPLICANT will provide any required matching funds; and be it further

RESOLVED that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it further

RESOLVED that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to

deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and be it further

RESOLVED that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and be it further

RESOLVED that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and be it further

RESOLVED that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and be it further

RESOLVED that, in the case of a transit project, APPLICANT agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and be it further

RESOLVED that, in the case of a highway project, APPLICANT agrees to comply with the requirements of MTC's Traffic Operations System (TOS) Policy as set forth in MTC Resolution No. 4104; and be it further

RESOLVED that, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and be it further

RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED that APPLICANT authorizes its General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

Resolution No. 2023-03
Sonoma-Marín Area Rail Transit District
January 18, 2023

RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

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 January, 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Rabbitt, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

—

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

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT,
STATE OF CALIFORNIA, AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO
THE MTC AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCE TO
COMPLETE THE PROJECT**

WHEREAS, Sonoma-Marín Area Rail Transit District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$2,000,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the SMART Pathway/Great Redwood Trail – Santa Rosa (Airport Blvd. to San Miguel) (herein referred to as PROJECT) for the One Bay Area Grant (OBAG 3) (herein referred to as PROGRAM); and

WHEREAS, the United States Congress enacted the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the Bipartisan Infrastructure Law) providing funding for transportation programs including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

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

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL

TRANSPORTATION ACT or continued funding; and be it further

RESOLVED that APPLICANT will provide any required matching funds; and be it further

RESOLVED that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it further

RESOLVED that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and be it further

RESOLVED that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and be it further

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RESOLVED that, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and be it further

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RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

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 January, 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Rabbitt, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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

Attachment B-2
MTC Resolution No. 4505
OBAG 3 County & Local Programs
FY 2022-23 through FY 2025-26
January 2023

MTC Res. No. 4505 Attachment B-2
 Adopted: 01/26/22-C
 Revised: 06/22/22-C 09/28/22 10/26/22-C 01/25/23-C

OBAG 3 County & Local Programs Project List

PROJECT CATEGORY AND TITLE	SPONSOR	Total STP/CMAQ
OBAG 3 COUNTY & LOCAL PROGRAMS		
		\$375,000,000
ALAMEDA COUNTY		
CTA Planning Activities		
Planning Activities Base	MTC	\$4,905,000
Planning Activities Supplemental	ACTC	\$2,600,000
County/Local Program		
Fruitvale Corridor (Added)	AC Transit	\$2,000,000
San Pablo Avenue Bus and Bike Lanes (Added)	ACTC	\$10,000,000
San Pablo Avenue Parallel Bike Network (Added)	ACTC	\$10,000,000
San Pablo Avenue Safety/Bus Bulbs Project (Added)	ACTC	\$10,000,000
SRTS Non-Infrastructure Program	ACTC	\$8,883,000
Central Avenue/Fourth Street/Ballena Blvd Roundabout (Added)	Alameda	\$2,325,000
Mission Boulevard Phase III Corridor Improvements (Added)	Alameda County	\$9,657,000
Upper San Lorenzo Creekway Trail (Added)	Alameda County	\$9,621,000
Old Town Streetscape (Added)	Newark	\$2,000,000
		\$71,991,000
CONTRA COSTA COUNTY		
CTA Planning Activities		
Planning Activities Base	MTC	\$4,087,000
County/Local Program		
Countywide Smart Signals (Added)	CCTA	\$26,555,000
SRTS Non-Infrastructure Program (Added)	CCTA	\$3,665,000
Galindo Street Multimodal Corridor (Added)	Concord	\$3,361,000
Willow Pass Road Bikeway Connection (Added)	Concord	\$830,000
School Street Class I Multiuse Facility (Added)	Lafayette	\$3,435,000
Bay Trail Gap Closure at Tennent Avenue (Added)	Pinole	\$1,020,000
Delta De Anza Multimodal Trail Safety Improvements (Added)	Pittsburg	\$4,427,000
Bayview to BART (Added)	Richmond	\$1,675,000
McBryde Avenue Safe Routes to Parks (Added)	Richmond	\$1,028,000
Safe Routes to School Infrastructure Improvements (Added)	Walnut Creek	\$2,499,000
		\$52,582,000
MARIN COUNTY		
CTA Planning Activities		
Planning Activities Base	MTC	\$3,446,000
Planning Activities Supplemental	TAM	\$400,000
County/Local Program		
Paradise Drive (Added)	Corte Madera	\$2,056,000
Transit Corridor Improvements (Added)	MCTD	\$1,600,000
North San Rafael/Northgate Area PDA Study (Added)	San Rafael	\$797,000
SE San Rafael/Canal Area PDA Study (Added)	San Rafael	\$797,000
Second and Fourth Street Intersection Improvements (Added)	San Rafael	\$3,051,000
Bridgeway Bike Lane Project – Princess Street to Richardson (Added)	Sausalito	\$505,000
SMART Pathway: Great Redwood Trail – Novato (Added)	SMART	\$1,000,000
		\$13,652,000
NAPA COUNTY		
CTA Planning Activities		
Planning Activities Base	MTC	\$3,446,000
County/Local Program		
Green Island Road Class 1 (Added)	American Canyon	\$1,000,000



Attachment B-2
MTC Resolution No. 4505
OBAG 3 County & Local Programs
FY 2022-23 through FY 2025-26
January 2023

MTC Res. No. 4505 Attachment B-2
 Adopted: 01/26/22-C
 Revised: 06/22/22-C 09/28/22 10/26/22-C 01/25/23-C

OBAG 3 County & Local Programs Project List

PROJECT CATEGORY AND TITLE	SPONSOR	Total STP/CMAQ
OBAG 3 COUNTY & LOCAL PROGRAMS		
		\$375,000,000
<u>Silverado Trail Five-Way Intersection Improvements (Added)</u>	<u>Napa</u>	<u>\$2,000,000</u>
<u>SR 29 American Canyon Operational and Multimodal Imps (Added)</u>	<u>NVTA</u>	<u>\$1,500,000</u>
<u>Main Street St. Helena Pedestrian Improvements (Added)</u>	<u>St. Helena</u>	<u>\$1,206,000</u>
NAPA COUNTY		\$9,152,000
SAN FRANCISCO COUNTY		
CTA Planning Activities		
Planning Activities Base	MTC	\$3,624,000
Planning Activities Supplemental	SFCTA	\$2,200,000
County/Local Program		
<u>Elevator Modernization, Phase 1.3 (Added)</u>	<u>BART</u>	<u>\$13,300,000</u>
<u>SFMTA Light Rail Vehicles (for SFCTA West Side Bridges) (Added)</u>	<u>SFMTA</u>	<u>\$14,899,000</u>
SRTS Non-Infrastructure Program	SFMTA	\$7,082,000
<u>29 Sunset Improvement (Added)</u>	<u>SFMTA</u>	<u>\$5,976,000</u>
<u>Central Embarcadero Safety (Added)</u>	<u>SFMTA</u>	<u>\$6,320,000</u>
SAN FRANCISCO COUNTY		\$53,401,000
SAN MATEO COUNTY		
CTA Planning Activities		
Planning Activities Base	MTC	\$3,450,000
Planning Activities Supplemental (Revised)	C/CAG	\$2,300,000
County/Local Program		
<u>Rollins Road Bicycle and Pedestrian Improvement (Added)</u>	<u>Burlingame</u>	<u>\$3,100,000</u>
<u>El Camino Real Complete Street, Mission Rd to SSF (Added)</u>	<u>Colma</u>	<u>\$4,640,000</u>
SRTS Non-Infrastructure Program	C/CAG	\$2,120,000
<u>Middle Ave Caltrain Pedestrian and Bicycle Undercrossing (Added)</u>	<u>Menlo Park</u>	<u>\$5,000,000</u>
<u>Roosevelt Avenue Traffic Calming Project (Added)</u>	<u>Redwood City</u>	<u>\$3,400,000</u>
<u>Bay Road Complete Street Rehabilitation (Added)</u>	<u>San Mateo County</u>	<u>\$3,807,000</u>
<u>19th Ave/Fashion Island Blvd Complete Street Class IV (Added)</u>	<u>SMCTA</u>	<u>\$3,375,000</u>
<u>School St/Spruce Ave and Hillside Blvd Safety and Access Imps (Added)</u>	<u>South San Francisco</u>	<u>\$3,128,000</u>
SAN MATEO COUNTY		\$34,320,000
SANTA CLARA COUNTY		
CTA Planning Activities		
Planning Activities Base	MTC	\$5,307,000
Planning Activities Supplemental	VTA	\$4,693,000
County/Local Program		
<u>N San Antonio Road Protected Bikeway and Complete Streets (Added)</u>	<u>Los Altos</u>	<u>\$7,298,000</u>
<u>Monterey Road Traffic, Bicycle, & Pedestrian Improvements (Added)</u>	<u>Morgan Hill</u>	<u>\$3,921,000</u>
<u>El Camino Real / El Monte / Escuela Intersection Imps (Added)</u>	<u>Mountain View</u>	<u>\$2,400,000</u>
<u>Middlefield Road Complete Streets (Added)</u>	<u>Mountain View</u>	<u>\$2,406,000</u>
<u>Moffett Boulevard Complete Streets (Added)</u>	<u>Mountain View</u>	<u>\$3,500,000</u>
<u>Jackson Avenue Complete Streets</u>	<u>San Jose</u>	<u>\$3,300,000</u>
<u>Julian & St. James Livable Streets Couplet Conversion (Added)</u>	<u>San Jose</u>	<u>\$12,974,000</u>
<u>Signalized Intersections Pedestrian Safety Improvements (Added)</u>	<u>San Jose</u>	<u>\$6,300,000</u>
<u>Story-Keyes Complete Streets (Added)</u>	<u>San Jose</u>	<u>\$32,730,000</u>
<u>White Road Pedestrian Safety Improvements (Added)</u>	<u>San Jose</u>	<u>\$3,382,000</u>
<u>Central Santa Clara Bicycle and Pedestrian Improvement (Added)</u>	<u>Santa Clara</u>	<u>\$9,029,000</u>
SANTA CLARA COUNTY		\$97,240,000
SOLANO COUNTY		
CTA Planning Activities		

Attachment B-2
MTC Resolution No. 4505
OBAG 3 County & Local Programs
FY 2022-23 through FY 2025-26
January 2023

MTC Res. No. 4505 Attachment B-2
 Adopted: 01/26/22-C
 Revised: 06/22/22-C 09/28/22 10/26/22-C 01/25/23-C

OBAG 3 County & Local Programs Project List

PROJECT CATEGORY AND TITLE	SPONSOR	Total STP/CMAQ
OBAG 3 COUNTY & LOCAL PROGRAMS		
Planning Activities Base	MTC	\$3,446,000
Planning Activities Supplemental	STA	\$4,044,000
County/Local Program		
East Fifth Street PDA - Affordable Housing Streetscape Imps (Added)	Benicia	\$261,000
Linear Park Node 4 Safe Routes to School and Transit (Added)	Fairfield	\$2,239,000
Travis Safe Routes to School and Transit (Added)	Fairfield	\$3,960,000
Solano 360 Transit Center Phase 1 (Added)	Solano County	\$2,101,000
Solano Mobility Call Center and Employer Commuter Program (Added)	STA	\$1,500,000
SRTS Non-Infrastructure Program (Added)	STA	\$1,000,000
Sacramento Street Road Diet – Phase II (Added)	Vallejo	\$850,000
SOLANO COUNTY		\$19,401,000
SONOMA COUNTY		
CTA Planning Activities		
Planning Activities Base	MTC	\$3,446,000
Planning Activities Supplemental	SCTA	\$2,229,000
County/Local Program		
Grove Street Neighborhood Plan Implementation (Added)	Healdsburg	\$2,217,000
Hwy 101 Bike/Ped Overcrossing at Copeland Creek (Added)	Rohnert Park	\$3,350,000
Downtown Connectivity for Housing Density Intensification (Added)	Santa Rosa	\$2,588,000
Hwy 101 Hearn Ave Multi-Use Pathway and Pavement Rehab (Added)	Santa Rosa	\$1,321,000
SRTS Non-Infrastructure Program	SCTA	\$1,910,000
SMART Pathway: Great Redwood Trail – Santa Rosa (Added)	SMART	\$2,000,000
Todd Rd and Standish Ave Intersection Improvements (Added)	Sonoma County	\$2,200,000
Downtown Bike/Ped US 101 Crossing - Underpass Widening (Added)	Windsor	\$2,000,000
SONOMA COUNTY		\$23,261,000
UNPROGRAMMED BALANCE		
OBAG 3 COUNTY & LOCAL PROGRAMS	TOTAL:	\$375,000,000

J:\SECTION\ALLSTAFF\Resolution\TEMP-RES\MTC\RES-4505_ongoing_OBAG3\[tmp-4505_Attachment-B-2_January.xlsx]Jan 2023





David Rabbitt, Chair
Sonoma County Board of Supervisors

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

Vacant
Marin County Board of Supervisors

Melanie Bagby
Sonoma County Mayors' and
Councilmembers Association

Kate Colin
Transportation Authority of Marin

Vacant
Marin County Board of Supervisors

Chris Coursey
Sonoma County Board of Supervisors

Debora Fudge
Sonoma County Mayors' and
Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Eric Lucan
Transportation Authority of Marin

Gabe Paulson
Marin County Council of Mayors and
Councilmembers

Chris Rogers
Sonoma County Mayors' and
Councilmembers Association

Eddy Cumins
General Manager

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

January 18, 2023

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

SUBJECT: Real-Time Information System

Dear Board Members:

RECOMMENDATIONS: Information Only

SUMMARY:

SMART's real-time location information is generated by GPS hardware onboard the trains and is communicated internally and to the public through a software interface by Swiftly. The software allows staff to monitor train location and on-time performance live and run reports by time period. In August 2022, SMART added a new real-time information feature to our website, allowing customers to see a map of the train location in real-time, and get arrival predictions by station. Real-time information has also been added to Google Maps, Apple Maps, and the Transit App.

These additions represent great strides for SMART in providing better information for the rider. However, to date the only automated options have been limited to riders with computer access or smartphones. This month, SMART is launching a new system that will provide real-time arrival prediction information to customers that does not require a smartphone, via either 1) SMS texting or 2) IVR phone system.

SMS (Short Message Service) allows passengers to text a code from any cell phone and receive an instant prediction on the arrival time of the train. Each SMART platform will have signage with five-digit codes, depending on location and based on direction of travel.

The second option, an IVR (Interactive Voice Response) Phone system, also relies on the same five-digit codes. Passengers call the posted number and walk through a simple voice-recognition menu in order to find out the train arrival time. In addition, our customer service number is always available for riders who prefer a live agent.

SMART has drafted the attached bilingual signage to convey this range of options and will be posting them at all platforms. The printed size of the decal will be 14.5" by 40".

FISCAL IMPACT: Limited to printing expenses; software already in place.

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

Respectfully,

/s/
Emily Betts
Principal Planner

Attachment: DRAFT Real-Time Information Signage

Where is my train? ¿Dónde está mi tren?

Station Code Código de Estación

southbound to / hacia sur a
Larkspur

71132

northbound to / hacia norte al
**Sonoma
 County Airport**

71131

Ways to get train arrival: Modos para saber tiempo de llegada:

CALL or TEXT
 LLAME o TEXTO



call or text station code to
 llame o envíe texto con el
 código de la estación

707-200-6332

APP



get notifications via app
 reciba notificaciones por app

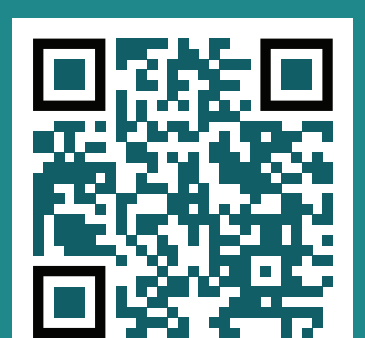
 **Transit app**



WEB



www.SonomaMarinTrain.org/realtime-mapping





January 18, 2023

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

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

SUBJECT: Authorize the General Manager to Execute a Contract with The Routing Company for a Microtransit Software Platform

Dear Board Members:

RECOMMENDATION

Authorize the General Manager to execute Contract No. PL-PS-22-002 with The Routing Company to furnish, implement, customize, and maintain a Microtransit Software as a Service ("SaaS") software platform and solution, for a total not-to-exceed amount of \$60,000.

SUMMARY

In July 2022, staff brought information to the Board regarding an opportunity to establish an on-demand shuttle at the Sonoma County Airport Station to provide a first-last mile connection between the SMART station, Airport Terminal, and surrounding destinations. The Board gave direction to staff to issue a Request for Proposals for both the microtransit software and the service provision, separately.

SMART issued an RFP for a microtransit software platform on September 2nd, 2022. Seven Proposals were received in response from the following firms:

1. HBSS Connect Corp.
2. Moovit, Inc.
3. RideCo US, Inc.
4. Spare Labs, Inc.
5. The Routing Company
6. Transloc, Inc.
7. Via Transportation, Inc. dba Via Mobility LLC

The Proposals were evaluated by the Selection Committee using the criteria established in the RFP, which included the proposed software solution, the vendor's prior experience, key personnel qualifications, and pricing. Following the evaluation process, the Selection Committee made the determination that the Proposal submitted by The Routing Company provides the overall best value to SMART and is recommending the firm for the award of this contract.

MICROTRANSIT

Over the last decade, evolving technology and the proliferation of smartphones has changed the transportation industry as on-demand services such as Uber and Lyft offer more flexibility and efficiency. This same technology has been adapted to use in public transit and is known as microtransit service. While traditional public transit picks up passengers at set stops and times (“fixed route”), it is most successful in urban environments with walkable streets and higher densities. Microtransit typically uses small-scale vehicles like shuttles, minibuses, or regular cars to deliver transportation to the public. It can be operated on-demand or on a fixed-route model. On-demand microtransit or demand-responsive transit means that vehicles are only dispatched when there is a ride request.

An automated platform takes into account specific rider-needs based on their profile and can field demands in real-time, as well as integrate scheduled trip requests simultaneously. This way of booking, scheduling, and dispatching on-demand transit is in line with our modern expectations established by ride-hailing apps. It is more convenient and user-friendly than traditional demand-responsive transit where riders must call in a trip request (typically at least 1-7 days in advance) that gets assigned to designated driver shifts through a set manifest.

Riders request microtransit through smartphone apps or through a call center and will get an estimate of their pickup time nearly instantaneously. The operational platform’s algorithm analyzes all requests against available fleets and dispatches trips dynamically to the most efficient option, pooling people onto the same vehicle along the way. The routing is automated, flexible and efficient – with features like digital payment, seat reservations, and live traffic updates. Passengers can usually catch a ride from wherever they request the trip or a “virtual bus stop” to avoid detours and get a more efficient service.

THE ROUTING COMPANY

The Routing Company’s microtransit platform, known as “Pingo,” is the combination of a microtransit optimization algorithm developed through research at the Massachusetts Institute of Technology (MIT), prior experience working for public transit agencies, and building ridesharing software solutions, including UberPOOL and UberBus. The core routing engine is unique from their competitors because it was designed as an on-demand transit algorithm, not as a modified ridesharing engine. As such, it is unprecedented in its scalability and productivity for shared rides in a mass transit environment.

SMART’s goals in launching this microtransit service is to provide better first and last mile connectivity at our stations. The Routing Company’s software platform will address this through three main components:

1. **Ride Pingo** – a **customer**-facing app that enables riders to request and pay for microtransit trips. This includes the Transit Connect and Pingo Journey features that plan and guarantee multimodal transfers to fixed-route services;
2. **Drive Pingo** – a **driver** app that provides dynamic scheduling and turn-by-turn, hands-free navigation; and

3. **Agency Dashboard** – an online full service command center that will allow SMART to plan, manage, improve, and report on these services. This includes standard National Transit Database (NTD) reports as well as useful ad-hoc reports that will effectively inform SMART staff to make data-driven planning decisions as we look to scale the service.

Based on SMART’s plans to begin with a pilot at the Sonoma County Airport, and expand to additional stations in the future, the Routing Company has submitted a price proposal to support this phased approach. The initial pricing assumes only one active vehicle but can be scaled on up a per-vehicle basis. The pricing proposal includes the base costs of software and services, a one-time setup fee, annual ongoing support fees, and licensing for and hardware for one vehicle. The NTE in the attached contract will allow for up to three vehicles for three years and can be amended if the need for additional vehicles should arise.

NEXT STEPS

Based on Board direction, following the approval of a contract with the Routing Company, SMART will proceed with a separate procurement process for an operator to run a microtransit shuttle at the Sonoma County Airport stop, as discussed at the July 20, 2022, Board Meeting. Expansion of the microtransit project to additional SMART stations can also be explored, based on funding availability and local jurisdiction interest.

FISCAL IMPACT: Funds for this project have been programmed in the Fiscal Year 2022-23 budget.

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

Respectfully,

 /s/
Emily Betts
Principal Planner

Attachment(s): The Routing Company Agreement (PL-PS-22-002)

AGREEMENT FOR CONSULTANT SERVICES

This agreement (“Agreement”), dated as of January 18, 2023 (“Effective Date”) is by and between the Sonoma-Marín Area Rail Transit District (hereinafter “SMART”), and The Routing Company (hereinafter “Consultant”).

RECITALS

WHEREAS, Consultant represents that it is a duly qualified and experienced in the areas of microtransit software application design, implementation, support, and related services; and

WHEREAS, in the judgment of the Board of Directors of SMART or District, it is necessary and desirable to employ the services of Consultant to furnish, implement, and maintain a microtransit software platform for SMART; and

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: Schedule of Rates

ARTICLE 3. REQUEST FOR SERVICES.

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

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

ARTICLE 4. SCOPE OF SERVICES.

Section 4.01 Scope of Work. 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 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.
- (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 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:

James Cox, Chief Executive Officer (The Routing Company)
Dick Alexander, Vice President of Business Development (The Routing Company)
Alex Wallar, Chief Technology Officer (The Routing Company)
Lindy Norris, Vice President of Marketing and Policy (The Routing Company)
Pandora Shelley, Head of Operations (The Routing Company)
Cody Lowe, Senior Global Partner Success Manager (The Routing Company)
Jackson Lester, Senior Product Manager (The Routing Company)
Dietter Aragon, Business Development Manager (The Routing Company)
Connor Caldicott, Senior Operations & Analytics Manager (The Routing Company)
Michael Wade, Director of Engineering (The Routing Company)
David Frazier, Director of Policy (The Routing Company)
CarylN Hunt, Growth & Expansion Manager (The Routing Company)

Alex Harrington, Senior Rider Growth Manager (The Routing Company)
Rahul Kumar, President of Innovate Mobility (Subcontractor: Innovate Mobility)

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 the SMART Manager 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 the rates established in **Exhibit B**; provided, however, that total payments to Consultant shall not exceed \$60,000.00, 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 software subscription fee; (iii) 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 agrees that 48 CFR Part 31, Contract Cost Principles and Procedures and 2 CFR Part 200 shall be used to determine the allowability of individual terms of cost. Any costs for which payment has been made to the Consultant that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the Consultant to SMART.

Section 5.04 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 three years, with two (2) additional two-year options to extend unless terminated earlier in accordance with the provisions of **Article 7** below.

ARTICLE 7. TERMINATION.

Section 7.01 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, SMART shall have the right, at their sole

discretion, to terminate this Agreement by giving 30 days written notice to the other party.

Section 7.02 Termination for Cause. Notwithstanding any other provision of this Agreement, should 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, the 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.

Consultant shall also indemnify, defend and hold SMART harmless from and against any third-party claims or suits arising out of infringement by the Software and the reports generated by the Software of a third-party's Intellectual Property Rights.

ARTICLE 9. INSURANCE.

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

Section 9.01 Workers' Compensation Insurance. 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 Automobile Insurance. Automobile Liability insurance covering bodily injury and property damage in an amount no less than \$1,000,000 combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles.

Section 9.04 Technology Professional Liability Errors and Omissions Insurance. Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits of not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Consultant in this Agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

- a. The Policy shall include, or be endorsed to include, ***property damage liability coverage*** for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of the Vendor. If not covered under the Vendor's liability policy, such "property" coverage of the Agency may be endorsed onto the Vendor's Cyber Liability Policy as covered property as follows:

Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the Agency that will be in the care, custody, or control of Vendor.

Section 9.05 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, with the exception of the workers compensation insurance policy and the professional services liability policy (if applicable).
- (b) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which Consultant 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 Consultant. 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 9.06 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 or retention provision limiting payment to the name insured is not acceptable.

Section 9.07 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 9.08 Documentation. The following documentation shall be submitted to SMART:

- (a) Properly executed Certificates of Insurance clearly evidencing all coverages and limits required above. Said Certificates shall be submitted prior to the execution of this Agreement. At SMART’s request, Consultant shall provide certified copies of the policies that correspond to the policies listed on the Certificates of Insurance. 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) After the Agreement has been signed, signed Certificates of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

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

Section 9.09 Policy Obligations. Consultant’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 9.10 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 Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, or wildfire, the time for 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 SMART Manager in a form approved by SMART Counsel. The Board of Directors or General Manager must authorize all other extra or changed work. The parties expressly recognize that SMART personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of 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 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 Contractor 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. Consultant and Subconsultants shall permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by the State, for the purpose of any investigation to ascertain compliance with this document.

Section 12.05 Conflict of Interest. 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 (including cancer), pregnancy, physical disability (including HIV and AIDS), mental disability, denial of family care leave, 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. Consultant shall also comply with the provisions of the Fair Employment and Housing Act (California Government Code, Section 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq).

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 and work product, 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. Any and all work product resulting from this Agreement is commissioned by SMART as a work for hire. SMART shall be considered, for all purposes, the author of the work product and shall have all rights of authorship to the work, including, but not limited to, the exclusive right to use, publish, reproduce, copy and make derivative use of, the work product or otherwise grant others limited rights to use the work product. To the extent Consultant incorporates into the work product any pre-existing work product owned by Consultant, Consultant hereby acknowledges and agrees that ownership of such work product shall be transferred to SMART. All reports, original drawings, graphics, plans, studies, and other data or documents (“documents”), in whatever form or format, assembled or prepared by Consultant 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, 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 Manager: Sonoma-Marine Area Rail Transit District
Attn: Emily Betts
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954
ebetts@sonomamarintrain.org
707-794-3324

If to SMART Billing: Sonoma-Marine Area Rail Transit District
Attn: Accounts Payable
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954
billing@sonomamarintrain.org
707-794-3330

If to Consultant: The Routing Company
Attn: Dick Alexander
48 Grove Street, Suite 201
Somerville, MA 02144
dick@theroutingcompany.com
513-325-0225

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 Use of Recycled Paper. SMART requires that all printing jobs produced under this Agreement be printed on recycled content papers. Recycled-content papers are defined as papers containing a minimum of 30 percent postconsumer fiber by weight. All papers used in the performance of a print job for SMART shall be recycled-content paper. The recycle logo or "chasing arrows" cannot be used on printed material unless the paper contains a minimum of 30 percent postconsumer material. If paper meets the 30 percent requirement, ask that the recycling logo be printed on the project.

Section 16.02 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 16.03 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 16.04 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 16.05 Drug-Free Workplace. Consultant certifies that it will provide a drug-free workplace in compliance with Government Code §8350-§8357.

Section 16.06 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 16.07 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 16.08 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 16.09 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 16.10 Acceptance of Electronic Signatures and Counterparts. The parties agree that this Contract, Agreements ancillary to this Contract, and related documents to be entered into this Contract will be considered executed when all parties have signed this Agreement. Signatures delivered by scanned image as an attachment to electronic mail or delivered electronically through the use of programs such as DocuSign must be treated in all

respects as having the same effect as an original signature. Each party further agrees that this Contract may be executed in two or more counterparts, all of which constitute one and the same instrument.

Section 16.11 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.

CONSULTANT: THE ROUTING COMPANY

By: _____
Dick Alexander, Vice President of Business Development

Date: _____

SONOMA-MARIN AREA RAIL TRANSIT (SMART)

By: _____
Eddy Cumins, General Manager

Date: _____

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

By: _____
Ken Hendricks, Procurement Manager

Date: _____

APPROVED AS TO FORM FOR SMART:

By: _____
District Counsel

Date: _____

EXHIBIT A
SCOPE OF WORK & TIMELINE

I. Objective

The Sonoma-Marín Area Rail Transit District (SMART) is contracting with The Routing Company (hereinafter “Consultant”) to furnish, implement, customize (as required), and maintain a Microtransit Software as a Service (“SaaS”) software platform and solution. SMART’s objective with this software is to support SMART’s mission of improving first and last mile connectivity to SMART stations to increase ridership on SMART’s trains. The Consultant’s software solution shall include the following three core platform components:

1. Ride Pingo – Customer Facing Application that enables riders to request and pay for microtransit trips. This includes Transit Connect and Pingo Journey.
2. Drive Pingo – Driver Facing Application that provides dynamic scheduling and hands free navigation to drivers.
3. Agency Dashboard – Online full-service command center that will allow SMART to plan, manage, improve, and report on the services. This includes standard NTD reports as well as useful ad-hoc reports.

The Software Solution shall be scalable with the ability to add additional transit vehicles (up to twenty) and additional locations (i.e. other SMART Stations within Sonoma and Marin Counties).

II. Project Management

All work shall be initiated, scheduled, and reviewed by SMART’s Principal Planner, or designee (hereinafter “SMART Manager”). Work may be initiated in writing or by teleconference.

III. Scope of Work

A. Initial Pilot Program Service Area

Consultant shall furnish, implement, and customize (as required) a microtransit Software as a Service (“SaaS”) Software Solution for a first-last mile shuttle provision at SMART’s Sonoma County Airport Station with an initial service area of 1.5 miles from the SMART Station and shall include the Sonoma County Airport terminal. Initially, SMART intends to provide at least one fully accessible transit vehicle with capacity for 12-30 riders.

SMART shall have the ability to modify the service area at its discretion. Additional service areas may be added at SMART's discretion.

B. Set-Up, Implementation, and Configuration

1. Consultant shall set-up and configure the Microtransit Software as a Service ("SaaS") Software Solution to:

- a. Size and shape service levels to achieve the best performance and efficiencies within SMART's Service Area(s).

The Routing Company and its subcontractor, Innovate Mobility, will help identify and design service zones, recommend optimal virtual stop locations and optimize vehicle resources. Consultant shall utilize their in-house simulation tool and partner with SMART to size and shape service levels to achieve the best performance and efficiencies within the service area. There are five (5) key steps that the Consultant will undertake during this phase:

- a. Real-World Origin-Destination Analysis to Design Service zones

Utilize cellular, GPS data, and proprietary in-house algorithms to better understand trip origin and destination local travel patterns.

- b. Predicting Demand

Utilize proprietary data modeling tools and custom machine-learning algorithms using GPS and Location-Based (LBS) data to understand travel patterns and then predict how people move using microtransit services.

- c. Fixed Route Integration

Along with real time transit integration data, Consultant will provide fixed route data into their analysis to ensure that any new microtransit service will integrate with existing modes and not operate in a siloed fashion.

- d. Scenario Planning

The results of the analysis will display several scenarios to assist SMART in understanding the push/pull between the different scenarios including; *Passenger Experience, Operating Efficiency, and Operating Effectiveness.*

e. Demographics Analysis

Collect and analyze demographic data to determine what service areas will most likely be impacted by changes from on-demand microtransit.

- b. Match requesting passengers to available drivers with a shared-ride feature.
- c. Support on-demand trip requests for public transit and other possible mobility services along the SMART corridor.
- d. Link SMART's microtransit service to the customer (rider) facing smartphone application (RidePingo) to allow riders to request trips in real time for service. Consultant shall ensure the customer facing application is available for download from both Apple iTunes Store and the Google Play Store and is configured to:
 - a. Allow a rider profile to be create that identifies special needs of the rider in terms of fare payment, vehicle type, accessibility, etc.
 - b. Allow a rider to specify in advance if they are traveling with a mobility device like a wheelchair, bicycle, stroller, or service animal.
 - c. Allow a rider to calculate the price of the trip upon trip request and/or before final trip confirmation is made.
 - d. Allow a rider to indicate a payment method, such as a credit card option, cash-payment on-board or other agency-sponsored fare payment options.
 - e. Allow a rider to input various promotional or discount codes that would adjust fares accordingly. Promotion codes and/or coupon codes shall be able to be set by SMART.
 - f. Allow SMART to customize the application with branded splash screens, service names, logos, color-schemes, vehicle icons, and weblinks.
 - g. Automatically calculate and provide an ETA to the rider once the trip request is submitted.
 - h. After booking, the system should continue to calculate and provide updated ETA information to the rider until time of pick-up.
 - i. Allow a rider to track the vehicle on a map within the application and provide service availability forecasting.
 - j. Allow a rider to plan a multimodal trip between Microtransit and any public transit modes of service that include guaranteed connections backed by real time GTFS feeds.
 - k. Provide the rider with updates on their trip and allow other communication to occur, either directly through the app or via SMS messaging.
 - l. Protect all payment data under strict PCI compliance standards. Consultant is responsible for the protection of all payment data

- under this Agreement.
- m. Include terms of service to end users that include provisions relating to data privacy, confidentiality, and intellectual property rights.
 - n. Allow riders to submit feedback on a five-star scale and with written comments to share relevant information to SMART. This information shall be available on the administrative backend system and shall be reportable.
- e. Link SMART's microtransit service to the driver facing smartphone application to allow trips (booked through the customer facing rider application) to automatically be dispatched to a specific vehicle. Consultant shall ensure the driver application is configured to:
- a. Function on a conventional, internet-enabled IOS or Android 7.0+ tablet or phone. Consultant recommends tablets for their larger screens and for the driver's convenience and safety.
 - b. Ensure the system has adequate security measures to ensure only authorized drivers are provided access to the system.
 - c. Automatically notify drivers of new ride requests.
 - d. Allow the driver to accept the trip or change/update trip status (Performed/No Show/Cancel).
 - e. Allow the driver to view rider information.
 - f. Allow the driver to view the identified payment method.
 - g. Allow the driver to book "walk-on" riders as trips.
 - h. Provide audio and visual directions to the driver to perform pick-up and drop-offs of riders.
 - i. Allow the driver to directly communicate with riders and dispatch.
 - j. Allow the driver to sign in and out of the system and allow the driver to indicate a break period within the application.
 - k. Allow the driver to see if the rider has paid in advance or is paying upon boarding.
 - l. Allow the driver to confirm passengers have disembarked at the conclusion of their ride.
 - m. Allow the drivers to cancel all passengers on their queue in the event of a vehicle malfunction, accident, or other safety or operational issue. Consultant shall configure this to automatically relay cancellations to SMART.
 - n. Include terms of service to end users that include provisions relating to data privacy, confidentiality, and intellectual property rights.
- f. Allow designated SMART staff log-in access to the administrative backend system (Agency Dashboard). Consultant shall provision the administrative backend system to:
- a. The Agency Dashboard shall be web-based and serve as a full service command center for SMART and its third-party service operators to manage trip reservations, access driver, rider data, driver data, and improve the microtransit service.

- b. Allow SMART to create multiple user accounts with the ability to set different permission levels and manage users (additions/deletions/etc.)
- c. Allow for the addition/deletion/modification of drivers and vehicles. Vehicle information such as Vehicle ID, Make, Model, License Plate, Capacity, and ADA accessibility must be able to be entered.
- d. Allow SMART staff to easily modify and scale service in real-time combined with historical analysis.
- e. Allow SMART to monitor and modify trip requests. This shall include a live map feature displaying the live status of the fleet including current vehicle locations, driver routes, and upcoming pick-ups and drop-offs.
- f. Allow SMART to see historical information, such as historical mapping of the fleet from day one of service.
- g. Allow SMART to define a service area boundary that specifies the extent to where and when a rider can book a trip.
- h. Allow SMART staff to customize which local landmarks, attractions, and other local points of interest will appear as virtual stops on the Rider Application. These virtual stops can be tagged and are searchable by categories including transit centers and medical facilities.
- i. Have at least two fixed timepoint destinations set-up on the vehicle schedule with the ability to add additional on-demand or virtual stops in the service area. These are timepoints that are consistently served by the shuttle, regardless of the addition of on-demand stops. In the case of the Sonoma County Airport Shuttle Pilot, these stops would be the SMART Sonoma County Airport Station and the Sonoma County Airport Passenger Terminal.
- j. Allow SMART to create discount codes that a rider can apply to the price based on factors such as rider type, trip start/end location, or time of day.
- k. Allow SMART staff to book a ride on behalf of a rider who does not have a Smartphone or cannot access the rider application. Consultant shall set-up this function so that the system will provide automated reminders via SMS notifications and phone calls.
- l. Allow SMART staff to adjust over 30 back-end parameters such as setting Maximum ETAs, Maximum wait times, Maximum total delays, Maximum Pre-Booked requests, etc.
- m. Allow SMART users to run reports and extract data 24 hours a day, 7 days a week, and 365 days per year. SMART desires to have access to both the raw data and all reports available through the web-based graphical/dashboard. If there is a quick tool for export of tabular source data into a flat file in either/both Excel and/or CSV format, Consultant shall configure this upon initial set-up. If full access is not available to SMART, SMART requires the Consultant to provide customer service support to troubleshoot issues related to ride history, account information, and ride credit disputes.

At a minimum the system must capture, store, and have the ability for SMART to report the following:

- a. National Transit Database (NTD) required statistics, including but not limited to:
 - a. Revenue Vehicle Hours (RVH)
 - b. Revenue Vehicle Miles (RVM)
 - c. Total Vehicle Hours (TVH)
 - d. Total Vehicle Miles (TVM)
 - e. Unlinked Passenger Trips (UPT or Boardings)
 - f. Passenger Miles Travelled (PMT)
 - g. Vehicles Operated in Maximum Service (VOMS)
- b. Ride Data at the trip level, including the following:
 - a. Requested location of pick-up and drop-off (nearest intersection or census block group)
 - b. Actual location of pick-ups and drop-offs (nearest intersection or census block group).
 - c. Trip length (distance and time); and
 - d. Price of trip, including any discounts that were applied.
 - e. Average passenger rating
- c. Driver Data provided at the individual driver level including the following:
 - a. Start and ends of shifts, including breaks.
 - b. Total vehicle miles traveled (terminal to terminal).
 - c. Total revenue miles (miles with passengers on board).
 - d. Average wait and delay

SMART shall have full access to the data associated with the trips requested and performed with the software platform that are assigned to SMART-Operated Vehicles.

- n. Shall include a simulation tool that will enable SMART staff to test the performance of unique fleet compositions in different geographies before and during deployment. The simulation tool shall be able to run with either simulated data or real historical passenger data. The simulation tool shall have the ability to show critical information like; average wait time, average drive times, percent fulfilled vs. unfilled trips, and total shared rides.

C. Implementation & Training

- a. Initial Deployment Plan (Approximately 2 Months Total)

Implementation and Deployment activities consist of:

i. Operational Planning & Discovery (Approximately 1 Week)

This phase shall consist of the following activities:

1. Project Kick-Off Meeting
2. Consultant shall work with SMART to establish clear service quality standards and KPIs
3. Identify key stakeholders and service goals
4. Determine marketing needs with SMART
5. Confirm product scope and launch timeline

ii. Start-Up Marketing Support (Approximately 8 Weeks)

This phase shall consist of the following support activities:

1. Press Release and Communication Support
2. Brand Ambassadors & Street Teams
3. Digital Marketing
4. Email Marketing
5. Thought Leadership
6. Local Partnerships
7. Event Sponsorships

Consultant shall work closely with SMART staff on a detailed and effective marketing strategy that includes: developing messaging around SMART's microtransit service, creating a logo and branding materials, developing One-Pager Service Descriptions/FAQs, Cross-Promoting the Service with Local Establishments such as Malls, Medical Facilities, Shopping Centers, etc., training drivers as brand ambassadors to spread the word about the new microtransit services, creating and advertising social media notifications, drafting press releases for local media, vehicle advertising decals, etc.

iii. Set-Up and Reporting Configuration (Approximately 1 Week)

This phase shall consist of the following activities and deliverables:

1. Create fleet and service zones
2. Set parameters and service settings
3. Set up test environment
4. Provide training materials
5. Determine required reporting parameters
6. Use simulation tools to validate planned service zones
7. Standard reporting developed, finalized, and approved.

iv. Internal Testing (Approximately 2 Weeks)

This phase shall consist of the following activities and deliverables:

1. Test new features
2. Test service area boundaries and operating hours
3. Test apps
4. Test SMART's dashboard

v. Training (Approximately 2 Weeks)

This phase shall consist of the following activities and deliverables:

1. End-User Training (Driver Call Center)
2. Administrator Training (Dashboard, System Administration)
3. IT Staff Training
4. Testing with Drivers and Fleet Operators

Consultant shall provide training to designated SMART staff during implementation of the Microtransit Software as a Service ("SaaS") Solution to ensure SMART staff understands how to use the software and is comfortable guiding riders and drivers on how to use the applications.

vi. Soft Launch (Approximately 2 Weeks)

This phase shall consist of the following activities and deliverables:

1. Launch app to test riders.
2. Respond to user feedback on the ground
3. Potential product updates based on feedback.

vii. Hard Launch (Approximately 1 Week)

This phase shall consist of the following activities and deliverables:

1. Systems and feedback monitoring
2. Rider education and ongoing outreach
3. Release launch marketing

viii. Operations Post-Launch (Post Launch through life of Contract)

This phase shall be ongoing and shall consist of the following activities:

1. Ongoing system performance analysis and reporting
2. Ongoing user feedback
3. Ongoing marketing support to increase ridership
4. Ongoing system and parameter optimization
5. Ongoing on-demand service planning, evaluation and guidance
6. Ongoing engagement with current and potential riders to enhance product and operations efforts.

D. Ongoing Technical Support

- a. Consultant shall provide ongoing technical support to SMART, its third-party operators, and end users (riders and drivers). Technical support shall be available via phone and/or email during SMART's operating hours. Ongoing support shall be available during and beyond SMART operating hours by phone, email, and the interface application messaging system.
- b. Ongoing technical support includes software maintenance, application troubleshooting, and training for new features as they are made available.
- c. All new features added shall be available to SMART at no additional cost through the duration of the Agreement.
- d. Consultant shall perform all updates, fixes, and enhancements to the software to ensure a secure and operational system. Prior notice to SMART, Riders, and Drivers shall be given when the software and/or applications will be unavailable for any reason, such as system maintenance. Planned system outages shall be coordinated with SMART whenever possible at a date/time that will have the least negative impact on SMART operations and riders. All parties impacted by planned system outages will be given a minimum of 7 days prior to the scheduled maintenance.
- e. Consultant shall ensure the Microtransit Software as a Service ("SaaS") Software Solution data is stored securely in the cloud and utilizes infrastructure that is designed and managed for maximum uptime and availability and in full compliance with IT security best practices and standards.
- f. Consultant shall have specific data breach protocols in place.
- g. Ongoing Support shall also include; regular meetings with the Consultant's Partner Success Manager to ensure the microtransit service is operating efficiently and successfully, performance monitoring to discuss metrics, trends, and operations, resolution of technical issues, and new product features and education. These meetings can be scheduled as frequent as needed based on SMART's availability and needs.
- h. Ongoing Support includes marketing support. Consultant shall provide templates for print and digital marketing materials that can support SMART's marketing initiatives around the Microtransit Services. Consultant shall also consult with SMART and provide best practices to attract and retain riders and build brand awareness.
- i. SMART may request custom notices to be sent to riders by emailing the Partner Success Manager. SMART should provide at least 48 hours' notice for any special notice requests.

j. Technical Issue Resolution & Response Times

All technical issues should be sent to The Routing Company via the messaging service “Intercom” that is directly integrated into the Rider Application, Driver Application, and the Administrative Dashboard.

The Routing Company uses this messaging service as its primary support channel for communication with SMART’s riders, divers, and operators for technical issues.

i. **Severe Issues:**

Definition: Service is unavailable or a substantial subset of functionality is unavailable without a workaround, security issues, or data integrity issues.

Response Time: Within 30 minutes.

ii. **High Priority Issues:**

Definition: Intermittent issues, issues with system performance, and issues with available workarounds.

Response Time: Within 1 Hour

iii. **Medium-Priority Issues:**

Definition: Any other bugs and issues that are not considered as Severe or High.

Response Time: Within 12 hours.

iv. **Low-Priority Issues:**

Definition: Enhancement or feature requests

Response Time: Within 1 Business Day.

All non-technical inquiries from SMART’s riders will be answered using the call center service managed by SMART.

E. Assistant with Future Funding

Consultant shall assist SMART using its in-house policy team to further assist SMART in obtaining funding at all levels of the government.

A number of funding programs and tax incentives exist at the federal, state, and

local levels to support transit and transit users. Consultant's policy team will work hand-in-hand with SMART to obtain additional funding to continue and further expand SMART's Microtransit program.

F. SMART Responsibilities:

- a. SMART shall be responsible for the operations and maintenance of at least one fully accessible transit vehicle with capacity for 12-30 riders. Operations includes daily dispatch oversight and driver support.
- b. Scheduling and Call Center support services to assist riders with setting up accounts, scheduling trips, and customer service issues.
- c. Marketing and outreach to educate the public and promote use of the service. Consultant shall provide consultation, best practices, and direct support with marketing SMART's Microtransit Service(s).

IV. Acceptance Criteria

The SMART Manager is responsible for reviewing all work product and deliverables to ensure work conforms to the terms and conditions of the Agreement. If defective work is identified, Consultant shall correct the defective work at no additional cost to SMART.

**EXHIBIT B
SCHEDULE OF RATES**

Pricing is based on a monthly \$450.00 per vehicle licensing fee (Vehicles 1-5). As Service scales, vehicles 6-20 will receive a reduced price at \$425.00 per vehicle. This fee includes the following:

- **Unlimited** rider app downloads;
- **Unlimited** driver app accounts; and
- **Unlimited** amount of Agency Dashboard (Backend and Reporting Portal) users.

This licensing fee also includes ongoing system upgrades and newly developed product features.

The following pricing includes the base costs of the software and services. It includes a one-time set-up fee, annual ongoing support fees, and licensing for and hardware for one vehicle. Optional pricing includes onsite training, new zone deployments and service modeling for new zones if needed.

Implementation Fees (One-Time):

PRODUCT	QUANTITY	UNIT COST
Project Management and Deployment	One Time	\$5,500.00
Documentation and Virtual Training for Dispatchers, Drivers, and Support Staff	One Time	\$1,500.00
Custom Marketing Plan and Materials	One Time	\$1,900.00
TOTAL:		\$8,900.00

Software Licensing Fees:

PRODUCT	QUANTITY	UNIT COST
Software Licenses (Vehicles 1-5)	Per Vehicle	\$450.00 Per Month
Software Licenses (Vehicles 6-20)	Per Vehicle	\$425.00 Per Month
Driver Facing Application	Unlimited	Included
Rider Facing Application	Unlimited	Included
Agency Dashboard	Unlimited	Included
Reporting & Analysis Tools	Unlimited	Included
Simulation Tools	Unlimited	Included
Software Updates	Unlimited	Included
Customized Client Reports	Unlimited	Included

Ongoing Support Fees:

PRODUCT	QUANTITY	UNIT COST
Ongoing Support Fees (Year 1)	Annual	\$6,068.00
Ongoing Support Fees (Year 2)	Annual	\$6,262.18
Ongoing Support Fees (Year 3)	Annual	\$6,462.57
Ongoing Support Fees (Optional Year 4)	Annual	\$6,669.37

Ongoing Support Fees (Optional Year 5)	Annual	\$6,882.79
Ongoing Support Fees (Optional Year 6)	Annual	\$7,103.04
Ongoing Support Fees (Optional Year 7)	Annual	\$7,330.34
Ongoing Reporting	Unlimited	Included
24hr Rider Support	Unlimited	Included
Service Growth Support	Unlimited	Included

Additional Pricing for Optional Services:

PRODUCT	QUANTITY	UNIT COST
On-Site Training	Per Trip	\$3,700.00
New Zone Development	New Zones	\$2,300.00
Modeling, Service Zone Development (Innovate Mobility)	New Zones	\$3,000.00

New zone deployments will include set-up, virtual training sessions, and marketing support at a reduced deployment rate.

Credit Card Processing Fees:

2.9% + \$0.30 per transaction



January 18, 2023

David Rabbitt, Chair
Sonoma County Board of Supervisors

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

Vacant
Marin County Board of Supervisors

Melanie Bagby
Sonoma County Mayors' and
Councilmembers Association

Kate Colin
Transportation Authority of Marin

Vacant
Marin County Board of Supervisors

Chris Coursey
Sonoma County Board of Supervisors

Debora Fudge
Sonoma County Mayors' and
Councilmembers Association

Patty Garbarino
Golden Gate Bridge,
Highway/Transportation District

Eric Lucan
Transportation Authority of Marin

Gabe Paulson
Marin County Council of Mayors and
Councilmembers

Chris Rogers
Sonoma County Mayors' and
Councilmembers Association

Eddy Cumins
General Manager

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

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

SUBJECT: Property Purchase Agreement Between the Sonoma-Marín Area Rail Transit District and Basin Street Properties for the purchase of five (5) parcels in Downtown Petaluma

Dear Board Members:

RECOMMENDATION:

- A) Approve Resolution No. 2023-05 authorizing the General Manager to execute a Property Purchase Agreement Between the Sonoma-Marín Area Rail Transit District and Basin Street Properties for Five (5) Parcels at the Corner of Lakeville & D Streets in Petaluma across the street from SMART's Downtown Petaluma Station for \$240,000, and any documents reasonably necessary to complete the purchase transaction.
- B) Approve Resolution No. 2023-06 finding that the Property Purchase Agreement between SMART and Basin Street Properties for the acquisition of five parcels in downtown Petaluma is exempt from environmental review under the California Environmental Quality Act (CEQA).

SUMMARY:

Basin Street Properties, doing business as Petaluma Riverfront, LLC, proposes to sell to SMART five parcels it owns in downtown Petaluma at what both, SMART and Basin Street Properties believe to be a discount. The subject properties are currently bisected by an extension of Hopper Street. Some of the parcels are adjacent to property currently owned by SMART located across the street from SMART's large downtown Petaluma parcel and the other parcels are across the street from SMART's Downtown Petaluma Station property. (See Attachment 1, Parcel Overview.)

The reason for the discount is that the subject parcels are small and are bisected by the Hopper Street Extension. As a result, Basin Street Properties is limited in its ability to sell the properties.

SMART, as the adjacent property owner, is the most likely suitor. An 11,624 square foot portion of the subject properties can be consolidated with SMART's adjacent 28,000 square feet of property to create a larger, more useable parcel. SMART and Basin Street have agreed to a discounted purchase price in the appraised amount of \$240,000.

Although SMART has no project planned for the properties proposed in the purchase, the proposed acquisition provides a desirable purchase opportunity for SMART, including consolidating parcels with SMART's existing parcels to create a larger parcel, providing SMART with long-term flexibility at the Downtown Petaluma Station area location and creating additional development options, while increasing the value of SMART's existing property and right-of-way at a discount.

The Purchase Agreement is exempt from environmental review under CEQA. The property acquisition is only a conveyance of title to the Property and does not commit the District to undertake any actions or projects, including those actions that could have a significant effect on the environment.

Staff recommends approval of Resolutions 2023-05 authorizing the General Manager to execute a Property Purchase Agreement between SMART and Basin Street Properties for an amount \$240,000, plus SMART's portion of closing costs, and Resolution No. 2023-06 finding that the Property Purchase Agreement between SMART and Basin Street Properties for the acquisition of five parcels in downtown Petaluma is exempt from environmental review under CEQA.

FISCAL IMPACT: Purchase Price plus closing costs which is estimated to be \$255,000 (\$240,000 for the acquisition and \$15,000 for closing costs) will be brought forward to the SMART Board of Directors for approval at the February 1, 2023, meeting assuming Resolution No. 2023-05 is adopted.

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

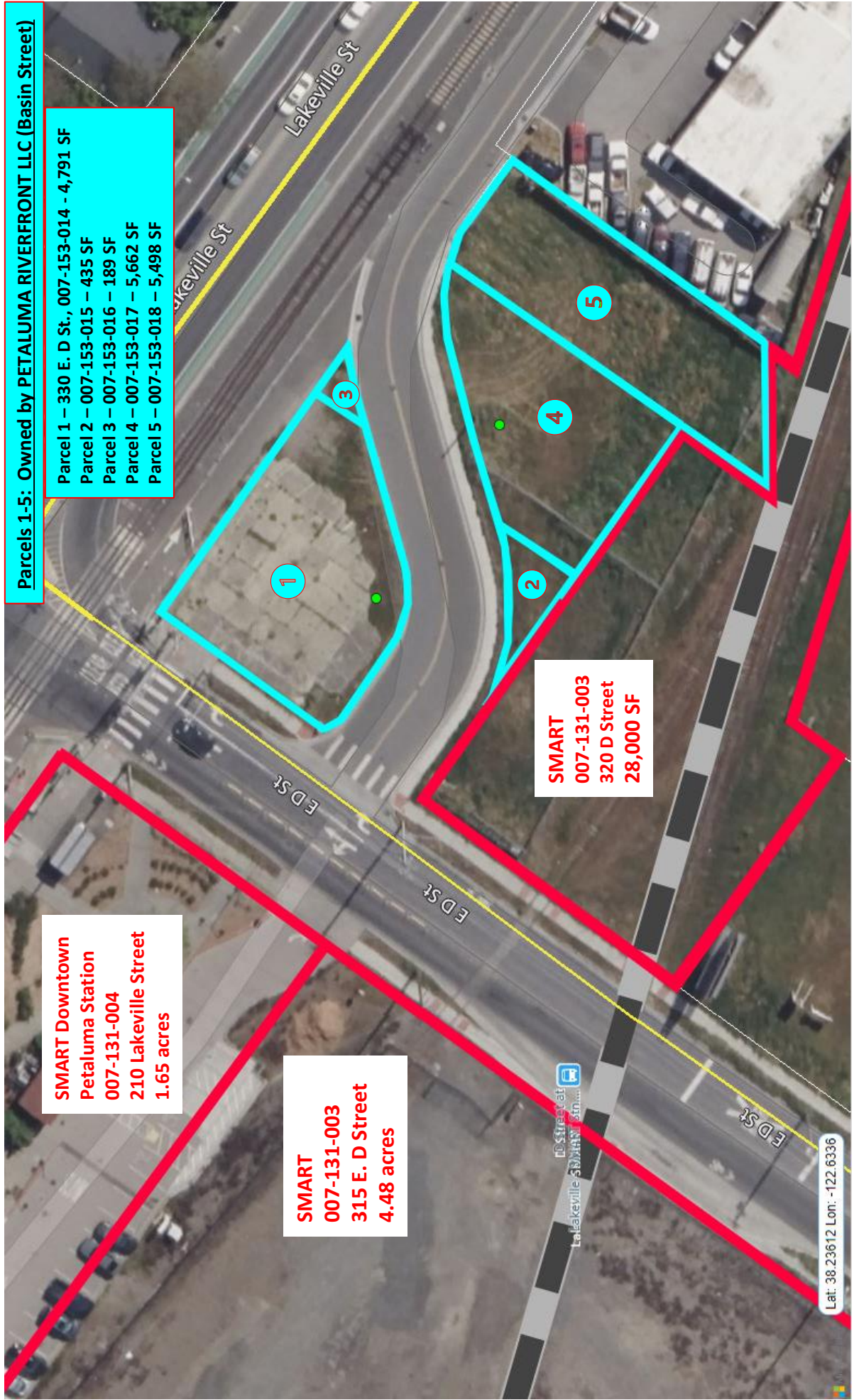
Very truly yours,

 /s/
Eddy Cumins
General Manager

Attachment(s):

- 1) Parel Overview
- 2) Resolution No. 2023-05 and Draft Purchase Agreement
- 3) Resolution No. 2023-06

PETALUMA RIVER FRONT LLC (BASIN STREET) PARCELS - Parcel Overview



RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, AUTHORIZING THE PURCHASE OF FIVE (5) PARCELS IN DOWNTOWN PETALUMA ADJACENT TO AND ACROSS FROM SMART-OWNED PROPERTY AT LAKEVILLE AND D STREETS.

WHEREAS, California State Assembly Bill 2224, Chapter 341, Section 105085, provides that the District may take by purchase, and hold and enjoy, real property; and

WHEREAS, California State Assembly Bill 2224, Chapter 341, Section 105032, provides that the Board shall have the power to adopt an administrative code that prescribes...the methods, procedures, and systems for the operation and management of the District; and

WHEREAS, the Administrative Code of the Sonoma-Marín Area Rail Transit District (“SMART”) requires that the Board of Directors (“Board”) approve the acquisition of real estate; and

WHEREAS, SMART staff has identified five (5) parcels of property adjacent to and across from SMART property at the Downtown Petaluma Station location, owned by Basin Street Properties doing business as Petaluma Riverfront LLC. The Five parcels are known by Sonoma County Assessor’s Parcel Numbers 007-153-014, 015, 016, 017 & 018; and

WHEREAS, SMART performed an independent valuation of the subject properties and said Appraisal determined the value of the properties to be \$240,000.00; and

WHEREAS, SMART and Basin Street Properties agreed to a purchase price in the appraised amount of \$240,000.00 (plus SMART’s portion of closing costs); and

WHEREAS, SMART believes that said property gives the District opportunities for consolidation of several parcels thereby increasing the value of all parcels and flexibility in the operation of its properties in the Downtown Petaluma Station area.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors the Sonoma-Marín Area Rail Transit District hereby:

1. The foregoing recitals are true and correct and are incorporated herein and form a part of this Resolution.
2. The Board hereby authorizes the General Manager to execute a Purchase Agreement for the aforementioned five (5) properties owned by Basin Street Properties doing business as Riverfront Development, LLC, upon forms, terms and conditions substantially similar to the provisions of the draft Purchase Agreement attached hereto as Exhibit A, for a not to exceed amount of amount of \$240,000.00, plus SMART’s portion of closing costs. The General Manager is hereby authorized to take all steps necessary to finalize the

Resolution No. 2023-05
Sonoma-Marín Area Rail Transit District
January 18, 2023

terms of the Property Purchase Agreement. Once the terms are finalized, the General Manager is hereby authorized to accept, execute, and deliver the Purchase Agreement for and on behalf of SMART.

3. The General Manager is hereby authorized to take all necessary or reasonably required steps to carry out, give effect to and consummate the transaction contemplated by the Resolution and to take all action necessary in conformity herewith.

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 January 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Rabbitt, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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

AGREEMENT OF PURCHASE & SALE
SUMMARY OF CERTAIN TERMS

EFFECTIVE DATE: January _____, 2023

SELLER: PETALUMA RIVERFRONT, LLC,
a California limited liability company

SELLER'S ADDRESSES: c/o Basin Street Properties
1383 N. McDowell Blvd., Suite 150
Petaluma, CA 94954
Attn: Frank Marinello
Telephone: (530) 343-0963
Email: frank@basin-street.com

With a copy to: Law Offices of Paul A. Andronico
774 Mays Blvd. #10-602
Incline Village, NV 89451
Telephone: (415) 297-1602
Email: paul@andronico.com

BUYER: SONOMA-MARIN AREA RAIL TRANSIT DISTRICT,
a California rail transit district

BUYER'S ADDRESS: 5401 Old Redwood Highway, Suite 200
Petaluma, CA 92954
Attn: Randy Friedland, Real Estate Manager
Telephone: 707-794-3069
Email: rfriedland@sonomamarintrain.org

With a copy to: SMART
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954
Attn: Tom Lyons, General Counsel
Telephone: 707-794-3275
Email: tlyons@sonomamarintrain.org

REAL PROPERTY: That certain unimproved real property located in Petaluma,
California more particularly described in Exhibit A, attached
hereto.

PURCHASE PRICE: Two Hundred Forty Thousand Dollars (\$240,000.00).

DEPOSIT: N/A

TITLE/REVIEW EXPIRATION DATE: Thirty (30) days after the Effective Date.

DUE DILIGENCE PERIOD: Thirty (30) days after the Effective Date.

SELLER'S REPRESENTATIVE: Mike Rossman

BUYER'S REPRESENTATIVE: Randy Friedland, SMART Real Estate Manager

TITLE COMPANY : Old Republic Title Company
151 Petaluma Blvd. South #125
Petaluma, CA 94952
Attn: Julie James
Telephone: (707) 763-9941
Email: jjames@ortc.com

ESCROW HOLDER: Old Republic Title Company
151 Petaluma Blvd. South #125
Petaluma, CA 94952
Attn: Julie James
Telephone: (707) 763-9941
Email: jjames@ortc.com

SCHEDULED CLOSING DATE: No later than sixty (60) days from the Effective Date of this Agreement unless agreed to otherwise in writing by the Parties.

SELLER'S BROKER: None

BUYER'S BROKER: None

CLOSING COST ALLOCATIONS:

- BUYER:	ESCROW FEES	50%
	COUNTY TRANSFER TAXES	N/A (SMART Exempt)
	CITY TRANSFER TAXES	N/A (SMART Exempt)
	RECORDING FEES - Excluding Grant Deed	100%
	TITLE INSURANCE	100%
	ALTA SURVEY	100%
	PHASE I ENVIRONMENTAL REPORT	100%
- SELLER:	ESCROW FEES	50%

COUNTY TRANSFER TAXES	50%
CITY TRANSFER TAXES	50%
RECORDING FEES – Grant Deed	100%

Exhibits:

- Exhibit A - Legal Description
- Exhibit B - Grant Deed
- Exhibit C – Certificate of Non-Foreign Status Form
- Exhibit D – Phase I Environmental Report

AGREEMENT OF PURCHASE
(PARTIAL FEE)

THIS AGREEMENT OF PURCHASE AND SALE (this “Agreement”) is entered into as of January ____, 2023 (the “Effective Date”), between PETALUMA RIVERFRONT, LLC, a California limited liability company (“Seller”), and SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, a California rail transit district (“Buyer”).

THIS AGREEMENT IS ENTERED INTO on the basis of the following facts, intentions and understandings of the parties:

A. Seller is the owner of that certain real property (the “Real Property”), located in the city of Petaluma, County of Sonoma, State of California, legally described on Exhibit A, attached hereto. In the event of any conflict between the legal description and any assessor’s parcel numbers or assessor’s parcel map, the legal description shall control.

B. Seller desires to sell the Property (as hereinafter defined) to Buyer, and Buyer desires to purchase the Property from Seller, in accordance with the terms of this Agreement.

NOW THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

ARTICLE 1 – PROPERTY; TITLE

1.1 Property Included in Sale. Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following:

- a. That certain real property commonly known as 330 E. D Street, Petaluma, California, 94952, identified by Sonoma County Assessor’s Parcel Numbers 007-153-014, 007-153-015, 007-153-016, 007-153-017 & 007-153-018, and more particularly and legally described in Exhibit A attached hereto (the “Real Property”); and
- b. all rights, privileges and easements appurtenant to the Real Property, including, without limitation, all minerals, oil, gas and other hydrocarbon substances on and under the Real Property, as well as all development rights, air rights, water, water rights, and water stock relating to the Real Property, and any other easements, rights-of-way, or appurtenances used in connection with the beneficial use and enjoyment of the Real Property (all of which are collectively referred to as the “Appurtenances”); and
- c. all improvements and fixtures located on the Real Property, as well as all other buildings and structures presently located on the Real Property, all apparatus, equipment and appliances used in connection with the operation or occupancy of the

Real Property, such as heating and air conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, garbage disposal, recreation or other services on the Real Property (all of which are collectively referred to as the “Improvements”); and

- d. all of the interest of Seller in any intangible personal property now or hereafter owned by Seller and used in the ownership, use and operation of the Real Property, Improvements, and Personal Property, and, to the extent that the same are approved by Buyer pursuant to the provisions of this Agreement, any contract or lease operation of the Property, as defined below (all of which are collectively referred to as the “Intangible Property”).

All of the items referred to in subparagraphs (a) through (d) above are hereinafter collectively referred to as the “Property.”

- 1.2 Title to Property. On the Closing Date, Seller shall convey to Buyer and Buyer shall acquire from Seller, on all of the terms and conditions set forth in this Agreement, good and marketable fee title absolute to the Property in accordance with the terms and conditions of this Agreement and the exhibits attached hereto, free and clear of all liens, encumbrances, leases, easements, restrictions, rights, covenants and conditions of any kind or nature whatsoever, except only the matters approved by Buyer pursuant to Section 4.1.2 of Article 4 (the “Permitted Exceptions”). Evidence of delivery of marketable and insurable fee title absolute shall be the issuance by the Title Company (as defined hereinafter) of the CLTA Owner’s Policy of Title Insurance described in Section 3.2.3, in the full amount of the Purchase Price, insuring fee simple title to the Real Property and the Appurtenances, in Buyer, subject only to the Permitted Exceptions.
- 1.3 Prior Use of Property. Seller explicitly warrants that it is not aware of any environmental conditions or the presence or absence of contaminated materials at the property from any prior use of the property beyond what has been provided in the Environmental Phase 1 Report attached hereto and incorporated herein as Exhibit D and Seller acknowledges that Buyer has relied on this warranty as integral to its decision to purchase the property in “as-is” condition.
- 1.4 “As-Is Condition of Property. The property is conveyed in its existing condition, “as-is” subject to Section 1.3 herein.

ARTICLE 2 - PURCHASE PRICE

- 2.1 Purchase Price. Buyer shall pay to Seller the purchase price (the “Purchase Price”) in the amount of Two Hundred Forty Thousand Dollars (\$240,000.00).

2.2 Payment. The Purchase Price shall be payable in its entirety in cash at the Close of Escrow (defined below) as follows:

2.2.1 On or before the Closing Date as set forth in Section 4.2 below, Buyer shall deposit the Purchase Price into escrow.

2.2.2 The Purchase Price shall be paid to Seller in cash at the Close of Escrow in accordance with the provisions of Section 4.2.2 below.

ARTICLE 3- CONDITIONS TO PURCHASE

3.1 Conditions Precedent to Seller's Obligations to Sell. The obligation of Seller to sell the Property to Buyer is expressly conditioned upon the satisfaction prior to Close of Escrow of each of the conditions set forth in this Section 3.1, each of which is for the benefit of the Seller and any or all of which may be waived by Seller, in writing, at Seller's option. After the Close of Escrow, any such condition that has not been satisfied shall be treated as having been waived in writing. If any condition set forth in this Section 3.1 is not fully satisfied or waived in writing by Seller, this Agreement shall terminate, but without releasing Buyer from liability if Buyer defaults in the performance of any such covenant or agreement to be performed by Buyer before such termination.

3.1.1 On the Closing Date (defined below), Buyer shall not be in default in the performance of any covenant or agreement to be performed by Buyer under this Agreement, including its obligation to deliver into escrow the documents referenced in Section 4.1.2 below.

3.1.2 On the Closing Date, all representations and warranties made by Buyer in Article 5 hereof shall be true and correct as if made on and as of the Closing Date, without exceptions.

3.1.3 Corporate Resolutions. Buyer shall have provided to Seller and Title Company prior to Close of Escrow certified copies of corporate resolutions approving the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, together with such other certificates of incumbency and other evidence of corporate or regulatory authority, including certificates of good standing, as Seller or Title Company may reasonably require.

3.1.4 No Proceedings. No suit, action or other proceeding (instituted by any party other than Seller) shall be pending which seeks, nor shall there exist any judgment the effect of which is, to restrain the purchase and sale of the Property;

- 3.2 Conditions Precedent to Buyer's Obligations to Purchase. The obligations of Buyer to purchase the Property from Seller is expressly conditioned upon the satisfaction prior to the Close of Escrow of each of the conditions set forth in this Section 3.2, each of which is for the benefit of Buyer and any or all of which may be waived by Buyer, in writing, at Buyer's option. After the Close of Escrow, any such condition that has not been satisfied shall be treated as having been waived in writing. If any condition set forth in this Section 3.2 is not fully satisfied or waived in writing by Buyer, this Agreement shall terminate, but without releasing Seller from liability if Seller defaults in the performance of any such covenant or agreement to be performed by Seller before such termination.
- 3.2.1 On the Closing Date, Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement.
- 3.2.2 On the Closing Date, all representations and warranties made by Seller in Article 5 hereof shall be true and correct as if made on and as of the Closing Date, without exceptions.
- 3.2.3 On the Closing Date, the Title Company shall be unconditionally and irrevocably committed to issue to Buyer an California Land Title Association Owner's Policy Form of title insurance, with creditors rights exceptions or exclusions removed and with liability in the amount of the Purchase Price, containing all endorsements requested by Buyer, insuring Buyer that fee simple absolute title to the Property is vested in Buyer subject only to the Permitted Exceptions (collectively, the "Title Policy").
- 3.2.4 Board Approval. This purchase and closing under this Agreement is contingent upon the approval of The Board of Directors of Buyer (the "Board" or "SMART's Board"). This Agreement will be submitted by Buyer to its Board for consideration and a determination of approval or non-approval at its regularly scheduled meeting, in January 2023 if possible, and no later than the month of February 2023 provided Buyer has all items it needs to proceed accordingly as determined by Buyer in its sole and absolute discretion, unless agreed to in writing otherwise by the Parties. Such approval or denial by SMART's Board of Directors is at its sole and absolute discretion. Seller hereby waives any and all claims relating to a failure by SMART's Board of Directors to approve the purchase.
- 3.2.5 No Proceedings. No suit, action or other proceeding (instituted by any party other than Buyer) shall be pending which seeks, nor shall there exist any judgment the effect of which is, to restrain the purchase and sale of the Property.

ARTICLE 4 - CLOSING AND ESCROW

- 4.1 Deposits Into Escrow. Within ten (10) days after execution of this Agreement by Buyer and Seller, Buyer shall establish an escrow with Stewart Title of California, Inc. (the "Title

Company”), at its office located at 1101 College Avenue, Suite 100, Santa Rosa, California, 95404. A copy of this Agreement, duly executed by both parties, shall be deposited therein. Prior to or on the Closing Date, the following shall be deposited into escrow with the Title Company:

4.1.1 Buyer. Buyer shall deposit cash in the amount of the Purchase Price, together with additional funds in an amount necessary for closing costs and Buyer’s share of prorations, as set forth below.

4.1.2 Seller. Seller shall deposit into escrow prior to the Closing Date all instruments and other documents necessary to remove of record all liens or other encumbrances affecting title to the Property, as shown in the Preliminary Title Report dated July 1, 2013, except for the following exceptions which Buyer hereby approves (the “Permitted Exceptions”):

- Exception 1: Buyer agrees to take title subject to the Notice of Intent to Preserve Interest recorded on June 8, 2016, as Instrument No. 2016049953 in the Official Records of Sonoma County (the “Notice of Intent”).

In addition, Seller shall deposit:

(a) A grant deed substantially in the form of Exhibit B attached hereto (the “Grant Deed”), duly executed and acknowledged by Seller;

(b) An Affidavit of Non-Foreign Status in accordance with Section 1445(b)(2) of the United States Internal Revenue Code, as amended, and the Income Tax Regulations promulgated thereunder, executed by Seller, and substantially in the form attached hereto as Exhibit C and on which Buyer is entitled to rely, that Seller is not a “foreign person” within the meaning of Section 1445(f)(3) of the Internal Revenue Code; and

(c) Satisfactory evidence that no California withholding of tax is required with respect to the sale of the Property.

4.1.3 Escrow Instructions. Seller hereby authorizes SMART to prepare and file escrow instructions with the escrow agent on behalf of Seller in accordance with this Agreement.

4.2 Close of Escrow.

4.2.1 **Escrow shall close within sixty (60) days of execution of this Agreement** (the “Outside Closing Date”) unless extended by Buyer at Buyer’s sole option. Buyer shall give Seller and the Title Company written notice specifying the actual Closing Date selected by Buyer at least five (5) business days prior to such Closing Date.

4.2.2 Closing of Escrow. When all conditions precedent specified in Article 3 hereof have been either satisfied or waived by Seller or Buyer, and the Title Company has received all necessary cash and documents, but in any event prior to the Outside Closing Date, the Title Company shall immediately cause the following to occur (the “Close of Escrow”):

4.2.2.1 Record Grant Deed. Record the Grant Deed in the Official Records of the County where the Property is located. The date the Grant Deed is recorded is the “Closing Date.”

4.2.2.2 Pay to Seller. Pay to Seller the Purchase Price, reduced only by the Seller’s share of closing costs and prorations, as hereinafter set forth.

4.2.2.3 Tax Filing. If applicable, the Title Company shall file the information return for the sale of the Property required by Section 6045 of the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations thereunder, which requires that a tax return be filed with the Internal Revenue Service in connection with the sale of real property in which a broker is involved.

4.2.2.4 Title Policy. The Title Company shall issue to Buyer the Title Policy described in Section 3.2.3.

4.3 Closing Costs and Pro-rations.

4.3.1 Closing Costs. Buyer and Seller each shall pay its own attorney’s and broker’s fees, if applicable, in connection with negotiating this Agreement and closing the transactions contemplated hereby. Costs shall be allocated as follows:

CLOSING COST ALLOCATIONS:

- BUYER:	ESCROW FEES	50%
	COUNTY TRANSFER TAXES	N/A (SMART Exempt)
	CITY TRANSFER TAXES	N/A (SMART Exempt)
	RECORDING FEES - Excluding Grant Deed	100%
	TITLE INSURANCE	100%
	ALTA SURVEY	100%
	PHASE I ENVIRONMENTAL REPORT	100%
- SELLER:	ESCROW FEES	50%
	COUNTY TRANSFER TAXES	50%
	CITY TRANSFER TAXES	50%

- 4.3.2 Pro-rations. All current income from the Property, if any, and all current taxes, assessments, utilities, maintenance charges and similar expenses of the Property, determined using the accrual method of accounting, shall be prorated on the basis of a thirty (30) day month between Seller and Buyer as of the Closing Date, and, to the extent of information then available, such pro-rations shall be made as of the Close of Escrow. Such pro-rations shall be adjusted, if necessary, and completed after the Closing Date as soon as final information becomes available. Such income and expenses of the Property for the period before the Closing Date shall be for the account of Seller, and such income and expenses for the period on and after the Closing Date shall be for the account of Buyer. Seller shall pay all taxes, assessments, and other expenses relating to the Property that are allocable to the period before the Closing Date. Seller shall immediately pay to Buyer all income from the Property received by Seller either before or after the Closing Date that are allocable to the period on or after the Closing Date.
- 4.3.3 Possession. Except as otherwise provided in Section 8.15, Seller shall transfer possession of the Property to Buyer on the Closing Date.

ARTICLE 5 - REPRESENTATIONS AND WARRANTIES

5.1 Authority.

- 5.1.1 Seller's Authority. Seller has full power and authority to enter into this Agreement and to perform this Agreement. The execution, delivery and performance of this Agreement by Seller have been duly and validly authorized by all necessary action on the part of Seller and all required consents and approvals have been duly obtained. This Agreement is a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting the rights of creditors generally.
- 5.1.2 Buyer's Authority. Buyer is a public agency created under the laws of the State of California. Buyer has full power and authority to enter into this Agreement and to perform this Agreement. The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized by all necessary action on the part of Buyer and all required consents and approvals have been duly obtained. This Agreement is a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting the rights of creditors generally.

- 5.2 Environmental Compliance. Consistent with Section 1.3 herein, Seller represents and warrants to Buyer that as of the Close of Escrow, Seller is unaware of any violation of any federal, state, or local law, ordinance, or regulations relating to the environmental conditions on, under, or about the Property including, but not limited to, soil and ground water conditions. During the time in which Seller owned the Property, neither Seller nor, to the best of Seller's knowledge (after due and diligent inquiry), any third party has used, generated, manufactured, produced, stored, or disposed of on, under, or about the Property or transported to or from the Property any flammable explosives, asbestos, radioactive materials, hazardous wastes, toxic substances, or related injurious materials, whether injurious by themselves or in combination with other materials (collectively "Hazardous Materials"). There is no proceeding or inquiry by any governmental authority (including without limitation, the California State Department of Health Services) with respect to the presence of such Hazardous Waste on the Property or the migration thereof from or to other property. For the purpose of his Agreement, Hazardous Material shall include but not be limited to substances defined as "hazardous substances," "hazardous material," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC Section 9601 et seq.; the Hazardous Wastes Transportation Act 49 USC Section 1801, et seq.; the Resources Conservation and Recovery Act, 42 USC Section 6901, et seq.; and those substances defined as "hazardous wastes" in Section 25117 of the California Health and Safety Code or as "hazardous substances" in Section 25316 of the California Health and Safety Code; and in the regulations adopted and publications promulgated pursuant to said laws.
- 5.3 Brokers. Seller has not dealt with any investment adviser, real estate broker or finder, or incurred any liability for any commission or fee to any investment adviser, real estate broker or finder, in connection with the sale of the Property to Buyer under this Agreement. Buyer has not dealt with any investment adviser, real estate broker or finder, or incurred any liability for any commission or fee to any investment adviser, real estate broker or finder, in connection with the purchase of the Property by Buyer or this Agreement. Each Party agrees to hold the other harmless as provided for in Section 6.5 herein.
- 5.4 Tax Matters. Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations thereunder, which require the withholding of tax on the sale of real estate by a foreign person, subject to certain exemptions. No California withholding of tax or reporting pursuant to California Revenue and Taxation Code Sections 18661, 18662 and 18668 will be required with respect to the sale of the Property by Seller, which requires the withholding of taxes in connection with the sale of California real property, subject to certain exceptions.

ARTICLE 6 - COVENANTS

- 6.1 Operation of Property. Between the Effective Date of this Agreement and the Closing Date, Seller shall not execute any lease affecting the Property, without the prior approval of Buyer, which approval may be withheld in the sole and absolute discretion of Buyer.

Between the Effective Date of this Agreement and the Closing Date, Seller shall manage, operate, maintain and repair the Property in accordance with sound property management practice and comply with laws applicable to the Property.

- 6.2 Representations and Warranties. All representations and warranties made by Seller in this Agreement shall survive the Close of Escrow. Seller shall indemnify and defend Buyer against and hold Buyer harmless from all claims, demands, liabilities, losses, damages, costs and expenses, including reasonable attorneys' fees and disbursements, that may be suffered or incurred by Buyer if any representation or warranty made by Seller herein was untrue or incorrect in any respect when made or that may be caused by any breach by Seller of any such representation or warranty.
- 6.3 Transfers Prohibited. Between the Effective Date of this Agreement and the Closing Date, Seller shall not in any manner sell, convey, assign, transfer, encumber or otherwise dispose of the Property, or any part thereof or interest therein.
- 6.4 Personal Injury and Property Damage. Seller shall indemnify and defend Buyer against and hold Buyer harmless from all claims, demands, liabilities, losses, damages, costs and expenses, including reasonable attorneys' fees and disbursements, arising from or based on any condition, event or circumstance relating to the Property that existed or occurred before the Closing Date, or any personal injury or property damage occurring in, on or about the Property before the Closing Date.
- 6.5 Brokers' Fees. Per Section 5.3 of this Agreement, each Party hereby agrees to indemnify, defend and hold harmless the other Party, any Affiliate of such other Party, and all such other Party's stockholders, members, officers, directors, employees, agents, lenders, advisors, representatives, accountants, attorneys and consultants from and against any and all claims, obligations, damages, liabilities, losses, costs and expenses (including court costs and reasonable attorneys' fees) arising as a result of undertakings or agreements of any such indemnifying Party prior to Closing, for brokerage fees, finder's fees, agent's commissions or other similar forms of compensation to an intermediary in connection with the negotiation, execution or delivery of this Agreement or any agreement or document contemplated hereunder.

ARTICLE 7- REMEDIES

- 7.1 If the Close of Escrow does not occur because of either Party's default under or breach of this Agreement, then the other Party shall have the right to pursue any and all remedies available to said Party at law or in equity, including the right to seek damages or to require specific performance of this Agreement.

ARTICLE 8 - GENERAL PROVISIONS

- 8.1 Binding on Successors. The terms, covenants, and conditions herein contained shall be binding upon and insure to the benefit of the successors and assigns of the parties hereto.

- 8.2 Entire Agreement. This Agreement contains all of the covenants, conditions, and agreements between the parties and shall supersede all prior correspondence, agreements, and understandings both verbal and written. No addition or modification of any term or provision shall be effective unless set forth in writing and signed by both Seller and Buyer.
- 8.3 Attorney's Fees. In the event either party to this Agreement institutes legal action to interpret or enforce the terms hereof, or to obtain money damages, the prevailing party shall be entitled to recover from the other, in addition to costs and judgment as awarded by the court, its attorney's fees and disbursements incurred by such prevailing party in such action or proceeding and in any appeal in connection therewith. If such prevailing party recovers a judgment in any such action, proceeding or appeal, all such costs, expenses and attorneys' fees and disbursements incurred shall be included in and as a part of such judgment. The prevailing party shall include without limitation a party who dismisses an action or proceeding for recovery hereunder in exchange for consideration substantially equal to the relief sought in the action or proceeding.
- 8.4 Notices. All notices or other communications required or permitted hereunder shall be in writing and either delivered by hand (including by courier or reputable overnight delivery service) or deposited in the United States mail first-class, postage prepaid and addressed as follows:

To Seller: c/o Basin Street Properties
1383 N. McDowell Blvd., Suite 150
Petaluma, CA 94954
Attn: Frank Marinello
Telephone:(530) 343-0963
Email: frank@basin-street.com

To Buyer: SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
5401 Old Redwood Highway – 2nd Floor
Petaluma, CA 94954
Attention: Real Estate Manager

Notices which are delivered by hand shall be deemed received upon delivery; notices which are deposited in the United States Mail in accordance with the terms of this Section shall be deemed received three (3) days after the date of mailing. The foregoing addresses may be changed by notice to the other party as herein provided.

- 8.5 Governing Law; Venue. This Agreement shall be governed by, and construed in accordance with the laws of the State of California. In any suit, action, or proceeding arising out of or related to this Agreement, or the documentation related hereto, the parties hereby submit to the jurisdiction and venue of the Superior Court in and for the County of Sonoma.
- 8.6 Captions. All captions and headings in this Agreement are for the purposes of reference and convenience and shall not limit or expand the provisions of this Agreement.
- 8.7 Time. Time is of essence of every provision herein contained in this Agreement.
- 8.8 Counterparts. This agreement may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one agreement.
- 8.9 Exhibits. All Exhibits and attachments hereto are hereby incorporated herein by reference thereto.
- 8.10 Construction. Seller and Buyer acknowledge that each party has reviewed and revised this Agreement and that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by either party in connection with the transactions contemplated by this Agreement. The captions in this Agreement are for convenience of reference only and shall not be used to interpret this Agreement.
- 8.11 Terms Generally. The defined terms in this Agreement shall apply equally to both the singular and the plural forms of the terms defined. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The words “approval,” “consent” and “notice” shall be deemed to be preceded by the word “written.”
- 8.12 Further Assurances. From and after the date of this Agreement, Seller and Buyer agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the transactions contemplated by this Agreement and to carry out the purpose of this Agreement in accordance with this Agreement.

- 8.13 Partial Invalidity. If any provision of this Agreement is determined by a proper court to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the other provisions of this Agreement and this Agreement shall remain in full force and effect without such invalid, illegal or unenforceable provision.
- 8.14 Waivers. No waiver of any provision of this Agreement or any breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving party and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.
- 8.15 Possession. It is agreed and confirmed by the parties hereto that, notwithstanding other provisions in this contract, the right of possession and use of the Property by SMART, including the right to remove and dispose of improvements, shall commence concurrently with the Close of Escrow, and that the Purchase Price includes, but is not limited to, full payment for such possession and use, including damages and interest, if any, from said date.
- 8.16 Deferred Exchange. Either party may consummate the purchase or sale of the Property as part of a so-called like kind exchange (the "Exchange") pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, provided that (i) Close of Escrow shall not be delayed or affected by reason of the Exchange, nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to either party's obligations under this Agreement; (ii) the party electing to consummate this transaction as part of an Exchange (the "Electing Party") shall effect the Exchange through an assignment ("Exchange Agreement") of this Agreement, or its rights under this Agreement, to a qualified intermediary; (iii) the other party (the "Accommodator") shall not be required to be a party to the Exchange Agreement and shall have no obligation or liability thereunder; (iv) if requested by the Electing Party, the Accommodator shall provide its written consent to the Exchange Agreement provided (a) the Exchange Agreement complies with this Section 16 and (b) the consent provides that the Accommodator shall have no obligation, liability, cost or expense under the Exchange Agreement; (v) the Accommodator shall not be required to take an assignment of the purchase agreement for the relinquished property or be required to acquire or hold title to any real property for purposes of consummating the Exchange; (vi) the Accommodator shall incur no additional liabilities, expenses or costs as a result of or connected with the Exchange; and (vii) the Electing Party shall indemnify, defend and hold the Accommodator harmless from any liabilities, damages, costs or expenses (including but not limited to reasonable attorneys' fees and related costs) that may arise from the Electing Party's participation in the Exchange. The Accommodator shall not by this Agreement or acquiescence to the Exchange proposed by the Electing Party have its rights under this Agreement affected or diminished in any manner or be responsible for compliance with or

be deemed to have warranted to the Electing Party that the Exchange in fact complies with Section 1031 of the Internal Revenue Code of 1986, as amended.

**[REMAINDER OF PAGE INTENTIONALLY BLANK
WITH SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date(s) set forth below, effective as of the day and year first above written.

Seller:

PETALUMA RIVERFRONT, LLC,
a California limited liability company

By: G & W Ventures, LLC,
a California limited liability company,
Its: Manager

By: _____
Matthew T. White
its Manager

Date: _____

Buyer:

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT,
a California Rail Transit District

By: _____
Name: Eddy Cumins

Its: General Manager

Date: _____

Approved as to Form for Buyer:

By: _____
Name: Tom Lyons

Its: General Counsel

Date: _____

EXHIBIT A – Legal Description

REAL PROPERTY

The land referred to is situated in the County of Sonoma, City of Petaluma, State of California, and is described as follows:

PARCEL ONE:

Beginning at the intersection of the East line of East D Street with the Southerly line of Hopper Street; from said point of beginning, running thence along the East line of East D Street, South 36° 19' West, 104 feet to an iron pipe; thence South 54° 00' East, 89 feet to an iron pipe; thence North 36° 19' East, 104 feet to an iron pipe at the intersection with the South line of Hopper Street; thence along said line of Hopper Street, North 54° 00' West, 89 feet to the place of beginning; being a portion of Lots 7 and 8, Block 9, as shown upon the Map of Harmon's Map of East Petaluma.

PARCEL TWO:

Commencing at an iron pipe on the Southwesterly line of Hopper Street in the said City of Petaluma, distant thereon South 54° 00' East, 89 feet from the intersection of the Southwesterly line of Hopper Street and the Southeasterly line of "D" Street; thence running along the Southwesterly line of Hopper Street, South 54° 00' East, a distance of 61 feet; thence South 36° 19' West, a distance of 104 feet; thence North 54° 00' West, a distance of 61 feet; thence North 36° 19' East, 104 feet to the point of commencement, being portions of Lots 7 and 8, Block 9, as shown upon Harmon's Map of East Petaluma.

PARCEL THREE:

All that certain piece, parcel and lot of land lying and being in East Petaluma, and more particularly described as follows:

Being a part of Block 9, commencing 150 feet from the corner of Adams and Hopper Streets, and running Easterly, 50 feet on Hopper Street, and running back of even width 140 feet, more or less; said Lot is to be 50 feet in front, more or less, by 140 feet in depth, more or less, as now fenced.

EXCEPTING THEREFROM all that portion lying within the Railroad Right-of-Way.

APN's: 007-153-014-000; 007-153-015-000; 007-153-016-000; 007-153-017-000; 007-153- 018-000.

EXHIBIT B – Grant Deed

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

Attn: _____

**THE AREA ABOVE IS RESERVED
FOR RECORDER'S USE**

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
_____, a _____ grants, transfers and assigns to
_____, a _____, that certain real property located in the City of
_____, County of _____, State of California, and which is more particularly
described in Schedule 1, attached hereto and incorporated herein by this reference, subject to all matters of
record in the Official Records of _____ County, California.

IN WITNESS WHEREOF, this Grant Deed has been executed this _____ day of _____,
_____.

a _____

By: _____

Name: _____

Its: _____

Date: _____

MAIL ALL TAX STATEMENTS TO:

EXHIBIT C – Certificate of Non-Foreign Status Form

NON-FOREIGN CERTIFICATE

Section 1445 of the Internal Revenue Code provides that a Buyer of a U.S. real property interest must withhold tax if the Seller is a foreign person. To inform _____, a _____ (“Buyer”), that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, a _____ (“Seller”), the undersigned hereby certifies the following on behalf of Seller:

1. Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. Seller’s U.S. employer identification number is _____; and

3. Seller’s office address is _____.

The undersigned understands that this certification may be disclosed to the Internal Revenue Service by Buyer and that any false statement the undersigned has made here could be punished by fine, imprisonment, or both.

Under penalty of perjury, the undersigned declares that they have examined this certification and to the best of their knowledge and belief it is true, correct and complete, and the undersigned further declares that they have the authority to sign this document on behalf of Seller.

_____,
a _____

By: _____
Name: _____
Its: _____

Dated: _____

By: _____
Name: _____
Its: _____

Dated: _____

EXHIBIT D – Phase I Environmental Report

DRAFT

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, FINDING THAT THE PURCHASE OF FIVE (5) PARCELS IN DOWNTOWN PETALUMA ADJACENT TO AND ACROSS FROM SMART-OWNED PROPERTY AT LAKEVILLE AND D STREETS IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

WHEREAS, California State Assembly Bill 2224, Chapter 341, Section 105085, provides that the District may take by purchase, and hold and enjoy, real property; and

WHEREAS, California State Assembly Bill 2224, Chapter 341, Section 105032, provides that the Board shall have the power to adopt an administrative code that prescribes...the methods, procedures, and systems for the operation and management of the District; and

WHEREAS, the Administrative Code of the Sonoma-Marin Area Rail Transit District ("SMART") requires that the Board of Directors ("Board") approve the acquisition of real estate; and

WHEREAS, SMART staff has identified five (5) parcels of property adjacent to and across from SMART property at the Downtown Petaluma Station location, owned by Basin Street Properties doing business as Petaluma Riverfront, LLC. The Five parcels are known by Sonoma County Assessor's Parcel Numbers 007-153-014, 015, 016, 017 & 018; and

WHEREAS, SMART and Basin Street Properties agreed to a purchase price in the appraised amount of \$240,000.00 (plus SMART's portion of closing costs); and

WHEREAS, SMART believes that said property gives the District opportunities for consolidation of several parcels thereby increasing the value of all parcels and flexibility in the operation of its properties in the Downtown Petaluma Station area; and

WHEREAS, the Board's actions to approve the proposed property acquisition and related documents and agreements, (collectively, the "Actions") are each Categorically Exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301; and

WHEREAS, these Guidelines provides an exemption for activities where there is no project or no expansion of use beyond that is previously existing; and

WHEREAS, on a separate and independent basis, the Actions are each exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be determined with certainty that there is no possibility that approval of the Actions (the purchase of the Property) will result in a direct or a reasonably foreseeable indirect significant impact on the environment; and

WHEREAS, the acquisition of the property is merely an opportunity purchase for assemblage creating a larger parcel, and the transfer of the Property would be exempt pursuant to one or more CEQA exemptions including Section 15061(b)(3) (the transfer involves only the conveyance of title to real property and thus does not have any potential for causing a significant effect on the environment); and

WHEREAS, the acquisition of the Property does not require review under CEQA pursuant to Section 15004(b)(2)(A) of the CEQA Guidelines as the transaction proposes to designate the property as future site for

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January 18, 2023

CEQA review and any future use of the site is conditioned upon future CEQA review and compliance so that the transaction will not foreclose any alternatives or mitigation measures; and

WHEREAS, any future uses for the property remains too speculative and in the event that SMART, at some point, proposes to develop a project to include said property, SMART shall, at that time, comply with all requirements set forth under CEQA.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors the Sonoma-Marín Area Rail Transit District hereby:

1. Finds that execution of the Purchase Agreement involves only conveyance of title to the Property and does not commit the District to undertake any actions or projects, including those actions that could have a significant effect on the environment, and does not foreclose alternatives or mitigation measures that would ordinarily be part of CEQA review of a project.
2. Expressly conditions future use of the Property, including any change in use of the Property, on appropriate CEQA review and compliance.
3. Finds that for the reasons set forth herein for the proposed purchase of the Property is not a project as within the meaning of CEQA and does not require review under CEQA as the transaction does not involve a contemplated or foreseeable project.
4. The purchase of the property is conditioned upon future CEQA review and compliance so that the transaction will not foreclose any alternatives or mitigation measures.
5. On a separate and independent basis, the purchase of the Property would be exempt pursuant to one or more CEQA exemptions including Section 15061(b)(3) (the transfer involves only the conveyance of title to real property and thus does not have any potential for causing a significant effect on the environment).

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 January, 2023, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Rabbitt, Chair, Board of Directors
Sonoma-Marín Area Rail Transit District

ATTEST:

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