BOARD OF DIRECTORS
MEETING AGENDA
June 3, 2020 – 1:30 PM

IN ACCORDANCE WITH GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20 THE SMART BOARD OF DIRECTORS MEETING WILL BE HELD VIRTUALLY

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, June 2, 2020 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 periods 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 May 20, 2020 Board Minutes

3. Board Member Announcements

4. General Manager's Report

5. Public Comment on Non-Agenda Items

6. Consent
   a. Authorize the General Manager to Award a Sole-Source Purchase Order to ZF North America, Inc to Purchase 14 Shift Cylinders and 14 Valve Blocks in an amount of $93,628.35

7. Authorize the General Manager to Award a Purchase Agreement for Portable Hydraulic Rerailing Equipment to Railquip, Inc. in the amount of $147,721.73

8. Review Revised Fiscal Year 2019-20 Budget and Proposed Fiscal Year 2020-21 Budget

9. Next Regular Meeting of the Board of Directors, June 17, 2020 – 1:30 PM

10. Adjournment

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

BOARD OF DIRECTORS
REGULAR MEETING MINUTES
May 20, 2020- 1:30 PM

IN ACCORDANCE WITH GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20 THE SMART BOARD OF DIRECTORS MEETING WILL BE HELD VIRTUALLY

MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON

1. Call to Order

Chair Lucan called the meeting to order at 1:30pm. Directors Arnold, Connolly, Fudge, Garbarino, Hillmer, Naujokas, Phillips, Rabbitt, Rogers and Zane were present. Director Pahre joined later.

Chair Lucan welcomed everyone who joined the Board meeting through the variety of methods.

2. Approval of the May 6, 2020 Board Minutes

Richard Brand asked for clarification of the sub-committee that is stated in page 4 of 12 of the minutes. Ms. Rosas Mendoza, Clerk of the Board, responded that the sub-committee includes Directors Connolly, Rabbitt, Rogers, Vice-Chair Pahre and Chair Lucan to review Measure I comments/suggestions.

MOTION: Director Phillips moved approval of the May 6, 2020 Board Minutes. The motion carried 11-0. (Director Pahre joined later)

3. Board Members Announcements

None

Vice Chair Pahre joined the meeting at 1:35pm

4. General Manager's Report

General Manager Mansourian reported that since the start of passenger service in August 2017, SMART has carried 1,871,000 passengers, 184,000 bicycles, and over 7,000 wheelchairs.

He provided an update on the City of Petaluma and City of Santa Rosa property. The City of Petaluma is performing the due diligence process and resolving the pending CEQA litigation, once that is complete, staff will bring back this item to a future Board meeting for approval. The City of Santa Rosa and the Developer are working together and progressing development project.

General Manager Mansourian stated that he has been participating with the Marin Recovers Task Force (marinrecovers.com) to create a plan for a safe reopening of Marin County. He has been in contact with Marin Transit, Transportation Authority of Marin, Golden Gate Bridge and Transportation, and Whistlestop; and will be reaching out to Lyft, Taxi's and Airporters and others. The Task Force has been preparing a Plan that includes safety measures for reopening. Once the Plan is complete, he will be sharing the information.

He said that at the National and State level, representatives have had discussions of how transportation agencies will need to comply with 6 feet social distancing when shelter in place is lifted. Once there is a regulation plan available, Mr. Mansourian will it bring back to the Board for further discussion and direction.

Lastly, he stated that on Monday, May 25th Memorial Day Holiday, SMART will not operate train service.

5. Public Comment on Non-Agenda Items

Duane Bellinger voiced his concerns regarding the second Petaluma station. He said that SMART could have supported a park-n-ride system or could have emphasized a pedestrian orientated community. He said the Board is neglecting their fiduciary duty to receive maximum price for property. The support from Petaluma has gone down; for Measure Q was 77% and for Measure I it was 55%, which is 1/3 loss of the base in East Petaluma. He asked the Board to analyze the reason why the support decreased.

Aleta Dupre stated that the last meeting was very informative. She appreciates the detail of the staff reports. She would like to see SMART in the Clipper START program since SMART already uses Clipper. Also, SMART is one of the safest trains in the world and looks forward to riding the train again.

Sheila Baker stated that SMART Board of Director has Director Rabbitt who represents the City of Petaluma. She thanked him for representing Petaluma well and she would like to see a Petaluma Council member on the SMART Board.

Tyler asked if there is a possibility for SMART train to go on Highway 37. Mr. Mansourian responded that discussion on Agenda Item #7 will answer the question.

6. Consent
   a. Approval of Monthly Financial Reports
   b. Accept Monthly Ridership Report – April 2020
   c. Accept Clipper START Program Report

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

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

7. Expansion of SMART Right-of-Way and Scope of Operations by Adding Freight Service Responsibility and Executing Related Agreement

General Manager Mansourian stated that it's a pleasure to bring this item for your Board's consideration. He displayed the vicinity map for illustration purposes. Mr. Bosco, owner of NWPCo and Mr. Liles (representing Senator McGuire) have joined our meeting to speak and answer any questions regarding the project.

Mr. Mansourian said the Freight and passenger rail service has existed in various forms through Marin and Sonoma counties since the late 1800's. In fact, mile post zero (MP 0) of the railroad is the Ferry Building in San Francisco. In addition to transporting people, it shipped lumber, eggs, wine and other goods.

In 1986, Congressman Bosco introduced and succeeded in passing House Resolution 2 which purchased Southern Pacific the right-of-way for $24 million, with the vision of continue freight and passenger service. In 1989, the State of California created North Coast Railroad Authority (NCRA) to run freight. In 2006, NCRA selected Northwestern Pacific Company (NWPCo.) as their freight operator. Around the same time, the Golden Gate Bridge, Highway and Transportation District in conjunction with Marin and Sonoma Counties began purchasing southern portions of the railroad, with the vision to preserve the right-of-way. A transitional body called Sonoma-Marin Area Rail Transit Commission (SMART Commission) was made up of Marin and Sonoma County Supervisors, City representatives during the early phase. SMART Commission was staffed by Suzanne Wilford (now Smith) and Farhad Mansourian, the two Executive Directors of Sonoma and Marin Congestion Management Agencies.

In 2002, Assembly member Nation was able to approve Assembly Bill 2224 that created the Sonoma-Marin Area Rail Transit District (SMART) which will provide passenger and freight rail service. He gave a brief overview of the vicinity map.

In 2018, Senator McGuire introduced Senate Bill 1029 (SB 1029) and it was signed into law by Governor Brown on September 2018. The vision of the Bill was to create a single trail system over 300 miles from San Francisco Bay to Humboldt Bay. Senator McGuire and his staff worked closely with SMART staff on the Bill from the beginning. One big hurdle was what to do with NCRA and NWPCo. After months of negotiations, the Bill had the following priorities: 1) to preserve and protect 300 miles of a public transportation right-of-way ('the jewels'); 2) transition NCRA from rail to trails; 3) complete a financial study of NCRA; 4) the process of re-opening the North Coast transportation; and 5) SMART to acquire and take over freight contract from Northwestern Pacific Company to put back in public hands.

It's very important to note that Section 17 of SB 1029 states that the amount of $4 million from the State of California will be used for the acquisition of freight rights, equipment and easements, from Northwestern Pacific Railroad Company. Senator McGuire was able to secure an additional $2 million out of $10 million needed for maintenance. The $2 million expires at the end of June 2020 and must be incumbent in order not to lose the funds.

The State of California interest in this transaction is based upon the 2018 State Rail Plan and the connectivity between SMART's passenger service. SMART received a letter from Mr. Omishakin, Director of the California Department of Transportation. He read the following statements from the letter*…* The 2018 California State Rail Plan establishes the framework for investing in rail over the next 20 years and beyond. The Rail Plan identifies the SMART corridor as an important element of the State's interregional passenger rail system, providing reliable mobility along the congested highway 101 corridor. The State has invested over $30 million through State Rail Assistance and the Transit and Intercity Rail Capital Program to fund significant improvements and expand the SMART system. He concludes saying that Caltrans is committed to partnering with SMART to pursue the expansion of the system as strategy for achieving the State's sustainability, mobility and equity goals. Therefore, they urged SMART to take the important step to accept the State's support for purchasing the freight rights. Also, the State funded an east-west passenger rail feasibility study and SMART is waiting to hear from the State on the next phase project.

Mr. Mansourian stated that Senator McGuire introduced Senate Bill 356 and was passed by the California Senate. This Bill lists the intent from NCRA, NWPCo and SMART. If your Board approves the concept of accepting freight service, SMART will assume maintenance responsibility for an additional 45 miles of right-of-way including bridges and crossings. As a freight operator, SMART will assume all "common carries" duties over the rail line. In addition, as a common carrier for freight, SMART must comply with the requirements and regulations of the Surface Transportation Board. One of the requirements is that SMART must continue to serve NWPCo current customers. A feasibility study to be approved by your Board will give us information on Business potential as well as options on how to provide freight service.

Lastly, if your Board approved the scope of service, there are nine action items that will take many months to work on. Again, Mr. Bosco and Mr. Liles are available to answer any questions/comments.

<u>Comments</u>
Director Zane asked how much profit will be received to operate the freight? There are a lot of members of the community that are very excited. If SMART can get trucks off the highway and more product into freight is a good thing. She thanked Senator McGuire, Mr. Liles and Mr. Bosco. Mr. Mansourian defer the profit question to Mr. Bosco. Mr. Bosco responded that they receive $2 million in revenue per year.

Director Fudge asked who owes the rail line east of Napa River. Mr. Mansourian responded Union Pacific Railroad.

Director Phillips voiced his concerns about not having enough financial analysis prior to this approval. He is not sure if this acquisition will yield enough revenue for SMART, which is needed. Also, he is not sure if SMART is equipped to fully take the responsibility of freight. He would like more financial information to review. He asked if there is additional financial information that can be reviewed now or prior to end of June. Mr. Mansourian responded that SMART does not have financial information, the State of California is purchasing the acquisition through SMART. The State of California Task Force have reviewed NCRA and NWPCo financial documents and are satisfied with the results. Once, SMART receives any additional financial correspondence he will provide it to the Board.

Director Rogers he asked if AB 2224 or SB 1029 gives SMART has the authority to own and operate freight service. District Counsel Tom Lyons responded that it is stated in SB 1029, which adds the option to operate freight and the decision-making today is for the Board to decide if SMART should become a freight operator. Director Rogers asked if Measure Q funds will be used to operate freight from Larkspur to Cloverdale. Mr. Lyons responded that the State is purchasing the acquisition and SMART is acting a pass through. Director Rogers asked to clarify for the public that Measure Q has a mandate that funds are used for passenger rail service. Mr. Mansourian responded that Measure Q and other sources of funds have been used to maintain the rail line between Ignacio Wye and Brazos Branch (Napa River) which is SMART property. Director Rogers asked is SMART had a staffing cost if the Board was to approve; also, can another entity run freight? Mr. Mansourian responded that the estimated $10 million maintenance cost that we asked for includes staffing, maintenance, and capital needs. It will be the Board's decision if other entities can run freight.

Director Naujokas stated that the State strongly believes in the contributions that SMART can solve regional transportation problems and is willing to give the gift of the right-of-way and freight service. He asked what is the process of backing out if at any time during the freight service SMART is not receiving revenue or profit. Mr. Mansourian responded that Surface Transportation Board (STB) requires SMART to continue to service any reasonable customer and currently, NWPCo serves four customers that will require service by rail or other alternative transportation. Mr. Bosco confirmed Mr. Mansourian's response. They have endured two CEQA lawsuits and they have been dismissed. SMART can be much more profitable than NCRA has been. Director Naujokas said that some of SMART's Engineers-Conductors have been freight operators and now have the ability to recruit and cross train into passenger service. He asked for clarification regarding Positive Train Control (PTC). Mr. Mansourian responded that any locomotive traveling on SMART's right-of-way must be equipped with PTC, NWPCo has met the requirements to operate.

Director Zane left the meeting at 2:26pm

Chair Lucan asked to clarify the reasonable request determination and confirm the cost to provide the service is a key factor. Mr. Mansourian responded with an example: Lagunitas Company approached SMART and spur was added for them to receive their shipment via freight, the cost of the spur was paid by NWPCo.

Director Rogers asked how many existing spurs. Mr. Mansourian responded that they are three spurs.

Public Comment

Walter Allen stated that Acumen fully supports of the expansion of SMART's right-of-way and scope of operations by adding Freight Service responsibility. This is an incredible opportunity for the region. He thanked the General Manager Mansourian and staff for putting the proposal together.

David Schonbrunn stated that Train Riders Association of California are advocates for passenger rail. As environmentalist they would like to see the maximum use of freight rail and few trucks. He submitted his written comments addressing their concerns of how SMART has placed numerous obstacles to a successful freight service (on file with Clerk). He concluded "rubberstamp your staff on your own payroll".

Doug Kerr addressed his concerns regarding freight. SMART has not completed the original mission to provide passenger service from Larkspur to Cloverdale. Taking freight service when the original project is not complete sends a message to the public of SMART going to Cloverdale.

Mike Pechner stated that a feasibility study should have been conducted and provided prior to the meeting for the Board to make a decision. He voiced concerns that SMART has not replaced any of the switches that were removed during construction from Larkspur to Airport Boulevard. Given the finances of SMART it is a bad time to acquire freight.

Allan Hemphill stated that there is "an elephant in the room" and no recognition of the existing agreements which calls and obligate service to Willits. Service is not provided due to not being able to repair the railroad due to lack of funds, NCRA has received a request from Mendocino Railways along with Mendocino Lumber and is pending response.

Bernard Meyers stated that he submitted his written comments and urged the Board to have staff respond to the memo (on file with Clerk). He voiced his concern regarding SMART paying $4 million to NWPCo. Also, how much profit did NWPCo received from LPG during the period of 2012-2019.

Aleta Dupre stated this is important and is the beginning of a process. Freight and passenger railroad have co-existed in some way for a century. This is a very worthy item and the beginning and supports approval of this item.

Steve Birdlebough stated that freight service needs to be maintained as far north to Willits. He is disturbed by the perception of the Assembly Transportation Committee staff that once the acquisition is completed that freight service would be abandoned. Freight service needs to maintain long term contracts with users. He supports moving forward with this project.

Mike Arnold applauded Director Phillips comments and said he is not against freight service. He is concerned that the Board does not perform due diligence on a very complicated transaction. For example, the General Manager mentioned a $10 million study and where is the study? He asked the Board to consider the meaning of being an owner of a business if the sales tax does not pass. He urged the Board to review the entire acquisition prior to approving.

Richard Brand voiced his concerns regarding the lack of reports provided. He suggested that the item be tabled and review all the data prior to approval.

Tyler asked what makes SMART a qualifying agency when it can barely provide passenger service? He said that by SMART pulling spurs freight lost business.

Duane Bellinger stated that there were a lot of questions raised. He has been a supporter of rail and pedestrian oriented communities. He asked who would take over the operation if SMART goes bankrupt. He also asked if SMART can receive an extension until additional information is received and reviewed.

Mr. Mansourian said that Mr. Liles and Mr. Bosco are available to respond to the questions and comments.

Mr. Liles apologized for Senator McGuire not being able to join the meeting, he is currently at the Capitol, staff less dealing with the budget. He confirmed that the deadline for $2 million allocated to this acquisition cannot be extended. Freight service has been provided on SMART's right-of way for many years. This item has nothing to do with Freight service beyond Cloverdale.

Mr. Bosco stated that his business partner John Williams passed away last year and Mr. Williams's wife Linda is his current business partner. They have never placed the railroad for sale and they have been operating and been profitable. SB 1029 was not their idea; however, it makes perfect sense what SMART is considering. As for the public saying that SMART is putting them out of business, there have been many times that General Manager Mansourian and himself have not agreed on many issues, but overall, they have operated the freight service over 10 years with SMART's cooperation and they also perform dispatching and signal work services.

Chair Lucan asked the Board if they would prefer to take one action at a time or the entire recommendation at once.

Director Arnold responded that the Board shall approve the entire item as a whole.

Director Fudge asked if there is an opportunity to extend freight service to Ukiah in the future. Is the Great Redwood Trial mostly along the Eel River corridor; will the trail start in Cloverdale or could start in Ukiah? Mr. Liles responded that priority for the State and NCRA has been to preserve the transportation corridor. Under STB regulations this will always be a railroad corridor and top priority.

Director Naujokas asked why do we only have until end of June. Mr. Liles responded that Senator McGuire has been very successful in securing funding for this process and the Great Redwood Trail. They received $3 million to conduct studies, received $10.8 million last year to pay NCRA debt, and $2 million to SMART for the transfer of freight operation. SB 1029 was supported and passed unanimously. It has been a high priority at the State level to clean up the problems that have existed on the rail corridor for generations. He added, the $2 million was appropriated for Fiscal Year 2019-20, two years from when it was signed by the Governor in 2018.

Director Phillips stated that it's very incomprehensible that the Board is facing to make a decision during difficult times with many unknows. If Senator McGuire has put a lot of time and it's a significate project why can't it be extended. Now the Board has to make a decision and quite frankly "if the right decision is not made, we are going to look like fools". He does not understand why recommendation #7 will be conducted afterwards. He is not prepared to vote in favor today.

Director Connolly asked how was the $4 million cost determined. In fact, the $4 million is a State allocation based on State appropriations and approved by numerous state agencies including the State Department of Finance (DOF). As a former member of the Attorney of General Office who worked extensively with DOF, they do not apart any funds without conducting a full due diligence process. He asked what due diligence performed? Mr. Liles responded that the Department of Finance assisted with the acquisition funds and set up a process.

Director Arnold stated that this "watershed" moment. She thanked Senator McGuire for stepping in at the right time. The environmentalist at the Marin – Sonoma border will have a trail that they have always wanted. Businesses are going to have the opportunity to provide goods by freight service. She thanked Mr. Bosco for all his work.

Director Rabbitt stated that SMART is receiving funds from the State to provide freight service. He thanked Senator McGuire for working through a very complicated and complex transaction. Freight service is very important in Sonoma County and he heard from two current customers yesterday pertaining to this item. General Manager Mansourian was very supportive on how to serve the existing customers when problems arise. There is a future for freight in Sonoma and Marin County, simplifying ownership will make it easier to move forward. He looks forward to the economic and financial analysis and business plan.

Director Phillips appreciates Director Rabbitt's comments. He is concerned making a decision without the reports. He asked if analysis have been conducted, why are the reports not available prior to making a decision.

Director Connolly stated that he appreciates all the discussion, as tempting as it is to focus exclusively on a snapshot in time with the assumptions of the challenges that exist today, will always be with us. This is a generational opportunity to continue building a regional transportation system and this is the opportunity to purchase the right-of-way. He read statement from a letter by Mr. Omishakin, Director of Department of Transportation, dated May 18, 2020. The statement said that the Rail Plan identifies the SMART corridor as an important element of the State interregional passenger rail system, providing reliable mobility along the congested highway 101 corridor as well as key transit connections to rural communities in the north State. The letter continues; the SMART owned east-west corridor provides an opportunity to further expand interregional connections and improve reliability and resiliency along the highway 37 corridor and is a priority in the State rail vision. These are the bases for which the State is providing $4 million for this acquisition. The scope of freight operating service will need to be determined; however, we have heard of many opportunities for SMART. He is ready to move forward to support the acquisition and General Manager Mansourian listed the recommendations on the staff report.

Director Garbarino stated that this is an opportunity not only for SMART but for the environment. She has trust Senator McGuire and SMART staff in all the preliminary analysis they provided to the Board. SMART is not spending any money on this transaction and it's a generational opportunity.

Director Fudge concurred with Director Arnold that this is a "watershed" moment. This bring painful memories when SMART was negotiating an Operating Agreement with NCRA, and NWPCo. We will now be able to operate freight service seamlessly. There will be an increase in safety with one entity operating plus most of the Engineer-Conductor came from freight operations. She has no doubt that freight service will be profitable and she will be meeting with potential customers. She stated that SMART's staff and the Board have never said they will seek abandonment of the freight line service. She added that the approval today is not just on a 2-hour discussion a lot of work has been performed. The State conducted due diligence to provide the funds for this acquisition. This is a watershed moment; a great opportunity and she is happy to vote today.

Director Zane rejoined the meeting at 3:43PM

Director Naujokas thanked everyone for their comments and said he had four key issues: 1) values – this initiative gives SMART the opportunity to reduce greenhouse gas in the community; 2) business – there is clear revenue implications and efficiency of operations, we have resources; 3) faith – the Department of Finance, Department of Transportation, SMART's staff, Mr. Liles and Senator McGuire and the professionalism of elected officials; and 4) risk – yes of course there is always risk and the Board will continue to monitor the operations of SMART.

Director Rogers stated he has three questions: 1) is this a good thing from an operational stand point for SMART – the most compelling aspect is the inability of SMART to prevent a different freight operator to take over; 2) is it good from an economic standpoint – there are various questions and documents that have not been shared, however the Department of Finance has performed due diligence and believes this is a good deal; and 3) timing – he would prefer to review all the document prior to making a decision but given that SMART is receiving funds from the State, this is an opportunity for SMART to provide freight service for the community.

Director Zane said she is glad that Director Fudge spoke about the history of freight. We have come so far in acknowledging freight service is important. In California, freight is not as busy as other states like North Carolina and South Carolina where freight is very active. We have the opportunity to bring revenue and this is a good business investment. There are businesses in the County that will invest in freight. Post pandemic everything is going to change. She thanked everyone who worked on this project especially Senator McGuire, Mr. Liles, Mr. Bosco, Director Fudge, and General Manager Mansourian for all their hard work.

Director Hillmer he expressed his appreciation with all the comments made today. SMART being a unique agency can provide a great value.

Chair Lucan thanked SMART's staff, Mr. Liles, Senator McGuire and Mr. Bosco. There was a lot of conversations about due diligence, purchase, and acquisition, the details are extremely important but moving forward in vision and long- term thinking is also important. In addition to the assets, equipment and right-of-way that SMART is receiving along with $2 million for infrastructure improvements and additional $8 million and SMART is not providing any funds for this transaction. He asked himself, what is the best available structure or governance to ensure that freight service continues and that the public has oversight and transparency to freight operations; and the answer is SMART. He is very excited to be supporting this transaction today.

MOTION: Director Arnold moved to approve the Expansion of SMART Right-of-Way and Scope of Operations by Adding Freight Service Responsibility and Executing Related Agreement as presented. Vice Chair Pahre second. The motion carried 11-0-1 (Director Phillips abstain)

8. SMART Budget Survey and Service Reduction Options

General Manager Mansourian stated that at your last meeting it was requested that SMART provide a survey regarding our future service and budget implications. Within days of your meeting, our Outreach Department quickly prepared and distributed a survey providing the public with an opportunity to hear about SMART's proposed reductions. He introduced Communications and Marketing Manager, Julia Gonzalez. Ms. Gonzalez provided a PowerPoint Presentation which is available on SMART's website. Highlights include:

- Community Survey on Proposed Service Reductions
  - Survey open for 7 days (May 11-17)
  - Distributed through SMART's communications methods and thru 65 public and private agencies
  - 3281 respondents – 74% of respondents ride SMART and 26% of respondents have never traveled on SMART
  - When comparing the responses of SMART riders to those of non-riders, they are remarkably similar
  - Full survey results will be available online
- Where Responses came from
- On Eliminating WiFi
  - 90% said it would not factor in decision to ride train
  - 62% would use their own data plan
  - 30% would create a personal hotspot
  - 6 % said data limits would prevent them from accessing internet
- On Pay a fee for WiFi
  - 60% are not willing to pay
  - 28% are willing to pay a $1-$2 fee per use
- On Eliminating Weekend Service
  - 29% reported they primarily ride on weekdays, elimination of weekend service would not impact them
  - 18% reported they ride SMART only on weekends
  - 28% said they will ride less if weekend service is cut
- On Reducing Weekday Service
  - 36% ride primarily on weekends
  - 42% found the weekday schedule to be acceptable
- Rider frequency before shelter in place orders
  - 36% rode on weekdays
  - 26% never traveled on SMART
  - 23% were occasional riders, traveling only once a month
  - 15% ride SMART only on weekends (25% of this sub-group travel on a monthly basis for leisure purposes
- Top 3 factors SMART riders are considering when deciding to ride the train
  - 81% knowing the trains are cleaned twice daily
  - 70% mandatory wearing of face coverings on trains/stations

    - 68% environmental benefits of riding transit
- Possible Impacts
    - 17% of survey respondents anticipate only riding on weekends after shelter in place orders ease
    - 12% of respondents do not anticipate returning to riding SMART as shelter in place orders ease
    - 22% are continuing to telecommute
    - 15% are uncertain about their employment status
- Summary
    - 90% of respondents are amenable to the elimination of free onboard WiFi
    - Elimination of Weekend service will result in a loss of leisure and recreational riders
    - The arrival of spring and summer many expressed a desire to ride SMART for weekend leisure trips to San Francisco
    - The proposed weekend service reductions is acceptable if there is the following: 1) earlier AM service; 2) later PM service; and 3) and if the schedule is coordinated with the Ferry

Lastly, General Manager Mansourian gave an overview presentation of the reduction's strategies. We are requesting directions from you on the third strategy. Highlight include:

- Reduction Strategies
    1) One Time Savings: $3.5 million
    2) Ongoing Expense Reductions: $2.6 Million
    3) Reduction in Expenses Resulting from Service
        - Elimination of weekend service: Net savings of $1.6 million
        - Reduction to 22 trips daily: $3.2 million
        - Reduction in pay and benefits: $1.1 million
- How quickly do we move to implement the next bucket of reductions?
    - We have imperfect information about the length and impact of the health and economic crises
    - We do not know how deeply we need to cut in the long run
- Three Important Considerations
    1) Federal CARES Act Funding
    2) Implication of Staff Layoffs
    3) Year-Round Budget

In the face of these three important considerations and the survey results – What should the ultimate service schedule look like when we are fully functioning? Do we make significant service cut assumptions now, or do we wait for more information?

- Alternative Service Reductions options
    - Rather than reducing to 22 trips a day, for now we can plan on restoring an extra train at beginning and end of the work day to accommodate public input
- Achieve goals

    - Respond to the survey results we received about earlier and later train options
    - Could be accomplished without staff layoffs. We would be able to make reductions using attritions and the deletions of vacant positions.
- Strategies
    - SMART would run a "6-1-6" schedule, for a total of 26 runs on the weekday – this will allow SMART to save $1.1 million annually
    - Board could delay a decision on weekend service until further notice
    - SMART will continue not running weekend service until the shelter in place is lifted and weekend ferry service is restored
    - SMART could maintain the new level of service utilizing the CARES act funding and our unallocated fund balance for several years without using operations reserves
- Budget Preparation – If directed, this reduction option would be included in the budget
    - Preliminary Budget will assume these changes int eh June 3 presentation
    - Budget will be adopted on June 17, last meeting before end of the Fiscal Year
    - Continue to monitor and examine the revenues
    - In July, sales tax can be examined for the following months: April, May and June
    - Continue to engage with MTC on the disbursement of the CARES Act funds
    - Continue to update your Board with any findings and assumptions
- Illustration of the 6-1-6 Weekday Schedule

Lastly, public comments have been terrific, we have taken them to heart and added the train service they asked for. We will bring the budget at the next meeting for your considerations

<u>Comments</u>
Chair Lucan stated that he is very happy with the amount of responses that SMART received in a short period of time.

Director Naujokas asked what are the safety mitigation measures that SMART is taking to stop the spread of the virus. Mr. Mansourian responded that the vehicle maintenance staff cleans and sanitizes the trains twice a day. Sanitizer dispenser where added to each train and Engineer-Conductors wear face mask and also provide masks to passengers who don't have one. The only item that is for consideration at the National and State level is if public transportation going to require 6 feet social distance. If so, how will this be implemented with best practices.

Director Phillips said there are two components that are affecting SMART, the current health and economic crisis and the defeat of Measure I. Making the changes that are suggested will offset the systemic issue and with the CARES Act Funds will help with the corona virus issue. What is the probability of not receiving the additional CARES Act fund through MTC? Mr. Mansourian responded that $10.3 million was approved by MTC and FTA, the remaining $6.6 is being reviewed by the MTC committee for distribution. Director Rabbitt confirmed that the Blue-Ribbon Committee have not met to discuss the distribution of the remainder of funds.

Director Connolly stated that he is not in the Blue-Ribbon committee, however looks forward to interact with the commission and transit agencies. His preliminary observation, while looking at policy considerations we can't lose site of the fact of the purpose of the CARES Act Funds, which is to provide immediate relief to transit agencies who are strapped due to COVID pandemic. He will be looking for consistency and not lose site of the immediate need of the funds.

Vice Chair Pahre asked if the COVID-19 directives are posted on SMART's website. Mr. Mansourian responded yes. Ms. Gonzalez stated that it's also sent via different social media methods. MTC has provided a videographer too SMART to film staff cleaning the trains.

Dani Sheehan congratulated staff with the new partnership. She urged the Board not to eliminate weekend service and suggested reaching out to the leaders and tourism partners.

Steve Birdlebough asked if SMART running three (3) car trains.

Mike Pechner suggested that SMART have efficient connection to the Ferry for Giants baseball games during the weekdays and weekends.

Mr. Mansourian responded that SMART is currently running 2 car passenger service. If SMART was to run 5-1-5 schedule there would not be enough staff to run 3 car train. In the proposed schedule of 6-1-6, SMART will be running a 2-car passenger service and once ridership increases or social distance is required adding an additional car will be a must. The weekend service is for your Board to make a recommendation today.

Chair Lucan asked the Board if they are not in support of staff's recommendations?

Director Fudge stated that SMART will need to provide weekend service within 30-days of shelter in place is lifted. There is going to be an increase in regional travel and we need to be ready to start weekend service when possible. She does not want the Board to forget the request of a later train departing north. She thanked everyone who responded to the survey and provided thoughtful comments and suggestions.

Director Arnold thanked staff for the brilliant survey in a short period of time, she was able to forward to her constituents and contact list.

Director Rogers thanked the General Manager Mansourian and staff for providing the proposed 6-1-6 schedule.

Director Connolly stated that he agrees with the recommendations to not eliminate weekend service. SMART could lose ridership if weekend service is eliminated and new ridership can be attracted by having weekend service.

Director Naujokas stated that is very important to reinforce the message to mitigation safety risk measure to make riders comfortable and an alternative transportation.

Vice Chair Pahre stated that constituents and members of the public have felt that they have not been heard. The survey asked the right questions and provided SMART the ability to provide an alternative proposed 6-1-6 schedule. We are not the only transit agency in the Bay Area who is struggling during this time. The Golden Gate Bridge has also lost approximately 70% - 90% of ridership, crossings and ferry. Not everyone gets what they want and SMART will revisit and is in constant coordination with other agencies

Lastly, Chair Lucan stated that staff received the recommendations to proceed to next phase of the budget. He appreciated Director Naujokas comments regarding safety mitigation measures SMART is conducting to keep passengers safe. He thanked the public to engage and provide feedback in the survey.

9. Next Regular Meeting of the Board of Directors, June 3, 2020 – 1:30PM

10. Adjournment – Meeting adjourned at 5:02PM.

Respectfully submitted,

Leticia Rosas-Mendoza
Clerk of the Board

Approved on: ________________________

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

June 3, 2020

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

SUBJECT: Authorize the General Manager to Award a Sole-Source Purchase Order to ZF North America, Inc. to Purchase 14 Shift Cylinders and 14 Valve Blocks

Dear Board Members:

RECOMMENDATION:
Your Board-Approved Fiscal Year 2020 Budget includes the purchase of these specialized Diesel Multiple Unit (DMU) parts in order to perform required maintenance. Staff recommends authorizing the General Manager to issue a Sole-Source Purchase Order to ZF North America, Inc. in the amount of $93,628.35 for the purchase of 14 Shift Cylinders and 14 Valve Blocks. Staff also recommends that the Board adopt a finding that:

1) There is only a single source of procurement for these specific rail vehicle parts already installed on current Diesel Multiple Units (DMU) that SMART owns and operates.
2) The Board approves the direct purchase of the specialized equipment and/or parts from ZF North America, Inc.

SUMMARY:
SMART's Vehicle Maintenance team has an established preventative maintenance plan to ensure the trains are safe and reliable for riders. The shift cylinders, which put the train into forward or reverse, must be replaced every 4 years or 300,000 miles to comply with the preventative maintenance plan. Whenever a shift cylinder is replaced, the corresponding valve block must also be replaced at the same time. SMART requires 14 shift cylinders and 14 valve blocks to be purchased in order to perform the required maintenance activities. Should this critical component fail, it would likely cause service delays and require the DMU to be taken out of service until the component was purchased and subsequently replaced. ZF North America, Inc. is the original equipment manufacturer and only distributer of these specialized parts installed on SMART's trains.

Pursuant to Public Contract Code §3400 and Public Contract Code §20355, your Board may direct the purchase of any supply equipment or material that is for the sole purpose of duplicating or replacing supplies, equipment, or material already in use.

Staff recommends authorizing the General Manager to issue a Sole-Source Purchase Order to ZF North America, Inc. in the amount of $93,628.35 for the purchase of 14 Shift Cylinders and 14 Valve Blocks.

FISCAL IMPACT: Purchase was Assumed and Funded in the Fiscal Year 2020 Budget.

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

Very truly yours,

/s/
Ken Hendricks
Procurement Coordinator

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

June 3, 2020

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

SUBJECT: Authorize the General Manager to Award a Purchase Agreement for Portable Hydraulic Rerailing Equipment to Railquip, Inc. in the amount of $147,721.73.

Dear Board Members:

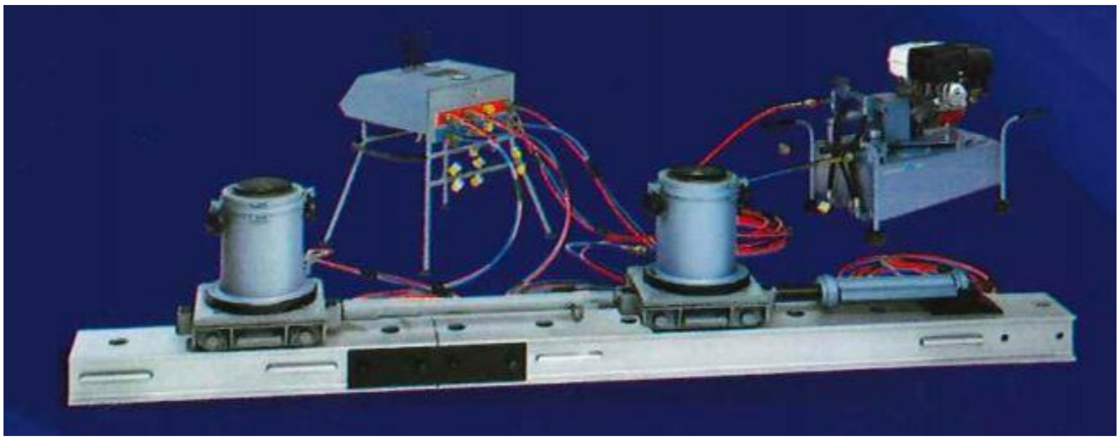
RECOMMENDATION:
Staff recommends authorizing the General Manager to award a Purchase Agreement to Railquip, Inc. in the amount of $147,721.73 to purchase Portable Hydraulic Rerailing Equipment.

SUMMARY:
Portable Hydraulic Rerailing Equipment is an essential emergency response tool designed for rerailing Diesel Multiple Units, locomotives, railcars and other maintenance of way equipment. This equipment is lightweight, portable, simple to use in the field, and can be deployed quickly and safely to re-rail SMART's equipment. SMART's Vehicle Maintenance Division identified this specialized rail transit equipment during the Fiscal Year 2020 budget process as a strategic tool that should be in SMART's emergency response toolbelt in order to be able to respond to incidents quicker and reduce the need for costly third-party contractors.

A Request for Proposal was issued to procure the Portable Hydraulic Rerailing Equipment for SMART's Vehicle Maintenance Division under Solicitation No. OP-EQ-20-001. SMART received a total of 3 Proposals from the following vendors:

1. Gensco America, Inc.
2. Railquip, Inc.
3. Sustainable Earth Industrial, LLC.

SMART's evaluation committee reviewed the three proposals using the evaluation criteria listed in the Request for Proposal, including technical and operational features, safety features, initial cost of equipment, and lifecycle costs. The Portable Hydraulic Rerailing Equipment proposed in Railquip, Inc.'s proposal was deemed to be the most advantageous to the District. Below is an example of the Portable Hydraulic Rerailing Equipment that SMART intends to purchase.



Pursuant to Public Contracts Code §20355.7, SMART elected to use a best value method of procurement instead of a low-bid method for this specialized rail transit equipment. This procurement method was selected due to the highly technical nature of the equipment and the need to evaluate individual technical elements separately. As such, your Board must approve the procurement methodology used with a finding of two-thirds of all the members.

Staff recommends authorizing the General Manager to award a Purchase Agreement to Railquip, Inc. in the amount of $147,721.73 to purchase Portable Hydraulic Rerailing Equipment and approve the best value method of procurement used.

FISCAL IMPACT: Funding is included in the proposed Fiscal Year 2020-21 budget and is supported by SB1 Local Partnership Program Funds.

REVIEWED BY: [x] Finance __/s/____ [x] Counsel ___/s/____

Very truly yours,

/s/
Ken Hendricks
Procurement Coordinator

Attachment(s): Purchase Agreement No. OP-EQ-20-001

PURCHASE AGREEMENT

This agreement ("Agreement"), dated as of ____________, 2020 ("Effective Date") is by and between the Sonoma-Marin Area Rail Transit District (hereinafter "SMART"), and Railquip, Inc. (hereinafter "Seller").

R E C I T A L S

WHEREAS, Seller represents that it is duly qualified and experienced in the areas of providing portable hydraulic rerailing equipment, training, and related services; and

WHEREAS, Seller owns or has the right to sell the specified Portable Hydraulic Rerailing Equipment, as defined below, under the terms and conditions set forth in this Agreement; and

WHEREAS, in the judgment of the Board of Directors of SMART or District, SMART desires to purchase the Portable Hydraulic Rerailing Equipment offered for sale by Seller under the terms and conditions set forth in this Agreement.

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

A G R E E M E N T

Article 1. Recitals.

Section 1.01 The above Recitals are true and correct.

Article 2. List of Exhibits.

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

(a) Exhibit A: Scope of Work & Timeline

(b) Exhibit B: Fee Schedule

(c) Exhibit C: FTA & DOT Requirements

Article 3. Guarantee of Work.

Section 3.01 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. Seller shall provide the goods and services within the timeframe outlined in **Exhibit A** (cumulatively referred to as the "Scope of Work").

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

Section 4.03 Performance Standard. Seller 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 Seller's profession. If SMART determines that any of Seller'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 Seller to meet with SMART to review the quality of the work and resolve matters of concern; (b) require Seller 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) Seller 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 Seller to perform work hereunder, Seller 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 Seller 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. Seller 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 Seller's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Seller's control, Seller shall be responsible for timely provision of adequately qualified replacements.

Article 5. Payment.

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

Section 5.01 Seller shall invoice SMART upon SMART's final acceptance of all goods and services, detailing the tasks performed pursuant to the Scope of Work. SMART shall pay Seller within 30 days after submission of the invoice(s).

Section 5.02 Seller shall be paid following final acceptance of all product and services in accordance with the **Exhibit B - Fee Schedule;** provided, however, that total payments to Seller shall not exceed **$147,721.73**, without the prior written approval of SMART. The invoice(s) shall show or include: (i) the task(s) performed; (ii) the items delivered and accepted; and (iii) the hourly rate or rates of the persons performing the task(s) as applicable. Travel time and travel expenses are included in the total Not-To-Exceed Amount.

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

Article 6. Term of Agreement.

Section 6.01 The term of this Agreement shall remain in effect until November 30, 2020, unless terminated earlier in accordance with the provisions of **Article 7** below.

Article 7. Termination.

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

Section 7.02 Termination for Cause. Notwithstanding any other provision of this Agreement, should Seller 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 Seller 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, Seller, 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 products completed or services performed, and hours worked up to the date of termination.

Section 7.04 Authority to Terminate. The Board of Directors has the authority to terminate this Agreement on behalf of SMART. In addition, SMART's Representative or General Manager, in consultation with SMART Counsel, shall have the authority to terminate this Agreement on behalf of SMART.

Article 8. Indemnification

Seller 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 Seller, to the extent caused by the Seller's negligence, recklessness or willful misconduct in its performance or obligations under this Agreement. Seller agrees to provide a complete defense for any claim or action brought against SMART based upon a claim relating to Seller's performance or obligations under this Agreement. Seller'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 Seller's expense, subject to Seller'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 Seller or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

Article 9. Insurance.

With respect to performance of work under this Agreement, Seller shall maintain and shall require all of its Subcontractors, Subconsultants, and other agents to maintain, insurance as described below.

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

Section 9.02 General Liability Insurance. Commercial General Liability insurance covering products-completed and ongoing operations, property damage, bodily injury and personal injury using an occurrence policy form, in an amount no less than $1,000,000 per occurrence, and $2,000,000 aggregate. Said policy shall include a Railroads CG 24 17 endorsement removing the exclusion of coverage, if applicable, for bodily injury or property damage arising out of operations within 50 feet of any railroad property and affecting any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing.

Section 9.03 Automobile Insurance. Automobile Liability insurance covering bodily injury and property damage in an amount no less than $1,000,000 combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles. Said policy shall also include a CA 20 70 10 13 endorsement removing the exclusion of coverage for bodily injury or property damage arising out of operations within 50 feet of any railroad bridge, trestle, track roadbeds, tunnel, underpass or crossing.

Section 9.04 Professional Liability Insurance. Professional liability insurance for all activities of Seller arising out of or in connection with this Agreement in an amount no less than $2,000,000 combined single limit for each claim.

Section 9.05 Endorsements. Prior to commencing work, Seller shall file Certificate(s) of Insurance with SMART evidencing the required coverage and endorsement(s) and, upon request, a certified duplicate original of any of those policies. Said endorsements and Certificate(s) of Insurance shall stipulate:

(a) SMART, its officers, and employees shall be named as additional insured on all policies listed above.

(b) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which Seller is liable, up to and including the total limit of liability, without right of contribution from any other insurance effected or which may be affected by the Insureds.

(c) Inclusion of the Insureds as additional insureds shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Seller. Said policy shall protect Seller 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) Seller hereby grants to SMART a waiver of any right to subrogation which any insurer of said Seller may acquire against SMART by virtue of the payment of any loss under such insurance. Seller 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. Seller shall be responsible for payment of any deductible or retention on Seller's policies without right of contribution from SMART. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible of retention provision limiting payment to the name insured is not acceptable.

Section 9.07 Claims Made Coverage. If any insurance specified above is written on a claims-made coverage form, Seller 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, Seller 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. Seller 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. Seller agrees to maintain current endorsements evidencing the above-specified requirements on file with SMART for the duration of this Agreement.

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

SMART's request. After the Agreement has been signed, signed Certificates of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

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

Section 9.10 Material Breach. If Seller, 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 Seller resulting from said breach. Alternatively, SMART may purchase such required insurance coverage, and without further notice to Seller, SMART may deduct from sums due to Seller 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 Seller by SMART, all due diligence shall be exercised and the work accomplished without undue delay, within the performance time specified in the Exhibit A of this 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, high water, or other Act of God, the time for Seller's performance of this Agreement shall be extended by a number of days equal to the number of days Seller has been delayed.

Article 11. Extra or Changed Work.

Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the General Manager in a form approved by SMART Counsel. The Board of Directors, General Manager or SMART's Representative must authorize all other extra or changed work. The parties expressly recognize that SMART personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Seller 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 Seller shall be entitled to no compensation whatsoever for the performance of such work. Seller 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 Seller.

Section 12.01 Standard of Care. SMART has relied upon the professional ability and training of Seller as a material inducement to enter into this

Agreement. Seller 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 Seller's work by SMART shall not operate as a waiver or release.

Section 12.02 Status of Seller. The parties intend that Seller, 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. Seller 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, Seller 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. Seller 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. Seller 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 Seller'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, Seller agrees to furnish SMART with proof of payment of taxes on these earnings.

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

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

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

Section 12.07 Assignment Of Rights. Seller assigns to SMART all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Seller in connection with this Agreement. Seller 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. Seller’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. Seller shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of SMART.

Section 12.08 Ownership And Disclosure Of Work Product. All reports, original drawings, graphics, plans, studies, and other data or documents (“documents”), in whatever form or format, assembled or prepared by Seller or Seller’s Subcontractors, Subconsultants, 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, Seller 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. Seller 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 Project Manager: Sonoma-Marin Area Rail Transit District
Attn: Husani Longstreet
3748 Regional Parkway
Santa Rosa, CA 95403
hlongstreet@sonomamarintrain.org

If to SMART Billing: Sonoma-Marin Area Rail Transit District
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954
billing@sonomamarintrain.org

If to Seller: Railquip, Inc.
Attn: Nicholas Lopez
3731 Northcrest Road, Suite 6
Atlanta, GA 30340
nick@railquip.com
(770) 458-4157

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

Article 16. Miscellaneous Provisions.

Section 16.01 No Waiver of Breach. The waiver by SMART of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

Section 16.02 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Seller 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. Seller and SMART acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

Section 16.03 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

Section 16.04 No Third-Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

Section 16.05 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this

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

Section 16.06 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

Section 16.07 Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

Section 16.08 Acceptance of Electronic Signatures and Counterparts. The parties agree that this Contract, Agreements ancillary to this Contract, and related documents to be entered into this Contract will be considered executed when the signature of a party is delivered by scanned image as an attachment to electronic mail. Such scanned signature must be treated in all respects as having the same effect as an original signature. Each party further agrees that this Contract may be executed in two or more counterparts, all of which constitute one and the same instrument.

Section 16.09 Controlling Document. If any provision of any Agreement, plan, program, policy, arrangement or other written document relating to the Seller conflicts with any provision of this Agreement, this Agreement shall be the controlling document.

Section 16.10 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

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

SELLER: RAILQUIP, INC.

By: ______________________________________

Its : ______________________________________

Date: ______________________________________

SONOMA-MARIN AREA RAIL TRANSIT (SMART)

By: _____________________________________
Farhad Mansourian, General Manager

Date: _____________________________________

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

By: _____________________________________
Ken Hendricks, Procurement Coordinator

Date: ______________________________________

APPROVED AS TO FORM FOR SMART:

By: _____________________________________
District Counsel

Date: _____________________________________

EXHIBIT A
SCOPE OF WORK & TIMELINE

I. Purpose

The Sonoma-Marin Area Rail Transit District (SMART) is purchasing Portable Hydraulic Rerailing Equipment and on-site training services from Railquip, Inc.

All equipment and onsite-training services will be delivered to and performed at the following secured facility.

Rail Operation Center
3748 Regional Parkway
Santa Rosa, CA 95403

II. Project Management

All final equipment specifications and certifications, schedule coordination, and training services will be reviewed and monitored by SMART's Superintendent of Vehicle Maintenance, Husani Longstreet.

III. Tasks

A. Portable Hydraulic Rerailing Equipment

i. Seller shall furnish and deliver to SMART the following Portable Hydraulic Rerailing Equipment:

ITEM	DESCRIPTION	PART #	QUANTITY
1	Pump Unit w/ Petrol Engine	02-4070	1
2	Control Unit 4-Way Control Block	03-2004	1
3	Tripod	03-9001	1
4	Lifting Jack Series TH-30 600	04-2062 TH-30	2

5	Displacing Jack 120/60 kN, Length 575 mm	05-0011	1
6	Single Counter Support	05-4001	1
7	Stopping Device for Roller Carriage, Complete with Single Counter Support	05-6000	1
8	Roller Carriage 600 kN with Plate	05-2062	2
9	Distance Bar 1046-2645mm (Type II)	05-5002	1
10	Rerailing Bridge 3300 mm Long, 180 mm High	05-2330	1
11	Rerailing Bridge 2250 mm Long, 180 mm High	05-2225	1
12	Set of Bridge Couplings (High)	05-2000	1
13	Pair of High-Pressure Hoses, 10m Long	09-2010	7
14	Hose Coupling with Stop Valves	09-2101	4
15	Axle Pusher	09-1000	1
17	Modified Large Container		1

B. Delivery and Transportation

i. Railquip, Inc. shall be responsible for initiating, arranging transporting and delivering all of the Portable Hydraulic Rerailing Equipment to SMART's Rail Operations Center listed above.

ii. Railquip, Inc. shall coordinate and request authorization for all delivery and training timelines with SMART's Superintendent of Vehicle Maintenance, Husani Longstreet.

iii. Freight: F.O.B. Final Destination

C. Training

i. Railquip, Inc. will provide (1) one week of on-site and hands-on training to SMART personnel at SMART's Rail Operation Center. This training will be open to any and all employees that SMART selects. The training schedule must be able to accommodate all types of shifts (Day, Swing, Graveyard). This training must include:

1) Training on all safety features of the equipment

2) How to Properly Unpack and Set-Up all of the Equipment

3) Hands on Operational Training

4) Disassembly and Packing Up of All Equipment

5) Routine Maintenance Activities

Railquip, Inc. shall provide SMART with unlimited access to any and all online webinar-type trainings and materials related to the safe operation of the Portable Hydraulic Rerailing Equipment.

The training for SMART staff shall take place immediately following the delivery of the portable hydraulic rerailing equipment. The training schedule must be mutually agreed upon in writing no less than 30 calendar days prior to equipment delivery taking place.

D. Documentation

Railquip, Inc. shall provide SMART with the following documents in both hardcopy and electronic copy:

1) All safety manuals to include all safety fact sheets and signage.
2) Operations manual
3) Maintenance manual
4) Material Safety Data Sheets
5) Warranty documentation for parts and labor

IV. Delivery Requirements

Railquip, Inc. shall provide and deliver to SMART's Rail Operation Center located at 3748 Regional Parkway, Santa Rosa, CA 95403, the Portable Hydraulic Rerailing Equipment and modified large container within 5 months of this fully executed purchase agreement.

V. Acceptance Criteria

All product and service acceptance shall be made in writing by SMART's Superintendent of Vehicle Maintenance, Husani Longstreet, upon the completion of all required elements of this Agreement.

EXHIBIT B
FEE SCHEDULE

All Equipment, Training Services, Freight, and Sales Tax shall be invoiced following the successful equipment delivery and completion of all training services identified in this Agreement. The invoice(s) shall be itemized based on the following table:

ITEM	DESCRIPTION	PART #	QUANTITY	UNIT COST	TOTAL COST
1	Pump Unit w/ Petrol Engine	02-4070	1	$16,688.96	$16,688.96
2	Control Unit 4-Way Control Block	03-2004	1	$8,329.81	$8,329.81
3	Tripod	03-9001	1	$6,474.73	$6,474.73
4	Lifting Jack Series TH-30 600	04-2062 TH-30	2	$10,521.63	$21,043.26
5	Displacing Jack 120/60 kN, Length 575 mm	05-0011	1	$3,513.82	$3,513.82
6	Single Counter Support	05-4001	1	$847.13	$847.13
7	Stopping Device for Roller Carriage, Complete with Single Counter Support	05-6000	1	$1,865.03	$1,865.03
8	Roller Carriage 600 kN with Plate	05-2062	2	$5,242.30	$10,484.60
9	Distance Bar 1046-2645mm (Type II)	05-5002	1	$2,198.59	$2,198.59
10	Rerailing Bridge 3300 mm Long, 180 mm High	05-2330	1	$9,064.48	$9,064.48
11	Rerailing Bridge 2250 mm Long, 180 mm High	05-2225	1	$6,496.14	$6,496.14

12	Set of Bridge Couplings (High)	05-2000	1	$860.61	$860.61
13	Pair of High-Pressure Hoses, 10m Long	09-2010	7	$1,556.81	$10,897.67
14	Hose Coupling with Stop Valves	09-2101	4	$412.99	$1,651.96
15	Axle Pusher	09-1000	1	$2,782.70	$2,782.70
16	Training for Portable Hydraulic Re-Railing Equipment @ SMART Facility		1	$4,900.00	$4,900.00
17	Modified Large Container		1	$23,364.00	$23,364.00
18	Delivery		1	$5,000.00	$5,000.00
19	Sales Tax		1	$11,258.24	$11,258.24
				TOTAL	**$147,721.73**

The rates listed in the above table include all direct costs, indirect costs, travel costs, equipment, materials, parts, insurance, supervising, and any other costs associated with providing SMART with the selected Portable Hydraulic Rerailing Equipment.

ATTACHMENT C – FTA & DOT REQUIREMENTS

UNITED STATES DEPARTMENT OF TRANSPORTATION (DOT), FEDERAL TRANSIT ADMINISTRATION (FTA) and CALIFORNIA DEPARTMENT OF TRANSPORTATION REQUIREMENTS

1. **General**. In performance of its obligations pursuant to this Agreement, the Seller agrees to comply with all applicable provisions of federal, state and local law, regulations, and FTA directives. The terms of the most recent amendment to any federal, state or local laws, regulations, FTA directives, and amendments to the grant or cooperative agreement providing funding for this Agreement that may be subsequently adopted, are applicable to the Agreement to the maximum extent feasible, unless the FTA provides otherwise in writing. The Federal or State regulations set forth in this Agreement to be observed in the performance of the Agreement are subject to change, and such changed requirements will apply to this Agreement as required. Seller shall include in its subcontracts, and require its subsellers of every tier to include in their respective subcontracts, provisions incorporating the requirements of this Attachment. Seller's failure to comply with these requirements shall constitute a material breach of this Agreement and may result in the withholding of progress payments to the Seller, in addition to other remedies.

2. **Fly America.** The Seller agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their Sellers are required to use U.S. flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. If a foreign air carrier is used, the Seller shall submit an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Seller agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

3. **Cargo Preference - Use of United States Flag Vessels.** The Seller agrees:

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

   (b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of -lading in English for each shipment of cargo to the Division of

National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Seller in the case of a subseller's bill-of-lading); and

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

4. **Seismic Safety.** The Seller agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations, 49 CFR Part 41, and will certify to compliance to the extent required by the regulation. The Seller also agrees to ensure that all work performed under this Agreement including work performed by a subseller is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

5. **Energy Conservation**. The Seller agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

6. **Clean Water**. The Seller agrees:

(a) to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq*. The Seller agrees to report each violation to SMART and understands and agrees that SMART will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office; and

(b) to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA.

7. **Byrd Anti-Lobbying Amendment, as amended by the Lobbying Disclosure Act of 1995.**

Sellers that apply or bid for an award exceeding $100,000 must file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

<u>Byrd Anti-Lobbying Certificate</u> -Certification for Contracts, Grants, Loans, and

Cooperative Agreements

The undersigned Seller certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure or failure.

The Seller certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Seller understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure.

[Name of Seller]

By:____

Print Name:________________________________

Title:______________________________________

Date:______________________________________

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8. **Federal Changes.** Seller shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. Seller's failure to so comply shall constitute a material breach of this Agreement.

9. **Clean Air**. The Seller agrees to:

   (a) comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, *et seq*. The Seller agrees to report each violation to SMART and understands and agrees that SMART will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office; and

   (b) include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA.

10. **Recycled Products.** The Seller agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

11. No Obligation by the Federal Government.

(a) SMART and Seller acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to SMART, Seller, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the Agreement.

(b) The Seller agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subseller who will be subject to its provisions.

12. Program Fraud and False or Fraudulent Statements or Related Acts.

(a) The Seller acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq*. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the Agreement, the Seller certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the Seller further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Seller to the extent the Federal Government deems appropriate.

(b) The Seller also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Seller, to the extent the Federal Government deems appropriate.

(c) The Seller agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subseller who will be subject to the provisions.

13. **Special Termination Provisions.** In addition to the Termination provisions contained in Article 7 of the Agreement, the following Termination provisions apply.

(a) Termination for Convenience. SMART may terminate this Agreement, in whole or in part, at any time by written notice to the Seller when it is in SMART's best interest. The Seller shall be paid its costs, including Agreement close-out costs, and profit on work performed up to the time of termination. The Seller shall promptly submit its termination claim to SMART to be paid the Seller. If the Seller has any property in its possession belonging to SMART, the Seller will account for the same, and dispose of it in the manner SMART directs.

(b) Termination for Default. If the Seller does not deliver supplies in accordance with the Agreement delivery schedule, or, if the Agreement is for services, the Seller fails to perform in the manner called for in the contract, or if the Seller fails to comply with any other provisions of the contract, SMART may terminate this Agreement for default. Termination shall be effected by serving a notice of termination on the Seller setting forth the manner in which the Seller is in default. The Seller will only be paid the Agreement price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by SMART that the Seller had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Seller, then SMART, after setting up a new delivery of performance schedule, may allow the Seller to continue work, or treat the termination as a termination for convenience.

(c) Opportunity to Cure. SMART in its sole discretion may, in the case of a termination for breach or default, allow the Seller up to ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Seller fails to remedy to SMART's satisfaction the breach or default of any of the terms, covenants, or conditions of this Agreement within ten (10) days after receipt by Seller of written notice from SMART setting forth the nature of said breach or default, SMART shall have the right to terminate the Agreement without any further obligation to Seller. Any such termination for default shall not in any way operate to preclude SMART from also pursuing all available remedies against Seller and its sureties for said breach or default.

(d) <u>Waiver of Remedies for any Breach</u>. In the event that SMART elects to waive its remedies for any breach by Seller of any covenant, term or condition of this Agreement, such waiver by SMART shall not limit SMART's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

(e) <u>Termination for Convenience or Default (Architect and Engineering Contracts)</u>. SMART may terminate this Agreement in whole or in part, for SMART's convenience or because of the failure of the Seller to fulfill the Agreement obligations. SMART shall terminate by delivering to the Seller a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Seller shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to SMART all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process.

If the termination is for the convenience of SMART, SMART shall make an equitable adjustment in the Agreement price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Seller to fulfill the Agreement obligations, SMART may complete the work by contract or otherwise and the Seller shall be liable for any additional cost incurred by SMART.

If, after termination for failure to fulfill Agreement obligations, it is determined that the Seller was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of SMART.

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14. Suspension and Debarment.

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, the Seller is required to verify that none of the Seller, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Seller is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows.

Suspension and Debarment Certificate

The Seller hereby certifies that neither the Seller, nor its principals, as defined at 49 CFR 29.995, nor its affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

This certification is a material representation of fact relied upon by SMART. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to SMART, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a similar provision requiring such compliance in its lower tier covered transaction.

[Name of Seller]

By:____

Print Name:_________________________________

Title:______________________________________

Date:______________________________________

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15. **Civil Rights.** The following requirements apply to the Agreement:

(a) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Seller agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Seller agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(b) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the Agreement:

(1) Race, Color, Creed, National Origin, Sex In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Seller agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60, *et seq*., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project. The Seller agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Seller agrees to comply with any implementing requirements FTA may issue.

(2) Age In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Seller agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Seller agrees to comply with any implementing requirements FTA may issue.

(3) Disabilities In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Seller agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Seller agrees to comply with any

implementing requirements FTA may issue.

The Seller also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

16. **Disputes**. Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties shall be decided in writing by SMART's General Manager. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Seller mails or otherwise furnishes a written appeal to the General Manager. In connection with any such appeal, the Seller shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the General Manager shall be binding upon the Seller and the Seller shall abide by the decision.

17. **Performance During Dispute**. Unless otherwise directed by SMART, Seller shall continue performance under this Agreement while matters in dispute are being resolved.

18. **Claims for Damages**. Should either party to the Agreement suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

19. **Remedies**. Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between SMART and the Seller arising out of or relating to this Agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within California.

20. **Rights and Remedies**. The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by SMART or Seller shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

21. **Exclusionary or Discriminatory Specifications**. Apart from inconsistent requirements imposed by Federal statute or regulations, Seller shall comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

22. **No Federal Government Obligations to Seller and Third Parties**. Absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to Seller, or any other third party in connection with the performance of the Agreement. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, contract, or subagreement, the Federal Government continues

to have no obligations or liabilities to any party, including the Seller.

23. **Geographic Restrictions**. Seller shall refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal statute, and as permitted by SMART.

24. **Access To Records and Reports**. Seller shall comply with the following requirements:

(a) Record Retention. The Seller agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Seller shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

(b) Access to Records. Seller shall permit SMART, the Secretary of Transportation, the Federal Transportation Agency (FTA), and the Comptroller General of the United States, or their authorized representatives, to inspect all project work, materials, payrolls, and other data, and to audit the books, records, and accounts of Seller and its subsellers pertaining to the Agreement. In accordance with 49 U.S.C. § 5325(a), Seller shall require each subseller to permit SMART, the Secretary of Transportation, the Federal Transportation Agency (FTA) and the Comptroller General of the United States, or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that subseller agreement and to audit the books, records, and accounts involving that subseller agreement as it affects the Agreement.

(c) State Audit, Inspection, Access to Records and Retention of Records Requirements. Seller and its subsellers shall establish and maintain an accounting system and records that properly accumulate and segregate incurred costs by line item for the project. Seller and its subsellers' accounting systems shall conform to generally accepted accounting principles (GAAP) and all records shall provide a breakdown of total costs charged to the project, including properly executed payrolls, time records, invoices and vouchers as well as all accounting generated reports. Seller and its subsellers shall permit representatives of the State and State Auditor to inspect, examine, make excerpts or transcribe Seller and its subsellers' work, documents, papers, materials, payrolls, books, records, accounts, any and all data relevant to this Agreement at any reasonable time and to audit and verify statements, invoices or bills submitted by Seller and its subsellers pursuant to this Agreement, and shall provide copies thereof upon request and shall provide such assistance as may be reasonably required in the course of such audit or inspection.

The State, its representatives and the State Auditor further reserve the right to examine, inspect, make copies, or excerpts of all work, documents, papers, materials, payrolls, books and accounts, and data pertaining to this Agreement and to inspect and re-examine said work, documents, papers, materials, payrolls, books, records, accounts and data during the life of the Agreement and for the three (3) year period following the final payment under this Agreement, and Seller and its subsellers shall in no event dispose of, destroy, alter or mutilate said work, documents, papers, materials, payrolls, books, records, accounts and data in any manner whatsoever for three (3) years after final payment under this Agreement and all pending matters are closed.

Any costs for which Seller and its subsellers have received payment that are determined by subsequent audit to be unallowable under the terms of this agreement may be required to be repaid to SMART by the Seller and its subsellers. Should Seller and its subsellers fail to reimburse money due SMART within 30 days of demand, or within such other period as may be agreed between the parties hereto, SMART is authorized to withhold future payments due Seller and its subsellers from any source.

The Seller agrees that the Contract Cost Principles and Procedures at least as restrictive as 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 *et seq.*, shall be used to determine the allowability of individual items of costs.

The Seller agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payments have been made to the Seller, which are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 *et seq.*, or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by Seller to SMART.

Any subcontract entered into as a result of this Agreement shall contain all the provisions of this section.

25. **Americans with Disabilities Act**. Seller shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 *et seq.*; section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; 49, U.S.C. § 5301(d); and the following Federal regulations including any amendments thereto:

    (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. Part 37;
    (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. Part 27;
    (c) U.S. DOT regulations “Americans with Disabilities (DA) Accessibility Specifications for Transportation Vehicles,” 49 C.F.R. Part 38;
    (d) U.S. DOT regulations, “Nondiscrimination on the basis of Disability in State and Local Government Services,” 28 C.F.R. Part 35;
    (e) U.S. Department of Justice (DOJ) regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. Part 36;

(f) U.S. General Services Administration (GSA) regulations, “Accommodations for the Physically Handicapped,” 41 C.F.R. Subpart 101-19;
(g) U.S. Equal Employment Opportunity Commission, “Regulations to implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630;
(h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 C.F.R. Part 64, Subpart F;
(i) FTA regulations, ‘Transportation for Elderly and Handicapped Persons,” 49 C.F.R. Part 609; and
(j) Any implementing requirements FTA may issue.

26. **Fair Labor Standards Requirements**. Seller shall comply with the minimum wage and overtime provisions of the Fair Labor Standards Act, as amended, 29 U.S.C. §§ 206 and 207, which apply to employees performing work under the Agreement.

27. **Employee Protection Requirements**. Seller shall comply with section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327 through 332, and shall ensure that the wages of every mechanic and laborer will be computed on the basis of a standard work week of 40 hours, and that each worker will be compensated for work exceeding the standard work week at a rate of not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Seller shall comply with the determinations pertaining to these requirements that may be made in accordance with applicable U.S. Department of Labor (DOL) regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5.

28. **State Fair Employment Practices**. In the performance of work under this Agreement, Seller and its subsellers will not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including cancer), age (over 40), marital status and denial of family care leave. Seller and its subsellers shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Seller and its subsellers shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900 (a-f), set forth in chapters of Division 4 of Title 2 of the California Code of Regulations are incorporated into this agreement by reference and made a part hereof as if set forth in full. Seller and its subsellers shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Seller and its subsellers shall include the nondiscrimination and compliance provisions of this clause in all subseller agreements to perform work under this agreement.

Seller and its subsellers will permit access to all records of employment, employment advertisements, 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 SMART for the purpose of investigation to ascertain compliance with this Fair Employment Practices Section.

29. **Metric System**. To the extent required by U.S. DOT or FTA, Seller shall use the metric system of measurement, as may be required by 49 U.S.C. §§ 205a *et seq*.; Executive Order No. 12770, "Metric Usage In Federal Government Programs," 15 U.S.C. § 205a note; and other regulations, guidelines, and policies issued by U.S. DOT or FTA. To the extent practicable and feasible, Seller shall accept products and services with dimensions expressed in the metric system of measurement.

30. **Support of Agreement Costs**. All costs charged to the Agreement shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges. The Seller shall permit the Government's authorized representatives to inspect all payrolls, records of personnel, invoices of materials and other relevant data and records, and to audit its books, records and accounts.

31. **Environmental Protection**. Seller shall comply with the following requirements:

    (a) Seller shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.* consistent with Executive Order. No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; PTA statutory requirements on environmental matters at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 *et seq.;* and joint FHWA/FTA regulations, "Environmental impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622.

    (b) Seller shall report and require each subseller at any tier to report any violation of these requirements resulting from any Contract activity of Seller or subseller to FTA and the appropriate U.S. EPA Regional Office.

32. **Privacy Act.** Seller agrees to comply with, and assures the compliance of its employees with the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C § 552. Seller understands that the requirements of the Privacy Act, including civil and criminal penalties for violation of the Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

33. **Incorporation of Federal Transit Administration (FTA) Terms**. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether

or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Seller shall not perform any act, fail to perform any act, or refuse to comply with any SMART requests which would cause SMART to be in violation of the FTA terms and conditions.

34. **Safe Operation of Motor Vehicles**.

Seat Belt Use. The Seller is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Seller or SMART.

Distracted Driving. The Seller agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

SONOMA~MARIN SMART AREA RAIL TRANSIT

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

June 3, 2020

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

SUBJECT: SMART Preliminary Budget Presentation: Revised Fiscal Year 2019-20 Budget, Proposed Fiscal Year 2020-21 Budget

Dear Board Members:

RECOMMENDATIONS:
Review Revised Fiscal Year 2019-20 Budget and Proposed Fiscal Year 2020-21 Budget

OVERVIEW:
In our last three meetings we have reviewed various spending reduction options to be included in the budget. Today we are presenting the budget complete with those reductions and all other spending and revenue projections. As in prior years, we are providing a two-year look at SMART's financials, including the Revised Fiscal Year 2019-20 budget and the Proposed Fiscal Year 2020-21 budget, complete with updated revenues, expenses, reserves and fund balances. There is no required action today, final review and action will take place at the June 17th meeting. The budget includes detailed descriptions of each Department and outlines the year over year changes within those Departments. However, this report provides an overview of the most important considerations in preparing the budget.

BUDGET REVENUE ASSUMPTIONS:
Over the past several months, we have provided you with revenue scenarios that could occur as a result of the COVID-19 pandemic. Those impacts were discussed at our meetings on April 15th and May 6th. Experts disagree on how long the economic impacts of the pandemic will last, how bad it will be and how long the recovery will take. Today we present the budget with our most up to date revenue projections. As we discussed at our May 20th meeting, we anticipate revisiting each assumption as we get more information in the coming months.

First, the entire budget relies on our assumption that SMART will receive its full allocation of Federal CARES Act funds of $16.7 million. Our second most important factor is the level of sales tax we can anticipate. In the budget we have updated year-end and proposed budget projections for your review.

Over the last several weeks, we have reviewed the available expertise on sales tax expectations using the collective wisdom of the North Bay. For illustrative purposes, here are some of the projections we have reviewed for sales tax revenues:

SALES TAX FORECASTS	% Decrease from FY19 tax receipts (not cumlative)	
	Fiscal Year 2019-20	Fiscal Year 2020-21
HDL (w/Beacon)		
Sonoma County Measure M forecast	**-15%**	**-18%**
Management Partners		
City of Santa Rosa forecast	**-10%**	**-15%**
Avenu (SMART's Auditor)		
Most Likely forecast	**-10%**	**-17%**

In each forecast above, the consultants are predicting the drop in sales tax from the Fiscal Year 2018-19 actual receipts, which for most North Bay entities were much higher than anticipated. This means that our starting base for our projections are higher than what we had originally budgeted in Fiscal Year 2019-20. In preparing the budget, we are recommending following the most conservative projection (HDL) and have adjusted the forecasted amount down to account for prior year revenues that were received late ($1 million), and even further to account for the potential impacts of Governor Newsom's small business loan program using sales tax. Some estimates have indicated that up to $6 million in payments are eligible to be deferred, however we have adjusted receipts lower by $1.7 million for that concern.

Sales tax is integral to every Department in the budget, when it is received, it provides funding for the Administration and Operating Departments as needed to balance that budget. Priority is given to expenditures and programs that are not discretionary such as construction debt payments. To the extent we have excess sales tax from prior years, those funds are held in SMART's fund balance and are allocated to Board-approved capital projects as needed and available.

At any point in the next fiscal year, when we have more information about our revenue projections, we will report back to your Board and will discuss the variance between our assumptions and the actual receipts. The next upcoming milestones are MTC's decision on the remaining Federal CARES Act and the receipt of data on actual sales tax for the final quarter of the Fiscal Year (April/May/June), which will not be received until late August. First quarter data for Fiscal Year 2020-21 (July/Aug/Sept) will not be complete until December.

BUDGET EXPENDITURE ASSUMPTIONS:

The budget for both Fiscal Year 2019-20 and Fiscal Year 2020-21 includes the reductions outlined at the last three meetings. Thus, it includes one-time reductions in Fiscal Year 2019-20 of $3.5 million in expenses that we are able to defer, eliminate or fund using other sources. In Fiscal Year 2020-21, we have reduced by $2.6 million contracts for services such as customer service, WiFi and an expectation of savings from a smaller refinancing. The Fiscal Year 2020-21 budget also includes an assumption that service will resume at some point in the coming months, following the "6-1-6" schedule, which means six morning runs, six evening runs and one midday run, for a total of 26 runs on the weekday.

Our projection of the savings associated with this service compared to 38 runs prior to COVID-19 are $1.1 million. That savings is achieved through a reduction of 7 vacant positions in operations and administration and some associated savings in services such as fuel. If the assumed revenue projections materialize, we do not anticipate any layoffs associated with this plan. If not, layoffs and further reductions will be revisited. For now, per your Board's direction, we are not assuming any cuts to the weekend service. Of course, any service ramp-up beyond this level of service will be based on factors such as prevailing health guidance, ridership growth, and staff availability.

We had presented to you some other expenditure savings, including COLA reductions and potential savings to health care plans. However, at this time, we have not received any positive response on those proposals from our three unions. Therefore, the budget includes previously agreed-upon increases for members of those unions.

RESERVES AND FUND BALANCES:

As part of our Fiscal Year 2019-20 budget process last year we continued the practice of holding a significant Agency Reserve by setting aside $17 million for that purpose. SMART also has available unallocated fund balance from prior year revenues that were not needed to balance the budget and came in higher than were anticipated in May of 2019. Going forward, your Board had made the policy decision to set aside a minimum of $10 million as its Agency Reserve, an amount that was developed to match 25% of SMART's operating expenses. This proposed budget achieves that minimum balance through the end of Fiscal Year 2020-21. At the end of the Fiscal Year 2020-21 we are also projecting an unallocated fund balance available for any use of $17 million. These funds will be required to support operations for the next two years into Fiscal Year 2022-23 as there is no scenario that we have seen where sales tax recovers completely in that timeframe. For example, looking at preliminary projections for Fiscal Year 2021-22, that fund balance would be substantially lower at $6.7 million and likely completely eliminated in 2022-23. Thus, without this fund balance we would be required to make deeper reductions in service more quickly. This amount will also be reduced dramatically if we do not receive the second CARES Act allocation.

The budget also outlines year-end balances for three special purpose reserves. First, we show the self-insured retention, which is designed to cover the significant deductibles we would be required to expend in the case of a rail accident or other damaging event. Second, we show the Equipment Sinking Fund designed to cover replacement of non-revenue vehicles as they reach their useful life, funds for overhaul and replacement of our trains, and other larger capital equipment replacement needs. Finally, we are showing a set-aside for post-employment pension liabilities in keeping with our practice to minimize our future liabilities for pension costs and retiree medical costs that we are currently handling on a pay-as-you go basis.

FULL BUDGET DETAILS:
Attached to this staff report is the budget itself, which includes the following important elements: An introduction and overview, Departments budgets by fiscal year for Administration, Capital and Operations, and the proposed, funded position allocations and salary ranges for Fiscal Year 2020-21. When the budget returns at the June 17 meeting for your adoption, we will include the necessary resolutions that accompany the document for approval.

Sincerely,

/s/
Erin McGrath
Chief Financial Officer

Attachment(s):
1) Revised Fiscal Year 2019-20 Budget and Proposed Fiscal Year 2020-21 Budget
2) April 15, 2020 - Staff Report on Budget Issues
3) May 6, 2020 - Staff Report on Budget Issues
4) May 20, 2020 - Staff Report on Budget Issues

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

PROPOSED BUDGET: FISCAL YEAR 2020-21

and

Fiscal Year 2019-20 Year-End Budget

PRELIMINARY : June 3, 2020

PROPOSED BUDGET: FISCAL YEAR 2020-21

and Fiscal Year 2019-20 Year-End Budget

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INTRODUCTION

The SMART budget process involves two different Fiscal Years, both an update on the revenues and expenses anticipated at the close of Fiscal Year 2019-20, which ends on June 30, 2020, and the proposed revenues and expense for the Fiscal Year 2020-21 budget. Within this budget document there are three detailed budget tables by Department, in addition to a summary overview chart and the proposed salary schedule.

SMART has been in operation since August of 2017 and in that time, SMART has provided a dependable choice for travelers to avoid traffic, to make a better environmental choice, or because they may not have the ability to drive. At the start of 2020, SMART ridership and was growing and two new stations were placed into service. Unfortunately, the COVID-19 pandemic and the shelter-in-place orders have led to an almost complete halt to daily life in the North Bay since March and created an unprecedented challenge to planning for the future.

Prior to the March imposition of shelter-in-place orders, SMART's goal was to propose savings strategies that would address a structural deficit identified in future years of the Strategic Plan. Measure I -- which would have allowed SMART to undertake a significant restructuring of construction debt and reduce payments by $12 million annually -- was not successful thus taking that strategy off the table. Since March, the new challenge of the impact of the COVID-19 pandemic has meant an uncertain environment for budget planning. We have built significant reserve funds going into this crisis, as well as critical emergency grant funds from the Federal CARES Act. Thus, the proposed Fiscal Year 2020-21 budget is balanced with the assistance of one-time funds that give SMART more time to determine what the long-term revenue and other economic inputs will be.

Providing rail transit service requires not only trains, but people and resources to safely operate, dispatch and maintain trains, including train control and safety systems integral to movement, and the underlying infrastructure upon which they travel. The direct operations are supported by administration functions including payroll, human resources and legal services. All of these necessary functions require significant operating funds, which are now facing historic economic challenges.

OVERVIEW

The Proposed Budget for Fiscal Year 2020-21 strives to keep as much train service intact for as long as possible to allow the ultimate impact of the pandemic to reveal itself and projections become more reliable. For Fiscal Year 2020-21, proposed revenues and expense are based on what is known today, with the understanding that changes will likely be made down the road as projections are reexamined against actual economic conditions.

During preliminary budget discussions in April and May, the SMART Board received numerous briefings on potential COVID-19 impacts and the solutions available to address budget imbalances. As a result, this budget includes a number of expenditure reductions that have been fully discussed and heard in public: Elimination of one-time expenses such as equipment and other purchases, elimination of ongoing contracts such as on-board WiFi and contracted customer service, and an expectation of debt savings from a smaller refinancing compared to the savings assumed in Measure I. In addition, the Board has determined that, when the shelter in place orders are lifted in the North Bay, SMART will resume service with fewer trips than it was operating at the beginning of the year. For now, larger cuts in service, such as the elimination of weekend service, have been postponed for later consideration. This ability to delay significant layoffs and reductions in service is only possible because of the significant Federal CARES Act funding SMART has and expects to receive through the Metropolitan Transportation Commission. Further details on reductions are included in the Departmental discussions of the budget.

SMART's primary funding source, sales tax, is anticipated to be severely impacted by the COVID-19 crises in Fiscal Year 2019-20 and Fiscal Year 2020-21, and potentially beyond. However, there is no solid data for SMART upon which to budget due to the lag time between sales and reporting. In both the year-end projections and budget recommendations, we have compared projections published by our partner agencies and followed the most conservative ones. We have also adjusted our sales tax projections to account for prior year revenues that were included in Fiscal Year 2019-20 ($1 million) and potential impacts of the Governor's small business loan forbearance that will impact our receipts. Some estimates have indicated that up to $6 million in sales tax payments to SMART are eligible to be deferred, although it is unlikely to be that high. We have adjusted sales tax receipts lower by $1.7 million for that concern. Sales tax amounts are outlined below.

Fiscal Year 2020-21 Proposed Revenues: Budgeted new revenue in Fiscal Year 2020-21 is $71.2 million, with a use of fund balance of $7.5 million for total Sources of $78.7 million. In order to develop the budget, we have made projections about sales tax, fares, and other revenues that are far from certain. Prior to the COVID-19 crises, we were anticipating meeting or exceeding all of our budgeted revenue targets. Sales tax was anticipated to be much higher than budgeted by at least $1.5 million. State support and fare revenues were comfortably within target. However, projections now include significant drops in all revenue sources both in the current Fiscal Year 2019-20 and the proposed Fiscal Year 2020-21. Sales tax is anticipated to fall from a high in Fiscal Year 2018-19 of $42.1 million to $33.6 million in Fiscal Year 2019-20 to $33 million in Fiscal Year 2020-21—an overall loss of 22%. Sales tax revenue is deposited to the Administration budget only to the point that revenue is needed to balance that Department and the remainder is then allocated to the Operations Department. Likewise, state support, which is tied to taxable sales, will also drop. State operating funds are tied directly to the Operating Department budget and the State has indicated a potential drop of 40% for most of those revenue sources. Fare revenues are projected to drop by 25% in Fiscal Year 2019-20 over original budgeted amounts and fall again another 15% in FY 2020-21 due to continued pandemic impacts and SMART's service reductions. A new round of CARES Act funds are anticipated to be received to backfill for much of this lost revenue. Further details on various revenue sources and the use of fund balance are provided in each Departmental budget.

Fiscal Year 2020-21 Proposed Expenditures: Proposed expenditures for Fiscal Year 2020-21 are $78.7 million. As a result of planning throughout the year for a potential loss of Measure I as well as more recent actions taken by the Board in the months of April and May to reduce expenses, the proposed budget includes steps toward reducing one-time and ongoing expenses, including reductions in equipment purchases, contracted services for buses and customer service, and reductions in employee counts using attrition and elimination of vacant positions. The Proposed Fiscal Year 2020-21 budget also assumes that, should the shelter-in-place order be completely lifted, SMART would only resume service that included 26 weekday trips. Weekend service, for now, would also be anticipated to resume. Both the revised Fiscal Year 2019-20 and proposed Fiscal Year 2020-21 budget include all the revenues and expenditures for all of SMART's ongoing capital projects, such as progress on the Windsor project, design and permitting for Sonoma County Pathway extensions, and safety enhancements planned for certain grade crossings. Further details are provided in the Departmental budget discussions.

Reserves: As part of our Fiscal Year 2019-20 budget process we continued the practice of holding a significant Agency Reserve by setting aside $17 million for that purpose. SMART also has available unallocated fund balance from prior year revenues that were not needed to balance the budget and came in higher than were anticipated in May of 2019. Going forward, the Board had made the policy decision to set aside a minimum of $10 million as its Agency Reserve, an amount that was developed to match 25% of SMART's operating expenses. This budget achieves that minimum balance through the end of Fiscal Year 2020-21. At the end of the Fiscal Year 2020-21 we are also projecting an unallocated fund balance available for any use of $17 million. These funds will be required to support operations for the next two years into Fiscal Year 2022-23 as there is no scenario that we have seen where sales tax recovers completely in that timeframe. For example, looking at preliminary projections for Fiscal Year 2021-22, that fund balance would be substantially lower at $6.7 million and likely completely eliminated in 2022-23. This amount is very dependent on the receipt of a second allocation of funds from the Metropolitan Transportation Commission (MTC), our sales tax projections being accurate, and our ridership returning throughout the year. To the extent fund balance is used as a revenue source in each year, that amount is shown in summary Table 1 and discussed further within each department.

Also, in Table 1 we are showing transfers and year-end balances for three special purpose reserves. First, we show the self- insured retention, which is designed to cover the significant deductibles we would be required to expend in the case of a rail accident or other damaging event. Second, we show the equipment sinking fund designed to cover replacement of non-revenue vehicles as they reach their useful life, funds for overhaul and replacement of our trains, and other larger capital equipment replacement needs. Finally, we are showing a set-aside for post-employment pension liabilities in keeping with our practice to minimize our future liabilities for pension costs and retiree medical costs that we are currently handling on a pay-as-you go basis.

Figures 1 and 2 and Table 1 on the following pages provide combined, broad overview of the sources and uses in SMART's budget for all departments. There are three budget columns, the first reflecting the original budget for Fiscal Year 2019-20 approved in June of 2019, the second showing the year-end changes to reflect actual and estimates for revenues and expenses, and the third showing the Proposed Budget for Fiscal Year 2020-21. This Table also shows funds available in SMART's reserves and fund balance. The starting fund balance for Fiscal Year 2019-20 is $11.8 million higher due to a number of changes following the development of the budget in April and May and the audit process in November. The starting balance reflects significantly higher actual sales tax receipts for Fiscal Year 2018-19, salary savings resulting from vacant positions, project and consultant savings related to the Larkspur and other capital projects, and year end closeout of unused contracts. These funds are then used for all approved, budgeted purposes including capital project completion and operational needs. Further details are provided in each line item.

Figure 1: Overview of Proposed Sources, Fiscal Year 2020-21

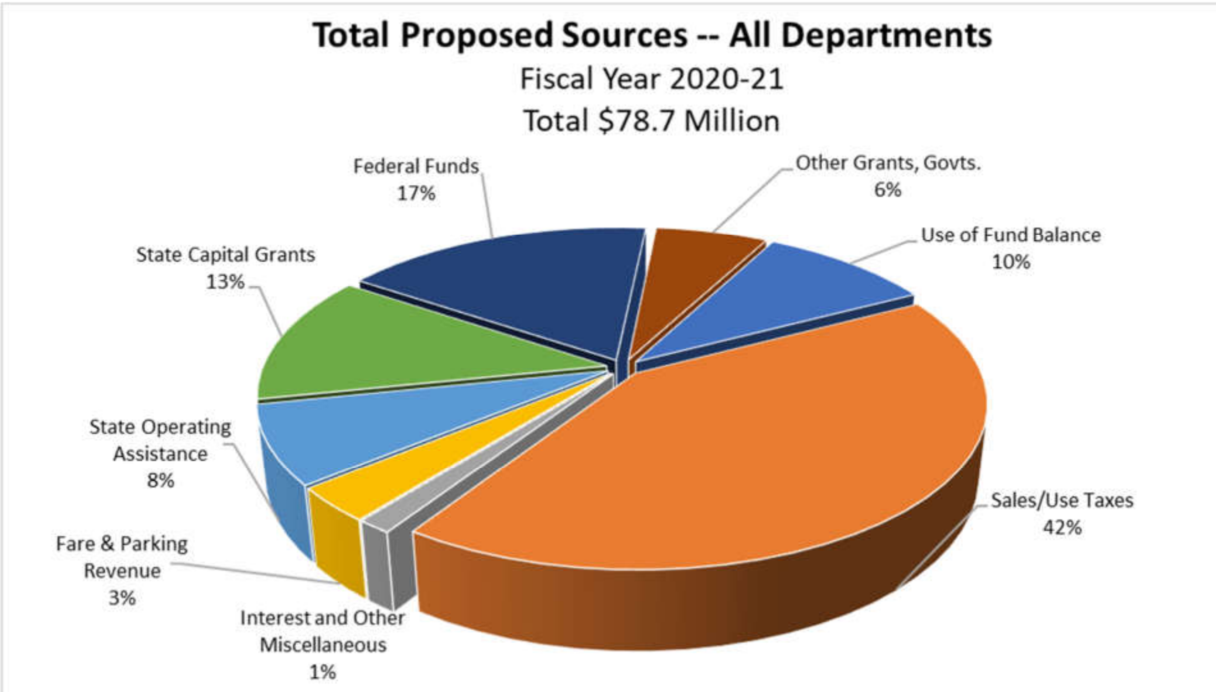


Figure 2: Overview of Proposed Uses, Fiscal Year 2020-21

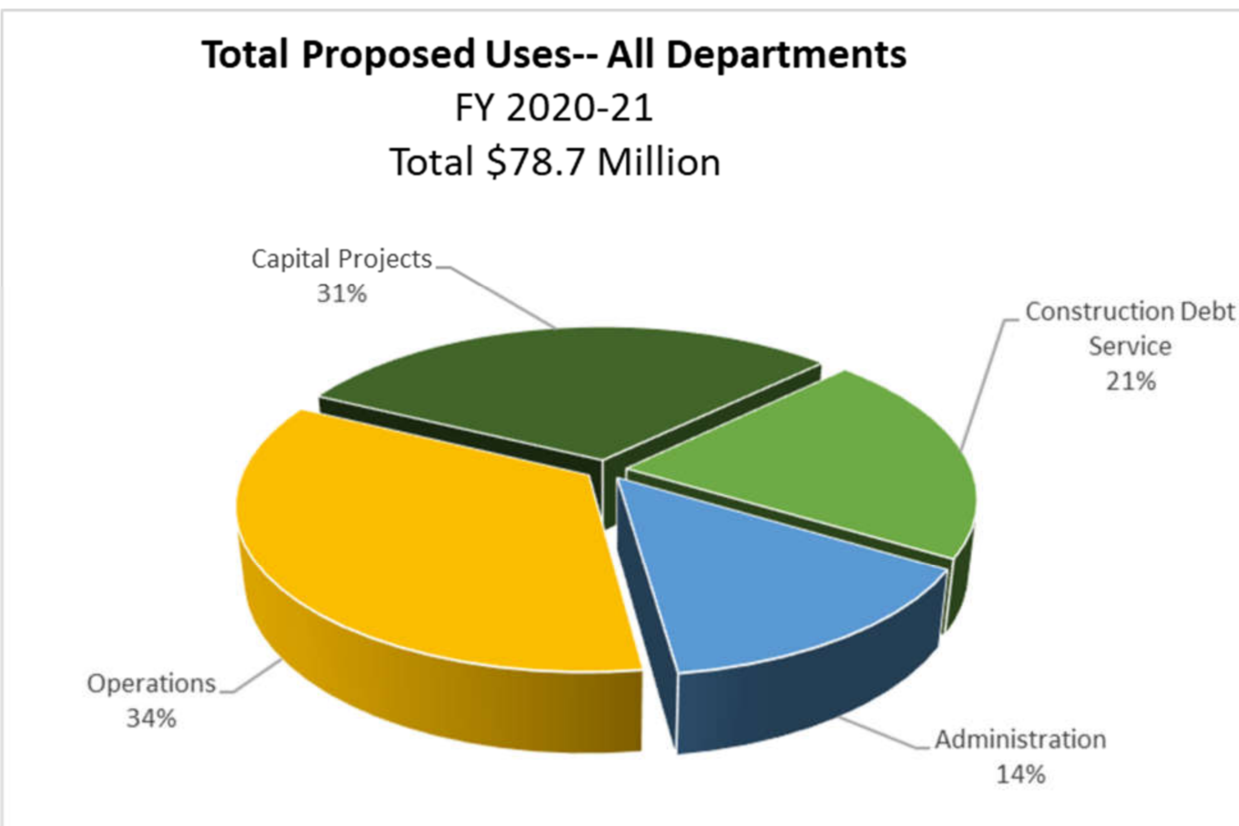


TABLE 1:

BUDGET REPORT: OVERVIEW OF ALL SOURCES AND USES

	FY 2019-20 APPROVED BUDGET	FY 2019-20 YEAR END ACTUALS & ESTIMATES	FY 2020-21 PROPOSED BUDGET	EXPLANATION OF SIGNIFICANT CHANGES
Budgeted Revenue				
Sales/Use Taxes	39,266,002	33,636,687	33,020,754	Reductions based on projections for COVID-19 impacts for both FY19-20 and 20-21; revised projections in line with regional estimates
Interest and Lease Earnings	782,505	1,178,349	975,283	51% increase in FY20 actuals is tied to earnings on higher than anticipated ending Fund Balance
Miscellaneous Revenues	20,000	534,529	28,824	FY20 actuals signficantly higher due to one-time revenue from property sales
Fare & Parking Revenue	4,187,000	3,159,165	2,658,366	25% decrease in Passenger Fare Revenue in FY20 budget; additional 15% decrease assumed in FY21
State Grants	21,414,794	29,094,239	16,038,215	36% increase in FY20 tied to capital project shifts, FY21 assumes 40% drop in state operating support
Charges For Services	60,000	309,797	80,000	FY20 increase tied to one-time increases in insurance reimbursements and flagging costs
Federal Funds	4,650,000	13,460,436	13,500,000	182% increase in FY20 - Shift of capital project, new CARES funding; FY21, CARES and first year of annual FTA preventive maintenance funds
Other Governments/ Misc.	4,538,192	5,379,023	4,741,900	19% increase in FY20 -addition of Airport Blvd (Sonoma funded), FY21 fewer funded projects, includes Windsor and pathway funding
Measure M	200,625	33,076	157,348	84% decrease in FY20 - completion of Payran pathway; FY21 tied to Sonoma County pathway design
MTC - RM2	-	224,051	-	Increase in FY20 tied to actuals related to the Larkspur project; funds for Larkspur exhausted
Total All Revenues	**$ 75,119,118**	**$ 87,009,351**	**$ 71,200,691**	
Budgeted Expenditures				
Salaries & Benefits	22,916,720	20,765,477	22,212,271	FY 20 savings from vacancies, lower overtime; FY21 continued savings from deletion of positions, cost increase for union contracts & benefits
Services & Supplies	18,847,361	18,096,643	15,394,026	4% decrease in FY20 - professional services, fuel savings; FY21 15% decrease due to approved budget reductions
Debt Service/ Other Charges	16,747,600	16,847,600	16,405,850	3% decrease in FY21 assuming successful debt refinancing
Equipment, Buildings & Improvements	3,085,500	2,286,381	2,417,911	26% decrease in FY20 - shift of projects from FY20 to FY21
Capital Projects	33,664,209	42,644,085	19,096,800	27% increase in FY20 - capital shifts from prior year, 55% decrease FY21 - reduced capital activity completion of Larkspur
Other Governments	-	1,147,382	3,526,900	Reimburseable work for other jurisdictions fluctuates - i.e. Dwtn. Novato Station, Penngrove, Airport Blvd.
Account and Fund Transfers	-	(159,066)	(335,000)	Summary of annual transfers to equipment sinking fund, capitalizable labor, self-insured retention
Total All Expenditures	**$ 95,261,390**	**$ 101,628,501**	**$ 78,718,757**	
Subtotal (Use of Fund Balance)	**$ (20,142,271)**	**$ (14,619,150)**	**$ (7,518,066)**	**Available Budget Sources minus All Uses**
Beginning Available Fund Balance	**$ 27,289,200**	**$ 39,185,454**	**$ 22,571,008**	Audited fund balance FY20 increased by $11.9 million due to shifts in capital project payments from the prior year, higher than anticipated FY19 sales tax, other year end savings
Transfer Fund Balance to Pension Liability Fund	$ -	$ (1,995,296)	$ -	
Transfer to Equipment Sinking Fund			$ (5,000,000)	Allocation for revenue vehicle (DMU) future rehab. and replacement needs
Transfer from Operating Reserve			$ 7,000,000	Adjustment to match Board-approved minimum Agency Reserve
Remaining Fund Balance	**$ 7,146,929**	**$ 22,571,008**	**$ 17,052,942**	
Remaining Agency Reserve	**$ 17,000,000**	**$ 17,000,000**	**$ 10,000,000**	
Self-Insured Retention Fund	**1,470,085**	**1,876,019**	**1,876,019**	
Equipment Sinking Fund	**1,575,000**	**2,100,000**	**7,625,000**	Special Purpose Reserve Year-End Balances
Future OPEB/CalPERS Liability Fund	**-**	**1,995,296**	**1,995,296**	

BUDGETS BY DEPARTMENT

SMART's budget provides the resources and authorization for the continued work of building, operating, and maintaining a 45-mile passenger rail system, multi-use pathway, dispatching of freight service, and managing a large 80-mile rail right-of-way.

The SMART organization consists of 136 dedicated full-time employees, working 24-hours a day to keep train service reliable, safe and accessible. Those employees, the expenses that make train service possible, and the revenues that support them, are outlined in the charts following each narrative. The budget is presented by SMART's three Departments: Administration, Capital, and Operations.

Each Department has its own Tables and Figures that provide information on that Department's Fiscal Year 2019-20 Original Budget, Revisions for Year End, and the Proposed Fiscal Year 2020-21 Budget.

ADMINISTRATION BUDGET

The Administration budget contains all of the expenditures related to running the District, including legal, human resources, finance, real estate, planning, grants, outreach and procurement. This is also where SMART's offices in Petaluma are budgeted, as well as larger expenses such as insurance and payments related to construction bond debt. Since the beginning of Fiscal Year 2019-20, SMART has been keeping vacant positions open until sales tax revenues were determined. Those positions are now being deleted. Thus, the year-end actual salaries and proposed Fiscal Year 2020-21 salaries are both below the original budgeted amount for Fiscal Year 2019-20. This reflects a two-year savings from that decision. Below is a narrative overview of each fiscal year and further detail is provided in **Table 2** following this discussion.

Fiscal Year 2019-20 Final Budget Overview:

Revenues: Final projected revenue in Administration in Fiscal Year 2019-20 is $29.2 million. SMART's budgeted sales tax revenue projections are discussed in the overview. This tax revenue flows first into Administration as needed to cover costs such as debt service and salaries. To the extent other general revenues received are sufficient to cover administrative costs, the remaining sales tax is allocated to fund operations. Other smaller revenues such as fees and advertising were higher than budgeted and based on activities throughout the year. One-time revenue related to interest earnings and unanticipated insurance reimbursements were higher than budgeted.

Expenditures: Overall Expenditures in Administration are $29.2 million, which is increased from the original budget by $434,675 (2%). This is the result of two larger dynamics: the inclusion of a large ballot cost of $1 million for the cost of the Measure I in March, balanced against $1 million in savings throughout the year in vacant positions, computer purchases, legal services, memberships and training.

Fiscal Year 2020-21 Proposed Budget Overview:

Revenues: Revenues supporting the proposed Administration budget are $27.6 million, $1.6 million lower than prior year amounts primarily due to the matching of sales tax to budgeted expenses which are also reduced. Other smaller revenue sources are projected to decline as a result of the economy and reduced train activity as discussed in the overview.

Expenditures: Expenses for the new Fiscal Year are proposed to be $27.6 million which is $1.6 million lower (5.7%) than the anticipated Year End for Fiscal Year 2019-20 primarily due to the reductions targeted in debt service through a refinancing, the deletion of three vacant positions, professional service contract reductions to meet reduction targets and the elimination of the one-time expense of the ballot costs. Although some debt service savings are anticipated, debt service continues to comprise the lion's share of costs in this Department. The budget also assumes only a modest increase in insurance costs due to a policy decision by the Board to decrease overall coverage purchases. Outreach expense is reduced to eliminate the one-time costs that were associated with opening of the Larkspur and Downtown Novato stations. The budget also shows transfers to the self-insured retention fund to ensure minimum funding for rail liability events.

On the next two pages, **Table 2** provides detailed chart containing further breakdowns and explanations of changes. **Figure 3** shows the proportion of Administration Expenditures proposed in Fiscal Year 2020-21 and **Figure 4** shows the Revenue Sources for Administration.

Figure 3: Overview of Proposed Administration Expenditures Fiscal Year 2020-21

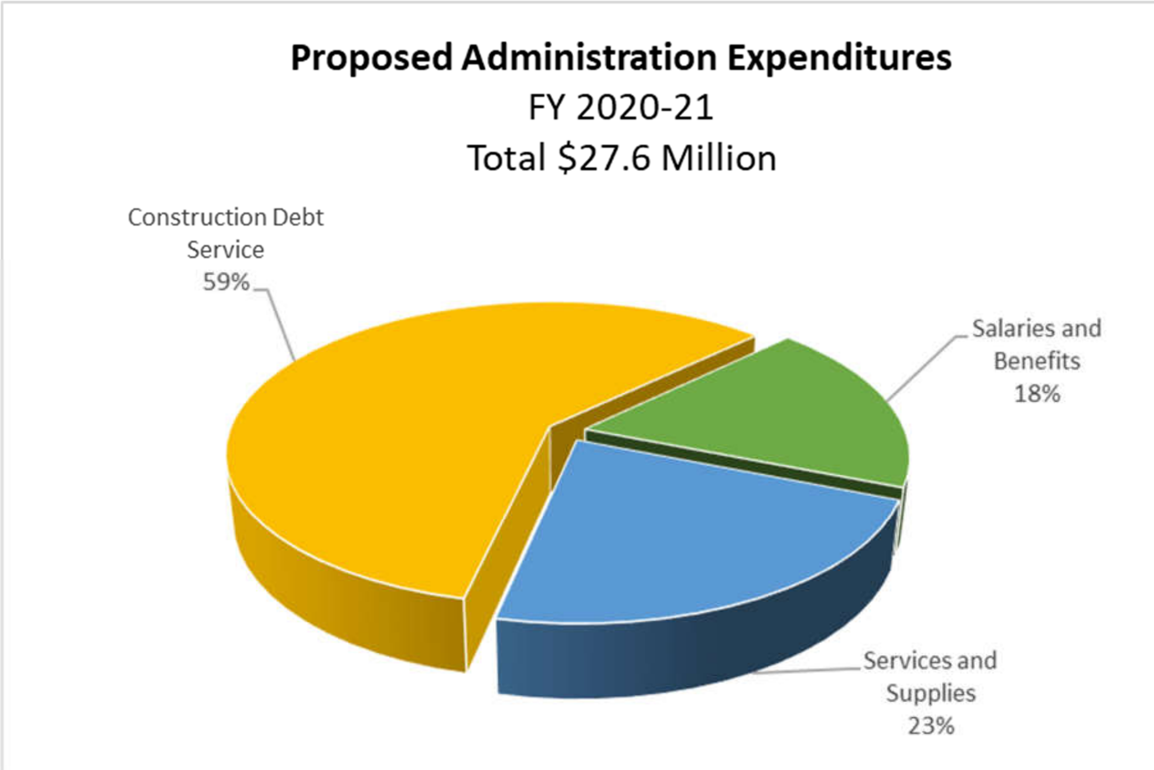


Figure 4: Proposed Revenue Sources for Administration Fiscal Year 2020-21

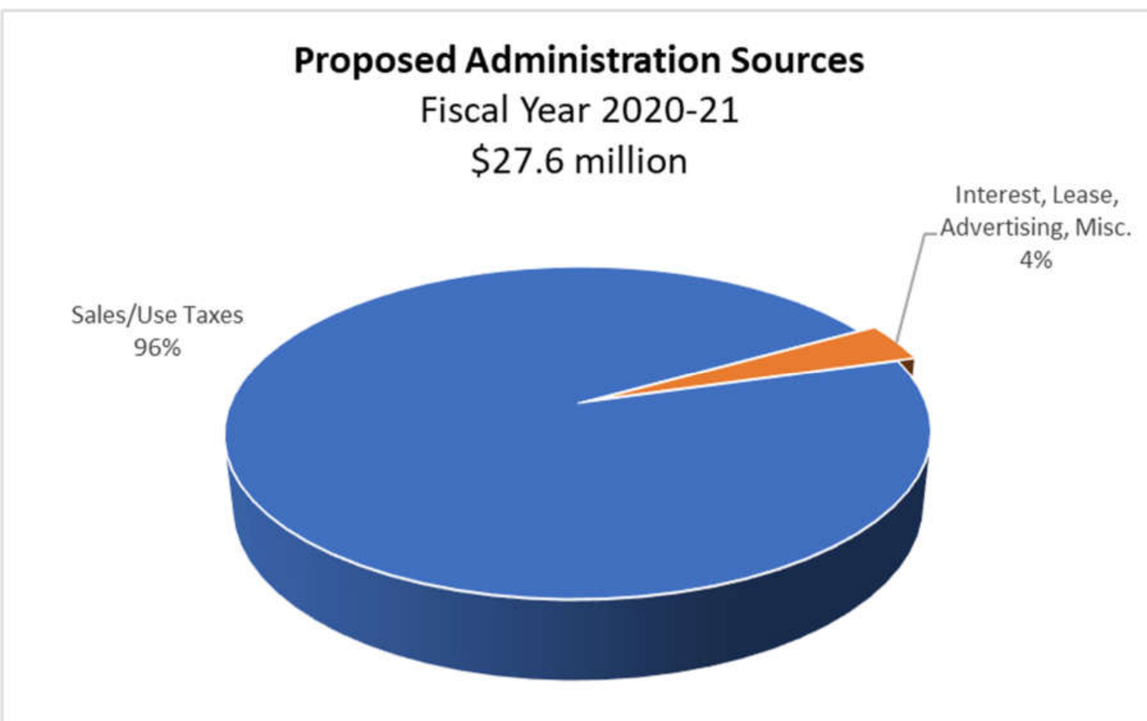


TABLE 2 :

ADMINISTRATION BUDGET

Original, Year End FY 2019-20 and Proposed FY 2020-21

DESCRIPTION	FY 2019-20 APPROVED BUDGET	FY 2019-20 YEAR-END ACTUALS & ESTIMATES	FY 2020-21 PROPOSED BUDGET	EXPLANATION OF SIGNIFICANT CHANGES
REVENUES:				
Sales/Use Taxes				
State Sales Tax Collection	$ 962,809	$ 962,809	$ 1,001,134	Increase in state collection costs
Sales Tax withheld by Trustee	16,747,600	16,747,600	16,405,850	Debt schedule decrease anticipated due to refinancing
Sales Tax Allocation to Administration	10,262,728	9,724,824	9,124,872	**Amount changes to balance revenue with expense
Total Sales/Use Taxes	**27,973,136**	**27,435,233**	**26,531,856**	**See notes below
Use of Money/Property				
Interest Earnings	295,000	545,729	436,583	Increase due to higher actual earnings on fund balance
Advertising Revenue	221,750	318,920	225,000	Train and platform advertising
Rent - Real Estate	265,755	313,700	313,700	Revenue from SMART owned property leases
Total Use of Money/Property	**782,505**	**1,178,349**	**975,283**	
Charges for Services				
Other Charges - Fees, Reimbursements	30,000	92,206	30,000	Application fees, and one-time insurance reimbursements
Total Charges for Services	**30,000**	**92,206**	**30,000**	
Miscellaneous Revenues				
Sale - Lease/Purchase	-	500,000	-	One-time revenue related to Petaluma Station
Miscellaneous Revenue	20,000	34,529	28,824	Includes funding for Short Range Transit Plan
Total Miscellaneous Revenues	**20,000**	**534,529**	**28,824**	
TOTAL REVENUES	**$ 28,805,641**	**$ 29,240,316**	**$ 27,565,964**	
EXPENDITURES:				
ADMINISTRATION				
Salaries and Benefits				
Employee Salaries	3,899,865	3,746,149	3,700,023	
Employee Benefits	1,246,439	1,201,842	1,273,832	
Total Salaries and Benefits	**5,146,304**	**4,947,991**	**4,973,854**	Hiring freeze on vacant positions FY20, elimination in FY21
Services and Supplies				
Communications	46,701	46,651	49,250	Minor increases in contract costs
Insurance	2,547,382	2,141,448	2,415,418	Increased insurance renewal costs
Maintenance-Facilities	5,000	25,027	31,035	Railroad Square Property Tax
Fees/ Miscellaneous Expense	162,170	1,060,268	63,338	FY20 Includes estimated one-time ballot measure fee
Office Expense	115,310	98,360	85,860	Ongoing reductions FY21
Postage, Printing, Periodicals	53,000	43,600	58,600	Outreach printing costs due to new schedules, materials in FY21
Accounting/ Payroll Services	90,885	96,895	93,791	Payroll, audit and accounting services increase in federal single audit
Professional Services	987,953	870,891	739,995	Ridership analysis, legislative advocacy, background checks, IT security consulting
Agency Extra Help	100,000	50,000	100,000	Short term leave coverage as needed
State Administrative Fee	953,461	953,461	1,001,134	State fee increases
Legal Services	475,000	450,000	400,000	As-needed legal expertise/ support
Rents/Leases	501,006	506,006	511,468	Office and copy machine lease increases
Computer Software and Hardware	318,000	212,507	247,250	Equipment replacements, software subscriptions, ongoing license fees
Public Outreach	269,000	310,981	166,500	Reduction of Public Outreach costs, Larkspur extension completed FY20
Training, Travel and Memberships	154,350	86,835	129,700	Ongoing training of new and existing staff
Mileage Expense	37,520	39,920	39,920	Contracted and reimbursement-based mileage
Total Services and Supplies	**$ 6,816,737**	**$ 6,992,849**	**$ 6,133,260**	
Other Charges and Payments				
Bond Principal, Interest	16,747,600	16,747,600	16,405,850	Assumption of savings from refinancing
Settlements	-	100,000	-	One-time legal settlements
Total Other Charges	**16,747,600**	**16,847,600**	**16,405,850**	
Buildings & Capital Improvements (Capital Assets)				
Equipment	95,000	45,942	53,000	Computer hardware replacements savings
Total Buildings and Capital Improvements	**95,000**	**45,942**	**53,000**	
Self Insured Retention				
Transfer to Self-Insured Retention Fund	-	405,934	-	Transfer amount needed for deductibles, retentions for rail liability
	-	**405,934**	-	
TOTAL ADMINISTRATION EXPENDITURES	**$ 28,805,641**	**$ 29,240,316**	**$ 27,565,964**	

****The entire amount of Sales Tax is realized and shown on Table 1. The amount allocated to Administration changes depending on year-end revenues and expenses.**

CAPITAL BUDGET

The Capital Department includes expenses for all capital projects large and small, such as completion of systems for Larkspur, substantial progress on the Windsor extension and new pathways. This budget also contains ongoing engineering support and studies such as required bridge analysis and smaller improvement projects. SMART continues to have a significant capital program related to buildout of the rail and pathway project as summarized below.

Fiscal Year 2019-20 Final Budget Overview:

Revenues: Overall revenues increased by $6.8 million (29%) from the original budget due to a number of shifts in construction schedules and funding from both the prior year and during the fiscal year that combined to make this change. Principally among them are increases in funding from the State of California for SMART's new rail cars, Larkspur project revenue tied to actual expenses, Sonoma County funding for Quad Crossing Gates in Penngrove and the addition of the new Sonoma pathways project.

Expenditures: Final expenditures for Fiscal Year 2019-20 are increased by $9 million (25%) primarily due to the shift of work from the prior year and the inclusion of some new work since the budget was approved last year. This includes the two change orders to the Larkspur Extension Project approved in April to add pedestrian gates at the San Rafael Transit Center as well as miscellaneous work that is necessary to complete the project. The FY 2019-20 work also includes the Windsor Extension Project where design is on-going. We have included funding for environmental permitting requirements like purchasing wetland mitigation credits and the environmental consultant team. The year-end budget includes funding for the on-going maintenance and monitoring of the Mira Monte and Civic Center mitigation sites.

Fiscal Year 2020-21 Proposed Budget Overview:

Revenues: Proposed sources for the Capital budget are $24.0 million. New revenues for the next fiscal year budget are $18.9 million, which is $11.3 million (38%) lower than the current year and is derived from capital project activities funded through grants and other sources. Fund balance of $5.2 million provides the necessary funding for safety enhancements, capital repairs, environmental needs and smaller projects not funded by grants. Funding for payments for SMART's four new rail cars are included and are funded by The State of California. Sonoma County Transportation Authority's Measure M and the State of California are providing funds for the Sonoma Pathway extension. Federal funds are related to systems design for the Windsor project and come from the Federal Railroad Administration. The County of Sonoma is providing funding for the Airport Boulevard crossing in conjunction with the Windsor project and the Town of Windsor is providing support for the pathway.

Expenditures: Overall expenses for the new Fiscal Year will be $24.0 million, which is $20.6 million (46%) less than the prior year indicating fewer capital expenses in the coming year are currently planned.

The majority of the Capital Budget is for Windsor Extension Project, followed by work on the design and permitting for the Sonoma County pathways extension project. The Windsor Extension Project will remove the old track, clear the right-of-way, construct bridge foundations and widen Airport Boulevard (Sonoma County funded work) this summer. The budget also includes authority for smaller projects such as remaining pedestrian crossing safety enhancements, train safety and Positive Train Control (PTC) enhancements and smaller state-of-good repair projects like minor bridge and culvert repairs.

On the following three pages we have shown the proportion of the Capital Budget by project (**Figure 5**) , the funding sources for the Capital Budget **(Figure 6)** and then the two-year budget chart for the Capital Department (**Table 3**) including all sources and uses.

Figure 5: Proposed Capital Projects Sources, Fiscal Year 2020-21

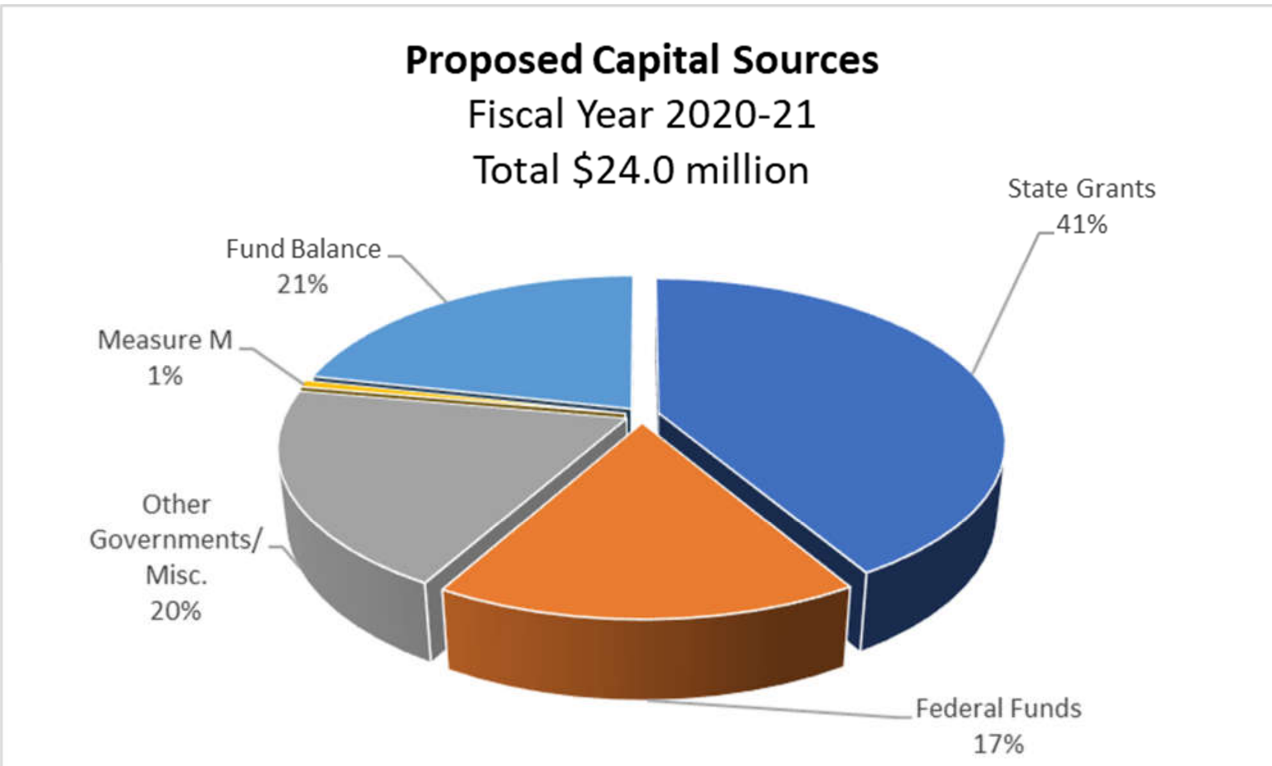
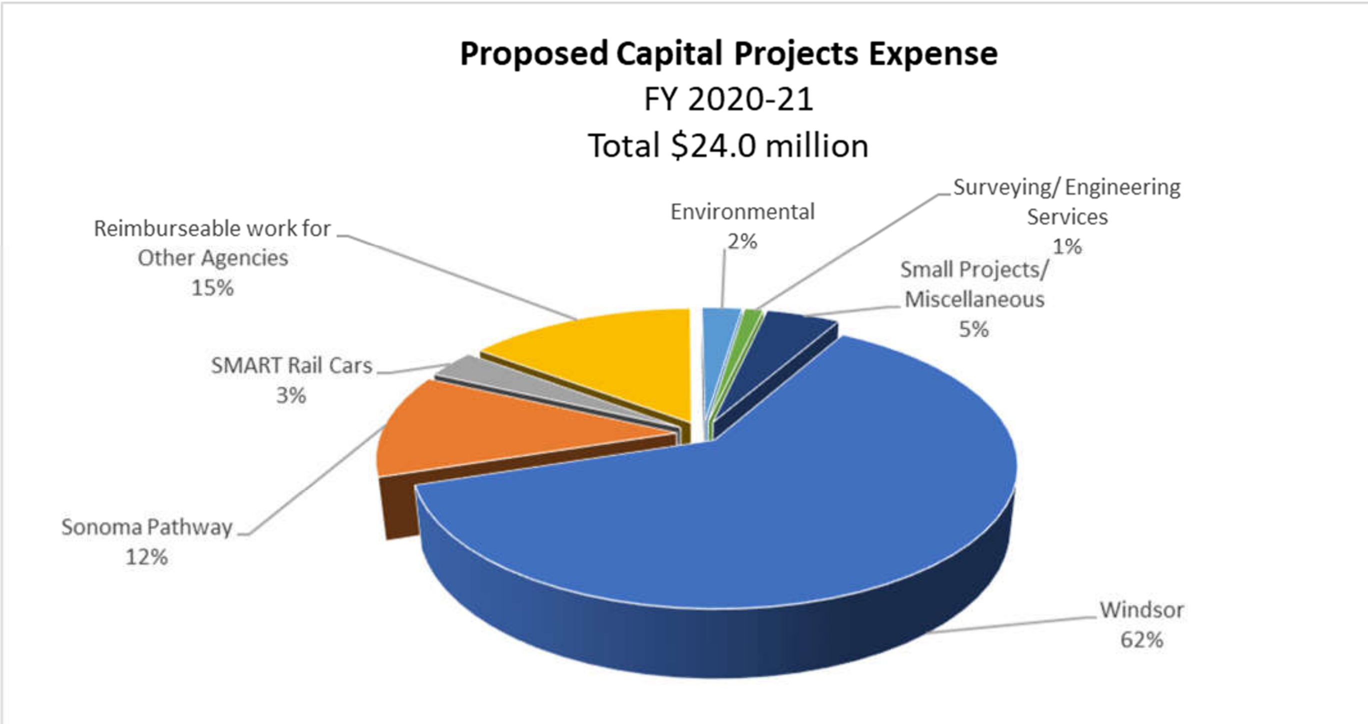


Figure 6: Proposed Capital Projects Expense, Fiscal Year 2020-21



The chart above shows the breakdown of capital projects proposed for Fiscal Year 2020-21. The categories above include the following:

- Windsor Extension – Design and construction engineering for the civil and systems portions of the rail extension and pathway, new Clipper vending machine, train control systems infrastructure and permitting costs
- Reimbursable work for other agencies –Airport Drive improvements (County of Sonoma), Windsor Pathway (Town of Windsor)
- SMART Rail Cars – Final milestone payments for train sets 8 and 9 funded by the State of California
- Environmental – Ongoing required monitoring and maintenance of Mira Monte, Gallinas Creek Pathway
- Pathway – Design and Permitting for Sonoma County Pathway and Windsor extension projects
- Small Projects – Pedestrian path of travel and safety improvements at crossings
- Surveying/ Engineering Services – As-needed engineering expertise, on-call surveying and Americans with Disability Act consultants

TABLE 3:

CAPITAL BUDGET

Original, Year End FY 2019-20 and Proposed FY 2020-21

DESCRIPTION	FY 2019-20 APPROVED BUDGET	FY 2019-20 YEAR-END ACTUALS & ESTIMATES	FY 2020-21 PROPOSED BUDGET	EXPLANATION OF SIGNIFICANT CHANGES
REVENUES:				
Intergovernmental Revenues				
State - Grant Funds	$ 14,010,000	$ 21,431,317	$ 9,972,504	Additional Railcar Sets, Sonoma Gap Pathway, Windsor Extn.
Federal - Grant Funds	4,650,000	3,131,315	4,000,000	Larkspur Extension Project completion, Windsor Extension ramp-up
Other Governments/ Miscellaneous	4,528,192	5,353,145	4,726,900	FY 21 Windsor and Airport cooperative work
Measure M - Sonoma County	200,625	33,076	157,348	Shift to FY 21 for Sonoma Gap Pathway Project
MTC - Bridge Tolls	-	224,051	-	Larkspur extension completed
Total Intergovernmental Revenues	**23,388,817**	**30,172,904**	**18,856,752**	
TOTAL REVENUES	**$ 23,388,817**	**$ 30,172,904**	**$ 18,856,752**	
USE OF FUND BALANCE	**$ 12,237,643**	**$ 14,501,146**	**$ 5,177,445**	
EXPENDITURES:				
CAPITAL				
Salaries and Benefits				
Employee Salaries	1,362,957	1,111,906	1,088,740	
Employee Benefits	369,545	308,024	329,021	
Total Salaries and Benefits	**1,732,501**	**1,419,929**	**1,417,761**	Hiring freeze on vacant positions FY20, elimination in FY21
Services and Supplies				
Communications	7,700	7,700	7,700	
Professional Services - Project	1,239,000	468,539	805,200	Environmental maint.,as-needed engineering, vehicle support
Computer Software and Hardware	11,050	17,525	11,336	Engineering and design related software and hardware
Training, Travel, Memberships	7,000	5,890	6,000	
Permits/Fees	50,000	50,000	17,500	Construction related permits
Mileage Expense	5,000	3,000	5,000	
Total Services and Supplies	**1,319,750**	**552,654**	**852,736**	
Other Charges and Payments				
Other Governments	-	1,147,382	3,526,900	Cooperative work: Penngrove crossing, Airport Blvd, Sonoma County
Total Other Charges	**-**	**1,147,382**	**3,526,900**	
Buildings & Capital Improvements (Capital Assets)				
Land	-	-	-	
Capital Equipment - Work in Progress	4,832,201	14,622,218	900,000	Rail car final acceptance payments
Infrastructure	28,832,008	28,021,867	18,196,800	Larkspur & Windsor Extension;Sonoma Pathway
Total Buildings and Capital Improvements	**33,664,209**	**42,644,085**	**19,096,800**	
Interfund Transfers				
Salaries and Benefits Transfer - Capital Salary Transfer - Joint Developments	(1,090,000)	(1,090,000)	(860,000)	Adjustment based on salaries charged to projects
Total Interfund Transfer	**(1,090,000)**	**(1,090,000)**	**(860,000)**	
TOTAL CAPITAL EXPENDITURES	**$ 35,626,460**	**$ 44,674,050**	**$ 24,034,197**	

OPERATIONS BUDGET

The Operations Department performs all the functions directly related to operating the rail and pathway. This includes all train, track, signal, train control systems and facilities expense, as well as public safety and safety compliance. We have been able to capture savings in some areas and utilize those savings in areas with additional needs and costs that we had not anticipated.

As mentioned in the overview, as of May 2020, SMART is operating only minimal weekday service with no weekends as result of the COVID-10 pandemic. The budget assumes that the shelter-in-place order will be lifted in order for SMART to eventually resume service but assumes that we will deploy a reduced schedule of service compared to the trips offered before the shutdown began. Funding is provided for this new schedule which includes 26 weekday trips and a resumption of all 10 weekend trips. Should the economic situation prove different in the first months of the new year, SMART will reevaluate and make changes as needed during the Fiscal Year.

Further details are provided below.

Fiscal Year 2019-20 Final Budget Overview:

<u>Revenues</u>: Overall revenues are projected to be $27 million, $4.7 million higher due to the infusion of CARES Act funds designed to cover more than one year. Fare revenue has been significantly reduced from the prior year due to the shelter-in-place orders. Anticipated State revenue increases $250,000 due to the carryover of prior year one-time funds for the wheel truing project.   There was an increase in other charges of $187,591 largely related to reimbursable flagging services and one-time insurance reimbursements. Due to lower costs, shifts of capital improvements to Fiscal Year 2020-21, and the receipt of CARES Acts funds, Operations required a smaller infusion of fund balance, reduced from $7.3 million to $118,004.

<u>Expenditures</u>:   Overall expenditures are lower by $2.6 million (8.4%) to $27.7 million. The bulk of the savings are due to an anticipated lower cost of salaries and benefits by $1.6 million (10%) and is a result of savings from vacant positions and reductions in overtime spending. The vehicles and equipment budget was reduced by $750,061 due to a shift in capital projects such as the wheel truing machine to the new fiscal year.   Savings of $274,671 are anticipated in fuel due to the reduced schedule currently running.

Fiscal Year 2020-21 Proposed Budget Overview:

<u>Revenues</u>: New revenues for Fiscal Year 2020-21 total $24.7 million, and a use of fund balance of $2.3 million. Revenues include the allocation of Sales Tax to Operations, fare and parking revenues, as well as other charges related to the right-of-way. Additional funds from the CARES Act are also anticipated of $6.6 million. Fare revenue is projected to be 36% lower than FY 2019-20 budgeted amounts due to the pandemic. The budget reflects ongoing State operating funding, however reductions of 40% are anticipated meaning $1.5 million less than the prior year.   State funds are also being used to purchase and install a train wheel pressing machine and other preventative maintenance equipment that will keep future costs lower.

Expenditures: Operations costs are anticipated to decrease by $595,539 (2%) in the next fiscal year, for total expenditures of $27.1 million. This reflects the deletion of four full-time employees associated with the new schedule running 26 daily trips rather than 38, thus requiring fewer staff. While cost savings are associated with this change, continued cost increases for union cost of living and equity increases, increases in CalPERS costs and anticipated health care increases counterbalance the reductions in employees. Other savings are anticipated by the elimination of on-board Wifi, cancelling the customer service contract with Golden Gate Transit, and elimination of both the North County and Larkspur bus connections. Without these savings, the budget would have increased significantly by including those escalated costs.

Further Operations Department budget detail can found on the next two pages. **Table 4** provides revenue and expense details by year and category. **Figure 7** shows the overview of Proposed Expenditures in the Operations budget for Fiscal Year 2020-21. **Figure 8** shows Proposed Sources for the Operations budget for Fiscal Year 2020-21.

Figure 7: Proposed Operations Expenditures, Fiscal Year 2020-21

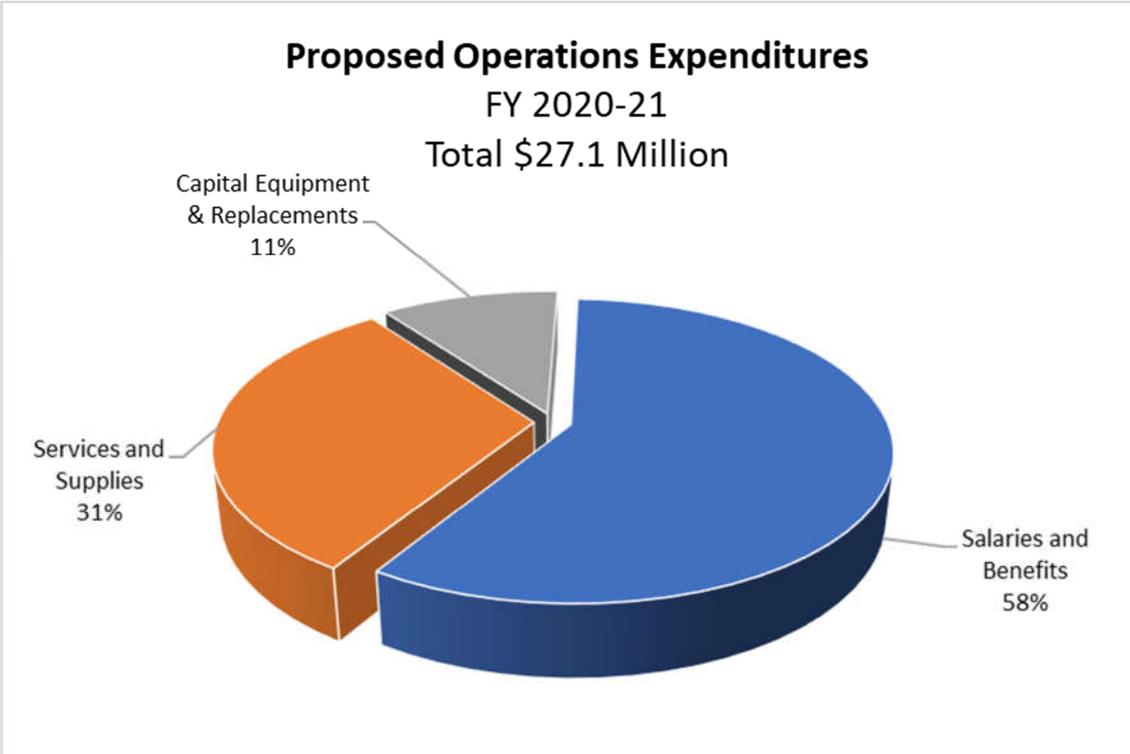


Figure 8: Proposed Operations Sources, Fiscal Year 2020-21

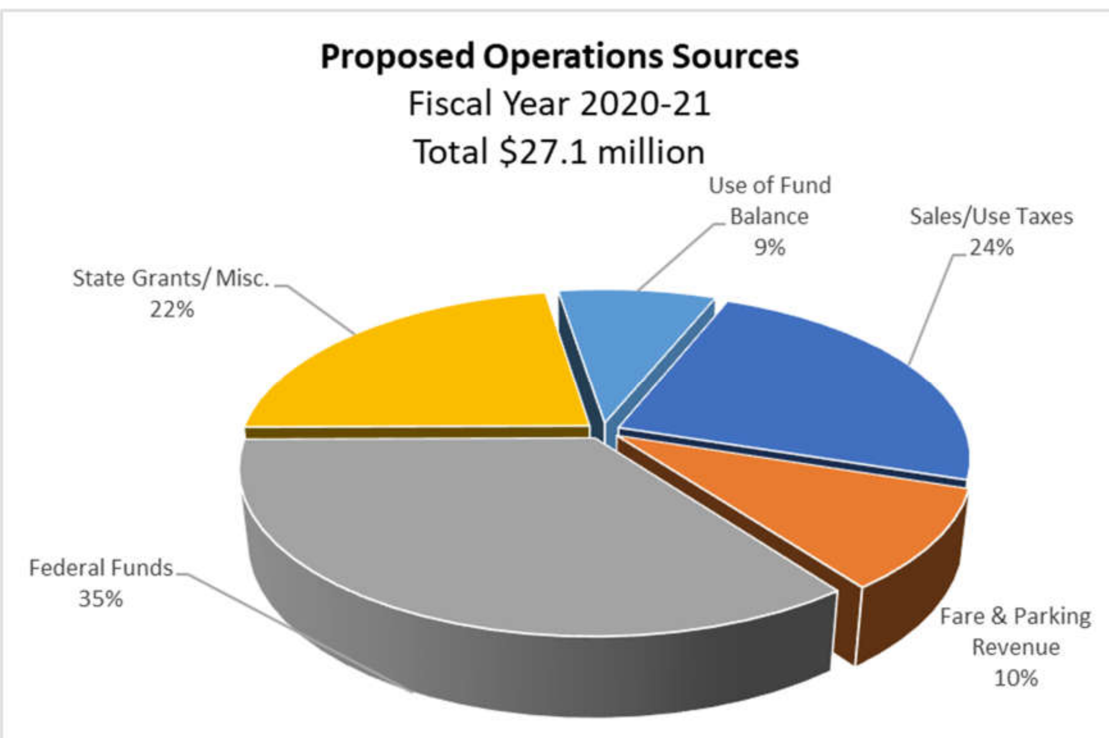


TABLE 4:

OPERATIONS BUDGET

Original, Year End FY 2019-20 and Proposed FY 2020-21

DESCRIPTION	FY 2019-20 APPROVED BUDGET	FY 2019-20 YEAR-END ACTUALS & ESTIMATES	FY 2020-21 PROPOSED BUDGET	EXPLANATION OF SIGNIFICANT CHANGES
REVENUES:				
Sales/Use Taxes				
Sales/Use Taxes **	$ 11,292,866	$ 6,201,454	$ 6,488,898	Based on decreased Sales Tax Receipts
Total Sales/Use Taxes	**11,292,866**	**6,201,454**	**6,488,898**	**Allocated from budgeted revenue as available from Administration
Intergovernmental Revenues				
Federal - Grant Funds	-	10,329,121	9,500,000	FY20 and 21 Emergency CARES, FY21 New Federal Operating funds
State - Grant Funds	7,404,794	7,662,922	6,065,711	State Commuter Rail/State Transit Assistance Operating Funding
Other Governments	10,000	25,878	15,000	Northwestern Pacific Maintenance Charges
Total Intergovernmental Revenues	**7,414,794**	**18,017,921**	**15,580,711**	
Charges for Services				
Fare Revenue	4,137,000	3,109,165	2,633,366	Revised down based on decreased ridership due to shelter-in-place orders
Parking Revenue	50,000	50,000	25,000	Revised down based on actuals and projections
Other Charges - Fees, Reimbursements	30,000	217,591	50,000	One-time reimbursements for flagging services; ongoing dispatch fee
Total Charges for Services	**4,217,000**	**3,376,756**	**2,708,366**	
TOTAL REVENUES	**$ 22,924,660**	**$ 27,596,131**	**$ 24,777,975**	
USE OF FUND BALANCE:	**$ 7,339,628**	**$ 118,004**	**$ 2,340,621**	
EXPENDITURES:				
OPERATIONS				
Salaries and Benefits				
Employee Salaries	12,498,755	11,213,464	12,093,239	
Employee Benefits	3,539,160	3,184,092	3,727,417	
Total Salaries and Benefits	**16,037,914**	**14,397,556**	**15,820,656**	FY20 savings in overtime, vacant positions; FY21 deletion of positions
Services and Supplies				
Uniform Expense	196,643	140,000	136,000	Uniform/boot costs tied to employee counts and usage
Communications	322,822	300,889	228,100	Call boxes, cellular services, and equipment, deletion of WIFI
Maintenance-Equipment	555,282	492,208	484,676	Fare machine maintenance, non-revenue vehicle fleet maintenance
Maintenance-Radios	154,632	155,214	159,400	Radio site licenses and support
Maintenance-Revenue Vehicles	2,291,628	2,766,258	2,244,382	Train spare parts and maintenance; Decrease FY21 completion of train repair
Maintenance-Railway	771,250	706,575	373,090	Right-of-way maintenance, FY21 reduction tied to completion of one-time projects
Maintenance of Signals	246,500	141,410	200,000	Gate repair, flagging, signal equipment and spare parts
Maintenance-Buildings/Facilities	285,720	237,447	248,567	Station & facility cleaning, bike lockers, HVAC and electrical
Maintenance - Pathway	25,500	10,000	10,000	Pathway maintenance and fencing costs
Transportation Services	411,664	334,664	93,000	FY21 decrease: North County and Larkspur bus cancellation
Office Expense	128,000	88,000	86,500	Cost savings in FY21 due to budget reduction plans
Agency Extra Help	50,000	5,000	5,000	As-needed temporary assistance
Rents/Leases - Equipment	101,520	90,020	82,020	Right-of-way maintenance equipment leases, copy machine lease reduction
Minor Equipment	308,190	304,028	248,190	Signage, tools, and cleaning supplies for trains and right-of-way
Computer Software and Hardware	267,918	247,480	258,880	Ongoing software and computer replacements
Training, Travel and Memberships	181,500	59,300	103,180	Professional training for PTC, signal and track regulations, engine training; site visits
Fuel and Lubricants	1,503,004	1,228,333	1,355,000	Savings due to reduced prices and reduced service schedule in FY20 and 21
Miscellaneous	8,000	5,000	4,500	Reduction for budget targets
Professional Services	2,200,575	2,538,788	1,387,020	FY21 reduction tied to cancellation of WIFI and third party customer service contract
Utilities	700,525	700,525	700,525	Electric, water, gas for signals, bridges, facilities, and rail operations center
Total Services and Supplies	**10,710,873**	**10,551,140**	**8,408,030**	
Buildings & Capital Improvements (Capital Assets)				
Buildings & Improvements	-	-	-	
Vehicles, Equipment	2,990,500	2,240,439	2,364,911	Wheel press machine, Rail Scrubber, rerailing equipment expense shifts by Year
Total Buildings and Capital Improvements	**2,990,500**	**2,240,439**	**2,364,911**	
Equipment Replacement				
Transfer to Equipment Sinking Fund	525,000	525,000	525,000	Allocation for non-revenue equipment replacement
	525,000	**525,000**	**525,000**	
TOTAL OPERATIONS EXPENDITURES	**$ 30,264,288**	**$ 27,714,135**	**$ 27,118,596**	

****The entire amount of Sales Tax is realized and shown on Table 1. The amount allocated to Operations changes depending on year-end revenues and expenses.**

Position Authorizations

On the next three pages in **Table 5** are the proposed Position Authorizations necessary for the Fiscal Year 2020-21 budget. We have eliminated a number of vacant positions in order to achieve operational savings and as a result of the completion of a number of capital projects. Those changes are shown on Table 5. Also shown are the contractually obligated cost-of-living and other increases for three groups of represented employees.

TABLE 5:

Fiscal Year 2020-21 : Proposed Position Authorization

Position	Authorized FTE	Salary Range Annual		Salary Range: Hourly		CHANGE
		Low	High	Low	High	
ADMINISTRATIVE POSITIONS						
Accountant	1	$ 74,360	$ 90,397	$ 35.75	$ 43.46	
Accounting and Payroll Assistant	~~1~~ 0	$ 53,955	$ 65,582	$ 25.94	$ 31.53	Eliminate 1 FTE
Administrative Analyst/ Contracts	1	$ 82,098	$ 99,778	$ 39.47	$ 47.97	
Administrative Assistant	1	$ 51,334	$ 62,400	$ 24.68	$ 30.00	
Assistant General Counsel	1	$ 141,315	$ 171,787	$ 67.94	$ 82.59	
Assistant Planner*	1	$ 70,803	$ 86,070	$ 34.04	$ 41.38	
Chief Financial Officer	1	$ 225,930	$ 274,643	$ 108.62	$ 132.04	
Clerk of the Board	1	$ 78,083	$ 94,931	$ 37.54	$ 45.64	
Communications and Marketing Manager	1	$ 137,883	$ 167,606	$ 66.29	$ 80.58	
Community Outreach Coordinator	~~2~~ 1	$ 72,571	$ 88,192	$ 34.89	$ 42.40	Eliminate 1 FTE
Community Outreach Specialist	1	$ 113,152	$ 137,550	$ 54.40	$ 66.13	
Deputy General Manager	~~1~~ 0	$ 248,186	$ 301,662	$ 119.32	$ 145.03	Eliminate 1 FTE
Fiscal Manager	1	$ 128,045	$ 155,626	$ 61.56	$ 74.82	
General Counsel	1	$ 225,930	$ 274,643	$ 108.62	$ 132.04	
General Manager	1	$ -	$ 319,966	$ -	$ 153.83	
Human Resources Manager	1	$ 124,904	$ 151,840	$ 60.05	$ 73.00	
Human Resources Principal Analyst	1	$ 113,152	$ 137,550	$ 54.40	$ 66.13	
Human Resources Technician	1	$ 67,371	$ 81,890	$ 32.39	$ 39.37	
Information Systems Specialist	1	$ 124,904	$ 151,840	$ 60.05	$ 73.00	
Information Systems Technician	1	$ 74,360	$ 90,397	$ 35.75	$ 43.46	
Legal Administrative Assistant	1	$ 67,371	$ 81,890	$ 32.39	$ 39.37	
Payroll Technician	1	$ 53,955	$ 65,582	$ 25.94	$ 31.53	
Procurement Coordinator	1	$ 105,082	$ 127,733	$ 50.52	$ 61.41	
Programming and Grants Manager	1	$ 144,872	$ 176,093	$ 69.65	$ 84.66	
Real Estate Manager	1	$ 155,979	$ 189,613	$ 74.99	$ 91.16	
Senior Administrative Analyst	1	$ 92,872	$ 112,882	$ 44.65	$ 54.27	
Senior Planner	~~1~~ 0	$ 97,573	$ 118,602	$ 46.91	$ 57.02	Eliminate 1 FTE
Senior Real Estate Officer	1	$ 105,082	$ 127,733	$ 50.52	$ 61.41	
Supervising Accountant	1	$ 90,605	$ 110,136	$ 43.56	$ 52.95	
Subtotal Administrative Full Time Equivalents (FTE)	**26**					

Table 5 : Continued on Next Page (Page 1 of 3)

TABLE 5:

Fiscal Year 2020-21 : Proposed Position Authorization

Position	Authorized FTE	Salary Range Annual		Salary Range: Hourly		CHANGE
		Low	High	Low	High	
CAPITAL POSITIONS						
Assistant Engineer *	~~4~~ 2	$ 88,400	$ 107,453	$ 42.50	$ 51.66	Eliminate 2 FTE
Associate Engineer*	2	$ 105,082	$ 127,733	$ 50.52	$ 61.41	
Junior Engineer *	~~1~~ 0	$ 78,125	$ 94,973	$ 37.56	$ 45.66	Eliminate 1 FTE
Principal Engineer*	1	$ 137,883	$ 167,586	$ 66.29	$ 80.57	
Senior Engineer*	~~1~~ 0	$ 121,867	$ 148,138	$ 58.59	$ 71.22	Eliminate 1 FTE
Chief Engineer	1	$ 185,411	$ 225,389	$ 89.14	$ 108.36	
Manager Train Control Systems	1	$ 185,411	$ 225,389	$ 89.14	$ 108.36	
Project Extra hires *		$ -	$ 50,000	$ -	$ -	
Subtotal Capital Full Time Equivalents (FTE)	**7**					

* Denotes Limited-Term Position Dependent on Project need

Table 5 : Continued on Next Page (Page 2 of 3)

TABLE 5:

Fiscal Year 2020-21 : Proposed Position Authorization

Position	Authorized FTE	Salary Range Annual		Salary Range: Hourly		CHANGE
		Low	High	Low	High	
OPERATIONS POSITIONS						
Administrative Assistant	1	$ 51,334	$ 62,400	$ 24.68	$ 30.00	
Administrative Analyst-Purchasing	1	$ 82,098	$ 99,778	$ 39.47	$ 47.97	
Administrative Services Manager	1	$ 88,400	$ 107,453	$ 42.50	$ 51.66	
Assistant Superintendent of Transportation	1	$ 107,723	$ 130,894	$ 51.79	$ 62.93	
Bridge Tender*	2.5	-	$ 64,958	-	$ 31.23	Equity 2% + 3% COLA per union Agreement
Chief of Police	1	$ 167,981	$ 204,194	$ 80.76	$ 98.17	Projected to be 0.6 FTE during Fiscal Year
Code Compliance Officer	3	$ 65,749	$ 79,893	$ 31.61	$ 38.41	
Controller /Supervisor	10	$ 94,744	$ 115,170	$ 45.55	$ 55.37	
Conductor**	11	$ 70,824	$ 83,325	$ 34.05	$ 40.06	3% COLA per union Agreement
Engineer-Conductor**	~~29~~ 25	$ 85,155	$ 100,173	$ 40.94	$ 48.16	Eliminate 4 FTE; 3% COLA per union agreement
Extra Hires Operations		-	$ 350,000	-	-	
Facilities Maintenance Supervisor	1	$ 97,573	$ 118,602	$ 46.91	$ 57.02	
Facilities Maintenance Technician	3	-	$ 81,203	-	$ 39.04	Equity 2% + 3% COLA per union Agreement
Laborers-Vehicle Maintenance	10	-	$ 63,794	-	$ 30.67	Equity 1% + 3% COLA per union Agreement
Laborers-Track Maintenance	2	-	$ 60,112	-	$ 28.90	
Operations Manager	1	$ 185,411	$ 225,389	$ 89.14	$ 108.36	
Parts Clerk	2	$ 61,027	$ 74,194	$ 29.34	$ 35.67	
Railroad Information Systems Specialist	1	$ 110,406	$ 134,202	$ 53.08	$ 64.52	
Safety & Compliance Officer	1	$ 128,045	$ 155,626	$ 61.56	$ 74.82	
Signal Supervisor	2	$ 105,082	$ 127,733	$ 50.52	$ 61.41	
Signal Technician	9	-	$ 109,678	-	$ 52.73	3% COLA per union Agreement
Superintendent of Vehicle Maintenance	1	$ 128,045	$ 155,626	$ 61.56	$ 74.82	
Superintendent of Transportation	1	$ 128,045	$ 155,626	$ 61.56	$ 74.82	
Superintendent Signals and Way	1	$ 128,045	$ 155,626	$ 61.56	$ 74.82	
Track Maintainer 1	4	-	$ 82,014	-	$ 39.43	3% COLA per union Agreement
Track Maintainer 2	1	-	$ 90,230	-	$ 43.38	3% COLA per union Agreement
Track Maintenance Supervisor	2	$ 97,365	$ 118,373	$ 46.81	$ 56.91	
Vehicle Maintenance Supervisor	4	$ 100,006	$ 121,576	$ 48.08	$ 58.45	
Vehicle Maintenance Technician	12	-	$ 100,256	-	$ 48.20	3% COLA per union agreement
Subtotal Operations Full Time Equivalents (FTE)**	**103.5**					
TOTAL ALL SMART DEPARTMENTS	**136.5**					

** Engineer/Conductor may be filled by Conductors, Total FTE for both positions combined is 25

Table 5: Page 3 of 3

SONOMA~MARIN SMART AREA RAIL TRANSIT

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

April 15, 2020

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

SUBJECT: Fiscal Year 2020-21 Budget Discussion and Establishing Minimum Reserve Policy

Dear Board Members:

RECOMMENDATIONS:
Direct staff to prepare Fiscal Year 2020-21 Budget with a Minimum $10 million Reserves and $6 million in Expenditure Reductions

EXECUTIVE SUMMARY:
We are working on preparing the budget with three factors at the forefront:

- The failure of Measure I which would have allowed us to restructure our debt and achieve lower annual debt payments by $12 million annually
- The need to set a minimum reserve policy and preserve existing reserves in a sustainable way
- The financial impact of the COVID-19 shut-downs

Today we will be briefing you on each of these issues and request direction on budget preparation.

Budget Outlook:
During the Strategic Planning process, we identified a future imbalance of $9 million annually tied to increasing debt service on the construction of the 45-mile transit system. This imbalance would have meant diminishing reserves and financial instability if no action was taken. As a result of reviewing these projections and discussing the reality that reducing expenditures would mean reducing service, your Board moved forward with a plan to extend the sales tax.

Measure I would have extended the length of the tax and allowed us to refinance the debt. This would have resulted in significant debt relief by reducing payments $12 million annually and resulted in long-term financial stability.

With the failure of Measure I, we are left with our original problem, which is illustrated in the chart below that we have reviewed in previous meetings.

	CURRENT YR	PROJECTIONS		
	2019-20	**2020-21**	**2021-22**	**2022-23**
Operations Revenue	$51.0	$56.5	$54.1	$55.5
Operations Expense	-$41.3	-$43.2	-$44.5	-$45.8
Debt Service	-$16.7	-$17.4	-$18.1	-$18.7
Capital Expenses Not Covered by Grants	-$12.2	-$0.3	$0.0	$0.0
Subtotal (Needs Reserves/Annual Deficit)	-$19.2	-$4.4	-$8.5	-$9.0
Starting Unrestricted Reserves	$26.5	$7.3	$2.9	$0.0
Ending Unrestricted Reserves/Cumulative Deficit	**$7.3**	**$2.9**	**-$5.5**	**-$9.0**
Agency Reserve	**$17.0**	**$17.0**	**$11.5**	**$2.5**
			Dimishing Reserves	

In the red Cumulative Deficit row, there is a $9 million shortfall in Fiscal Year 2022-23 that – if not addressed – would have eliminated our reserves. Without the ability to pursue a significant refinancing, we must now turn to expenditure reductions and other measures to address that imbalance. Our original budget planning recommendation to your Board was to implement $3 million in savings each year for the next three years in order to address this future drawdown of reserves. Our original projections would have eliminated this imbalance.

Refinancing Existing Construction Debt:

As part of the need to reduce expenditures, we have been looking for an opportunity to refinance our exiting bond debt given the recent economic conditions and the drop in interest rates. SMART's outstanding debt that allowed us to build the train and pathway is $136.9 million. Without an extension of the expiration date for the tax, the significant $12 million reduction in debt service we had hoped to achieve cannot be realized. Because of the limited remaining duration of the tax and the level of interest rates, prior to 2020 we did not project significant benefits to refinancing within the existing bond term.

However, with a decline in interest rates in recent weeks, the situation has changed. We have been working in conjunction with SMART's expert Municipal Advisor, PFM Financial Advisors LLC, to monitor the municipal bond market for potential opportunities to refinance the outstanding Measure Q Sales Tax Revenue Bonds to generate debt service savings.

Based on market conditions as of April 3rd, a refinancing of the 2011 Bonds could potentially generate annual cashflow savings for SMART. Annual debt service on the 2011 Bonds escalates from $17.4 million in FY 2021 to $22.0 million in FY 2028, the year of maximum debt service. Assuming current market rates as of April 3, a taxable advance refunding with the same final maturity would generate between $1.1 and $2.5 million of annual cashflow savings through FY2029 depending on the structure, terms and other factors that affect pricing. A number of things could affect that pricing, including the willingness of investors to participate, a change in rates or credit ratings, and continued economic uncertainty, along with the ability to call the bonds earlier than 2029.

There would likely be a direct tradeoff between the call date of the bonds and the amount of savings attained. In essence, we would evaluate the tradeoff between savings and future opportunities to refinance for the life of the debt prior to 2029, which SMART might want to following a future tax extension.

We have looked at two possible options for the process of refinancing. One way would be through a negotiated public offering, as SMART undertook for the 2011 Bonds. However, that takes many months and with the COVID-19 crisis ongoing, it is difficult to anticipate whether or when further disruptions to the financial market might occur. The municipal bond market was effectively shut down for two weeks in mid to late March as investors sought liquidity and safety, exiting from numerous asset classes, including municipal bonds. During this period, many issuers shifted from public offerings to direct or private placement of debt, which involves a financing entity directly purchasing bonds from issuers.

The other possible option we are evaluating is a private placement of debt directly with a financing entity. PFM has had exploratory discussions with several major investment banks to assess whether there might be capacity and interest to participate in a proposal process related to a privately placed SMART refunding transaction. Of the four banks contacted, three indicated a potential interest depending on the timing and circumstances when SMART is ready to proceed. This could potentially save time, allowing us to capture potential savings before they disappear, and lead to a more tailored structure that meets SMART's long-term needs.

We will continue to investigate these options and will return to your Board with a proposal for action in the coming weeks.

Minimum Reserves:
In conjunction with budget planning, we also are moving forward with approving a policy to set minimum reserves for SMART. This is both an industry best practice in government as well as an important tool for the District to manage future unanticipated expenses, revenue downturns and stability in operations.

During the early years of our initial financial planning, we maintained a very high reserve of 50% of future operating costs because there were so many unknowns in starting a new rail and pathway service with characteristics that are unique to SMART. Now, with nearly three years of operations under our belts, we can more predictably model our baseline revenues and expenses, identify the risks we face, and recommend a more formal reserve policy. This policy would create the guidance needed for budget preparation, future financial planning, and set boundaries for future use of these reserves.

A sample of policies of some other local and transit agencies reveals various choices around this topic:

Agency	Published Reserve Policy
City of Santa Rosa	15-17% of Annual Expenditure
City of San Rafael	10% of Annual Expense
City of Novato	15% of Annual Expense
County of Sonoma	8.3% of Annual Revenues (One month)
County of Marin	5% of Annual Expense
Golden Gate BH&TD	7.5% Annual Operations, 3.5% Emergency
SF MTA (Muni)	10% Annual Operating Expense
Utah Transit	9.33% of Annual Expense
Trimet, Portland	2.5 Months Operating Expense (21%)
VTA (Santa Clara)	15% of Expense, Sales Tax stabilization fund $35 M (105)

There are a number of different approaches to this issue as illustrated above. In considering a minimum reserve, an Agency's size function and various revenue sources should influence the decision on how much to set aside. As an independent agency primarily reliant on one major revenue source with no ability to ask for assistance from a bigger entity or to spread our risk out over various divisions, we face somewhat greater risks in our revenues than a County, for example. We also have so many interdependent operations functions that our expenses are difficult to reduce quickly in the face of a downturn as we see happening right now nationwide.

Our goal should be to fund a reserve that doesn't overly tie up excess resources but sufficiently addresses operational risk. It should also recognize the significant role that sales tax plays in funding our budget. While reserves cannot possibly address an economic shock of the magnitude we are facing today, they should be sufficient to help with the management of a typical economic cyclical downturn.

We recommend a minimum reserve policy that preserves $10 million as your minimum for Fiscal Year 2021 and beyond. This calculation is 25% of our Fiscal Year 2020 ongoing operations expenditures (excluding capital project and debt costs). This amount would be available for future unpredicted costs or revenue losses. We are currently carrying more than that in our operations reserve, which allows us some time to deal with some of the fiscal challenges we are facing. We also recommend that this $10 million become a minimum dollar amount even though we anticipate reducing expenditures in the coming months to address the budget deficit. Going forward, we would recommend increasing the amount if our expenditures increase to the point where $10 million is no longer 25% of our expenditures.

Further, we recommend that your Board adopt a policy that states the use of SMART's reserve should require a 2/3 vote so that the use of the funds is preserved as a funding source of last resort in budget deliberations.

New Budget Challenge: This month we are adjusting to the new challenge of projecting the impact of the COVID 19 shutdowns on our financial health. This is an unprecedented socioeconomic event with implications that are difficult to quantify for a number of reasons. First, we know we have immediate impacts related to the loss of fare revenue equating to $90,000 a week. Second, we have staff who are impacted in their ability to come to work due to illness or family responsibilities and new, unfunded mandates for leave for those employees. Finally, the impact on our sales tax receipts since the initial shelter-in-place orders will not be apparent until May and won't be fully recorded until July. In addition, the delay and impact related to the Governor's order relaxing the submission of owed tax to small business is also difficult to determine. Finally, and the most challenging, is estimating the length in time of the economic impact.

What is certain is that the shutdown will impact sales tax dramatically in the short run, which means it will affect almost 90% of our revenue, due to the impact on both the SMART District tax and the State's revenues for operating assistance. While sales of certain goods have continued during the stay-at-home order, some significant sales are not occurring. See below a breakdown of our sales tax business mix.

General Retail	27%
Food Products	20%
Transportation	21%
Construction	14%
Business To Business	15%
Miscellaneous	3%

There are significant business impacts of the shelter-in-place orders in each and every one of these sectors, from car sales to retail. Our initial projection is that this would mean a loss of 20% of our anticipated sales tax related revenue in Fiscal Year 2020 which ends in June. We also have lost most of our fare revenue starting in early March, as our ridership is below 300 daily. Thus, we are estimating a 30% drop in budgeted fare revenue for Fiscal Year 2020. See below the chart outlining these losses:

FISCAL YEAR 2019-20 IMPACTS OF SHELTER-IN-PLACE				
Measure Q - Sales Tax				
	Original		$	39,312,541
	Revised			31,450,033
		(loss)		(7,862,508)
State Rail/Transit Funding				
	Original State			7,786,239
	Revised State			6,228,991
		(loss)		(1,557,248)
Fare Revenue				
	Original			4,137,000
	Revised			2,482,200
		(loss)		(1,654,800)
Total Loss (Projection)			$	(11,074,556)

Coronavirus Aid, Relief, and Economic Security (CARES) Act
At the end of March, the federal government approved the CARES Act which provided $25 billion to public transportation systems nationwide. For the past several weeks, the 27 Bay Area General Managers and Metropolitan Transportation Commission (MTC) Executive staff have been negotiating the best way to distribute the Bay Area's $1.3 billion that has been targeted for transit agencies. These funds have been allocated for the specific use of maintaining transit staff and a reasonable level of service by backfilling for both the loss of revenues and the reimbursement for expenses as a direct result of COVID-19. SMART's initial allocation is estimated to be $10 million, but that is subject to MTC approval on April 22 and then Federal Transit Agency (FTA) approval through the grant process. There may be additional funds forthcoming in the coming months as only 60% of the funds are being proposed to be allocated at this time.

The initial $10 million grant will fill our estimated Fiscal Year 2019-20 loss. However, it seems likely that even in the case that businesses are allowed to open by June, it is again unclear how long the impact will affect our revenues. One scenario is that the impact is short-lived and revenues recover sufficiently at the start of the new fiscal year to bring sales back to former levels. A more realistic and conservative view is that the sales tax will not recover that quickly and will take up to a year or more to return to pre-COVID-19 levels. In that scenario we would be facing a second impact outlining an additional $11 million loss in Fiscal Year 2020-21. This loss could be partially filled by a second negotiation with the Bay Area transit operators over remaining CARES Act allocations. However, recovery could also take much longer and impacts could be much higher.

Budget Planning: SMART was already facing a daunting task to correct a future budget imbalance. The addition of a revenue shock of indeterminate length means that we are facing a second challenge of absorbing future sales tax losses until the economy recovers should federal assistance not fill that revenue loss. Fortunately, we had planned to close the Fiscal Year with significant reserves, which allow us some cushion in our cashflow projections. However, these will be quickly depleted without significant revenue and expenditure changes.

In preparing budget targets for Fiscal Year 2020-21, we will follow to the principles adopted by the Board in the 2020 Expenditure Plan which continue to govern our choices. Those are:

1. Provide for Ongoing Operation, Maintenance and Financing of Current Operations
2. Prioritize Safety, Education and Community Outreach
3. Capital Projects and Rolling Stock

Unfortunately, it will be nearly impossible to make changes to eliminate all future deficits without affecting priority #1, preserving ongoing operations. There are significant fixed costs with running a railroad operation, such as 24-hour dispatching and signal maintenance response, minimum levels of track and signal system maintenance, and required minimum rail vehicle maintenance schedules. The only way to reduce costs will be to variable costs such as the number of service runs.

While originally we had planned to make $3 million in reductions in the budget, we are now working toward a higher target of up to $6 million in Fiscal Year 2020-21. We cannot predict what the coming year will hold as far as the continued impact of the shelter-in-place order and the amount of assistance we will receive from the federal government. Thus, we are working to increase our efforts for the Fiscal Year 2020-21 budget that will help us in addressing the long-term structural problem and the immediate revenue crises. This target was chosen as an aggressive but potentially achievable amount in the coming Fiscal Year.

We are currently looking to three major strategies for budget reduction proposals. These are presented in priority order but all will be needed to meet our targets.

1. One-time savings: Expenditure reductions for items that were part of our budget planning for the current and future fiscal year and will now be deferred. This includes:
   - Deferral of machinery and equipment
   - Extended replacement cycles for vehicles
   - Deferral of mitigation measures and enhancements
   - Deferral of non-safety capital projects and matching funds

2. Reduction in Ongoing Expense, Salary and Non-salary: These are ongoing expenditures that are important but could be considered for reductions without a direct impact on the SMART train schedule. This would include reductions to or elimination of the following:
   - Train WiFi service
   - Information Technology upgrades and servicing
   - Customer service contract with Golden Gate Bridge District
   - Debt refinancing
   - Federal and state advocacy services
   - Communications/outreach contracts and activities
   - North County bus service
   - Elimination of non-critical vacant positions
   - Discussing with our unions various means of reducing labor costs, including a possible wage reopener for the current July 1 increases.

3. Reduction in Ongoing Expense Due to Reductions in Service: These are reductions that would result from running fewer trains. Fewer trains would mean a decrease full-time staff and some related non-salary expenditures. These proposed reductions could mean a loss in either direct fare revenue or related revenue from State and Federal sources and the savings would be reduced by these losses. It could also impact our ability to compete for service expansion grants depending on the severity of the cuts.

The sooner we can identify reductions, the more effectively we can impact our bottom line and give us greater ability to weather the current storm we are experiencing.

All of these assumptions are subject to change due to the fluid nature of the economy currently and the length of time this current downturn lasts. Of course, a larger, more long-lasting economic downturn would mean that this initial $6 million target could be followed by a new effort to reduce expenses shortly thereafter rather than waiting for the next budget cycle. In the long run, there is no question that there will be significant impacts to our riders of reductions that could reach $9 million over time. There is no way to cushion the impact of such a change from our everyday operations functions. Operation and maintenance of the train and pathway is what we do, there is no other place to look for reductions.

While there will be continued discussion about our financial projections throughout the length of the COVID-19 crises, for purposes of our current budget process, we will be moving quickly to prepare budget proposals and bring them to you for consideration.

Our current tentative schedule of public meetings on the Fiscal Year 2020-21 budget are as follows:

April 15: Briefing on targets and reduction categories
April 21: Citizens Oversight Committee discussion of budget and refinancing
May 6: Update on budget process and any follow-up from April
May 20: Preliminary Budget Presentation and Discussion
June 3: First opportunity for Board Approval of Budget
June 17: Final opportunity for Board Approval of Budget

At this time, we ask for your feedback and input on our plans, reserves and strategies. We will be seeking feedback from the Citizens' Oversight Committee next week and will report back to you any input from that meeting.

Very truly yours,

/s/
Erin McGrath
Chief Financial Officer

Farhad Mansourian
General Manager

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

May 6, 2020

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

SUBJECT: Fiscal Year 2019-20 Budget Update, Fiscal Year 2020-21 Budget Reductions, and Approval of Early Action Items

Dear Board Members:

RECOMMENDATIONS:

1. Provide Input on Budget and Operational Changes
2. Approve Early Actions on Fiscal Year 2019-20 and 2020-21 Budget items for:
   a) Elimination of On Board WiFi Service
   b) Reduce rail liability insurance
   c) Proceed with steps for Bond Refinancing
   d) Direct staff to notify public on service reductions

SUMMARY:

As discussed at our last Board meeting, we set a goal of identifying ongoing savings of $6 million in Fiscal Year 2020-21 as an initial step toward addressing our potential COVID-19 revenue impacts as well as ongoing structural imbalances of $9 million as a result of the loss of Measure I.

Today we will be providing you more detailed information on budget and operational changes that will allow us to reduce our operating expenses and achieve our budgetary goals. We are also asking for approval for immediate early reduction actions on cost management decisions related to contracts and insurance we would like to implement in advance of the approval of the Fiscal Year 2020-21 budget.

BUDGET INFORMATION:

CARES Act Assistance Update:

During your April 15 meeting, we discussed the combined potential impact of the COVID-19 shut-downs and the loss of Measure I. We presented to you our estimate of Fiscal Year 2019-20 (current year) impact could potentially be $11 million. We also anticipate that that impact would continue into Fiscal Year 2020-21 and potentially grow to an additional $14 million impact to our sales tax-driven revenues.

On April 18th, SMART was allocated federal CARES Act funds of $10.3 million by the Metropolitan Transportation Commission (MTC). This is from the original action allocating 61% of the funding provided by Congress. We are in the process of receiving those funds from the federal government to our account.

The additional 39%, when allocated, would provide us with an additional $6.6 million for Fiscal Year 2020-21 if the same formula was used. This amount, therefore, will be assumed in our budgeted revenue. If MTC changes the current agree-upon formula for the 61%, SMART could receive more or less in funds. For example, if we receive half of what we should get (i.e. $3 million) this will impact 17 more full-time employees. Congress and the Department of Transportation made it clear that the funds were to be used to preserve service and staff and our belief is that a reduction would be opposite of what the funds were intended to do.

Revenue Projection Impacts:
We are working to determine what level of impact we could be facing as a result of the pandemic and economic shutdown. There is no roadmap for what the financial future holds. Different experts and economists will disagree. In the early days of the crises there was a belief that what we were experiencing would be a short-lived shock to the economy that federal aid would help to rectify. Because the fundamentals of the economy were strong, it seemed that the country could recover quickly from the shock. However, the longer the shutdowns last, and the clearer it becomes that continued social distancing will impact many sectors of the economy for much longer, the more analysts are predicting longer-lasting economic impacts.

For the current Fiscal Year 2019-20, we are assuming a loss of sales tax of 20%. We will not know the sales tax totals until after July 1. However, we are gratified that we can now rely on the $10.4 million from the COVID-19 CARES Act to fill any holes for the current year. For next Fiscal Year, we have modeled three different scenarios, including one where the economy begins to recover quickly and COVID-19 has only a mild impact, one with a moderate impact and one with a deep impact. In each scenario, we assume that we are absorbing a 30% drop in fare revenue this year (Fiscal Year 2019 and an ongoing loss of 25% over what we had budgeted for Fiscal Year 2019-20). Each scenario also includes the 20% drop in sales tax revenue in the current Fiscal Year 2019-20. The scenarios then vary on what next fiscal year will look like as follows:

Deep Impact: In the "Deep Impact" scenario, we assume that the sales tax continues to drop an additional 5% and levels out at a total loss of 25% over what we had budgeted for the current year.

Moderate Impact: In the "Moderate" scenario, we assume that sales tax begins to climb back slightly from the 20% loss and ends the year with 15% of what had been budgeted in Fiscal Year 2019-20.

Mild Impact: In the "Mild" recovery scenario, we assume that taxes improve from the low of 20% to gain 15% of that back in the Fiscal Year resulting in a 4% drop from our budgeted amount in Fiscal Year 2019-20.

On the chart below we show what this means in dollar amounts for the different scenarios.

	2020 Budget Approved	YEAR END 2020 Revised	2021 Deep Impact	2021 Moderate Impact	2021 Mild Impact
REVENUE					
Measure Q - Sales Tax	$ 39,266,002	$ 31,412,802	$ 29,842,162	$ 32,983,442	$ 36,124,722
Federal/State Rail Funding					
Federal			3,900,000	3,900,000	3,900,000
State	7,786,239	6,228,991	5,917,542	6,213,419	7,145,432
Fare Revenue	4,137,000	2,482,200	3,195,833	3,195,833	3,195,833
Other Operating Revenues (lease, fees, advertising)	1,216,646	1,309,505	939,594	939,594	939,594
Fed/State Bailout Funds	0	10,000,000	6,600,000	6,600,000	6,600,000
TOTAL REVENUE	**$ 52,405,887**	**$ 51,433,498**	**$ 46,495,130**	**$ 49,932,287**	**$ 54,005,580**

At the bottom of this chart, we are showing that the total revenue difference between the "mild" scenario and the "deep" scenario is $7.5 million, a dramatic difference. In any scenario, revenues are supported by the CARES act funding we anticipate receiving through MTC. As mentioned earlier in this report, in the budget we intend to include the full $6.6 million in our budget that we believe is due under the current allocation method.

Even in the best scenario, SMART sales tax funds are $3 million lower next year than what we anticipated in our budget for the *current* fiscal year. Each of these scenarios would require dipping into reserves without budget changes to expense. In addition, attempting to project the next year, Fiscal Year 2021-22, is wildly different depending on which scenario you choose. This makes long-term target setting very, very challenging for SMART.

REDUCTION STRATEGIES INCLUDING ACTION ITEMS: We are continuing to work on looking at each line item in the budget to determine what changes could be made to address the financial challenges we are facing. Today we are presenting more details within the categories of targeted reductions we are examining.

Before outlining potential reductions, we examined every line item in our budget to looks for ways to lower costs and/or increase revenue. Although the challenge this year is a large one, it is a practice we undertake each and every year. During the capital project delivery phase, we undertook such efforts as consolidating construction delivery contractors, installing a used bridge, creating our own mitigation property, which were just a few of the decisions that allowed us to do more with less. In our operation decisions to date, we have already eliminated expensive professional service and other contracts by replacing them with more cost-effective in-house staffing, in areas such as legal, finance, and train control systems management. We also reduced our office lease footprint by 50%, capitalized on partnerships to reduce our IT costs, and instituted our own pension reform before the State of California undertook theirs.

This year, we must again face a daunting challenge of serving the public with fewer resources and greater uncertainties. In our discussions last month, we provided a broad overview of our goals and targets. Today we will be providing you with more detail on the budget reduction strategies for the budget as well as decisions we will need to make sooner than July 1. We continue to follow the guiding principles as outlined in the 2020 Expenditure Plan. Those are:

- Provide for Ongoing Operation, Maintenance and Financing of Current Operations
- Prioritize Safety, Education and Community Outreach
- Capital Projects and Rolling Stock

The three major strategies we are continuing to pursue, as outlined in our last meeting, are:

1. One-time savings as part of the Fiscal Year 2019-20 budget closing process
2. Ongoing Reductions in Fiscal Year 2020-21 that do not impact train service
3. Reductions in Fiscal Year 2020-21 related to train service reductions

1. One-time savings: Total of $3.5 million
These are expenditure reductions for items that were part of our budget planning for the current and future fiscal year that will now be assumed savings. See below further detail on these savings.

- Fuel Savings: Due to reduced service and pricing $280,000
- Elimination of Trailer Purchase at Rail Operations Facility: $150,000
    - Would have provided more staff space for vehicle maintenance workforce
- Delay purchase of rail car mover and utility vehicle: $200,000
    - Would swap for higher priority rerailing equipment to be purchased with grant in anticipation of absorption of Northwestern Pacific Company equipment to fill need.
- Deferral of tree and riparian mitigation: $2.25 million
    - Work to identify future ways to finance
- Shift in funding for Black Point Bridge repairs: $670,000
    - AB-1029 potential funding to make needed repairs

In the list of one-time items we are examining, we also reviewed upcoming one-time revenues related to real estate transactions. We currently anticipate receiving $4 million in Fiscal Year 2020-21 from our purchase contract for the sale of the Railroad Square property in downtown Santa Rosa. We also anticipate receiving $7.25 million from our purchase agreement for the Downtown Petaluma property. We currently do not have those funds budgeted for any purpose as the Board has not taken any policy actions surrounding those funds and the developers have not exercised their purchase option.

2. Reduction in Ongoing Expense Non-salary: Total of $2.6 million. These are ongoing expenditures that are important but could be considered for reductions without a direct impact on the SMART train schedule. This would include reductions to or elimination of the following:

Category	Subject	FY21	Detail
Contract/Supplies	Turn off WiFi on Trains	531,872	Turn off within 30-days, cell service readily available, free WIFI remains on platforms
Contract/Supplies	Contracted Customer Service GGBHT	335,580	SMART would undertake in house, avg. of 1-3 calls/emails a day
Contract/Supplies	San Rafael-Larkspur Route 31 bus	68,664	Eliminated due to opening of Larkspur station
Contract/Supplies	North County Bus Service-Sonoma County Transit	192,109	SC Transit recommends elimination due to very low ridership
Contract/Supplies	Reduction in State lobbyist contract	80,000	New procurement for reduced cost state services
Contract/Supplies	Reduction in private security services	100,000	Replaced by recent hires in Code Compliance
Contract/Supplies	Financial system support reductions	25,000	Reduction in consulting services
Contract/Supplies	Agency-wide supplies	50,000	Efficiencies in office supply contracts, reductions in actual supply purchases
Contract/Supplies	Ops Reduction in Maintenance Contracts	25,000	Reduction in contracted services due to staff/equipment investments
Contract/Supplies	Reduction in Outreach contracts	50,000	Reduction in paid media placements, contracted public relations
Contract/Supplies	Various administrative contract reductions	100,000	Reduction in temporary staff allowance and misc. contracts
Financing Costs	Debt Refinancing	1,000,000	Estimate of savings potential with taxable direct placement
	SUBTOTAL ONGOING COST REDUCTIONS	**$ 2,558,225**	

In some of these changes, the contracts for services will require a 30-day notice in order to implement the changes. In order to take action quickly, we therefore would like to request your early approval of two actions:

a. Notice of Suspension of On-Board WiFi: We currently provide free Wifi at our stations and on the train itself. The free Wifi at the stations are a provided at no cost to SMART as part of our public-private partnership with local firm Sonic. The onboard Wifi, with estimated 10,000 users monthly before COVID-19, requires $531,872 annually. We investigate the reduction of bandwidth (for example email-only bandwidth). This reduction would only reduce our cost by $50,000. While we are continuing to explore other options, we recommend giving notice to the contractor now so that we can recoup savings as quickly as possible.

   Recommended Action: Give direction to staff to notice WiFi contractors of suspension of service.

b. This list also includes an assumption of $1 million in annual savings on debt on our construction bonds. As we briefed you at your April meeting, as a result of the public finance market and rates currently available, we are continuing to investigate potential savings of up to $2 million annually on a refinancing. In order to do so we would like to continue to work with our financial advisors, PFM, on a Request for Proposals and other work around a potential direct placement of debt. However, their current contract does not include funding to assist with the preparation of those documents and evaluation of potential proposals. Therefore, we would like your Board's direction to increase their current contract to achieve this savings.

   Recommended Action: Authorize the General Manager to approve a contract extension with PFM, Inc. of up to $150,000 and report back to your Board at our next meeting on that action.

c. In addition to savings identification, we are facing certain expense increases that may be unavoidable. One such cost is for our rail liability coverage. In addition to the traditional liability, property, and other typical insurance policies, SMART must procure specialized railroad liability insurance to cover events that occur as part of rail service. Until 2016, the federal government had set the limit on claims related to railroads at $200 million. In 2016 that limit was raised to $295 million and since that time we carried coverage up to that limit.

That coverage requires multiple negotiations with up to 15 different large insurers in order to provide the multiple layers of coverage that make up a limit that high. Up through Fiscal Year 2019-20, the annual cost of that coverage was $1.3 million. However, the rail liability market has been very volatile during this crises. Some insurers are leaving the market and others are setting benchmarks for revenue that are significantly higher per $1 million in coverage than we are currently paying. Insurers are pricing increases of up to 50% in certain insurance layers. The result would be a $635,000 increase in our annual premiums for rail liability. This an increase that we cannot absorb even in a normal year. While our goal is to provide as much coverage as possible for SMART, we can only purchase coverage that we can sustain and that reasonably protects SMART from incidents that may occur. Thus we are requesting your authorization today to return in our rail liability coverage to the $200 million level in order to keep our cost increases to approximately 5% of the current amount, or $133,000. We are actively negotiating this change and require direction from you on this before going forward. This decision must be made in the next week in order to complete negotiations and execute the policies in advance of their expiration on June 15.

Recommended Action: Authorize staff to complete negotiations on rail liability insurance using a reduced $200 million liability limit.

3. Reduction in Ongoing Expense Due to Reductions in Service and Staff: Our goal always is to deliver as much service as possible to our riders within our financial and operational abilities. In our adopted 2020 Expenditure Plan, preserving ongoing operations was identified as the highest expenditure priority. Unfortunately, we are now facing a known long-term structural challenge of $9 million as well as a short term losses of unknown amounts depending on which scenario we see going forward. The $9 million problem was discussed numerous times during the 2019 Strategic Plan process and following the failure of Measure I. Thus, having already identified one-time and other expense reductions that do not impact service, we are now identifying options to reduce train service and therefore additional costs.

We have identified two potential changes to service that we implemented during this COVID-19 emergency that we would be continuing into the next fiscal year. We have also identified other reductions to benefits and pay that could be implemented in conjunction with these changes for a net savings of $5.8 million annually if approved by your Board. Those changes are as follows:

1. <u>Elimination of Weekend Service</u>: Potential cost reduction of $2.2 million. Our weekend service which had been growing in popularity, is likely important to many riders. However, as it serves more recreational and tourist needs, it doesn't serve the core commute ridership we intend to focus on preserving. The savings identified are largely the result of a reduction of 14 FTE in operations and administration. We have identified a potential revenue loss of $600,000 annually for a net savings of $1.6 million.

2. <u>Reconfiguration of Train Service to 22 Trips Daily</u>: Potential reduction of $4.7 million to run 5 trains in the morning commute, one in midday and 5 during the afternoon commute. This change would reduce from 38 trips daily to 22 total daily. Savings would result a reduction

of 31 FTE in operations and administration. While it is difficult to determine the revenue loss from this change, we are projecting a loss of $1.5 million in fare revenue for a net savings of $3.2 million.

We are preparing examples of schedule options showing this reduction and will distribute those to you and the public early next week.

3. Other reductions to benefits and pay: $1.1 million. We have met with our three unions and have discussed potential cost savings ideas to reduce the loss of filled positions. We will update you at the Board meeting on these discussions. We are looking for cost reductions such as eliminating cost of living increases, capping SMART's share of medical plans, voluntary separation incentives, and staff salary reductions. If fully implemented and agreed to, these could yield $1.1 million in savings.

In considering these options, SMART will need to do its best to outreach to the public on the service changes that were implemented during this emergency that may need to continue. We have consulted Board's adopted Title VI Policy and Program that requires us to endeavor to not create disparate impacts on the basis of race, color or national origin when evaluating fare and service policies and practices. We will discuss these changes at each of our public meetings as part of the budget, and reach out as best we can through this time of isolation in order to gain feedback from the public on the changes.

Recommended Action: Invite public comment on the proposed new schedule.

SUMMARY: We have identified a range of budget options and savings proposals. Those include:

- One-time savings: Total of $3.5 million
- Reduction in Ongoing Expense, Non-Service: Total of $2.6 million annually
- Reduction in Ongoing Expense Due to Reductions in Service/Staff: Net savings of $5.8 million annually

Today, in advance of your consideration of the revised Fiscal Year 2019-20 and Proposed 2020-21 budget, we recommend your Board:

1. Provide Input on Budget and Operational Changes
2. Approve Early Actions on Fiscal Year 2019-20 and 2020-21 Budget items for:
   a) Elimination of On Board WiFi Service
   b) Reduce rail liability insurance
   c) Proceed with steps for Bond Refinancing
   d) Direct staff to notify public on service reductions

Very truly yours,

/s/
Erin McGrath
Chief Financial Officer

Farhad Mansourian
General Manager

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

May 20, 2020

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

SUBJECT: SMART Budget Survey and Service Reduction Options

Dear Board Members:

RECOMMENDATIONS:
Receive report on Survey and Provide Direction on Further Budget Reductions

OVERVIEW:
As we have discussed at your last two meetings, we are continuing to work to address the dual challenges of the loss of Measure I and the ongoing impacts of the COVID-19 shutdowns. At your last meeting we presented options for reducing the budget. Today we will be presenting you with survey information you requested regarding our future service and the implications for our budget.

BUDGET INPUT:
Because we are facing uncertain economic circumstances, we have been working to provide your Board with options for budget reductions. At your last two meetings, we discussed potential inclusion of three "buckets" of expenditure reductions, two of which your Board has already given early direction on.

The first bucket, which will save $3.5 million in one-time expenses that we are able to defer, eliminate or fund using other sources. The second bucket of $2.6 million includes reductions in contracts for services such as customer service, WiFi and an expectation of savings from a smaller refinancing. Your Board has already given direction on this package and those will be included in the budget presentation in June.

We are also continuing to evaluate other savings we can squeeze out of the current expenditures and are making progress at capturing those for additional fund balance in the future. We anticipate our budget will include other reductions we have been able to capture as part of our efforts.

The third "bucket" we presented to you was made up of the elimination of weekend service, a reduction to 22 trips on weekdays, and the associated salary and employee reductions. We identified for you that the weekend service reduction would provide a net savings of $1.6 million. The reduction to 22 trips would allow SMART a net savings of $3.2 million. Also included in this bucket are various ideas to reduce benefits and pay of $1.1 million that we are currently exploring with our staff and union representatives. These reductions are available to us at any point we need to implement them, whether we do it this year, or in the future as our economic circumstances require.

Upon presentation of these reduction options, your Board requested that we do outreach on the proposed new schedule and other reduction options such as the WiFi service. We immediately went to work on that request.

SURVEY RESULTS:

Within days of your meeting, we quickly prepared and distributed a survey to provide the public with an opportunity to hear about the reductions that SMART is considering and to receive input. We will have a complete presentation for you at our meeting, because the survey is still ongoing and will not be complete until Sunday May 17th. The survey was widely distributed and we are receiving good feedback.

Although we do not yet have complete survey results, we can share with you some preliminary results from the more than 2,700 responses so far.

Who responded to the survey?

- 75% of respondents have traveled on SMART (38% are regular weekday riders)
- 25% of respondents have never traveled on SMART

SMART riders on Elimination of WiFi

- 90% said the elimination of WiFi would NOT factor into their decision to ride SMART
- 57% were not willing to pay for WiFi service. (90% said they would either use their own data plan (64%) or create a personal hotspot (27%) to access the internet. Only 7% reported that data limits would prevent them from accessing the internet
- 30% would be willing to pay a $1 - $2 fee per use for onboard WiFi

SMART riders on the Elimination of Weekend Service

- 22% reported they ONLY ride SMART on weekends
- 37% reported they only ride on weekdays, and this change would not impact them
- Weekend and leisure riders who frequently take SMART would no longer have a use for the service if weekend service were to be eliminated.
- Respondents also expressed that the weekend schedule did not fit their needs. The majority of these comments suggested weekend schedule changes such as:
- Earlier and Later Weekend Service, with fewer mid-afternoon trips.
- Eliminating one, but not both, weekend service days. Example: Saturday only service

- Another common theme was the need for weekend service for recreation, events, cycling, tourism, and business. Riders were anticipating taking SMART more frequently, noting that the connection to the Larkspur Ferry increased their desire to ride.

SMART riders on the Weekday Service Reductions

- Only 50% weekday riders found the proposed weekday schedule to be acceptable for their commute needs.
- Respondents frequently cited the need for:
- Earlier morning trains for both southbound and northbound commuters
- Later evening trains for both southbound and northbound commuters
- Trains that accommodated school commuters
- Maintaining a schedule that synced with the Larkspur Ferry

Again, we will have more complete survey results for you by the end of Monday and will post those results on SMART website.

BUDGET IMPLICATIONS:

Our policy question is this: How quickly do we move to implement the next "bucket" of reductions? How many of those reductions should we implement right away? We have direction already to implement our first two "buckets" of reductions in the budget. However, we have imperfect information about the length and impact of the health and economic crisis. We do not know how deeply we need to cut in the long run.

In trying to answer this policy question there are three important factors that argue for a more measured approach to this moment in our decision making.

1. Federal CARES Act Funding:

We are very fortunate that we will be receiving substantial funds from the Federal government that will help us to close immediate revenue gaps. Assuming the Metropolitan Transportation Commission (MTC) allocates the remaining 31% of CARES Act funds using the same formula that they agreed to with the 25 General Managers of the Bay Area transit services, our share would be $16.9 million in funding. This can support the equivalent of our full operating costs for 6 months.

Having these funds allows us time to determine the true impact of the shelter in place order on the sales tax and make better projections into future years.

2. Implications of Staff Layoffs: As we discussed in our May 6 meeting, we do not believe that it serves our riders and the public to react too quickly by laying off good employees that we discover 6 months later we needed to keep. Eventually the public will return to work and our ridership will ultimately begin to return, even if the timing of that is uncertain. Ramping up service requires trained, qualified employees which, as you know, takes significant time. So, although we have the ability to make drastic cutback decisions at any point, there is a human toll and a long-term strategic risk to our future sustainability.

3. Year-Round Budget: Finally, although we are required to adopt a budget by June 30th, we will not be stopping the budget process on July 1. After July 1 we will be getting more information on quarterly sales tax, more information on the economy reopening, and seeing if our budget needs to be corrected. Every service, business, government and individual will be doing the exact same thing seeing where we are and readjusting to the conditions on the ground.

In the face of these three important considerations and the survey results we have presented to you, the policy decision before the Board is what our ultimate service schedule will look like when we are fully functioning? Do we make significant service cut assumptions now, or do we wait?

There is no crystal ball that will tell us what level of reductions will be needed in the long run. Given the uncertainty of sales tax impacts over the next two to four years and our previously identified structural deficit, it would be prudent to make some assumptions of a reduction in full service now. It would also make planning more clear for our staff and our riders.

The cutback scenarios we presented to you at your May 6 meeting all involve layoffs that we might need to implement at some time in the coming months or beyond. However, given the significant CARES Act funding we expect to receive, the difficulty of replacing skilled employees who have been laid off, and our ability to review our decision making at any time, we would like to suggest an alternative fourth "bucket" for your consideration.

We have the option of choosing to look at a smaller reduction in service that would result in restoring an extra train at the beginning and another one at the end of the work day in response to the public input. This would achieve two goals: First it would respond to the survey results we have received to date about and earlier and later train option. Second, it could be accomplished without staff layoffs. We would be able to make reductions using attrition and the deletion of vacant positions.

In this scenario, SMART would run a "6-1-6" schedule, which means six morning runs, six evening runs and one midday run, for a total of 26 runs on the weekday. Our projection of the savings associated with that service are $1.1 million. For now, we would not assume any cuts to the weekend. We would defer that decision to later in the year after our revenue picture is clearer. We would continue not running weekend service until the shelter-in-place is lifted and weekend ferry service is restored.

Based on the reduction decisions we have made so far, and this additional $1.1 million reduction associated with running 26 trips on weekdays, we believe we could maintain that new level of service utilizing the CARES act funding and our unallocated fund balances for several years without dipping into the minimum $10 million operations reserve your Board agreed on.

This policy choice could be implemented in the budget that we present on June 3 for your further discussion and public input. The budget will then be adopted on June 17th at your last meeting before the end of the Fiscal Year.

Again, that would only be the beginning of the process for our management of this crises. We will continue to monitor and examine the revenues and we will know more in July than we do today about sales tax receipts for the April, May and June quarter. We will also continue to engage MTC on the disbursement of the CARES Acts funds we have yet to receive. In whatever scenario we choose and reductions we implement, we will return in the coming months to report on our findings and whether our assumptions and decisions should be revisited.

Very truly yours,

/s/
Farhad Mansourian
General Manager