

BOARD OF DIRECTORS MEETING AGENDA June 17, 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 16, 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 June 3, 2020 Board Minutes
- 3. Board Member Announcements
- 4. General Manager's Report
- 5. Public Comment on Non-Agenda Items

Consent Calendar

- 6a. Accept Monthly Ridership Report- May 2020
- 6b. Accept SMART's Annual Report 2019

Regular Calendar

- 7. Approve a Resolution re-establishing a second Petaluma Station at Corona Road and N. McDowell Boulevard in Petaluma; Authorize using the \$8 million proceeds from the sale of the Downtown SMART property to fund the design and construction of second station; Authorize the General Manager to enter into a related agreement with the City of Petaluma regarding the Corona station project and Downtown Depot lease and authorize the General Manager to issue a Change Notice Proposal to existing Systems and Civil construction contractors
- 8. Approve the Resolutions to Adopt the Revised Fiscal Year 2019-20 Budget, the Fiscal Year 2020-21 Proposed Budget Including Annual Position Authorization and the Investment Policy for Fiscal Year 2020-21 and Ratifying the Annual Appropriation Limit for Fiscal Year 2020-21
- 9. Authorize the General Manager to Execute Seven (7) Consultant Contract Amendments totaling \$417,000 as needed to Fiscal Year 2020-21
- 10. Authorize the General Manager to Execute Contract Amendment No. 9 with SPTJ Consulting for Information Technology Services in the amount of \$340,470 for a total not-to-exceed amount of \$1,979,601
- 11. Authorize the General Manager to Execute Contract Amendment No. 9 with Hanson Bridgett LLP for legal support services in the amount of \$100,000 for a contract not-to-exceed amount of \$650,000
- 12. Authorize the General Manager to Award an On-Call Service Agreement for Biohazard Remediation with Environmental Logistics, Inc. and American Integrated Services, Inc. each in the amount of \$150,000
- 13. Approve Resolutions Authorizing the Submittal of State Transit Assistance Fund Claims to the Metropolitan Transportation Commission and the Submittal of State Rail Assistance Fund Applications to the California State Transportation Agency
- 14. Authorize the General Manager to Execute Contract No. CV-PS-19-001 with GHD, Inc for Engineering Design and Support Services Petaluma, Penngrove, and Santa Rosa Various Non-Motorized Pathway Segments for a total contract amount of \$949,138
- 15. Authorize the General Manager to Enter into Purchase Agreement with the Laguna Valley Mitigation Bank for the purchase of 2.2 acres of seasonal wetland mitigation credits in an amount not to exceed \$275,000
- 16. Next Regular Meeting of the Board of Directors, July 1, 2020 1:30 PM
- 17. 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 Irosasmendoza@sonomamarintrain.org or submitted by phone at (707) 794-3072. Requests made by mail SMART's, 5401 Old Redwood Highway, Suite 200, Petaluma, CA 94954 must be received at least two days before the meeting. Requests will be granted whenever possible and resolved in favor of accessibility.



BOARD OF DIRECTORS REGULAR MEETING MINUTES June 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

1. Call to Order

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

2. Approval of the May 20, 2020 Board Minutes

MOTION: Director Phillips moved approval of the May 20, 2020 Board Minutes. Director Naujokas second. The motion carried 12-0.

3. Board Members Announcements

Director Rabbitt stated that the Blue-Ribbon Committee held its meeting to discuss the second round of CARES Act fund distribution. No official action was taken, the first course of action is to distribute the first round of funds, they hopefully will be following a similar mythology going forward.

Chair Lucan stated that he spoke with Citizens Oversight Committee Chairman Colombo last week. The Committee has had a couple of meetings with good participation and discussion. The Citizens Oversight Committee members expressed that they would like the Board to provide direction and roles to their members; Chair Lucan mentioned that once, we get through the budget and have higher level discussions that were identified after Measure I campaign, will be a good time to discuss the roles and provide direction to the Committee.

Director Arnold stated that this is a perfect or time for the Board Chair to appoint a subcommittee to meet with the Citizens Oversight Committee members and return to the Board with recommendations once the COVID-19 is over.

4. General Manager's Report

General Manager Mansourian reported that since the start of passenger service in August 2017, SMART has carried 1,874,000 passengers, 185,000 bicycles, and over 7,000 wheelchairs. He continues to distribute weekly ridership data that it is available on SMART's website. Ridership continues to slowly increase as more business continue to open.

He announced that the House Transportation and Infrastructure Committee Chairman, Rep. Peter DeFazio, unveiled a five-year surface transportation authorization bill "2020 Invest in America Act" The bill proposes includes, \$105 billion for transit, \$319 billion for highways, and \$60 billion for rail. The total amount would be a 43 percent increase over current funding. The bill would also provide \$83 billion in FY 2021 for COVID-19 response and recovery, with the federal share for these funds being 100 percent. The bill does not identify the source of the funds needed. Once the bill is public, the Committee discusses its schedule, and we have a chance to digest it, we will begin discussions with the Board about how we should respond.

General Manager Mansourian stated that on Monday, June 1st, the City of Petaluma Council approved an Agreement with the Developer for the Corona Station construction. Staff will bring an Agreement to your Board for approval at the June 17th Board meeting.

General Manager Mansourian stated that he has been participating with the Marin Recovers Task Force (<u>www.marinrecovers.com</u>) to create a plan for a safe reopening of Marin County. The task force consists of the following: Marin Transit, Golden Gate Bridge and Transportation and Ferry, Transportation Authority of Marin, Uber, Lyft, Taxi's, Airporters and others. They have prepared plans for safety measures for reopening of each sector and submitted to County for internal process. Mr. Mansourian will bring it back to the Board for further discussion and direction.

General Manager Mansourian said conversations continue at the National and State level about how transportation agencies need to comply with social distancing when the shelterin-place order is lifted. SMART has provided recommendations on social distancing to the County Health Department. Once there is a plan available, he will bring it back to the Board for further discussion and direction.

Comments

Director Arnold stated that it is great news to hear about potential funding and asked about the chances of passing. Mr. Mansourian responded that SMART Lobbyist mentioned that the House Representatives are very much on top of this, however the Senate is more problematic.

5. Public Comment on Non-Agenda Items

Richard Brand said "I am sorry of what's going on in Santa Rosa" to Director Rogers. He said that at the last meeting there was a lot of discussion regarding SB 1029 and he asked if SMART met the deadline to acquire the property by June 1st, since it was not addressed in the General Manager's Report. There were a lot of attendees and participation at the April's Citizens Oversight Committee meeting. The May Citizens Oversight Committee meeting had less attendees and suggested having it at another time where more public can attend/participate.

Duane Bellinger stated that Measure Q passed with the support of various groups. He mentioned that Windsor is a pedestrian orientated community, City of Santa Rosa and City of Rohnert Park are in the planning process, Petaluma Downtown has plenty of acreage and Petaluma North, the voters have set aside 90-acres. Based on the contract with City of Petaluma, the leadership of SMART is not in support of a pedestrian orientated community. The citizens of Petaluma were so alienated that the voted No on Measure I, which is 1/3 loss of the base in East Petaluma. Doing it right is necessary to have a survival rail system for Sonoma County, he added.

Sheila Baker stated that she took the train for the 3rd time since shelter-in-place, and she had a pleasant ride. Due to the revised schedule she took the Golden Gate Bus and was not pleasant experience.

Ben Peters stated the survival of SMART will not pass without the tax measure, and the citizens of Petaluma will not approve the tax unless they have a seat on the SMART's Board of Directors. Again, the City of Petaluma needs a seat on SMART's Board of Directors. On Monday, June 1st the City of Petaluma Mayor, at the Petaluma City Council meeting made some specific comments on the difficulty in negotiating with SMART. He strongly encouraged every Board member to view the City of Petaluma Council meeting video. He would like Director Rabbitt to address/respond to the comments. What is being characterized by Director Rabbitt and General Manager Mansourian is not what the citizens and Mayor are saying. He urged the Board to watch the video and for it to be addressed at the next SMART Board meeting.

Jim Schmidt voiced his concerns regarding the level of train service, operations, cost measures. SMART's purpose is to provide effective transportation service for Sonoma and Marin travelers.

Patricia Tuttle Brown stated that she would like her public comments submitted to the Citizens Oversight Committee meeting to be submitted to your Board. She would like to be appointed as a member of the Citizens Oversight Committee. At a previous Board meeting there was a discussion about adding eyes to the Citizens Oversight Committee. As Citizens Oversight Committee Chairman Colombo stated that their primary role is to review and update the Strategic Plan, however the focus has not been the entire packet that is in the Strategic Plan but just the financial aspect. She has been involved with the train since 1990's

and is a huge supporter. There needs to be a vision where people can be inspired again just like Measure Q and she is willing to help.

Mike Pechner stated that there is an error in the minutes (pg. 6 of 15) regarding the spur into Lagunitas, the spur has not been placed. The tanks cars at Schellville are an integral part of the NWPCo financial picture. If the Board decides not to store tank cars at Schellville that will impact the financial ability of NWPCo to survive under SMART.

Chair Lucan stated that as far as the comment from Mr. Pechner, he read the section of the board minutes and it simply says....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 the spur was added for them to receive their shipment via freight, the cost of the spur was paid by NWPCo. and he does not think it needs to be changed.

Mr. Mansourian responded to Mr. Brand's comments regarding freight. At the last meeting the Board made a policy decision in a timely manner and now enables the process with the State of California, NCRA, NWPCo. and STB, which will take many months to complete.

Lastly, Mr. Mansourian mentioned that Mr. Schmidt's statement was incorrect. He is happy that Patricia Tuttle Brown is willing to help SMART. He thanked Ms. Baker for continuing to ride the train.

Director Phillips asked the status of the June 1st deadline for SB 1029 project. Mr. Mansourian responded and clarified that the additional \$2 million out of the \$10 million needed for maintenance, expires on June 30th not June 1st. SMART's District Counsel and himself continue to work with the State of California to secure the funds.

- 6. Consent
 - Authorized 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

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 Rabbitt second. The motion carried 12-0.

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

Procurement Coordinator, Ken Hendricks, stated that this equipment is an essential emergency response toll designed for rerailing Diesel Multiple Units. This equipment can be deployed quickly and safely to the field to re-rail SMART's equipment. -This purchase is

included in Fiscal Year 2020 Budget and funded through state and federal grants.

Due to the highly technical nature of this specialize equipment, SMART issued a Request for Proposal. SMART received a total of three (3) Proposals from the following vendors: 1) Gensco America, Inc.; 2) Railquip, Inc.; and 3) Sustainable Earth Industrial, LLC. SMART' Evaluation committee reviewed the three proposals using the evaluation criteria, including technical and initial cost Railquip, Inc. proposal was deemed to be the best value to the District.

Staff recommends authorizing the General Manager to approve a Purchase Agreement to Railquip, Inc. to purchase the Portable Hydraulic Rerailing Equipment in the amount of \$147,721.73 and to approve the 2/3rd procurement process.

<u>Comments</u>

Laura Effel asked for the ranking criterial for the vendors. Mr. Hendricks responded that evaluation criteria included technical and operational features, safety features, and initial cost of equipment.

Mike Pechner asked if the equipment can be used on freight train/equipment. Mr. Hendricks responded yes.

MOTION: Director Zane moved to Authorize the General Manager to Award a Purchase Agreement for Portable Hydraulic Rerailing Equipment to Railquip, Inc. in the amount of \$147,721.73 as presented. Director Hillmer second. The motion carried 12-0

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

Chief Financial Officer, Erin McGrath acknowledged Fiscal Manager, Katye Roa, Operations Managers, Grants Manager, Procurement Manager and Chief Engineer for working on various saving scenarios for the budget.

Ms. McGrath provided a PowerPoint presentation, which is on SMART website. She reviewed: 1) Review Fiscal Year 2019-20 budget; and 2) The proposed Fiscal Year 2020-21 budget that represent each department (Administration, Capital and Operations). She stated this is an opportunity to ask questions and provide feedback before the Board adopts the budget in June. Highlights included in the report are as follows:

- Overview
 - o Introduction
 - Revenue and expenditure assumptions
 - Summary of Fiscal Year 2019-20 anticipated year end
 - Proposed Fiscal Year 2020-21 Administration, Capital and Operations
- Budget Approval Review and Approval of two years
 - Fiscal Year 2019-20 Year End
 - Fiscal Year 2020-21 Proposed Budget
 - o For three departments: Administration, Capital and Operations

- Revenue Projections
 - Full Cares Act Funding \$16.9 million (crucial to weathering this financial crises)
 - Sales Tax Impacts Using the same sales tax projections that SCTA utilizes (HDL). She illustrated a chart.
 - -15% for FY 20 and -18% for FY 21
 - \$33.6 million in FY 20
 - \$33.0 million in FY 21
 - Second Quarter of 2020 (April-June) will not be analyzed until late August
 - State has provided various extension
 - o Next Steps
 - Confirm final CARES Act Amount
 - Sales Tax Impacts quarterly filing due July 31st and data available late August
 - o Fares
 - \$3.1 million is projected for Fiscal Year 2019-20, which is a reduction of 25% over budgeted amounts
 - \$2.6 million is anticipated for Fiscal Year 2020-21 and drop another 15%
- Expenditure Projections The goal is to have prudent reductions that allow SMART to keep train service intact
 - One-Time Savings: \$3.5 million total
 - Reduction in Ongoing Contract Expense: \$2.6 million
 - Reduction in Service Schedule: \$1.1 million
- Reserves and Fund Balances
 - o Proposed budget provides necessary reserves an unallocated fund balance
 - Fiscal Year 2020-21 ending Agency Reserve achieves minimum amount of \$10 million
 - o Additional unallocated fund balance available for any use of \$17 million
 - o Self-insured retention: Liability deductibles
 - Equipment sinking fund: revenue and non-revenue vehicles
 - Post- employment pension costs: to reduce future liabilities and operating costs
- Fiscal Year 2019-20 Year End
 - Sources increase from \$95 million to \$101.6 million
 - Capital shifts and new funding for capital projects
 - Loss of fare and sales tax
 - Reduction in use of fund balance from \$20 million to \$14.6 million
 - Uses (expenses) also \$101.6 million
 - Capital project cost shifts from prior year
 - Other projects added
 - Expense reductions for one-time savings incorporated
 - Starting fund balance
 - Increased \$11.9 million due higher year end revenues higher, salary savings from vacant positions, consultants and capital project savings
- Proposed Fiscal Year 2020-21 Budget

- Total Proposed Sources \$78.7 million
 - Federal funds 17 %
 - Other Grants, Govts. 6%
 - Use of Fund Balance 10 %
 - Sales/Use Taxes 42%
 - Interest and Other Misc. 1%
 - Fare and Parking Revenue 3%
 - State Operating Assistance 8%
 - State Capital Grants 13%
 - o Total Proposed Uses \$78.7 million
 - Construction Debt Service 21%
 - Administration 14%
 - Capital Projects 31%
 - Operations 34%
- Expenses by Category Proposed Fiscal Year 2020-21
 - Administration \$27.6M (\$1.6 million lower than FY 2019-20) Details shown on Table 2
 - Deletion of three vacant positions
 - Contract reductions as outlined for various expenses such as lobbying, information technology, supplies
 - Elimination of prior year one-time costs for ballot, opening of two new stations
 - Assumption of construction debt savings \$1 million
 - Capital \$24M (\$20.6 million less than prior year)- Details shown on Table 3
 - Includes increased Windsor project activity
 - Design and permitting for the Sonoma County Pathway
 - Pedestrian and crossing safety enhancements
 - Final milestone payments for rail cars
 - Smaller maintenance projects for bridges, culverts, other necessary annual repairs
 - Elimination of 4 vacant positions, not funded or needed for projects
 - Operations \$27.1M (decrease of \$595,539) Details shown on Table 4
 - Savings associated with resumption of 26 weekday trips rather than 38
 - Elimination of contracts such as WiFi, Customer Service
 - Cost increases for union wage agreements, health care and CalPers rates
 - Position Authorizations Details shown on Table 5
 - Total Authorized Full Time Equivalents: 136.5
 - Reduction of Seven vacant, funded positions in Administration and Operations
 - Reduction Six capital project positions, vacant and unfunded for project needs
 - Salary changes for union-contracted increases

- Ending Reserve
 - Agency Reserve: \$10 million per Board policy
 - Unallocated Fund Balance: \$17 million (assumes projections are met for revenues)
 - Special Purpose Reserves:
 - \$1.9 million Self-insured retention
 - \$7.6 million Equipment Sinking Fund
 - \$2.0 million Post-Employment Liability
 - All reserves will be needed to weather what will likely be at least a continuing two-year impact on our revenues from COVID-19

<u>Comments</u>

Director Phillips thanked Ms. McGrath for the report. He asked/commented the following: 1) could we incorporate Marin County sales taxes and fine tune the sales tax projection; 2) he suggested incorporating a duration on the reduction of revenue; 3) when will the debt reduction of \$1 million be consummated; and 4) will a reduction of train service from San Rafael to Larkspur save on operating revenues. Ms. McGrath responded that she uses the Sonoma County Sales Tax forecast more since it makes a bigger portion of the sales tax and she is coordinating with the HDL forecast for Marin. The length of the shutdown and how far out sales tax losses shall be projected, there is no answer. One good practice for the Board is to review the budget in a couple of months. She has been working with PFM on the debt refinancing contract and Request for Proposal and to be completed by September. There is minimal cost running between San Rafael and Larkspur.

Director Rogers asked if the position reductions that are proposed in the budget require a renegotiation and/or met or confirm with labor negotiations. Mr. Mansourian responded no, as they are vacant positions, however the Human Resource Manager has notified the affected Unions. Director Rogers asked if any of the positions are being appealed or in the process and how would that impact SMART to eliminate the position. Mr. Mansourian responded that the positions have gone through the final appeal process and the vacancy are final according to existing Memorandum of Understanding with Unions. If they move forward in a future scenario like arbitration and the positions are restored, they would be place in a position based on seniority.

Director Naujokas asked what expenses were not included in the budget, the status of the Labor Unions discussion for budget savings. Mr. Mansourian responded that the best examples are reduction of weekend service and reduction of train service and layoffs, these were the specific items that were discussed at previous Board meetings and your Board provided direction to staff. SMART's labor negotiations team have met with the Labor Unions and continue to correspond on cost saving measures; however, they have not been agreeable to defer the cost of living adjustment, which is approximately \$370k for Fiscal Year 2020-21. Director Naujokas asked for clarification on the Post-Employment pensions costs. Ms. McGrath responded is to minimize our future liabilities for pension cost and retiree medical

cost that we are currently handling on a pay as you go basis. Director Naujokas suggested evaluating the fare structure policy to encourage riders and provide incentives. Mr. Mansourian responded that once the COVID–19 regulations for transit agencies are released it would be the opportunity for the Board to have a discussion on the following: How to deal with demand with social distancing requirement and how to attract more riders. He will coordinate with Chair Lucan and Vice-Chair Pahre for a future Board meeting.

Director Zane stated that she concurs with Director Naujokas's comments regarding the fare structure policy. She voiced her concerns regarding the reduction of train service during commute hours. Mr. Mansourian responded that at your last Board meeting a revised train schedule was presented based on the survey that was conducted. SMART will continue to monitor, since patterns are going to continue to change, once shelter in place is completely lifted and we need to be flexible and adaptable. She thanked staff for working on this.

Director Arnold stated that she meets with County Department managers monthly, this last month they have said that their employees really enjoy working from home. They are considering alternative schedules for employees.

Vice Chair Pahre stated she is a policy person instead of a micromanager and said that as a Board we are responsible that our organization maintains its function as part of a regional group, that means we try not to make decisions its own but in region group. Once COVID-19 is over people are not going to jump back to public transportation. We are going to have to win them back and they are going to be concerned about how safe they are going to be. SMART has provided videos and pictures of maintenance staff cleaning the trains. She suggested that SMART continue to retain the vision as a region. It is good that SMART is planning post-retirement. We as the Board need to be accountable for reviewing the budget every 3 to 6 months.

Chair Lucan stated that there are so many unknows factors about the riding public transportation, people working from home, and people driving since there will be less people on the freeway. He asked when will it be a good opportunity to review the adopted budget, monthly, quarterly, or 6 months. Ms. McGrath responded that best practice would be to review quarterly and that the Board will receive monthly financial reports or more frequently reviews if the Board desires. Chair Lucan asked for clarification on vehicle sinking fund. Ms. McGrath responded that \$1.5 million is set for non-revenue vehicles, \$1.5 million is for the Sumitomo settlement and the remainder is to catch up and set aside funds. We are beginning to set up for life cycle deposits. Mr. Mansourian said that the first 14 vehicles that were received have over 200,000 miles on them, and we need to be in a position to repair the vehicles.

Public Comment

Aleta Dupree stated that this good base report and looks forward into refining into final budget. She thanked the organization for keeping fares stable during these times and an example of leadership is being set. SMART needs to be more creative to have more people

ride the train and get more interest. She appreciates that the budget does not sacrifices safety and continues to be one of the safest railroads. She thanked staff for continuing to work with Clipper and Mobile App to be more efficient with fares.

Sheila Baker stated that she always has a wonderful experience on the train. She did not have a pleasant experience on a regional bus. She urged staff continue to monitor the schedule for riders.

Mike Arnold stated his comments are tied to the memo he submitted: 1) staff proposes to operate and run the agency in the red and continues to run in the red, reducing its financial reserves to finance the deficit; 2) the CDFTA has already posted allocation through May 2020 and shared the information to the Board Chair and former Chair, those allocations indicated that SMART has more allocation than being forecast as revenue for Fiscal Year 2019-20, and several million dollars are not being reported; 3) the budget does not provide a ridership forecast; 4) given that there are different operating expenses associated with operating 16 trains vs. 26 trains, it needs to be addressed in the budget when the 26 train will operate; and 5) the budget does not outline freight cost.

Steve Birdlebough said that he appreciates that SMART is working on unfamiliar territory and the needs to be very flexible. He is researching how long will it take for people to return to the normal and there are various estimates. There are important issues that will need to be discussed/reviewed/resolved in the next few months.

Chair Lucan stated that this is a review of the proposed budget and approval at the next Board meeting.

Ms. McGrath stated that it is important to clarify an accusation of concealing revenue made during public comment. It is very important to understand that sales tax revenue is delayed when they are paid at the retail establishments. Is very ironic, for many years, SMART has been accused of over estimating revenues and now we are accused of under estimating revenue. SMART does receive a sales tax check monthly from the State of California, which is called allocation but has nothing to do with the month is associated with. For example, we have received a total of \$34 million through April, however only \$27 million is associated to Fiscal Year 2019-20. What is seen in the Monthly Financial Reports and the Budget reflect the actual sales tax that we anticipate receiving in the fiscal year and budget.

Chair Lucan asked for Board comments, hearing none he stated there is general consensus to move the budget forward.

Director Rabbitt he appreciates staff work and the briefing that was provided. This is going to be a process through our budget cycles especial during these difficult times.

Director Fudge thanked Ms. McGrath for the comprehensive report especially the PowerPoint presentation. She concurs with Director Naujokas about being flexible and

creative with SMART Fares.

Lastly, Chair Lucan extended his appreciation to the amazing team and all the hard work that has been done to prepare the report.

- 9. Next Regular Meeting of the Board of Directors, June 17, 2020 1:30PM
- 10. Adjournment Meeting adjourned at 3:34PM.

Respectfully submitted,

Leticia Rosas-Mendoza Clerk of the Board

Approved on:



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954

SUBJECT: Monthly Ridership Report - May 2020

Dear Board Members:

RECOMMENDATIONS: Information Item

SUMMARY:

We are presenting the monthly ridership report for activity for the month of May 2020. This report shows trends in ridership for SMART by tracking Totals, Average Weekday riders, and Average Weekend/Holiday riders via the two methods we employ to track riders on a daily basis: Onboard Counts and Clipper + Mobile App paid fares. The report details bicycles and wheelchairs counted as well.

As discussed in prior presentations to Your Board, both methods of counting are necessary to track progress. Onboard Counts capture all riders, including the riders who are riding during the Free Fare Days or Free Fare Programs offered by Your Board, riders with passes who neglect to tag on or off, as well as categories of riders such as children under five years old. Therefore Clipper + Mobile App paid fare reports do not capture all riders.

This and future reports will compare the most recent month to the same month during the prior year, as is standard industry practice for tracking trends over time. The report also shows progress so far in the Fiscal Year compared to the same time in the last Fiscal Year, to enable tracking of riders relative to budget expectations.

SMART's rider data for April 2020 was posted on the SMART Ridership web site (<u>http://sonomamarintrain.org/RidershipReports</u>) and SMART's May 2020 data will be posted once validated.

The May 2020 report covers the slow increase of riders returning to SMART as Bay Area Counties lift their Shelter-In-Place restrictions and begin to phase the opening of restaurants, retail shops, offices, and other places of work. In response to the pandemic, SMART annulled service on weekends starting March 21 and reduced weekday services, first from 38 to 34 trips, then to 32 trips and, starting April 6, reduced weekday service to 16 trips.

FISCAL IMPACT: None

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

Very truly yours,

/s/ Joanne Parker Programming and Grants Manager

Attachment(s): May 2020 Monthly Ridership Report

MAY 2020 SMART RIDERSHIP REPORT

COVID-19 related public health orders to Stay at Home in May 2020 have slowly begun to be lifted in phases in the Bay Area. As a result of more restaurants, retail shops, offices, and other places of work reopening, SMART, along with other Bay Area Transit Agencies, has seen a slight increase in ridership compared to the previous month of April.

SMART modified services in March 2020 due to the pandemic, with weekend service annulled starting March 21/22 and weekday service reduced first by 4 trips (down to 34) on March 23rd, then by another 18 trips, (down to 16), on April 6. The week of May 6-10 saw a weekday average ridership of 249. That figure increased 35% to 336 average weekday riders during the first week in June.

For the first eleven months of Fiscal Year 2020 (July 1 – May 31), SMART's total ridership, including during the COVID period, is down 15% overall. Fare payments through the Clipper and SMART App systems are down 23% in Fiscal Year 2020, due to the COVID-related ridership losses and a variety of Free Fare days and programs offered in Fiscal Year 2020. Weekend/Holiday ridership, not including weekends after March 14-15 due to COVID-related service annulments, is up 4% from Fiscal Year 2019. The Weekender pass celebrating the Larkspur Extension and Veteran/Military Free Veterans-Memorial weekends have contributed to a 7% decrease in fare collection on Weekends/Holidays in FY 2020.

| MONTHLY TOTALS YEAR-OVER-YEAR | May 2019 | May 2020 | % Change |
|--|--|--|-------------------------------------|
| Total Ridership (Onboard Counts) | 64,036 | 5,308 | -92% |
| Total Paid Ridership (Clipper + App Only) | 57,161 | 4,368 | -92% |
| | | | |
| Average Weekday Ridership (Onboard Counts) | 2,534 | 265 | -90% |
| Average Weekday Paid Ridership (Clipper + App Only) | 2,292 | 247 | -89% |
| | | | |
| Average Weekend/Holiday Ridership (Onboard Counts) | 921 | 0 | -100% |
| Average Weekend/Holiday Paid Ridership (Clipper + App Only) | 750 | 0 | -100% |
| | | | |
| Total Bikes Onboard | 6,755 | 1,297 | -81% |
| Total Wheelchairs Onboard | 166 | 14 | -92% |
| | | | |
| | | | |
| | First 11 months | First 11 months | |
| FISCAL YEAR-TO-DATE | FY19 | FY20 | % Change* |
| Total Ridership (Onboard Counts) | FY19 661,147 | FY20 558,717 | -15% |
| | FY19 | FY20 | |
| Total Ridership (Onboard Counts) | FY19 661,147 | FY20 558,717 | -15% |
| Total Ridership (Onboard Counts) | FY19 661,147 | FY20 558,717 | -15% |
| Total Ridership (Onboard Counts) Total Paid Ridership (Clipper + App Only) | FY19 661,147 595,831 | FY20 558,717 457,070 | -15% -23% |
| Total Ridership (Onboard Counts) Total Paid Ridership (Clipper + App Only) Average Weekday Ridership (Onboard Counts) | FY19 661,147 595,831 2,432 | FY20 558,717 457,070 2,084 | -15% -23% -14% |
| Total Ridership (Onboard Counts) Total Paid Ridership (Clipper + App Only) Average Weekday Ridership (Onboard Counts) | FY19 661,147 595,831 2,432 | FY20 558,717 457,070 2,084 | -15% -23% -14% |
| Total Ridership (Onboard Counts) Total Paid Ridership (Clipper + App Only) Average Weekday Ridership (Onboard Counts) Average Weekday Paid Ridership (Clipper + App Only) | FY19 661,147 595,831 2,432 2,236 | FY20 558,717 457,070 2,084 1,755 | -15% -23% -14% -22% |
| Total Ridership (Onboard Counts) Total Paid Ridership (Clipper + App Only) Average Weekday Ridership (Onboard Counts) Average Weekday Paid Ridership (Clipper + App Only) Average Weekend/Holiday Ridership (Onboard Counts) | FY19 661,147 595,831 2,432 2,236 948 | FY20 558,717 457,070 2,084 1,755 988 | -15% -23% -14% -22% +4% |
| Total Ridership (Onboard Counts) Total Paid Ridership (Clipper + App Only) Average Weekday Ridership (Onboard Counts) Average Weekday Paid Ridership (Clipper + App Only) Average Weekend/Holiday Ridership (Onboard Counts) | FY19 661,147 595,831 2,432 2,236 948 | FY20 558,717 457,070 2,084 1,755 988 | -15% -23% -14% -22% +4% |

The total number of bicycles onboard for the Fiscal Year-to-Date is nearly identical, though the percentage of riders bringing bicycles onboard grew from 11% in May 2019 to 24% in May 2020.

*NOTES: COVID-19 Stay at Home Orders issued third week of March 2020. SMART annulled services starting March 21. SMART experienced similar ridership reductions to other transit systems in the Bay Area and Nationally. Free fare days and free fare programs offered in Fiscal Year 2020 also contributed to lower Clipper + App numbers than Fiscal Year 2019.



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954

SUBJECT: Annual Report 2019

Dear Board Members:

RECOMMENDATION: Receive Report

SUMMARY:

Attached for your review is SMART's Annual Report for 2019, which provides an overview of our activities during the year and a brief financial summary of Fiscal Year 2018-19. This complements our other public reports, including the Comprehensive Annual Financial Report, the monthly General Manager Reports, the Annual Budget and your Board's monthly financial reports. The Annual Report is designed for members of the public who may not have time to listen to or attend monthly Board meetings but are interested in the activities of the District over the past year.

The report this year provides a broad narrative of the activities in 2019, which included significant challenges and achievements. Chief among them are the opening of the Larkspur and Downtown Novato stations as well as pathway extensions in Novato, Petaluma and San Rafael. The report also details important activities of our operating and other departments, our outreach and safety efforts, and our ongoing capital projects.

At the end of the report, we provide excerpted financial summaries of our Fiscal Year 2018-19 revenues and expenditures. While more detailed information on SMART's spending is provided in our budget reports and in our 2019 Annual Comprehensive Financial Report, this report includes easy to digest high level information only making it a useful document to share with our funding partners, interested constituents and others in the rail industry.

Very truly yours,

/s/ Erin McGrath Chief Financial Officer

Attachment(s): Annual Report 2019



2019 Annual Report



Fiscal Year 2018-2019

5401 Old Redwood Highway | Suite 200 | Petaluma, CA 94954 SonomaMarinTrain.org Page 18 of 270

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About the Sonoma-Marin Area Rail Transit District (SMART)

Sonoma-Marin Area Rail Transit (SMART) is the Bay Area's newest passenger rail service providing a safe, reliable and congestion-free transportation option for Marin and Sonoma counties. The current 45-mile system includes stations in the Sonoma County Airport area, Santa Rosa, Rohnert Park, Cotati, Petaluma, Novato, San Rafael, and Larkspur. SMART's system also includes a bicycle and pedestrian pathway along portions of the rail corridor. SMART is also working toward a new three mile extension and station in the Town of Windsor. Future extensions are planned for Healdsburg and Cloverdale when funding becomes available. The full project will provide 70 miles of passenger rail service, connecting SMART passengers with jobs, education centers, retail hubs and housing along the Sonoma-Marin corridor, and a bicycle-pedestrian pathway.

For more information about SMART and its projects and programs, please visit www.SonomaMarinTrain.org.

2019 BOARD OF DIRECTORS

Gary Phillips, Chair *Transportation Authority of Marin*

Barbara Pahre – Vice Chair Golden Gate Bridge, Highway & Transportation District

Judy Arnold Marin County Board of Supervisors

Damon Connolly *Marin County Board of Supervisors*

Debora Fudge Sonoma County Mayors & Councilmembers Association

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Shirlee Zane Sonoma County Board of Supervisors

DISTRICT MANAGEMENT

Farhad Mansourian General Manager

Erin McGrath Chief Financial Officer

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Message From the Chair of the Board of Directors

On behalf of the SMART Board of Directors, I am pleased to present the 2019 Annual Report, providing the public information about the Sonoma-Marin Area Rail Transit District and our activities in the past year. Although SMART provides numerous reports to the public, such as an audited Comprehensive Annual Financial Report, monthly management and budget reports as part of our regular Board meetings, this Annual Report is designed to encompass information from each of those reports.

We take great pride in providing a safe, reliable transportation alternative to the North Bay. As a result of the voter-approved sales tax, Measure Q, approved in 2008, over 1.7 million riders have been able to leave their cars behind in an effort to join a movement towards a greener commute. Among those who have ridden the train during that time, 164,547 riders brought their bikes on board, and 6,315 riders were able to ride using a wheelchair. The vision of a safe, comfortable and reliable transit system throughout Marin and Sonoma Counties has been brought to life by our dedicated staff who continue to work tirelessly to provide the best possible service to our new customers.

By the end of 2019, we were able to celebrate the opening of two new stations, additional pathways in Petaluma, San Rafael and Novato, as well as begin construction on the Windsor Extension.

On behalf of the SMART Board of Directors, we are pleased to present this report to the public. Your Measure Q tax dollars make this system possible. We look forward to working on continued progress in the years to come.

Sincerely,

Gary Phillips Chair, Board of Directors

Passenger Rail Service

SMART began passenger service in August of 2017, in the short time since then, our community experienced two major wildfires, two large floods, mass evacuations, and power shutoffs lasting many days. The turmoil these events created in people's lives and commute patterns, as well as the loss of 6,000 homes and the significant impact to the local economies of Sonoma and Marin Counties, had a definitive impact on transit in the area. Despite all of these challenges, SMART continued to serve our passengers and support their need for public transportation.

RIDERSHIP

The total ridership for Fiscal Year 2018-19 was 716,847. Wildfires and challenges that occurred in SMART's first year of operations contributed to a 13% growth in ridership the following year. In Fiscal Year 2018-19, the average weekday ridership grew to 2,420, an increase of 7% over the prior year, 69,243 people brought a bicycle on board, and 2,388 people in wheelchairs rode the train.

SMART observed several ridership trends over the year:

- Wednesdays are the highest ridership weekday
- Weekends are lower than weekdays
- Bicycles are carried onboard by approximately 10% of riders



SMART riders at the Petaluma Downtown station

3

Grand Opening of New Stations

In December 2019, SMART proudly marked the grand opening of two new stations. The District organized and hosted the Larkspur Station Ribbon Cutting on Friday, December 13, 2019, celebrating the commencement of passenger service to Larkspur. With the new Larkspur station, SMART now offers a vital connection to the Bay Area for commuters and visitors alike via the Golden Gate Ferry.

Hundreds of people joined the celebration in Larkspur, featuring speakers from the SMART Board of Directors and honorary elected officials. The ceremony included unveiling the Larkspur Station monument sign and was followed by a grand celebration at the Marin Country Mart, featuring live music, food, and festivities.

The following day, on December 14, the City of Novato hosted a ribbon cutting celebration to commemorating the official start of passenger service to the new Novato Downtown station. Hundreds of people joined the festivities in Novato and afterward the crowd awaited the arrival of SMART's festive Holiday Express train.



Larkspur station ribbon cutting celebration



Novato Downtown station ribbon cutting celebration

Operations

2019, was a year of growth and change for SMART Operations. We were getting to know our passengers and they were learning how to ride our trains. With over 100 employees in the Operations Department, we are constantly working to serve the public and make their commutes safe and reliable.

PASSENGER TRANSPORTATION

Our Engineers, Conductors and Supervisors are familiar to the regular riders of the SMART system. They are not only responsible for the movement of people and trains, but the safety of the riding public and the communities we travel through. The SMART staff have first shift beginning the workday at 3:30 AM, and the last shift ending the day at 10:30 PM.

SMART Dispatching occurs 24 hours a day, 365 days a year. SMART Dispatchers are responsible for all on track movements (passenger and freight) on SMART-owned tracks.

In 2019, SMART's Transportation Division was busy commissioning and training staff on two brand new train sets and two new stations. SMART also recruited and filled the 39 specialized positions needed for a 24-hour rail operation. The Transportation Division also completed over 120 trainings and re-certifications.

RAIL VEHICLE MAINTENANCE

Maintenance of SMART's rail vehicles requires expert staff and strict adherence to Federal Rail Administration (FRA) standards. Our team takes great pride in providing the community with a safe, quality product which they can count on.

In 2019, SMART performed three modifications to ensure the Diesel Multiple Units (DMU) remain reliable. The first modification allows the engine transmission to remain reliably functional. The modification required fitting all 19 transmissions with an updated, more robust torque converter. The second modification involved the reversing gear. This modification was needed to prevent unwanted contact of the reversing gear to the gear box wall under normal wear. The final modification involved a second critical replacement of the crankshaft which helped avoid a critical failure while the vehicles are in service. A four-day process for each car was necessary for the removal of the engine and transmission assembly. Despite the disruption to service that these multi-day repairs could have caused, SMART's Vehicle Maintenance Team continued to meet daily service needs without interruptions.



Maintenance being performed on a DMU



Diesel Multiple Unit 110 arrived back at our Rail Operations Center, after a oneyear hiatus for repairs at Alstom repair facility on Mare Island in Vallejo. This was damaged DMU in Santa Rosa, when a box truck driver failed to stop and obey crossing warning gates resulting in a collision. With this DMU back in the service rotation, we were able to activate an extra three car set to service which helped mitigate passenger congestion on trains.

One of the most exciting moments in 2019 was the arrival of a crucial wheel truing machine in our Rail Operations Center. Prior to this addition, SMART's Vehicle Maintenance Team would spend



DMU #110 at Alstom shop

DMU #110 repaired

valuable time and resources removing the DMU wheel sets on a weekly basis and sending them to an off-site maintenance facility in Utah. The wheels require truing at least twice a year to ensure a smooth and safe ride for passengers. SMART's Vehicle Maintenance Team prides itself on high performance and quality rides for our passengers. Our goal is to provide seven train car sets for daily service, and with the addition of the wheel truing machine, we are able to achieve this goal.

FACILITIES MAINTENANCE

The Facilities Maintenance team had a busy year with required maintenance, emergency response, and operations buildings modifications. The Maintenance of Way team facilitated the relocation of the Railroad Square bicycle lockers with our vendor E-Lock. The move was requested by the City of Santa Rosa to accommodate additional parking spaces adjacent to the Santa Rosa Welcome Center. The Facilities Team made improvements to signage and lighting at the Haystack Bridge.

During January, there were 5 separate occurrences of storms causing trees to fall from neighboring properties onto SMART fences. These fences were between the Multi-Use Pathway and the active rail alignment and had



Installation of wheel truing machine

6



Weed abatement with goats

to be repaired immediately to prevent incursion onto the tracks. Several clean-up projects were undertaken at some of SMART's non-operational property locations to improve the general appearance, as well as improve safety and security at the sites, including Healdsburg and Corte Madera.

Four Maintenance of Way employees were hired in 2019, to allow us to keep up with the safety on the tracks, better manage our vegetation control, and the additional maintenance needs of the Larkspur Extension and Downtown Novato station. These two stations added maintenance responsibilities for the pedestrian bridge over Sir Frances Drake Boulevard, the Cal Park Tunnel, two miles of lighted pathway, two passenger platforms, and a parking lot.

TRACK MAINTENANCE

The storms of 2019 posed several challenges for the Track Division due to heavy rains and subsequent flooding. SMART staff assisted the Northwestern Pacific Company with washout repairs on the Brazos Subdivision at Novato Creek adjacent to Highway 37. We provided assistance in rebuilding an embankment that washed out after a levee failure. In late February, the North Bay experienced the second major storm event of the month. SMART was impacted by water as high as six inches over the rails at the Hannah Ranch road crossing in Novato. This caused delays to service as train speeds were reduced at this location. SMART personnel were continuously monitoring conditions at this location and several others throughout the two days of heavy rain. The Maintenance of Way team spent several days cleaning up debris from the track at multiple locations left behind by the storm and high water.

An important aspect of railway maintenance is FRA required annual Automated Inspection of Track Constructed with Concrete Ties. In addition, we tested all passenger routes with an automated inspection vehicle for compliance with FRA geometry standards. This testing was accomplished through the use of a contract vehicle designed and built for this specific purpose. The FRA has a similar test vehicle and SMART hosted a test by the FRA's automated track geometry test car in early March. The main track was successfully tested from the San Rafael station to Airport Boulevard.

In addition to evaluating the track's geometry for compliance with FRA safety standards, SMART completed ultrasonic rail flaw testing for defects on all passenger routes between San Rafael and Airport Boulevard. This test conducts an internal search of the rail for defects and flaws that could lead to rail breaks.



Flooding at Hannah Ranch

Vegetation management and control is a priority for our Track and Facilities divisions. On two separate occasions SMART dispatched a herd of goats to reduce vegetation on our property just north of the Cal Park tunnel in San Rafael. The steep, rough terrain at this site was not suitable for mechanical or hand removal of the vegetation. SMART abates vegetation throughout the growing season and into the late year fire season. This continues into the winter with ditch maintenance to facilitate better water flow from storm runoff.

Managing access to the SMART right of way continues to be a vital function now that trains are operating daily. In 2019, staff worked with and oversaw access across the tracks for a number of special events, including the Windsor Day Parade, the Ironman races in Santa Rosa and the Kaiser Wellness Run in Novato. Close coordination allowing access to SMART right-of-way by Pacific Gas & Electric, Comcast, local cities and counties whose infrastructure cross our property was also a major focus. In 2019, SMART Maintenance of Way issued 394 individual Right of Way Access Permits.

SIGNAL MAINTENANCE

In April, SMART experienced our first signal "knockdown" at Rohnert Park Expressway. A large SUV veered off the road and struck our cantilever signal poles and gate, knocking them both from their foundations. Both devices were damaged beyond repair and had to be replaced. SMART crews, with the assistance of two contractors, were able to replace and test both warning devices in approximately 20 hours. There were also over 20 separate instances of SMART's crossing gate arms being struck by motor vehicles. Some of these resulted in the gate arm needing complete replacement while others only required and adjustment and testing to repair.

The Signal Division completed a project to relocate junction boxes at seven switch locations ensuring ongoing compliance with California Public Utilities Commission walkway requirements. They also replaced the flood damaged power switch machine at the Ignacio switch in Novato.

In addition to completing FRA required monthly, quarterly, and annual inspections of SMART's grade crossing warning devices and train control system, the Signal Team also works diligently on the aesthetics of our signal control houses. Graffiti inspection and abatement is a part of their daily routine.



Signal knockdown at Rohnert Park Expressway

LARKSPUR EXTENSION PROJECT

SMART completed the Larkspur Extension Project with an opening ceremony on December 13, 2019. The opening of passenger service to Larkspur coincided with the new service schedule that went into effect on January 1, 2020.

The Larkspur Extension Project included constructing a new terminal boarding platform in Larkspur, building an adjacent parking lot, constructing two new rail bridges, reconstructing a timber trestle, modifying the San Rafael Transit Center, reconstructing Francisco Boulevard West between Second Street and Rice Drive, outfitting the Cal Park Tunnel with lighting, and utilities and communication systems. The project involved extensive coordination with outside stakeholders such as the City of San Rafael, the Town of Larkspur, the Golden Gate Bridge, Highway and Transportation District, the Federal Transit Administration, the San Rafael Sanitation District, the Ross Valley Sanitation District, the Marin Municipal Water District, and other utility companies.



Larkspur Extension, work in Downtown San Rafael

SMART and its partners completed three significant additional projects in conjunction with the Larkspur Extension Project:

1. San Rafael Bicycle pedestrian pathway between Andersen Drive and Rice Drive

SMART collaborated with the City of San Rafael to construct this important segment of pathway that expands the existing Cal Park Tunnel pathway connecting San Rafael to Larkspur. The City secured funding and developed construction plans while SMART provided right-of-way, managed construction and will maintain the segment of pathway in the SMART right-of-way.

2. Novato Downtown Station

The City of Novato funded the construction of a third station to serve their downtown. The station platform and track modifications were constructed in 2016/2017. The station was completed in 2019 with the installation of platform shelters and amenities, installation of lighting and communication systems, as well as modifications to the existing train control system. The Downtown station was opened on December 14, 2019.

3. Penngrove Crossing Improvements

SMART worked with the County of Sonoma to reconfigure the grade crossing gates and to remove the roadway medians at Main Street in downtown Penngrove. The reconfiguration was funded by the County of Sonoma and improved traffic circulation while maintaining the established quiet zone. The work included installing new crossing gates, removing the roadway median and removing a roadway gate.



Larkspur Extension, work in Downtown San Rafael

WINDSOR EXTENSION PROJECT

SMART completed a procurement for a design-build contractor with the award of a contract to Stacy & Witbeck, Inc. of Alameda in November 2019. This contract, in conjunction with the previously awarded Systems and Train Control design-build contract, will complete the design of the Windsor Extension Project and construct the improvements. Design commenced in December 2019 and will continue into the summer 2020. Construction of new railroad bridges, drainage systems, the station platform and supporting infrastructure will begin in the summer of 2020. Preliminary construction activities began in December with some site clearing and utility investigations to prevent unexpected conflicts during construction. SMART submitted construction permit applications to several environmental resource agencies in June 2019 and has been working with the agencies to secure permits for construction work in the summer of 2020.

PASSENGER RAIL STUDY: NOVATO TO SUISUN

The California State Transportation Agency identified a potential passenger rail connection between the SMART system in Novato and the Capital Corridor in Suisun City in their 2018 California State Rail Plan. This connection would provide an uninterrupted rail link between the SMART mainline and, ultimately, Sacramento and the rest of the State rail system. SMART completed technical feasibility study in the Spring of 2019 that evaluated the existing conditions, potential improvements, rail vehicles and the natural environment to establish passenger rail service along this 45-mile alignment. The study determined that it is feasible to reconstruct the railroad for passenger service and provided cost estimates and time frames for the work. The next steps to advance this passenger rail system would be to develop preliminary alignments, locate stations, prepare ridership projections and perform an environmental evaluation.

BICYCLE AND PEDESTRIAN PATHWAYS

SMART completed two key segments of pathway that expanded mobility and connectivity in 2019:

San Rafael: Andersen Drive to Rice Drive

As discussed above, SMART integrated this segment of pathway into the construction of the Larkspur Extension Project. This work was a coordinated effort between The City of San Rafael and SMART. The City secured funding and developed construction plans while SMART provided right-of-way, managed construction and will maintain the segment of pathway in the SMART right-of-way.

Petaluma: Payran Street to South Point Boulevard

This 1.1 mile segment provides a cross-town connection between east and west Petaluma and an additional crossing of US101. It spans the upper reaches of the Petaluma River via a 200-foot free span bridge. The pathway was opened in September 2019.

UPCOMING SEGMENTS

Sonoma County Pathway Segments

SMART received a \$12.6 million dollar grant in 2019 to construct three pathway segments:

- South Point Boulevard in Petaluma to Main Street in Penngrove
- Golf Course Drive in Rohnert Park to West Robles Avenue in Santa Rosa
- West Robles to Bellevue Avenue in Santa Rosa

Design of these pathway segments will begin in the summer of 2020, with construction planned for fall 2021 through summer 2022.

Windsor Extension

As part of extending passenger rail service to the Town of Windsor, SMART is constructing bicycle and pedestrian pathway between Airport Boulevard and the station at Windsor River Road. This three-mile segment of pathway will be constructed as part of the rail project in the spring and summer of 2021.

Communications and Marketing

The Communications and Marketing Department began 2019, with a focus on community engagement and strategic preparation for SMART's growth as a transit agency. The anticipated opening of two new stations at Novato Downtown and Larkspur, and the accompanying schedule change, would provide an opportunity for the outreach team to introduce SMART service to a new segment of the community. SMART's marketing and community outreach approach centered on getting more people on board to try out the Bay Area's newest transportation system.



Celebration to mark SMART's one million riders milestone

ONE MILLION RIDERS CELEBRATION

2019 was a pivotal year for SMART, as the agency reached an important passenger count milestone. On January 17, 2019, SMART surpassed the one million rider total mark. The celebration included Conductors giving out 1,500 passes for a free train trip to thank our riders and encourage them to share the SMART train experience with their friends and family.

Passengers were surprised with special SMART branded giveaways (water bottles and beanie hats) and a chance to take part in our #SMARTThanksAMillion social media campaign. SMART explored several opportunities throughout the year to create effective digital marketing campaigns on social media, to stay connected with our riders and community. The Communications and

Marketing team shared information on upcoming events and interacted with our audiences on a regular basis, gathering important comments and feedback.

100,000 CYCLISTS

In 2019, the agency observed another significant milestone. In anticipation of reaching the 100,000-cyclist total mark, the community outreach team connected with bicyclists on board and asked them share their reasons for riding SMART. The response was spectacular and more than 100 videos were collected and uploaded to SMART's YouTube channel. Cyclists were excited to talk about how the SMART train has improved their quality of life and upgraded their daily commute. The videos were used to promote the onboard 100K-Cyclist Celebration that took place on March 14, 2019. Conductors handed out 1,500 special passes for free rides to passengers with their bikes on the train. The response from the community was overwhelmingly positive and engaging.



Celebration marking 100K bicyclists milestone

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National Get on Board Day

NATIONAL GET ON BOARD DAY

SMART partnered with the American Public Transportation Association for the first-ever National Get On Board Day on April 25, 2019. More than 200 transit agencies across the country participated in this campaign to promote awareness of public transit and ridership. The Communications and Marketing team was eager to participate and unite with the broad network of transit agencies, signifying the importance of public transportation and connectivity.

KIDS RIDE FREE, SUMMER 2019

To encourage more people to ride the train for leisure and recreation, kids ages 18 and under were able to ride free on weekends and holidays in summer 2019, when accompanied by a paying adult. The pilot program began on Memorial Day weekend and ran through Labor Day. Parking at SMART owned lots was also free on weekends and holidays throughout the summer. To kick off the summer campaign, SMART partnered with Sonoma and Marin counties to provide veterans, and active duty military personnel and their families with free train service and free entry to county parks during the Memorial Day weekend. Theses pilot programs gave many people the opportunity to ride the train for the first time and brought their families to enjoy the experience with them.

MARIN COUNTY FAIR - LATE NIGHT TRAIN SERVICE

The Marin County Fair took place at the Marin Civic Center Fairgrounds from Wednesday, July 3 through Sunday, July 7, drawing thousands of attendees from all over the North Bay. Many chose to leave the car at home and take



Kids rode free during the summer

the SMART train, including a considerable number of first-time riders and families from both Marin and Sonoma Counties. SMART partnered with the Marin County Fair to provide a late-night train run that departed the Marin Civic Center at 10:30PM each night of the fair. Fair goers were thrilled that SMART was able to provide late service allowing them to stay for the fireworks show.

SUICIDE PREVENTION AND AWARENESS

Across the United States, we see the challenges rail systems face with community members who suffer from suicidal ideation and seek to end their lives. Since rail service began in 2017, SMART has experienced several deaths by suicide where pedestrians intentionally disregarded safety measures to put themselves in the path of the train to end their lives. SMART experienced multiple deaths by suicide between July and September of 2019. Local public health officials believe a



contagion effect set in where people with mental health issues or suffering from extreme emotional pain were drawn to the train to permanently solve their emotional crisis.

SMART reached out to public health officials with Sonoma and Marin Counties, national and local mental health organizations like the National Association of Mental Illness, Buckelew Programs and the Know the Signs campaign to coordinate on public education efforts around mental health and suicide prevention efforts. This core group provided SMART with recommendations on public outreach, high risk populations, effective existing public education materials, managing media interest and stemming the contagion effect.

From this effort was forged the North Bay Coalition on Mental Health Awareness and Suicide Prevention, which is comprised of 65 community partners in public safety, government, health care and hospitals, education, public agencies, nonprofit organizations, and leading North Bay employers.

Coalition members helped to disseminate public education materials through their organizations via email, social media and websites. The campaign included local radio public service announcements, reaching 400,000 Sonoma County listeners. Digital and print media partners donated advertising space to feature suicide prevention messages. Each member of the Coalition also shared information through their communication channels to help raise awareness.

RAIL SAFETY EDUCATION PROGRAM

The Communications and Marketing Department took a critical look at our Rail Safety outreach initiatives in 2019, which includes education programs, events, presentations, and digital campaigns, to see where enhancements could be made. The first step was a renovation of SMART's dedicated Rail Safety website, BeTrackSMART.org. The website redesign highlighted important rail safety tips for pedestrians, cyclists, and motorists in a dynamic format, making it more engaging and educational for the user.

In addition to our partnership with Operation Lifesaver, the leading railroad safety organization, safety partnerships were expanded to include local law enforcement officials and organizations in cities across Marin and Sonoma Counties, as a core component of our outreach efforts.



Petaluma Police Chief, Ken Savano with SMART Board Member David Rabbitt speaking on rail safety awareness

During National Rail Safety Month in September, North Bay law enforcement agencies partnered with SMART and Operation Lifesaver as part of Operation Clear Track, a law enforcement effort to reinforce safe behaviors near trains, tracks and at railroad crossings. Police officers patrolled railroad crossings and increased enforcement in San Rafael, Novato, Petaluma, Rohnert Park, Cotati, and Santa Rosa.

The law enforcement partnership was also emphasized with a video campaign on social media. SMART created a series of short safety videos featuring local law enforcement and SMART Board Directors. These video are available for viewing on SMART's YouTube page: https://www.youtube.com/channel/UCAqmoxJO5D6ysPQAgxYyN_g

Through the Rail Safety Education Program we reached thousands of students in schools and neighborhoods in close proximity to the railroad tracks and crossings, as well as people living in neighborhoods where railway construction is taking place. SMART's Rail Safety Education Program provides free presentations to schools and community groups in Sonoma and Marin Counties, and assistance with large group trips. Presentations are tailored to different age groups, including elementary and high school students, and organizations like driving schools and homeless service centers. Community groups may request a Rail Safety presentation by visiting BeTrackSMART.org.

PLATFORM SAFETY EDUCATION FOR GROUP TRIPS

SMART expanded its Platform Safety Briefing Program for group trips, to include a school safety presentations before the date of the group trip. At the on campus presentation students are presented with important safety information before their Platform Safety Briefing at the SMART train station. This approach gives students an opportunity to use the information they learned during the presentation and practice safe behaviors near tracks, trains, and at the station platforms.

Students from the Petaluma Youth Commission rode the SMART Train in 2019, and discussed the importance of public transit for young adults. The group was met by a Community Outreach team member at the platform to discuss transit and safety.



Students participating in a school group trip

KEEPING THE PUBLIC INFORMED ABOUT CONSTRUCTION AND SYSTEM TESTING

The Communications and Marketing Department experienced a busy year preparing for testing and opening of the Larkspur extension and Novato Downtown station. In preparation for the opening of the Larkspur extension, the outreach team conducted canvassing in San Rafael and Larkspur neighborhoods to notify residents about overnight systems testing.

Over 1,000 door hangers with information about testing were distributed to neighborhoods in San Rafael and Larkspur that would be impacted by the noise associated with testing; this included the neighborhoods of Lincoln/San Rafael Hill, downtown San Rafael, Picnic Valley, Bret Harte, and California Park.

Working closely with the City of San Rafael, County of Marin, and the City of Larkspur, the Communications and Marketing team issued testing notifications and updates via social media platforms, including NextDoor, Facebook, and Twitter, with a total reach of more than 37,000 people. Construction notification canvassing was also performed in Novato neighborhoods near the Downtown station.

Construction and testing information was also publicized on SMART's website and digital newsletter. Print advertisements were placed in the Sunday edition of the Marin Independent Journal and Marinscope papers. SMART placed geotargeted digital ads in key areas of San Rafael and Larkspur. The campaign reached over 10,000 people.

BUS BRIDGES

SMART closed portions of Second Street and Third Street in Downtown San Rafael on two weekends – June 1 - 2, and June 8 - 9, due to the construction of the Larkspur extension. A bus bridge shuttled passengers between the Marin Civic Center station, the San Rafael Transit Center, as well as the Larkspur Ferry Terminal.

On August 10, the Communications and Marketing team coordinated a bus bridge between the Novato San Marin and the Novato Hamilton stations in order for construction crews to do trackwork for the new Novato Downtown station.

And during the weekend of November 8 - 9, SMART closed a portion of the railroad between the Petaluma Downtown and Novato Hamilton stations to accommodate testing for the new Novato Downtown station. A bus bridge shuttled passengers between the Petaluma Downtown, Novato San Marin and Novato Hamilton stations.

Trains operated on modified service schedules during all of the above scheduled weekend closures, with the Communications and Marketing team managing the bus bridges. The communications team was joined by additional SMART staff and Ambassadors to inform and assist passengers during the bus bridges.

ADVERTISING PROGRAM

SMART's revenue-generating advertising sales program continues to be strong, with several advertisers purchasing advertising space on board SMART trains for a full year in advance. Advertising sales surged in anticipation of the opening of the two new stations in Larkspur and Downtown Novato, as well as the addition of four new train cars, increasing advertising inventory for possible advertisers.
SMART HOLIDAY EXPRESS TOY DRIVE

In addition to the weekend of ribbon cutting festivities, SMART conducted its fourth annual SMART Holiday Express Toy Drive on Saturday, December 14. The Holiday Express train arrived at the new Novato Downtown station just in time to conclude the Ribbon Cutting Ceremony, hosted by the City of Novato, and passengers were able to board the festively decorated train and enjoy complimentary holiday treats and eggnog provided by our partners at Clover Sonoma, and served by student volunteers from Montgomery High School in Santa Rosa.



Passengers aboard the festive Holiday Express

The morning and afternoon Holiday Express trains produced great community excitement, and hundreds of unwrapped toys and gift cards were donated to help make the holidays bright for children in need, through community partnerships with local non-profits, including Toys for Tots of Sonoma County, the Committee of the Shelterless (COTS), North Marin Community Service, and the Petaluma People Services Center.

LAUNCH OF THE NEW FULL-SERVICE SCHEDULE

During this busy season of festivities, the Communications and Marketing Department coordinated the launch of SMART's new service schedule slated to begin on January 1, 2020. The new schedule featured expanded service and connections to regional transit including the much awaited connection to the Larkspur Ferry. The new schedule roll-out included a redesigned brochure and pocket schedule, new station signage (installed by the Communications and Marketing team), website updates, and a large-scale marketing and education campaign

Safety and Security

Safety and security continue to be a top priority at SMART. The safety team consists of the Chief of Police, three Code Compliance Officer positions, a Safety and Compliance Officer and two Safety Consultants. The team goals are focused on prevention, education and enforcement of safety practices along the right of way and on SMART trains and platforms.

During the last year, safety staff has contacted hundreds of trespassers along the right of way despite continued efforts to educate and inform the public that no trespassing is permitted on SMART property.

In 2019, Safety and Security staff investigated eight major incidents. There were eight train related deaths, five of which were ruled to be suicides.

SAFETY TRAINING AND INTER-AGENCIES COORDINATION



Training exercise in Cal Park Tunnel

Ongoing safety and security training continue to be a priority for the District. One such example is the convening of internal exercises to discuss or practice management and response to critical incidents. The value of these exercises is to identify potential scenarios before they occur to be better prepared for future incidents. In 2019, SMART conducted a number of trainings in preparation for the opening our two newest stations.

SMART also coordinates with Marin and Sonoma law enforcement agencies. On a monthly basis, staff meets with police executives from both Counties to discuss industry trends, concerns and provide an opportunity for education on activities and issues related to SMART.

In addition to coordination at the local level, SMART works with Department of Homeland Security, Transportation Security Administration (TSA), Surface Transportation Division to conduct internal audits and

exercises. TSA assisted with an audit of our system as well as planned to conduct trainings for SMART Operations staff on suspicious packages and incident response. Staff participated in a regional review of the Threat and Hazard Identification and Risk Assessment and Stakeholder Preparedness Review Guide. This comprehensive guide published by the Department of Homeland Security provides guidance for agencies on conducting risk assessments for their systems.

SMART continued its ongoing presence at several regional safety and law enforcement meetings throughout Marin and Sonoma



Training exercise in Cal Park Tunnel

Counties. These meetings include; Sonoma County Emergency Disaster Council, Sonoma County Police Chiefs Association, Marin County Police Chiefs Association, Homeless Outreach Services Team, Federal Bureau of Investigation, Rail Liaison and Transportation Security Administration Mass Transit Stakeholders. At each of these meetings SMART prepares updates to share with our community partners.

Human Resources

RECRUITING

In 2019, Human Resources recruited and hired 27 new staff members. 78% of new staff were hired into the Operations Department and 22% were hired into Administrative or Capital Projects positions.

HUMAN RESOURCES AND PAYROLL SYSTEM

In 2019, Human Resources worked closely with the Finance Department to implement changes to the benefits setup within the payroll system, enabling SMART to transition to a new 24 pay period deduction cycle for benefits in Fiscal Year 2019. The new benefits system is more user friendly and offers better reporting capabilities.

LABOR NEGOTIATIONS

The Human Resources Manager worked to successfully negotiate the first SMART labor contract with the Teamsters Union for a new Track Supervisors Unit. Human Resources also began re-negotiating three separate labor contracts that expired on June 30, 2019, covering 68 operating positions, critical to SMART. Recruitment and retention of our highly specialized employees rely on these cooperative agreements.

CURRICULUM AND WORKFORCE DEVELOPMENT

SMART continued to participate in the steering committee for the Sonoma Corps Program, a pilot program of the Career Technical Education Foundation and Santa Rosa City Schools preparing for the initial class of Sonoma Corps students to begin in the Fall of 2019 at Piner High School.

In addition, Human Resources began working with Operations staff in June to review current policies and procedures and develop new trainee programs in the Vehicle Maintenance and Signals Division, to create career development opportunities for SMART staff as well as the broader community. The future of SMART operations depends on creating training programs to provide home-grown, qualified employees.



Students participating in the Sonoma County Corps Program, touring the Rail Operations Center

Financial Information

SMART produces a number of financial reports that are available to the public, including the Annual Budget, monthly Board reports and the audited Comprehensive Annual Financial Report. Financial information provided in this Annual Report is designed to provide the public with a general understanding of revenues and expenditures for the District in the last Fiscal Year, which runs from July 1, 2018 to June 30, 2019. The presentation of these amounts differs from the 2019 Comprehensive Annual Financial Report in that they do not include calculations for depreciation and other non-cash adjustments that are necessary for presentation under Government Accounting Standards Board rules. Please refer to the District's Comprehensive Annual Financial Statements for those audited statements. In 2019, SMART completed a strategic plan required every

five years under Measure Q. That plan is available on SMART's website at: https:// sonomamarintrain.org/2019_Strategic_ Plan.

SMART's revenues related to building and operating in Fiscal Year 2018-19 were \$57.4 million. Sales tax revenues for the year increased by 11%, which resulted in \$41.2 million for SMART. Other revenue included fares, parking and other operating revenues of \$5 million, additional operating grants of \$5 million and miscellaneous



revenue related to the sale of property of \$4.2 million. In addition to this revenue, SMART also received grants for the Larkspur Extension and other capital projects totaling \$37.3 million. Grants included \$4.3 million from the Metropolitan Transportation Commission, and \$21.2 million from the Federal Transit Administration which went primarily to the new Larkspur Station construction as well as new pathways. An additional \$8.7 million to fund construction of the new Larkspur Station and multi-use pathways from other governments paid for improvements such as the Downtown Novato station and a pathway in Downtown San Rafael.

Expenses for Fiscal Year 2018-19, excluding depreciation and other financial adjustments, were \$73 million. Included in that total were \$19 million in non-capitalized salaries and benefits and \$11 million for services and supplies related to operating and managing SMART's train service and pathways. Expenses in Fiscal Year 2018-19 were heavily weighted toward capital improvements of \$42 million, primarily due to a full year of construction on the Larkspur Extension totaling \$33 million. SMART also made



\$5.7 million in payments related to all 18 of SMART's rail cars. Expenditures of \$1.1 million were related to the kickoff of the new Windsor Extension.



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian

General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Hwy, Suite 200 Petaluma, CA 94954

SUBJECT:

- 1) Re-establishing a second Petaluma Station at Corona Road and N. McDowell Boulevard in Petaluma;
- 2) Authorize using the \$8 million proceeds from the sale of the Downtown SMART property to fund the design and construction of second station;
- 3) Authorize the General Manager to enter into a related agreement with the City of Petaluma regarding the Corona Station Project and Downtown Depot lease and authorize the General Manager to issue a Change Notice Proposal to existing Systems and Civil construction contractors.

Dear Board Members:

RECOMMENDATION:

Adopt Resolution No. 2020-16 re-establishing a second Petaluma Station:

- a. Authorize the Location of the Second Petaluma Station at Corona Road and N. McDowell Boulevard in Petaluma.
- b. Authorize the use of the proceeds from the sale of the Downtown SMART property to fund the Second Petaluma Station Project
- c. Authorize the General Manager to issue a Change Notice request for proposal to existing Systems and Civil construction contractors
- d. Authorize the General Manager to enter into a related agreement with the City of Petaluma regarding the Second Petaluma Station.
- e. Authorize the General Manager to amend Depot Lease Agreement to provide for new access and shared use of existing parking

SUMMARY:

From its inception SMART planned to have two stations in Petaluma. Early on, SMART's initial plans, designs and environmental review documents contemplated a second station in the vicinity of Corona Road and N. McDowell Boulevard with the possibility of acquiring property for station parking at 890 N. McDowell Boulevard. As far back as 2004, SMART initiated discussions with property owners regarding the need for parking adjacent to SMART's planned second station at Corona Road/N. McDowell. Starting in 2005, SMART conducted environmental analysis over the entire 70-mile alignment that included the planned Petaluma second station at Corona Road and N. McDowell Blvd.

However, due to budget constraints as a result of the great recession, the Board had to phase the project and live within the available budget. Petaluma's second station was one of the elements that was deferred to a future year.

CORONA STATION BACKGROUND AND OVERVIEW:

As mentioned previously, due to the great recession, SMART was forced to phase many elements of its vision, in doing so the Board had to eliminate track reconstruction north of Santa Rosa and South of San Rafael and various planned stations including the contemplated second station in Petaluma, as well as stations in Santa Rosa, Windsor, Healdsburg, Cloverdale, Novato and Larkspur from the initial operating system.

Since then, SMART has continually searched for funding for the unconstructed stations and segments. We have been working since 2015 with a Developer, Lomas, on real estate transaction that would make this happen. Your Board had previously discussed and provided direction to staff to negotiate for terms and price of this Real Estate transaction on the following dates:

- August 15,2015
- November 18, 2015
- March 2, 2016
- April 20, 2016
- June 15, 2016
- November 1, 2017
- January 17, 2018
- July 17, 2019
- October 16, 2019

That Sales and Purchase agreement provided for the sale of SMART's downtown property (approximately 4.48 acres located adjacent to the downtown station) in exchange for \$5 million, a 150-space parking garage structure, and the land that the garage is located on at Corona Road/North McDowell property. The garage would have been built by Lomas and transferred to SMART once completed (estimated cost of garage and land is \$3-4 million).

On October 30, 2017; LOMAS informed SMART that "the City would be unable to fully reimburse Lomas for the building of the parking structure." Subsequently, Lomas Partners made unilateral changes to the agreed-upon terms, including changes to the location of Corona station parking parcel and refused to honor its commitment to construct a parking garage structure. Litigation ensued and a compromised settlement was reached.

On October 12, 2019, SMART entered into a compromised second purchase and sale agreement with the same owner/developer of 890 N. McDowell Boulevard (LOMAS Partners) to sell the downtown SMART property in a transaction that also included a land exchange and cash payment.

Specifically, the SMART/LOMAS Partners Agreement required an \$8 million payment to SMART for the purchase of the Downtown SMART Property, and conveyance of a separate 1.27-acre parcel at the corner of N. McDowell Boulevard and Corona Road in Petaluma (Exhibit 1).

Staff estimates that the value of the 1.27 acres parcel has a current value of \$2.8 to \$3.1 million, making the total sale price of the property \$10.8 to \$11.1 million. Staff also estimates that if the downtown property were sold independently, the current sale prices estimate would be valued at approximately \$9.2 million.

Although your Board has envisioned using the proceeds from the sale of the downtown SMART property for a second Petaluma station, it has not taken any formal action to allocate funding for the construction of a second station in Petaluma. Historically, proceeds from the sale of any property has gone to SMART's general fund and has not been specifically set aside for a particular project. In this case, SMART ridership (pre COVID-19) in Petaluma was very strong and demand was rising. Having a second station in this vicinity near high density residential areas and near the Petaluma Campus of the Santa Rosa Junior College are all very important factors and considerations for SMART riders.

It should be noted that the only parties involved in the above two real estate transactions agreements (the first and second Purchase and Sale agreements) were SMART and LOMAS. The City of Petaluma did not have any role nor was it a party to any of these transactions. SMART did not seek to or desire to get involved in Petaluma's land use processes. Our goal was a simple property transaction resulting in adequate funding for a second station in Petaluma. The City of Petaluma is the <u>only</u> agency with land use approval authority. SMART Board of Directors and or SMART staff, do not have any jurisdiction in dictating density, traffic circulation, height, size, or shape of this development. Links for the City's actions on the Lomas development proposal are provided here for further information:

March 10, 2020 City Council Meeting:

http://petaluma.granicus.com/GeneratedAgendaViewer.php?view_id=31&clip_id=2914 January 14, 2020 City Council Meeting: http://petaluma.granicus.com/GeneratedAgendaViewer.php?view_id=31&clip_id=2857

January 27, 2020 City Council Meeting:

http://petaluma.granicus.com/GeneratedAgendaViewer.php?view_id=31&clip_id=2887

However, SMART and the City of Petaluma agree on the goal that a second station is crucial to achieve as soon as possible. Toward that end, the City of Petaluma approached SMART and proposed to enter into an agreement with SMART that would have Petaluma provide \$2 million of the \$8 million that LOMAS is already contractually required to pay SMART as part of the LOMAS/SMART Downtown purchase price. This proposal is the result of Petaluma's entitlement process and agreement with Lomas that \$2 million of Petaluma's funds can be contributed towards the \$8 million required to close the Lomas/SMART escrow.

Petaluma further wants to ensure that the \$2 million they are proposing to pay into the LOMAS/SMART escrow account for the sale of the Downtown SMART property is only spent towards the design and construction of the Corona station project. For that reason, Petaluma requested an agreement with SMART to that effect.

The proposed City/SMART agreement is a separate and independent agreement, that in essence requires SMART to commit to using the proceeds of the sale of the downtown SMART property to construct a second station at the Corona road in Petaluma.

To further accommodate Petaluma's efforts and in order for LOMAS to complete their entitlement process with Petaluma (which was approved on June 1st by Petaluma City Council) and to provide time for all parties to complete the many moving parts in this transaction, SMART agreed and extended the closure of the escrow date to November 19, 2020. In return, LOMAS deposited an additional non-refundable deposit in the amount of \$250,000 into escrow and paid SMART a non-refundable extension fee of \$250,000.

ENVIRONMENTAL CONSIDERATIONS:

The Second Petaluma station at Corona was contemplated in the environmental analysis conducted by SMART for the entire Sonoma-Marin Area Rail project. As the California Environmental Quality Act (CEQA) lead agency, SMART prepared a Draft Environmental Impact Report (EIR) in 2005 and a Final EIR in 2006. SMART Resolution No. 2006-05 certified the Final EIR in July 2006.

The entire SMART project, which is a 70-mile passenger rail corridor from Cloverdale to Larkspur, 14 rail stations, and pedestrian/bicycle pathway, was reviewed. Since conducting the environmental analysis SMART has constructed the railway tracks through Petaluma and is operating trains along this segment between Larkspur and northern Santa Rosa (Airport Blvd) since 2017. The active tracks already pass through the Corona Station location, and construction of the Corona Station would include the same type of platform, with weather protection covering, access ramps and stairs, lighting, and an adjacent parking area.

Pursuant to CEQA guidelines Section 15162, SMART has determined that no additional or more severe impacts that were not previously disclosed have been identified and no changes or additions to the previous environmental analysis or findings are necessary. SMART finds that no supplemental or subsequent environmental analysis is necessary and no further CEQA documentation is required. Finally, SMART, as the CEQA lead agency, is responsible for implementing all applicable mitigation measures.

CONNECTION BETWEEN DOWNTOWN PROPERTY & EXISTING STRUCTURES & LEASES:

There is also another related issue that affects the sale of Downtown property, City of Petaluma and SMART. This is related to the structures and parking next to the Downtown train station. There is a longer history around ownership of the land and structures, but the buildings currently housing the Petaluma Visitors and Art Center have been under a lease now held by the City of Petaluma since 2003. The City leases the buildings to the Petaluma Area Chamber of Commerce, the Petaluma Arts Council and the Petaluma Downtown Association.

The lease term is for 10 years with 3 additional 5-year options to renew. Petaluma has twice extended their option and the lease currently expires on July 31, 2028. The lease property includes 71,874 square feet of land and 3 buildings. Petaluma pays SMART \$1,000 per month which has not been adjusted in 17 years.

SMART was notified by Lomas that upon closure of the escrow, they would immediately claim their property and SMART's current downtown station parking would no longer be available. Furthermore, the access road which currently serves both the SMART station parking and the Visitor Center parking would also be corned off and no longer available, leaving the Station and Visitor Center with no access from E Washington Street (Exhibit 2).

SMART General Manager and Petaluma City Manager agreed that the 2003 agreement needs to be amended, a new access road needs to be designed and built, as well as station and visitor center parking needs to be addressed (attached to Exhibit B).

On July 29, 2019, SMART communicated with Petaluma and the two agencies began working on an amendment that would accomplish both parties' interest. The enclosed lease amendment is the result of these negotiations. In summary, SMART will construct a new access road from E Washington street at its cost and the existing parking spaces will be shared by passengers for parking during the SMART operation times and by the Visitor/Art center during their operation times. SMART will manage and enforce this facility like other SMART-owned parking lots.

No other parking use will be authorized such as future residential development or retail use.

CITY OF PETALUMA SMART AGREEMENT:

The Petaluma City Council has approved most of the entitlements that Lomas partners need to develop the Corona Residential project adjacent to SMART's right-of-way and Corona Station project. Petaluma has placed a pre-condition that before the developer's entitlements can take effect that the City must enter into an agreement with SMART for construction of a second Petaluma SMART station at Corona.

As noted previously, on October 12, 2019 SMART entered into an independent stand-alone agreement with Lomas to sell the downtown SMART property. The Lomas/SMART Agreement requires Lomas to pay \$8 million for the purchase of the Downtown SMART Property and also requires LOMAS to grant SMART 1.27 acres of land at the corner of N. McDowell Boulevard and Corona Road in Petaluma.

The City of Petaluma proposes to contribute into the Lomas/SMART escrow \$2 million of the \$8 million purchase price.

The Proposed agreement between the City of Petaluma and SMART (Exhibit B) accommodates the City's needs and provides terms for their \$2 million investment.

This proposed agreement, generally requires SMART to use the proceeds from the sale of Downtown Station property for design and construction of station improvements for a second SMART station at Corona Road in Petaluma. Specifically, it requires:

- Within 60 days of close of escrow of the SMART/LOMAS agreement dated October 12, 2019, SMART will initiate a change notice and request for proposal and cost estimate from SMART's existing Civil and Systems Contracts for design and construction.
- The agreement also provides that if the combined Corona Station Project cost proposal does NOT exceed \$8 million, SMART agrees to initiate a design/build Change Proposal to existing contracts for the Corona Station Project to design and construct the stations improvements.
- In the alternative, if the cost of the station proposals exceeds \$8 million, SMART agrees to
 use \$4 million from the proceeds of the sale of the SMART Downtown property to progress
 design and construction as far as is reasonably possible toward completing design and
 construction of the Corona Station Project and to seek additional Regional, State or Federal
 funding needed to complete the construction of the Corona Station Project.

FISCAL IMPACT: Funding for the design and construction of the Petaluma Corona Station is proposed to come from the proceeds of the Sale of the SMART downtown property upon successful closure of the escrow which is currently scheduled for November 19,2020.

Very truly yours,

/s/ Farhad Mansourian General Manager

Attachment(s): 1) Exhibit 1 – Map

- 2) Exhibit 2 Map
- 3) Resolution No. 2020-16
- 4) Exhibit B -Agreement between City of Petaluma and SMART



Exhibit 1

Exhibit -2



Resolution No. 2020-16 Sonoma-Marin Area Rail Transit District June 17, 2020

RESOLUTION OF THE BOARD OF DIRECTORES OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT RE-ESTABLISHING A SECOND PETALUMA STATION; AUTHORIZING THE USE OF THE PROCEEDS FROM THE SALE OF THE DOWNTOWN SMART PROPERTY TO FUND THE SECOND STATION; AND AUTHORIZING GENERAL MANAGER TO INITIATE A CHANGE NOTICE REQUEST FOR PROPOSALS AND ENTER INTO RELATED AGREEMENTS WITH THE CITY OF PETALUMA AND AMEND THE EXISTING DEPOT LEASE AGREEMENT

WHEREAS, Lomas Corona Station LLC, is the owner of property at 890 North McDowell Boulevard, APN 137-061-019, in Petaluma ("Corona Property") and Lomas SMART LLC, is in contract to purchase SMARTs downtown property located at 315 East D Street, APN 007-131-003, in Petaluma ("Downtown SMART Property"); and

WHEREAS, the Sale and Purchase agreement between LOMAS and SMART dated October 12, 2019, as amended pursuant to the First Amendment dated as of April 28, 2020 ("LOMAS/SMART Agreement") requires the close of escrow on the purchase of the Downtown SMART Property by LOMAS to occur by November 19, 2020; and

WHEREAS, The LOMAS/SMART Agreement as amended requires as consideration for purchase of the Downtown SMART Property a payment of \$8 million, and LOMAS must deposit into escrow the remainder of the \$8 million purchase price, less a non-refundable deposit already given by LOMAS; and

WHEREAS, The LOMAS/SMART Agreement also requires LOMAS to convey to SMART 1.27 acres of land at the corner of McDowell Boulevard and Corona Road in Petaluma for the Corona SMART Station improvements; and

WHEREAS, SMART intends to use the proceeds from sale of the Downtown SMART Property for the Corona Station Project, with terms regarding the design and construction of the Corona Station being the subject of the proposed agreement to be executed between SMART and the City; and

WHEREAS, the proposed City/SMART agreement requires SMART to initiate a change notice and request for proposal / cost estimate from SMART's existing Civil and System Contracts for design and construction of the Train System improvements; and

WHEREAS, the agreement also provides that upon receipt of the change notice request for proposals if the combined Corona Station Project cost proposal does NOT exceed \$8 million, SMART agrees to initiate a design build Change Order to existing contracts for the Corona Station Project to design and construct the stations improvements; and

Resolution No. 2020-16 Sonoma-Marin Area Rail Transit District June 17, 2020

WHEREAS, The agreement also provides in the alternative, that should the combined Corona Station Project Contract Proposals exceed \$8 million, SMART agrees to use \$4 million from the proceeds the sale of the SMART Downtown property and to progress as far as is reasonably possible toward completing design and construction of the Corona Station Project and to seek additional Regional, State or Federal funding needed to complete the construction of the Corona Station Project; and

WHEREAS, the potential environmental impacts of the Sonoma Marin Area Transit (SMART) Project, inclusive of the Corona Station Project, were identified and analyzed in accordance with the requirements of California Environmental Quality Act (CEQA) by SMART, and an Environmental Impact Report (EIR) was certified by Resolution Nos. 2006-05 and 2008-05 addressing potential environmental impacts of the Project (SMART EIR, SCH# 2002112033); and

WHEREAS, SMART has determined based on its review of the environmental documents and findings therein, that there have not been any changes to the project or in surrounding circumstances, or that there is any other relevant new information, that warrant subsequent or supplemental environmental review under CEQA Guidelines section 15162; and

NOW, THEREFORE, the SMART Board of Directors does hereby resolve as follows:

- 1) The foregoing findings and determinations, are true and correct, are supported by substantial evidence in the record, and are adopted.
- 2) Authorizes and approves a second Petaluma Station at Corona Road and N. McDowell Boulevard, in Petaluma.
- 3) Authorizes and approves the use of the proceeds from the sale of the Downtown SMART property to fund the Petaluma second station.
- 4) The Corona Station Project is not subject to subsequent or supplemental environmental review and adopts the findings set forth in the attached "Corona Station Project CEQA Summary," a copy of which is attached as Exhibit A.
- 5) The General Manager is authorized to execute the City/SMART agreement substantially in accordance with that attached as Exhibit B.
- 6) Authorize the General Manager to amend Depot Lease to provide for new access and shared use of existing parking
- 7) This Resolution shall take effect immediately upon its adoption and if any section, sentence or clause of this resolution is found to be invalid or unconstitutional, such invalidity shall not affect the validity of the remaining sections.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marin Area Rail Transit District held on the 17TH day of June, 2020, by the following vote:

DIRECTORS:

AYES: NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors Sonoma-Marin Area Rail Transit District

ATTEST:

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

EXHIBIT A SMART CORONA STATION PROJECT CEQA COMPLIANCE

The Sonoma-Marin Area Rail Transit (SMART) District is the California Environmental Quality Act (CEQA) lead agency for the entire SMART rail project, composed of trackway and rail stations, including the Corona Station in northern Petaluma. This analysis documents the SMART District's CEQA compliance for the Corona Station, in support of SMART's proposed action of entering into an agreement with the City of Petaluma to construct the Corona Station.

Background

As CEQA lead agency, SMART prepared a Draft Environmental Impact Report (EIR) in 2005 and a Final EIR in 2006. SMART RESOLUTION NO.2006-05 certified the Final EIR in July 2006 (SCH 2002112033). The entire SMART project, which is a 70-mile passenger rail corridor from Cloverdale to Larkspur, 14 rail stations, and pedestrian/bicycle pathway, was reviewed in the 2005 Draft EIR and 2006 Final EIR.

In approving the sales tax ordinance in both 2006 and 2008 for the rail project (including the stations), the SMART Board adopted a Statement of Overriding Considerations and CEQA Findings, in full compliance with CEQA. No legal challenges were filed regarding the adequacy of SMART's 2006 Final EIR or any supplemental CEQA analysis on the SMART project¹. The Corona Station in northern Petaluma was included in the 2005 Draft EIR project description and was fully analyzed in the 2005 Draft EIR and 2006 Final EIR. There were no significant unavoidable impacts identified specific to the Corona Station. The Draft and Final EIRs did identify project-wide potentially significant impacts that can be mitigated to levels that are less than significant with mitigation measures identified and adopted in the Mitigation Monitoring Plan. The 2005 Draft EIR, 2006 Final EIR, and Mitigation Monitoring Plan are available for review at the SMART District office located at 5401 Old Redwood Highway, Suite 200, Petaluma, CA 94954.

SMART has constructed the railway tracks through Petaluma and is operating trains along this segment between Larkspur and northern Santa Rosa. The active tracks pass through the Corona Station site.

Mitigation Monitoring Plan (MMP)

The MMP includes all measures for the entire SMART project and therefore applies to the Corona Station. As the CEQA lead agency, SMART is responsible for implementing the MMP. The original MMP for the SMART project was included in Chapter 5 of the 2006 Final EIR. As required by Public Resources Code section 21081.6, subdivision (a)(1), the SMART Board, in adopting Findings of Fact pertaining to the environmental commitments and mitigation measures described in the

¹ The 2006 Final EIR was subject to several addenda, a supplemental EIR, and a supplemental mitigated negative declaration, though none of those subsequent documents are relevant to the Corona Station; they addressed other project components.

certified Final EIR, also adopted the MMP in 2006. Slight refinements to the MMP have occurred since 2006, as part of supplemental environmental analyses not related to the Corona Station site. An MMP for the Final Supplemental EIR was adopted by the SMART Board in July 2008. An MMP for the Final Supplemental Mitigated Negative Declaration (FSMND) was adopted by the SMART Board in January 2011. The mitigation measures from the 2006 Final EIR, 2008 Final SEIR, and FSMND are all combined into one complete and comprehensive MMP for the SMART project to ensure that, during project Implementation, SMART and any other responsible parties comply with the feasible mitigation measures adopted by the District. SMART has implemented measures required in the MMP and the MMP will apply to construction and operation of the Corona Station facility because the MMP is project-wide.

CEQA Compliance Analysis

Construction of the Corona Station would include a platform with weather protection covering, access ramps and stairs, lighting, and an adjacent parking area. Access to the station would be provided from North McDowell Boulevard near Corona Road.

SMART reviewed the previous 2005 Draft EIR and 2006 Final EIR under the provisions of CEQA Guidelines Section 15162 to determine whether the Final EIR analysis is still relevant and whether any conditions have changed that would result in new or more severe impacts. CEQA Section 15162 limits supplemental environmental review to specific circumstances. Pursuant to Section 15162, when an EIR has been certified no subsequent EIR is required for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The following discussion addresses each of the provisions of CEQA Guidelines Section 15162. The numbers correspond to the numbered provisions listed above.

- (1) Project Consistency with Project Analyzed in FEIR: The station plan that would be implemented is in substantial conformity with the plan shown in Figure 2.5-18 in the 2005 Draft EIR. The station location would be the same, as is the ingress/egress off of North McDowell Boulevard. All impacts of the station were fully disclosed in the 2005 Draft EIR and 2006 Final EIR certified by SMART. There are no substantial changes in the project that would result in new impacts or an increase in severity of previously identified impacts. Impacts of developing the station are less than significant, with mitigation, as identified in the 2006 Final EIR. Mitigation measures are identified in the SMART-approved MMP. As CEQA lead agency, SMART is responsible for implementing all applicable mitigation measures.
- (2) Potential Changed Circumstances: Neither the circumstances of the project site nor the surrounding area have changed in such a way that the station would generate new or more severe impacts than identified in the 2005 Draft EIR and 2006 Final EIR. The EIR analysis assumed growth and development in the station area as part of the cumulative impact scenario. Furthermore, both the air quality and traffic analysis factored in future growth into the impact assessment modeling effort, using the year 2025 as the forecast year. The 2006 Final EIR determined that traffic and air quality impacts associated with the Corona Station were less than significant.

A review of all the issue areas analyzed in the Draft and Final EIR, as well as review of the site and recent CEQA documents prepared for development proposals in the project area, indicates that existing conditions have not substantially changed in a way that any new or more severe impacts would occur as a result of the station development.

(3) **Potential New Information**: A review of the site, the previous 2006 Final EIR, and recent CEQA documents on development in the project area indicates that there is no new information of substantial importance that shows that the project will have a new significant impact or a substantially more severe impact than identified in the 2006 Final EIR. Furthermore, there are no new mitigation measures or alternatives that would substantially reduce significant impacts of the project, as there are no significant unmitigated project impacts. All mitigation measures are identified in SMART's MMP. These measures ensure that any impacts associated with the Corona Station will be less than significant.

Findings

Based on the above analysis, SMART has determined that no additional or more severe impacts that were not previously disclosed have been identified and no changes or additions to the previous environmental analysis or findings are necessary. Therefore, SMART finds that no supplemental or subsequent environmental analysis is necessary or required and no further CEQA documentation is required. SMART finds that development of the Corona Station will not result in any unmitigated significant unavoidable impacts on the environment, and that SMART has already adopted a MMP to implement all identified measures needed to mitigate identified impacts to a less than significant level. Pursuant to CEQA Guidelines Section 15096, SMART, as the CEQA lead agency, is responsible for implementing all applicable mitigation measures.

EXHIBIT B

Agreement between the City of Petaluma and the Sonoma Marin Area Rail Transit District for Construction of Corona Station Improvements in the City of Petaluma and Related Matters

This agreement ("Agreement") is entered into as of ______, 2020 by and between the City of Petaluma, a California municipal corporation and charter city ("City"), and the Sonoma Marin Area Rail Transit District ("SMART"), a regional transportation district.

Recitals

A. Lomas Corona Station LLC, the owner of property at 890 North McDowell Boulevard, APN 137-061-019, in Petaluma ("Corona Property") and Lomas SMART LLC, which is in contract to purchase property owned by SMART located at 315 East D Street, APN 007-131-003, in Petaluma ("Downtown SMART Property") are under the same management and ownership, and are referred to in this Agreement as the "Developer."

B. The Downtown SMART property is adjacent to property owned by SMART, A.P.N. 007-131-004 ("Depot Property") that contains SMART station and depot and other improvements and that is subject to a lease agreement between SMART and the City ("Depot Lease"). The Depot Lease was originally entered on August 1, 2003. The original parties to the Depot Lease were the Northwestern Pacific Railroad Authority as property owner the Petaluma Community Development Commission as lessee. SMART succeeded the original property owner by operation of law and the Petaluma Community Development Commission assigned its interest as lessor to the City pursuant to an Assignment and Assumption Agreement dated August 22, 2013. The City licenses the Depot Property to the Downtown Business Association and the Petaluma Arts Alliance for office space use.

C. The agreement between Developer and SMART dated October 12, 2019, as amended pursuant to the First Amendment dated as of April 28, 2020 ("Developer/SMART Agreement"), provides for the close of escrow on the purchase of the Downtown SMART Property to occur by the earlier of November 19, 2020, or when the City approves the entitlements for the Downtown SMART Property and the appeal period has expired.

D. Section 2(a) of the Developer/SMART Agreement requires as consideration for purchase of the Downtown SMART Property a payment of \$8 million, and in accordance with Section 9(c) of the Developer/SMART Agreement, Developer must deposit into escrow the remainder of the \$8 million purchase amount, less a non-refundable \$500,000 deposit already given by Developer and closing costs allocable to Developer by May 15, 2020.

E. Section 9(e), the Developer/SMART Agreement also requires Developer to transfer all rights, title and interest in the remainder parcel to SMART of 1.27 acres of land at the corner of McDowell Boulevard and Corona Road in Petaluma and the Developer's Corona Tentative Map application includes such 1.27 acres of land as a remainder parcel.

F. On October 12 2019 SMART entered into an agreement to sell SMART's Downtown property to Developer (for 8 million and 1.27 remainder parcel).

G. City intends to place into the escrow for purchase of the Downtown SMART Property \$2 million of the \$8 million purchase price. The City contribution will be funded by traffic impact fee proceeds that were established in 2016 for this purpose, and will be used to fund Corona Station improvements which will provide traffic relief in Petaluma via commuter use of the Corona SMART station.

H. Developer's payment for the Downtown SMART Property and dedication of 1.27 acres at Corona Road and Mc Dowell Boulevard must occur by the scheduled closing on the Downtown SMART Property purchase in order for SMART to request a Change Order and proposal from SMART's existing train system contractor for the Second Petaluma Station design and construction to proceed approximately concurrently with the Windsor station.

I. In accordance with Article XI, Section 7, of the California Constitution, the City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

J. In accordance with Article, XI, Section 5, of the California Constitution, as a charter City, the City may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in its charter, and with respect to municipal affairs, the City's ordinances and regulations shall supersede all inconsistent state laws.

K. In accordance with Article XI, Section 9, of the California Constitution, the City may establish, purchase and operate public works to furnish residents with light, water, power, heat, transportation, and means of communication.

L. In accordance with Section 54 of the Petaluma Charter, the City, by and through its council and other officials, shall have and may exercise all powers necessary or appropriate to the

municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution, and the specifications in the Petaluma Charter of any particular powers shall not be held to be exclusive or any limitation of the City's general grant of powers.

M. In accordance with Section 54981 of the Government Code, the City may contract with any other local agency for the performance of municipal services or functions within the City's territory.

N. In accordance with Section 105032 of the Public Utilities Code, the SMART Board has the power to own, operate, manage, and maintain a passenger rail system within the territory of the district, and to determine the rail transit facilities, including ancillary bicycle and pedestrian pathways, to be acquired and constructed by SMART, the manner of operation, and the means to finance them.

O. In accordance with Section 105070 of the Public Utilities Code, SMART may make contracts and enter into stipulations of any nature whatsoever, employ labor, and do all acts necessary and convenient for the full exercise of SMART's granted powers.

P. In accordance with Section 105085 of the Public Utilities Code, SMART may take by grant, purchase, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and hold and enjoy, real property of every kind within or without the district necessary to the full or convenient exercise of its powers, and may lease, mortgage, sell, or otherwise dispose of any real or personal property when in its judgment it is in the best interests of SMART to do so.

Q. In accordance with Section 105096 of the Public Utilities Code, SMART may acquire, construct, own, operate, control, or use rights-of-way, rail lines, stations, platforms, switches, yards, terminals, parking lots, and any and all other facilities necessary or convenient for rail transit within and without the district, together with all physical structures necessary or convenient for the access of persons and vehicles thereto, including ancillary bicycle and pedestrian pathways, and may acquire or contract for any interest in or rights to the use or joint use of any or all such facilities,.

R. In accordance with Section 105101 of the Public Utilities Code, SMART may enter into agreements for the joint use of any property and rights by SMART and any city, public agency, or public utility operating transit facilities and may enter into agreements with any city, public agency, or public utility operating any transit facilities, wholly or partially within or without the district, for the joint use of any property of SMART or of the city, public agency, or public utility, or for the establishment of through routes, joint fares, transfer of passengers, or pooling agreements.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and SMART agree as follows:

1. Recitals. The above recitals are true and correct and are made a part of this Agreement.

2. Corona Station Project.

2.1 Within 60 days of close of escrow on the Developer's purchase of the Downtown SMART Property pursuant to the Developer/SMART Agreement, (1) SMART will initiate a request for change notice and proposal from SMART's existing Civil and System Contracts for design and construction of the Train System improvements; (Together "Corona Station Project")

2.2 Should the combined Corona Station Project Contract(s) proposals NOT exceed \$8 million, SMART agrees to initiate a design/build Change Order to existing Contracts for Corona Station Project in SMART right of way located at __, A.P.N.: ____ ("Corona Station Property") subject to the terms of this Agreement and to applicable regulatory requirements, including but not limited to, those of the California Public Utilities Commission ("CPUC") and the Federal Railway Administration ("FRA"). SMART will be responsible for obtaining all applicable regulatory approvals required for construction of the Corona Station Project.

OR in the alternative

2.3 Should the combined Corona Station Project Contract(s) Proposals exceed \$8 million SMART agrees to use the \$2 million in City funding for the Corona Station Project, and to match the City funds with \$2 million in SMART funding, and to progress as far as is reasonably possible toward completing design and construction of the Corona Station Project using the \$4 million in combined City and SMART funding and to seek additional Regional, State or Federal funding needed to complete the construction of the Corona Station Project. Once SMART obtains the funding needed to complete the construction of the Corona Station Project, it will be allocated to completion of the Corona Station Project will proceed to completion.

3. City Funding

3.1 City Funding. City will deposit \$2 million in the escrow for the Developer /SMART agreement at least 2 business days before the close of escrow, so that the close of escrow on the Developer's purchase of the Downtown SMART Property can occur in accordance with Section 9(a) of the Developer/SMART Agreement as amended. The City's contribution of \$2 million in City funds to the cost of constructing the Corona Station Project will be the maximum City contribution to funding of the Corona Station Project, and the City will not be required to provide further funding for completion of the Corona Station Project. In the event any challenge

is brought by a third party concerning this Agreement or City's funding of this Agreement, prior to close of escrow City may terminate this Agreement in accordance with Section 7, below.

3.2 If City elects to defend such third party challenge to this Agreement or City's funding of this Agreement or City terminates this Agreement, City shall indemnify, defend, protect, hold harmless, and release SMART, its officials, officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and costs) arising from or in connection with, or caused by any act, omission, or negligence of the City regarding this Agreement or City's Funding of this Agreement.

4. Corona Station Project/Depot Project Cooperation. The City and SMART agree to cooperate in good faith regarding the Corona Station Project in accordance with this Agreement. To the extent any construction of the Corona Station Project and/or the Downtown Depot Lease Amendment contemplated herein is subject to approvals of the City or SMART requires cooperation of the City regarding obtaining approvals from other government bodies, the City agrees to cooperate with SMART and not unreasonably withhold City approvals or encroachment permits which shall be issued at no cost to SMART and to cooperate with SMART concerning obtaining approvals from other government bodies. SMART agrees to cooperate with the City concerning City approvals and coordination related to construction of the Corona Station Project, such as concerning impacts of the Corona Station Project construction on City right of way and traffic, or obtaining City encroachment permits.

Depot Lease Amendment. On May 4th, 2020 City introduced an Ordinance 5. approving an amendment to the Depot Lease which ordinance shall receive its second reading and days after the SMART Board action to approve this Agreement, and be adopted no later than such approval takes effect. City and SMART agree to amend the Depot Lease at no cost to SMART, to provide for City's and SMART's shared use of parking spaces on the Depot Property as follows: Upon construction of any needed improvements, signage and striping: (1) SMART patrons may use parking spaces at the Depot during SMART's operational hours and Tenant patrons may use parking spaces at the Depot during the tenants operational hours on a first come first serve basis (2) No other parking will be allowed including; no overnight parking or parking for any residential, retail or commercial uses (3) SMART will be responsible for enforcing parking and restrictions as per other SMART parking facilities. City will provide through other agreement or understanding with new owner of Downtown SMART Property for SMART's continued use of the parking on the Downtown SMART Property and preservation of the existing ingress/egress through the Downtown SMART property to the Depot Property until new owner commences development of the Downtown SMART Property.

6. Term. The Term of this Agreement will commence upon approval of this Agreement by the City Council and SMART Board, and expire upon SMART's completion of the Corona Station Project as delineated under Section 2.2 or in the alternative, upon the expenditure of \$4 million in combined City and SMART funding to progress as far as is reasonably possible toward completing design and construction of the Corona Station Project as delineated under Section 2.3, subject to the terms of this Agreement and to applicable regulatory requirements, including but not limited to, those of the California Public Utilities Commission ("CPUC") and

the Federal Railway Authority ("FRA"), unless sooner terminated or the Term is otherwise amended in accordance with Section 10.

7. Termination.

7.1 In the event any challenge is brought by a third party concerning this Agreement or City's funding of this Agreement, the City may terminate this Agreement prior to close of Developer/SMART escrow in accordance with Section 3. The City and SMART may terminate this Agreement for cause following written notice to the other party or by mutual agreement.

7.2 Should escrow fail to close on the Downtown SMART property due to Developer's failure to fully perform under the Developer/SMART Agreement dated October 12, 2019, as amended, or should City terminate this Agreement prior to closing of escrow in response to a third party challenge to this Agreement or its funding, City shall be entitled to a refund from escrow of City's \$2 million deposit and SMART shall have no further duties, responsibilities or obligations to CITY.

7.3 Upon the expiration of the Term in accordance with Section 6 above, SMART shall be deemed to have fully performed under this Agreement, this Agreement shall terminate and neither SMART nor City shall have further duties, responsibilities or obligations under this Agreement e.

7.4 Should City fail to timely perform its obligations under Section 3 or Section 5 of this agreement, SMART may terminate this agreement and SMART shall have no further duties, responsibilities or obligations to City.

8. Liability. This Agreement is not intended to create and may not be construed so as to create any liability of the parties or any standard of care of the parties in excess of that established pursuant to this Agreement and existing law applicable to the parties. Except as otherwise provided in Section 3 neither party will have any liability for the acts or omissions of the other party.

9. Remedies. The remedies available to the City and SMART for breach of the terms of this Agreement will be limited to (1) Specific performance of the obligations of the City to timely perform as provided for in Section 3 and 5 of this agreement (2) Specific performance of the obligations of SMART as provided for in Section 2, subject to the terms of this Agreement and to applicable regulatory requirements, including but not limited to, those of the California Public Utilities Commission ("CPUC") and the Federal Railway Authority ("FRA")

10. Amendment. This Agreement may only be amended by a writing signed by authorized representatives of each party.

11. Notice. Unless otherwise requested by a party, all notices, demands, requests, consents or other communications which may be or are required to be given by either party to the other shall be in writing and shall be deemed effective upon service. Notices shall be deemed to

have been properly given when served on the party to whom the same is to be given by hand delivery or by deposit in the United States mail addressed to the party as follows:

- District: Farhad Mansourian, District Manager Sonoma-Marin Area Rail Transit District 5401 Old Redwood Highway Petaluma, CA 94954
- City: Peggy Flynn, City Manager 11 English Street Petaluma, CA 94952

When a notice 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 notice or payment is sent via United States Mail, it shall be deemed received seventy-two (72) hours after deposit in the United States Mail, registered or certified, return receipt requested, with the postage thereon fully prepaid. In all other instances, notices, 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.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

13. Merger. This Agreement contains the entire understanding between the parties, and no statement, promise, or inducement made by either party or agents of the parties that is not contained in this Agreement shall be valid or binding; and this Agreement may not be enlarged, modified, or altered except in accordance with Section 10.

14. Authority. The undersigned represent and warrant that they each have the authority to execute and deliver this Agreement on behalf of each respective party.

15. No Waiver. The waiver by any of the parties 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.

16. Time of the Essence. Time is of the essence in this Agreement and each of its provisions.

17. No Third Party Beneficiaries. Nothing in this Agreement, expressed or implied, is intended to or shall confer upon the Developer (Lomas Corona Station LLC), any subsequent owner of the "Corona Property"/ "Downtown SMART Property", any successor or assign, or any

Person other than the parties to this agreement any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

IN WITNESS WHEREOF, authorized representatives of the City and SMART have each executed this Agreement as of the date first written above.

City of Petaluma

Sonoma Marin Area Rail Transit District

By:_____ Peggy Flynn, City Manager By: ______ Farhad Mansourian, General Manager

Attest:

By: _____ Claire Cooper, City Clerk

Approved as to form:

Approved as to form:

By: _____ Eric W. Danly, City Attorney By: _____ Thomas F. Lyons, District Counsel

Attachment 1 Depot Lease Amendment

EXHIBIT 1

AMENDMENT 1 TO COMMERCIAL LEASE BETWEEN THE SONOMA MARIN AREA RAIL TRANSIT DISTRICT, SUCCESSOR TO THE NORTHWESTERN PACIFIC RAILROAD AUTHORITY AND THE CITY OF PETALUMA, SUCCESSOR TO THE PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY

WHEREAS, City staff have been working for some time to finalize a Corona Station Agreement with SMART for presentation to the City Council, and most recently met online with SMART staff on April 23, 2020 to finalize an agreement, with the resulting agreement being presented to the City Council for approval as Item 4C on the May 4, 2020 City Council agenda; and

WHEREAS, the proposed Corona Station Agreement being presented to the City Council includes language requiring cooperation regarding an amendment to the City's lease agreement with SMART for the Depot property, APN 007-131-004; and

WHEREAS, the lease agreement between the City and SMART for the Depot property was originally entered by the Petaluma Community Development Commission (the City's former redevelopment agency) and the Northwestern Pacific Railroad Authority on August 1, 2003, and SMART succeeded the Northwestern Pacific Railroad Authority as owner and lessor of the Depot property, the Petaluma Community Development Successor Agency succeeded the Petaluma Community Development of law when California redevelopment agencies were dissolved by state statute, and on August 22, 2013, the Petaluma Community Development Successor Agency assigned its lease interest in the Depot property to the City; and

WHEREAS, the Depot property subject to lease consists of about 71,874 square feet of land, and three buildings, the Petaluma Passenger Depot, a 2,450 square foot building, the Baggage Shed, a 520 square foot building, and the Freight Shed, a 4,760 square foot building; and

WHEREAS, the proposed Corona Station Agreement includes a provision requiring the City Council to introduce an ordinance approving an amendment to the lease for the Depot property by May 4, 2020, and for the amendment to be effective by June 18, 2020, and the proposed Corona Station Agreement provides for the City and SMART amending the Depot Lease agreement to provide for the City's and SMART's shared use of parking spaces on the Depot property, and design and construction by SMART of new access, striping and related improvements on the Depot property; and

WHEREAS, the contemplated changes to the Depot property lease are required as a result of sale and development of the Downtown SMART Property and loss of SMART parking on the Downtown SMART Property, and the related need to reconfigure the vehicular access into the Depot property from East Washington Boulevard, because part of the current access to the Depot property from East Washington Boulevard is located on the Downtown SMART Property and will be lost and reconfigured when that property is sold and developed; and

WHEREAS, Section 4 of the Depot property lease anticipates that all or a portion of the leased Premises may be needed for transportation related purposes, including development, construction, maintenance, and operation of transportation systems or transit related projects, including passenger loading areas and parking; Section 4 requires SMART to provide the City 365 days prior notice that SMART needs to obtain possession of all or a portion of the Premises; and Section 4 also provides that if SMART only requires a portion of the Premises, the lease shall continue in effect except the rent shall be reduced in proportion to the area of the part of the Premises; and

WHEREAS, Section 8(a) of the Depot property lease specifies that the rent due totals 12,000 per year, to be paid monthly in advance on the first day of each month, and Section 8(b) of the Depot property lease provides that to the extent the City's receipt of rents from sublessees in any calendar year exceeds the sum of 1) $1/25^{\text{th}}$ of the amount necessary to amortize the City's actual out of pocket costs for the improvements to the buildings on the Depot property over a 25 year period, and 2) the City's cost of operating and maintaining the leased property for that year, and 3) the rents paid to the City during that year, the City must pay SMART 50% of the amount by which the sum of 1), 2), and 3) exceeds the City's receipt of rents; and

WHEREAS, the Depot property lease is in effect until August 1, 2023, and the City may renew the lease by giving SMART notice sometime between February 1 and April 1, 2023, and if the City does so and unless the City and SMART agree to a further extension of the Depot property lease, it will expire August 2, 2028; and

WHEREAS, under the provisions of Section 5 of the proposed Corona Station Agreement with SMART, which is also before the City Council for approval at the May 4, 2020 City Council meeting, as a result of the loss of the SMART parking on the Downtown SMART Property being sold to Developer, the City and SMART intend to provide for the City's and SMART's shared use of the parking currently located on the Depot property and leased to the City such that: SMART patrons may use parking spaces at the Depot during SMART's operational hours and patrons of the City's sublessees and licensees may us parking spaces at the Depot during the sublessees' and licensees' operational hours on a first come, first served basis; no other parking will be allowed, including no overnight parking or parking for any residential, retail or commercial use, and SMART will be responsible for enforcing parking restrictions as for other SMART parking facilities; and

WHEREAS, the current parking area at the Depot property consists of approximately 50 parking spaces totaling approximately 25,960 square feet of the 71,874 square foot Depot parcel, and, based on the formula in Section 4 of the Depot property lease for reduction of rent upon

SMART obtaining part of the Premises for transportation related purposes, to reflect the shared use of the parking on the Depot property pursuant to the amended Depot property lease, the City's annual rent of \$12,000 would be reduced by 18% (\$2,167) to \$9,833, which corresponds with the reduction in leased space from 71,874 square feet to 45,914 square feet, with the reduction divided by two, because SMART and City will share the parking spaces, with each receiving approximately $\frac{1}{2}$ of the benefit of the parking spaces; and

WHEREAS, the 365 day notice requirement in Section 4 of the Depot property lease regarding SMART obtaining part of the leased property for transportation related purposes is impractical under the circumstances and this lease amendment has been drafted to wave that notice requirement; and

WHEREAS, although the rent the City pays for the Depot property lease reflects the use of redevelopment funds to restore the improvements on the Depot property, nonetheless the rent has not been adjusted since the lease commenced on August 1, 2003, and accordingly, City staff have recommended that the City waive the rent reduction that otherwise apply under Section 4 of the Depot property lease, and as result, this lease amendment provides for waiver of the lease reduction that otherwise would apply, and, similarly, for waiver of the City's obligation to share subtenant rent with SMART that otherwise could apply under Section 8(b) of the lease; and

WHEREAS, Section 46 of the Petaluma Charter requires that the City Council take certain actions by ordinance, including actions involving sale, acquisition or lease of real property when the amount in question exceeds \$3,000; and

WHEREAS, approval of the amendment to the Depot property lease agreement is exempt under the "common sense" exception in CEQA Guidelines Section 15061(b)(3) which establishes the general rule for projects concerning which it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, because the lease amendment relates to the use of existing parking on the Depot property and to ingress, parking and signage improvements on the Depot property that will be required as a result of the sale of the Downtown SMART Property to the Developer, and the need to reconfigure vehicle access to and parking on the Depot property; and

WHEREAS, the amendment to the Depot property lease is also exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines as involving the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, including, in accordance with Section 15301, subdivision (c), regarding existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities, transit improvements such as bus lanes, pedestrian crossings, and other similar alterations;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the City of Petaluma, a California municipal corporation and charter city (City), and the Sonoma Marin Area Rail Transit District, a regional transportation district (SMART), hereby agree to amend the Commercial Lease (Lease) first entered August 1, 2003 by the Northwestern Pacific Railroad Authority, as predecessor in interest to SMART, and the Petaluma Community Development Commission, as predecessor in interest to the City, concerning Assessor's Parcel No. 007-131-004.

Amendments Concerning Leased Premises and Use of the Leased Premises

In accordance with Section 31, paragraph (c) of the Lease concerning amendments, and with reference to Section 1, <u>Premises</u>, Section 4, <u>Use/Termination for Transit Activities</u>, Section 5, <u>Use</u>, Section 6, <u>Restrictions on Use</u>, Section 12, <u>Tenant Improvements and Other Alterations</u>, Section 17, <u>Indemnification</u>, and Section 19, <u>Insurance</u>, the City and SMART hereby modify the Lease in accordance with this amendment (Amendment) as follows, notwithstanding anything to the contrary in the Lease:

The above recitals are hereby declared to be true and correct and made a part of this Amendment.

Section 1, <u>Premises</u> of the Lease is hereby modified in accordance with the following:

a. Reconfiguration of ingress, parking, and related improvements.

The area and boundaries of the Premises, as defined and described in the Lease, are not modified by this Amendment. However, as a result of the sale of the Downtown SMART property to the Developer, and loss of the SMART parking and also ingress improvements onto the Premises currently on the Downtown SMART property, the ingress from East Washington Boulevard, the configuration of the parking stalls currently on the Premises, and related improvements such as curb, gutter, sidewalk, bus access and drainage improvements (SMART Improvements), will have to be redesigned and reconfigured in accordance with the terms of this Amendment.

b. Shared parking

The reconfigured parking stalls on the Premises will be shared by City, City's sublessees and licensees, and SMART, and the patrons of City's sublessees and licensees and of SMART, such that SMART patrons may use the parking stalls during SMART's operational hours, and City, City's sublessees and licensees and their invitees may use the parking stalls during the City's, City's sublessees' and licensees' operational hours, on a first come, first served basis. No other parking will be permitted on the Premises, including no overnight parking or parking for any residential, retail or commercial use. SMART will be responsible for enforcing these parking restrictions as for other SMART parking facilities.

Section 4, <u>Use/Termination for Transit Activities</u> of the Lease is hereby modified in accordance with the following:

a. Need to use a portion of the Premises for transportation related purposes.

In accordance with Section 4 of the Lease, and due to the sale of the Downtown SMART Property and loss of the SMART parking and also ingress improvements onto the Premises currently on the Downtown SMART property, SMART has a need for a portion of the Premises for transportation related purposes, and more particularly, for reconfiguration of the ingress from East Washington Boulevard to the Premises, the parking stalls currently on the Premises, and related improvements on the Premises such as curb, gutter, sidewalk, bus access and drainage improvements. SMART also has a need to permit SMART patrons to use the reconfigured parking stalls on the Premises in accordance with the terms of this Amendment. Solely for the purposes SMART's need to reconfigure Premises improvements and to use the reconfigured improvements for transportation related purposes pursuant to this Amendment, the City and SMART hereby agree that the 365 day notice requirement in Section 4 of the Lease is waived and shall not apply.

b. No reduction of rent.

Under Section 4 of the Lease, as a result of SMART's need to obtain part of the Premises for transportation related purposes, the City's obligation to pay Rent under the Lease would be reduced in proportion to the area of the Premises rendered unusable for the conduct of the City's business compared to the total area of the Premises. Under Section 4, the City's annual Rent obligation of \$12,000 would be reduced by 18% (\$2,157) to \$9,833, which corresponds with the reduction in leased Premises area from 71,874 square feet to 45,914 square feet, divided by two, because SMART and City will share the reconfigured Premises parking spaces, with each receiving approximately ½ of the benefit of the parking spaces. Although the rent the City pays for the Depot property lease reflects the use of redevelopment funds to restore the improvements on the Depot property, nonetheless the rent has not been adjusted since the lease commenced on August 1, 2003, and accordingly the City waives the rent reduction that otherwise apply under Section 4 of the Depot property lease, solely for purposes of this Amendment. Similarly, the City's obligation to share subtenant rent with SMART that would apply under Section 8(b) of the Lease is waived for purposes of this Amendment.

Section 5, <u>Use</u>, of the Lease, is hereby modified in accordance with the following:

The use of the Premises pursuant to the Lease shall include the shared use of the parking on the Premises as described in this Amendment. Notwithstanding anything to the contrary in Section 5 of the Lease, the City and SMART shall each be liable for their respective use of the Premises in accordance with this Amendment, and for their related operations and maintenance on the Premises, and City and SMART agree to cooperate in good faith concerning their respective operations and maintenance on the Premises.

Section 6, <u>Restrictions on Use</u>, of the Lease, is hereby modified in accordance with the following:

SMART also agrees to comply with all provisions of Section 6 of the Lease that are applicable to SMART's operations, maintenance, and improvement activities on the Premises pursuant to this Amendment. In particular, SMART agrees, at SMART's sole expense, to comply with all applicable laws, regulations, rule and orders with respect to SMART's use and/or improvement of the Premises in accordance with Section 6 of the Lease.

Section 12, <u>Tenant Improvements and Other Alterations</u>, of the Lease is hereby modified to add a new paragraph c. in accordance with the following:

c. <u>Reconfiguration of ingress from East Washington Boulevard, the Premises parking,</u> and related improvements.

SMART shall design and construct the SMART Improvements at SMART's sole expense. SMART will submit for City review and approval, which approval will not be unreasonably withheld, improvement plans for reconfiguration of ingress from East Washington Boulevard to the Premises, the Premises parking, and related improvements. Improvement work encroaching into City right of way will be subject to issuance of a City encroachment permit. City agrees to cooperate with SMART and not unreasonably withhold City encroachment permits. Once SMART has satisfied the requirements for issuance of an encroachment permit or permits for work encroaching into City right of way, such permit or permits will be issued at no cost to SMART. SMART will be solely liable for the SMART Improvements work and agrees to indemnify and hold the City and the City's sublessees and licensees harmless concerning the SMART Improvements work in accordance with Section 17 of the Lease, as amended. SMART agrees to cooperate and coordinate with the City concerning the SMART Improvements and the SMART Improvements work to the extent reasonably possible to minimize impacts on the operations of the City and City's sublessees and licensees.

Section 17, Indemnification, of the Lease, is hereby modified in accordance with the following:

Section 17 of the Lease is hereby amended such that SMART agrees to indemnify, defend and hold harmless the City and the City's sublessees and licensees concerning the use, maintenance, occupation, alteration or improvement of the Premises by SMART, any act, omission or neglect of SMART, SMART's officers, employees, agents, servants, sublessees, concessionaires, contractors or visitors, and/or any breach or default by SMART of any of the terms, covenants or conditions of the Lease, to the same extent and subject to the same limitations as the City's obligation to indemnify, defend and hold harmless SMART pursuant to that section.

Section 19, <u>Insurance</u>, of the Lease, is hereby modified in accordance with the following:

SMART agrees to maintain during the term of the Lease and any extension of the Lease the insurance specified in Section 19 of the Lease, and to provide evidence of insurance as specified in that section.

Except as modified by this Amendment, the Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, a representative authorized to bind the City and a representative authorized to bind SMART have each executed this Amendment on the date indicated.

City of Petaluma

SMART

Peggy Flynn, City Manager

Farhad Mansourian, General Manager

Date

Approved as to form:

Eric W. Danly, City Attorney

Date

Approved as to form:

Thomas F. Lyons, District Counsel



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954

SUBJECT: Approval of Revised Fiscal Year 2019-20 Budget and Proposed Fiscal Year 2020-21 Budget, Annual Appropriation Limit and Investment Policy

Dear Board Members:

RECOMMENDATIONS:

- 1. Adopt Resolution 2020-10 to approve the Revised Fiscal Year 2019-20 budget, the Fiscal Year 2020-21 Proposed Budget including annual position authorization and the Investment Policy for Fiscal Year 2020-21.
- 2. Adopt Resolution 2020-11 Ratifying the Annual Appropriation Limit for Fiscal Year 2020-21.

BACKGROUND:

At your June 3 meeting, we reviewed the draft Fiscal Year 2019-20 Revised Budget and the Proposed Fiscal Year 2020-21 Budget. Today, we are bringing the budget back for your adoption along with the required resolutions, policies and final revisions.

Approval of Budget:

There are no changes to the budgeted revenues or expenditures in either Fiscal Year since our presentation to you on June 3. As we discussed at that meeting, we will be monitoring revenues and will report back to you as we receive new information on our major funding sources for the budget, including CARES Act funds and sales tax revenues.

Budgeted revenues and expenditures, as well as discussions, charts and tables are provided in the attached budget document. We have also attached the staff report from the June 3rd meeting.

Since the meeting, we received a few questions from Board members and the public regarding the budget that we would like to address. They are as follows:
- 1. Why does the proposed budget show SMART expenditures exceeding revenue (so-called "operating in the red")? The purpose of having a reserve is to prepare for recessions and difficult circumstances such as the COVID-19 crises. We are relying on and have sufficient reserves and revenues shown for the next fiscal year and believe our budget plan is a reasonable one for the times we are facing. We are into our fourth month of historic shocks to both transit and the greater society. We have worked very hard in a very short period of time to identify and include \$7.2 million in reductions in our proposed budget. Your Board has provided direction that more draconian cuts in service, which are the next step in budget reductions, should be delayed pending further information on revenues in the coming months in order to preserve service as much as possible.
- 2. Why doesn't SMART show in its budget the entire sales tax allocation shown on the State's website (CDTFA) since July? The July and August tax payments shown on the web are related to May and June tax returns. This means the July and August 2019 payments are accounted for in Fiscal Year 2018-19 revenues and have nothing to do with revenue for Fiscal Year 2019-20. Sales tax revenues take a minimum of 2 to 3 months to flow to SMART after consumer purchases and the state has reconciled its data.
- 3. How much are we saving by running the "6-1-6" schedule over the pre-COVID schedule? SMART has reduced salaries and expense by \$1.1 million to account for the savings associated with running a reduced schedule of 26 daily trips. This savings starts immediately. There are no savings assumed yet for the elimination of weekend service which remains funded in the budget.
- 4. What assumptions are being made about resumption of service? The budget provides the necessary funding for staff and resources to resume the new schedule and weekend service at any point during the fiscal year.
- 5. Does the Budget Include Anticipated Freight Revenues and Expense? There are a number of steps remaining before SMART can assume freight responsibilities, including approval by the North Coase Railroad Authority (NCRA) of a property transfer, State of California approval of \$2 million allotment and the \$4 million for the purchase of Northwest Pacific Company (NWPCo.), Surface Transportation Board common carrier license approval, and negotiations with NWPCo. for interim freight service. These steps can take several months and are not guaranteed. Any rejection or appeal of any of these decisions can alter the final outcome. Thus, we did not feel it was prudent to include uncertain revenue and expense in the budget at this time. If, following those approvals, we feel that a significant budget change is warranted, we will report to the Board and adjust the approved budget accordingly.
- 6. Should the budget provide a ridership forecast? The budget authorizes future expenses and projects revenues to be received. It is not a ridership forecasting exercise. Frankly, it is impossible to forecast future ridership given the uncertainty around COVID-19 and the shelter in place orders. However, as a budget exercise, we have projected revenues 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. This will be one of the many revenue sources we monitor and revise as the Fiscal Year progresses.

Cost of Living Increase Update:

We previously reported to your Board that the current three union contracts have a 3% July 1st cost of living adjustment (COLA). The total cost of these three COLAs for 66.5 union positions is \$270,901. We recommended, and your Board agreed, that given the financial constraints, we asked the three unions to forgo the upcoming COLAs. We have not received agreement on this proposal. Therefore, we have built in these adjustments and they are reflected in the Position Allocation Table 5 in your budget. In a typical year, your Board also has approved the same COLA to unrepresented employees. This 3% COLA for all unrepresented employees would cost \$327,504 in Fiscal Year 2020-21. Given that our unrepresented employees are working side by side with represented employees, we have concerns about retention and staff morale if unrepresented employees do not receive the same COLA. However, because of the financial uncertainty we face, we cannot recommend COLAs as a general policy for this budget. After consultation with Board Chair and Vice Chair, we recommend that employees whose salary ranges fall below \$100,000 receive the same 3% as their represented colleagues would. The total cost of this recommendation, affecting 19 positions, is \$51,065. This funding is included in the salary budget and position changes are shown in Table 5.

Approval of Investment Policy and Delegation of Authority:

As required annually by California Government Code Section 53607, as part of your consideration of the budget resolution, we are requesting that you review our Investment Policies and affirm the delegation of authority to your Chief Financial Officer. This is the same delegation and policy review that your Board approved as part of the budget last year. The Policy is enclosed as Exhibit "B".

Fiscal Year 2020-21 Appropriations Limit:

Proposition 4, approved by California voters in 1979, requires special districts to calculate and establish an appropriation limit every year. We established an appropriation limit of \$100 million for Fiscal Year 2008-09 with the passage of Measure Q. Each subsequent year this limit is adjusted to reflect population growth and inflation. The Appropriation Limit for Fiscal Year 2020-21 is \$146,414,925. The calculations for the appropriation limits are attached in Exhibit A of the resolution. Government Code Section 7901 allows special districts located in two or more counties, such as SMART, to choose to use the change in population for the portion of the district which has the highest assessed valuation. For that reason, we use Sonoma County's population as the basis for our calculation and use the county's practices and calculations. The law requires that our operating revenues and expenditures fall within this limit. Revenues and expenses associated with most capital improvements and debt service are exempt from this limit. We estimate conservatively that \$35,388,799 of our expenditures fall under the Proposition 4 limit, well below the cap. The required appropriation limit resolution is attached to this staff report as Resolution 2020-11.

Finally, to reiterate that we still have much work to do. We are required to adopt a proposed budget before the end of June but we will then immediately be working on implementing and monitoring our budget. As mentioned previously, we will return to report on revenues whenever we have any new information. We also will be giving notice on the contracts that we have eliminated as part of this budget and implementing the operational changes required by those contracts. The action taken today will likely only result in a short pause in our budget work as the new "normal" will take some time to reveal itself in terms of revenue, ridership, and the realities of the continued pandemic.

FISCAL IMPACT: Approval will revise the Fiscal Year 2019-20 final budget, set the appropriations, budget and salary limits for Fiscal Year 2020-21, and allow for prudent investment of SMART funds.

Very truly yours,

/s/ Erin McGrath Chief Financial Officer

Attachment(s):

- 1) Resolution No. 2020-10 Adopting Fiscal Year 2019-20 Revised Budget and Fiscal Year 2020-21 Proposed Budget Including Exhibits
- 2) Resolution No. 2020-11 Adopting Fiscal Year 2020-21 Appropriation Limit Including Exhibit A
- 3) June 3, 2020 Staff Report Budget Review

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, ADOPTING A REVISED BUDGET FOR FISCAL YEAR 2019-20 AND AN ANNUAL BUDGET FOR FISCAL YEAR 2020-21, PROVIDING FOR THE ESTABLISHMENT OF NEW DISTRICT EMPLOYEES PURSUANT TO PUBLIC UTILITIES CODE SECTIONS 105050 AND 105052(b) AND FIXING THE COMPENSATION AND SALARY OF ALL DISTRICT EMPLOYEES FOR FISCAL YEAR 2020-21, ADOPTING A STATEMENT OF INVESTMENT POLICY FOR FISCAL YEAR 2020-21, AND DELEGATING AUTHORITY TO INVEST CERTAIN FUNDS UNDER THE CONTROL OF THE BOARD OF DIRECTORS TO THE CHIEF FINANCIAL OFFICER

WHEREAS, Section 8.01 of Article VIII of the Administrative Code of the Sonoma-Marin Area Rail Transit District ("SMART") requires that the Board of Directors ("Board") adopt an annual budget for the ensuing fiscal year no later than the District's June meeting; and

WHEREAS, a preliminary Revised Budget for Fiscal Year 2019-20 and an Annual Budget for Fiscal Year 2020-21 was prepared by the Chief Financial Officer and presented to the Board at its June 3, 2020 meeting; and

WHEREAS, the preliminary Annual Budget for Fiscal Year 2020-21 has been available for public inspection since May 29, 2020 in excess of the minimum 10-day public inspection period prescribed by the Administrative Code; and

WHEREAS, at its duly noticed meetings on June 3 and June 17, the Board fully reviewed and considered the Revised Budget for Fiscal Year 2019-20 and the Annual Budget for Fiscal Year 2020-21, at which time all interested persons were given the opportunity to hear and be heard; and

WHEREAS, at its meetings on June 3 and June 17, the Board duly considered the creation of employee positions and the fixing of the compensation and salary for those newly created positions as well as the adjustment of the compensation and salary of some existing positions; and

WHEREAS, certain non-cash transactions such as the recording of donated assets and depreciation do not require appropriation authority and are not included in the annual budget but must be recorded during the preparation of financial statements for each fiscal year; and

WHEREAS, administrative and accounting adustments and corrections which are necessary to move funds or expense in accordance with accepted accounting practice may be necessary and do not require appropriation authority for each fiscal year; and

WHERAS, California Government Code Section 53607 authorizes the Board to delegate to the Chief Financial Officer the authority to invest certain funds of SMART on deposit with the County of Sonoma Treasury for up to one year; and

WHEREAS, included in the delegation of authority for investments is the authority to transfer funds between accounts in order to maximize investment returns for the District; and

WHEREAS, upon such delegation the Chief Financial Officer assumes full responsibility for those transactions until the Board revokes this authority or does not renew the annual delegation by resolution; and

WHEREAS, nothing in this resolution limits the Chief Financial Officer's authority pursuant to Government Code Sections 53635 and 53684; and

WHEREAS, all investments are reported monthly to the Board of Directors as required by Government Code Section 53646; and

WHEREAS, California Government Code Section 53646 requires that the Chief Financial Officer annually submit a statement of investment policy to the Board for its review and approval; and

WHEREAS, the Chief Financial Officer presented and the Board duly considered the Statement of Investment Policy for Fiscal Year 2020-21 at a noticed public meeting of the Board of Directors on June 17, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Revised Fiscal Year 2019-20 Budget and Fiscal Year 2020-21 Annual Budget for the Sonoma-Marin Area Rail Transit District attached hereto as <u>Exhibit A</u> is hereby approved.

BE IT FURTHER RESOLVED that the funding for this Final Budget is being provided to SMART by way of Measure Q sales tax, fare revenue, state operating support, federal CARES Act funds, and reimbursements from grants from the State of California property revenues, among other funds, all as more fully described in <u>Exhibit A</u>.

BE IT FURTHER RESOLVED that based upon competent evidence and acting pursuant to the provisions of the Enabling Legislation, the salaries, wages, compensation and expenses for management and non-management employees for Fiscal Year 2020-21 shall be as provided for also in <u>Exhibit A</u>, Table 5, SMART Position Authorizations, and such compensation shall be compensation in full for all official services performed by such managers and employees, unless expressly provided otherwise.

BE IT FURTHER RESOLVED that the Chief Financial Officer is authorized to complete any necessary budgetary and accounting transfers and adjustments to implement the adopted Fiscal Year 2020-21 Budget and to re-establish valid prior year encumbrances. Such adjustments

Resolution No. 2020-10 Sonoma-Marin Area Rail Transit District June 17, 2020

shall include but not be limited to decreasing appropriations in any and all funds associated with projects initiated prior to the 2020-21 fiscal year-end to meet actual available resources. Authority includes budgetary and accounting adjustments necessary to assign year-end actual fund balances, and increasing or decreasing appropriations for previously approved projects, operations and maintenance expenses and budgetary and accounting adjustments necessary to assign to assign actual fund balances.

BE IT FURTHER RESOLVED that the Chief Financial Officer is authorized to complete any administrative or accounting adjustments necessary for the proper presentation of the District's financial statements that are in accordance with the Board's Direction and approval of the Budget, including noncash adjustments for depreciation and recording donated assets.

BE IT FURTHER RESOLVED that, in accordance with the provisions of Government Code Section 53646, the Statement of Investment Policy for Fiscal Year 2020-21 attached hereto as <u>Exhibit B</u> is hereby approved and adopted.

BE IT FURTHER RESOLVED that, pursuant to Government Code Section 53607, the Board of Directors hereby delegates to the Chief Financial Officer the authority to create and maintain accounts as necessary for management of the District's funds, including the ability to invest and reinvest funds in the Sonoma County Treasury for a period of one year and to create accounts as required by State of California for deposit of grant funds.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marin Area Rail Transit District held on the 17th day of June, 2020, by the following vote:

DIRECTORS:

AYES: NOES: ABSENT: ABSTAIN:

> Eric Lucan, Chair, Board of Directors Sonoma-Marin Area Rail Transit District

ATTEST:

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

EXHIBIT A

REVISED FINAL BUDGET REPORT FOR FISCAL YEAR 2019-20 and ANNUAL BUDGET FOR FISCAL YEAR 2020-21 AND RELATED POSITION AUTHORIZATIONS

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT PROPOSED BUDGET: FISCAL YEAR 2020-21

and

Fiscal Year 2019-20 Year-End Budget

June 17, 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



| 1 | TABLE 1: | | | | |
|-----|-------------------------------------|--------------------|------------------------------------|--------------------|--|
| | | | BUDGET RE | | PORT: OVERVIEW OF ALL SOURCES AND USES |
| | | FY 2019-20 | FY 2019-20 | FY 2020-21 | |
| | | APPROVED BUDGET | YEAR END ACTUALS & ESTIMATES | PROPOSED BUDGET | EXPLANATION OF SIGNIFICANT CHANGES |
| BL | 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 FV20 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 FV20 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 FV20-addition of Airport Blvd (Sonoma funded), FV21 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 | |
| BL | 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 |
| Pa | 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 |
| age | Debt Service/ Other Charges | 16,747,600 | 16,847,600 | 16,405,850 | 3% decrease in FV21 assuming successful debt refinancing |
| e 5 | Equipment, Buildings & Improvements | 3,085,500 | 2,286,381 | 2,417,911 | 26% decrease in FY20 - shift of projects from FY20 to FY21 |
| 0 | Capital Projects | 33,664,209 | 42,644,085 | 19,096,800 | 27% increase in FV20 - capital shifts from prior year, 55% decrease FY21 - reduced capital activity completion of Larkspur |
| f 2 | Other Governments | | 1,147,382 | 3,526,900 | Reimburseable work for other jurisdictions fluctuates - i.e. Dwtn. Novato Station, Penngrove, Airport Blvd. |
| 1 | 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 |
| | | | | | 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, |
| | Beginning Available Fund Balance | 27,289,200 | 39,185,454 | 22,571,008 | other year end savings |
| | iability Fund | | \$ (1,995,296) \$ | | |
| | Transfer to Equipment Sinking Fund | | Ş | | (5,000,000) Allocation for revenue vehicle (DMU) future rehab. and replacement needs |
| | erve | | | | 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 | | 067,C66,I | 1,235,290 L | |

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:

<u>Revenues</u>: 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.

<u>Expenditures</u>: 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:

<u>Revenues:</u> 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.

<u>Expenditures:</u> 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 4: Proposed Revenue Sources for Administration Fiscal Year 2020-21



TABLE 2 :

ADMINISTRATION BUDGET

| | | | FY 2019-20 and Prop | |
|---|-------------------------------|---------------------------|------------------------|--|
| | FY 2019-20 | FY 2019-20 | FY 2020-21 | |
| | | YEAR-END ACTUALS | | |
| DESCRIPTION | APPROVED BUDGET | & ESTIMATES | 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 | | 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 | 2 800 865 | 2 746 140 | 2 700 022 | |
| Employee Salaries Employee Benefits | 3,899,865 | 3,746,149 | 3,700,023 | |
| Total Salaries and Benefits | 1,246,439 5,146,304 | 1,201,842 4,947,991 | 1,273,832 4,973,854 | Hiring freeze on vacant positions FY20, elimination in FY21 |
| | 5,140,504 | 4,547,551 | 4,575,654 | |
| Services and Supplies | | | | |
| Communications | 46,701 | 46,651 | | Minor increases in contract costs |
| Insurance | 2,547,382 | 2,141,448 | | Increased insurance renewal costs |
| Maintenance-Facilities | 5,000 | 25,027 | | Railroad Square Property Tax |
| Fees/ Miscellaneous Expense | 162,170 | 1,060,268 | | FY20 Includes estimated one-time ballot measure fee |
| Office Expense | 115,310 | 98,360 | | Ongoing reductions FY21 |
| Postage, Printing, Periodicals | 53,000 | 43,600 | | Outreach printing costs due to new schedules, materials in FY21 |
| Accounting/ Payroll Services Professional Services | 90,885 987,953 | 96,895 870,891 | | Payroll, audit and accounting services increase in federal single audit Ridership analysis, legislative advocacy, background checks, IT security consulting |
| Agency Extra Help | 100,000 | 50,000 | | Short term leave coverage as needed |
| State Administrative Fee | 953,461 | 953,461 | | State fee increases |
| Legal Services | 475,000 | 450,000 | | |
| Rents/Leases | 501,006 | 506,006 | | Office and copy machine lease increases |
| Computer Software and Hardware | 318,000 | 212,507 | | Equipment replacements, software subscriptions, ongoing license fees |
| Public Outreach | 269,000 | 310,981 | | Reduction of Public Outreach costs, Larkspur extension completed FY20 |
| Training, Travel and Memberships | 154,350 | 86,835 | | Ongoing training of new and existing staff |
| Mileage Expense | 37,520 | 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 | | | | The sector sector and the shear attraction of the sector sec |
| Transfer to Self-Insured Retention Fund | - | 405,934 405,934 | - | Transfer amount needed for deductibles, retentions for rail liability |
| | é 20.005.011 | | é 37.565.655 | |
| 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:

<u>Revenues:</u> 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.

<u>Expenditures:</u> 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:

<u>Revenues</u>: 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.

<u>Expenditures</u>: 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:

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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 June 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 be 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



| | | ОРГ | ERATIONS BU | DGET |
|--|---|---------------------------------|------------------------|---|
| | | | | |
| | | | | Proposed FY 2020-21 |
| | FY 2019-20 | FY 2019-20 | FY 2020-21 | |
| DESCRIPTION | APPROVED BUDGET | YEAR-END ACTUALS & ESTIMATES | 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 | | **Allocated from budgeted revenue as available from Administration |
| | , - , | -, - , - | -,, | |
| ntergovernmental Revenues | | | | |
| Federal - Grant Funds | - | 10,329,121 | | FY20 and 21 Emergency CARES, FY21 New Federal Operating funds |
| State - Grant Funds | 7,404,794 | 7,662,922 | | State Commuter Rail/State Transit Assistance Operating Funding |
| Other Governments Total Intergovernmental Revenues | 10,000 7,414,794 | 25,878 18,017,921 | 15,580,711 | Northwestern Pacific Maintenance Charges |
| | ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, | 10,017,011 | 10,000,711 | |
| | | | | |
| Charges for Services | | | | |
| Fare Revenue | 4,137,000 | 3,109,165 | | Revised down based on decreased ridership due to shelter-in-place orders |
| Parking Revenue | 50,000 | 50,000 | | Revised down based on actuals and projections |
| Other Charges - Fees, Reimbursements Total Charges for Services | 30,000 4,217,000 | 217,591 3,376,756 | 2,708,366 | One-time reimbursements for flagging services; ongoing dispatch fee |
| iotal charges for services | 4,217,000 | 3,370,730 | 2,708,500 | |
| | | | | |
| 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 | | Call boxes, cellular services, and equipment, deletion of WIFI |
| Maintenance-Equipment | 555,282 | 492,208 | | 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 | | Train spare parts and maintenance; Decrease FY21 completion of train repair |
| Maintenance-Railway | 771,250 | 706,575 | | Right-of-way maintenance, FY21 reduction tied to completion of one-time projects |
| Maintenance of Signals | 246,500 | 141,410 | | Gate repair, flagging, signal equipment and spare parts |
| Maintenance-Buildings/Facilities Maintenance - Pathway | 285,720 25,500 | 237,447 10,000 | | Station & facility cleaning, bike lockers, HVAC and electrical Pathway maintenance and fencing costs |
| Transportation Services | 411,664 | 334,664 | | FY21 decrease: North County and Larkspur bus cancellation |
| Office Expense | 128,000 | 88,000 | | Cost savings in FY21 due to budget reduction plans |
| Agency Extra Help | 50,000 | 5,000 | | As-needed temporary assistance |
| Rents/Leases - Equipment | 101,520 | 90,020 | | Right-of-way maintenance equipment leases, copy machine lease reduction |
| Minor Equipment | 308,190 | 304,028 | , | Signage, tools, and cleaning supplies for trains and right-of-way |
| Computer Software and Hardware | 267,918 | 247,480 | | Ongoing software and computer replacements |
| Training, Travel and Memberships | 181,500 | 59,300 | | Professional training for PTC, signal and track regulations, engine training; site visits |
| Fuel and Lubricants Miscellaneous | 1,503,004 8,000 | 1,228,333 5,000 | | Savings due to reduced prices and reduced service schedule in FY20 and 21 Reduction for budget targets |
| Professional Services | 2,200,575 | 2,538,788 | | FY21 reduction tied to cancellation of WIFI and third party customer service contract |
| Utilities | 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 A | ssets) | | | |
| Buildings & Improvements | - | - | - | Wheel many marking Dail Complete a namili |
| Vehicles, Equipment | 2,990,500 | 2,240,439 | 2,364,911 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 | | | | |
| | F3F 000 | F3F 000 | 525,000 | Allocation for non-revenue equipment replacement |
| Transfer to Equipment Sinking Fund | 525,000 | 525,000 | 525,000 | |
| Transfer to Equipment Sinking Fund | 525,000 525,000 | 525,000 525,000 | 525,000 | |

**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.

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. For non-represented employees, SMART has adjusted job classes whose top step is below \$100,000 by a 3% cost-of-living to provide equity to those employees in similar represented ranges.

| Fiscal Yea | r 2020-21 : Propos | sed | Positio | on | Author | iza | tion | | | |
|---|--------------------|-----|------------|----|---------|-----|-----------|------|--------|--------------------------------------|
| Position | Authorized FTE | | Salary Ran | | | | alary Rar | nge: | Hourly | CHANGE |
| | | | Low | | High | | Low | | High | 0.0.002 |
| ADMINISTRATIVE POSITIONS | | | | | - | | | | | |
| Accountant | 1 | \$ | 76,586 | \$ | 93,101 | \$ | 36.82 | \$ | 44.76 | Adjusted for COLA |
| Accounting and Payroll Assistant | 1 0 | \$ | 53,955 | \$ | 65,582 | \$ | 25.94 | \$ | 31.53 | Eliminate 1 FTE |
| Administrative Analyst/ Contracts | 1 | \$ | 84,552 | \$ | 102,773 | \$ | 40.65 | \$ | 49.41 | Adjusted for COLA |
| Administrative Assistant | 1 | \$ | 52,874 | \$ | 64,272 | \$ | 25.42 | \$ | 30.90 | Adjusted for COLA |
| Assistant General Counsel | 1 | \$ | 141,315 | \$ | 171,787 | \$ | 67.94 | \$ | 82.59 | |
| Assistant Planner* | 1 | \$ | 72,925 | \$ | 88,650 | \$ | 35.06 | \$ | 42.62 | Adjusted for COLA |
| Chief Financial Officer | 1 | \$ | 225,930 | \$ | 274,643 | \$ | 108.62 | \$ | 132.04 | |
| Clerk of the Board | 1 | \$ | 80,434 | \$ | 97,781 | \$ | 38.67 | \$ | 47.01 | Adjusted for COLA |
| Communications and Marketing Manager | 1 | \$ | 137,883 | \$ | 167,606 | \$ | 66.29 | \$ | 80.58 | |
| Community Outreach Coordinator | 21 | \$ | 74,755 | \$ | 90,834 | \$ | 35.94 | \$ | 43.67 | Eliminate 1 FTE/ Adjusted fo COLA |
| 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 | \$ | 69,389 | \$ | 84,344 | \$ | 33.36 | \$ | 40.55 | Adjusted for COLA |
| Information Systems Manager | 1 | \$ | 124,904 | \$ | 151,840 | \$ | 60.05 | \$ | 73.00 | Revised Title |
| Information Systems Technician | 1 | \$ | 76,586 | \$ | 93,101 | \$ | 36.82 | \$ | 44.76 | Adjusted for COLA |
| Legal Administrative Assistant | 1 | \$ | 69,389 | \$ | 84,344 | \$ | 33.36 | \$ | 40.55 | Adjusted for COLA |
| Payroll Technician | 1 | \$ | 55,578 | \$ | 67,558 | \$ | 26.72 | \$ | 32.48 | Adjusted for COLA |
| 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)

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| Fiscal Ye | ar 2020-21 : Propos | sed | Positio | on . | Authori | izat | tion | | | |
|-------------------------------|---------------------|-----|------------|-------|---------|------|-----------|------|--------|-----------------|
| Position | Authorized FTE | | Salary Rar | ige / | Annual | Si | alary Ran | ige: | Hourly | CHANGE |
| | | | Low | | High | | Low | | High | |
| CAPITAL POSITIONS | | 1 | | I | | | | 1 | | |
| 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 | \$ | - | \$ | - | |

* Denotes Limited-Term Position Dependent on Project need

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

| Fiscal Year | 2020-21 : Propos | sec | l Positio | on | Author | zat | tion | | | |
|--|-------------------|-----|------------|-------|---------|-----|-----------|----------|--------|--|
| Position | Authorized FTE | | Salary Ran | ige / | Annual | Sa | alary Rar | ge: | Hourly | CHANGE |
| | | | Low | | High | | Low | | High | |
| PERATIONS POSITIONS | | | | | | | | | | |
| Administrative Assistant | 1 | \$ | 52,874 | \$ | 64,272 | \$ | 25.42 | \$ | 30.90 | Adjusted for COLA |
| Administrative Analyst-Purchasing | 1 | \$ | 84,552 | \$ | 102,773 | \$ | 40.65 | \$ | 49.41 | Adjusted for COLA |
| 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 unic 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 | \$ | 67,725 | \$ | 82,306 | \$ | 32.56 | \$ | 39.57 | Adjusted for COLA |
| 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 Agreemen |
| Engineer-Conductor** | 29 25 | \$ | 85,155 | \$ | 100,173 | \$ | 40.94 | \$ | 48.16 | Eliminate 4 FTE; 3% COLA per union agreemen |
| 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 unic Agreement |
| Laborers-Vehicle Maintenance | 10 | | - | \$ | 63,794 | | - | \$ | 30.67 | Equity 1% + 3% COLA per unic Agreement |
| Laborers-Track Maintenance | 2 | | - | \$ | 61,922 | | - | \$ | 29.77 | Adjusted for COLA |
| Operations Manager | 1 | \$ | 185,411 | \$ | 225,389 | \$ | 89.14 | \$ | 108.36 | |
| Parts Clerk | 2 | \$ | 62,858 | \$ | 76,398 | \$ | 30.22 | \$ | 36.73 | Adjusted for COLA |
| 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 Agreemer |
| 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 | | - | \$ | | 3% COLA per union Agreemer |
| Track Maintainer 2 | 1 | | - | \$ | 90,230 | | - | \$ | | 3% COLA per union Agreemer |
| 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 | Ŧ | | \$ | | 3% COLA per union agreemen |
| ubtotal Operations Full Time Equivalents (FTE)** | 103.5 | I | | 7 | 100,200 | | | <u> </u> | .3.20 | set yes anon agreemen |

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

Table 5: Page 3 of 3

EXHIBIT B

STATEMENT OF INVESTMENT POLICY FOR FISCAL YEAR 2020-21

1.0 Policy:

This investment policy is intended to outline the guidelines and practices to be used in effectively managing the SMART District (District's) available cash and investment portfolio. District monies not required for immediate cash requirements will be invested in compliance with the California Government Code Section 53600, et seq.

2.0 Scope:

This policy applies to all the financial assets accounted for in the District's Comprehensive Annual Financial Report and any new fund created by the District, unless specifically exempted. The investment of bond proceeds will be governed by the provisions of relevant bond documents.

3.0 Prudence:

The Board of Directors and Chief Financial Officer adhere to the guidance provided by the "prudent investor rule," California Government Code Section 53600.3, which obligates a fiduciary to ensure that "when investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law."

4.0 Objectives:

In accordance with California Government Code Section 53600.5, and in order of importance, the Chief Financial Officer shall adhere to the following three criteria:

- (a) <u>Safety of Principal</u> Safety of principal is the foremost objective of the investment program. Investments of the District shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- (b) <u>Liquidity</u> Investments shall be made whose maturity date is compatible with cash flow requirements and which will permit easy and rapid conversion into cash without substantial loss of value.
- (c) <u>Return on Investment</u> The District's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the District's investment risk constraints and the cash flow characteristics of the portfolio.

5.0 Delegation of Authority:

The authority of the Board to purchase or sell securities for the District's portfolio, may be delegated by the Board to the Chief Financial Officer, who shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked. The Chief Financial Officer shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy.

The oversight responsibility for the investment program is hereby delegated to the Chief Financial Officer who shall monitor and review all investments for consistency with this Investment Policy.

The Chief Financial Officer may delegate investment decision making and execution authority to an independent SEC-registered investment advisor. The advisor shall comply with this Policy and such other written instructions as are provided by the Chief Financial Officer.

6.0 Investment Procedures:

The Chief Financial Officer shall establish operational procedures pertaining to the investment of District funds as needed. These procedures shall be compliant with the parameters and limits set forth by this investment policy. The procedures should regulate actions regarding: safekeeping, repurchase agreements, wire transfer agreements, banking service contracts, and collateral/depository agreements. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Chief Financial Officer.

7.0 Ethics and Conflicts of Interest:

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business to the Chief Financial Officer. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the District.

8.0 Authorized Financial Dealers and Institutions:

For brokers/dealers of government securities and other investments, the Chief Financial Officer shall select only brokers/dealers who are licensed and in good standing with the California Department of Securities, the Securities and Exchange Commission, the National Association of Securities Dealers or other applicable self-regulatory organizations. Before engaging in investment transactions with a broker/dealer, the Chief Financial Officer shall obtain a signed verification form that attests the individual has reviewed the District's Investment Policy, and

intends to present only those investment recommendations and transactions to the District that is appropriate under the terms and conditions of the Investment Policy.

If an Investment Advisor is authorized to conduct investment transactions on the District's behalf, the Investment Advisor may use their own list of approved broker/dealers and financial institutions for investment purposes.

9.0 Authorized and Suitable Investments:

The District is governed by the California Government Code, Sections 53600, *et seq*. Within the context of these limitations, the investments listed below are authorized. Those investments not identified are considered to be ineligible.

- 1. **U.S. Treasury Obligations.** United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.
- 2. **U.S. Agency Obligations.** Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.
- 3. **California State and Local Agency Obligations.** Obligations of the State of California or any local agency within the state, including bonds payable solely out of revenues from a revenue producing property owned, controlled or operated by the state or any local agency or by a department, board, agency or authority of the state or any local agency.
- 4. **Other State Obligations.** Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.
- 5. **Bankers' Acceptances**. Time drafts or bills of exchange that are drawn on and accepted by a commercial bank and brokered to investors in the secondary market. The maximum maturity of an issue will be 180 days. Securities eligible for investment under this subdivision shall be rated in the highest letter and number category by nationally recognized statistical-rating organization. The maximum exposure shall be no more than 40% of the portfolio value. However, no more than 30 percent of the agency's money may be invested in the bankers' acceptances of any one commercial bank pursuant to this section.
- 6. **Commercial Paper**. Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-

rating organization. The entity that issues the commercial paper shall meet all of the following conditions in either paragraph a or paragraph b:

- a. The entity meets the following criteria: (i) Is organized and operating in the United States as a general corporation. (ii) Has total assets in excess of five hundred million dollars (\$500,000,000). (iii) Has debt other than commercial paper, if any, that is rated "AA" or higher by a nationally recognized statistical-rating organization.
- b. The entity meets the following criteria: (i) Is organized within the United States as a special purpose corporation, trust, or limited liability company. (ii) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond. (iii) Has commercial paper that is rated "AA" or higher, or the equivalent, by a nationally recognized statisticalrating organization.

Eligible commercial paper shall have a maximum maturity of 270 days or less. The District may invest no more than 25 percent of its money in eligible commercial paper. The District may purchase no more than 10 percent of the outstanding commercial paper of any single issuer.

- 7. **Medium-Term Notes**. Medium-term notes are defined in Government Code Section 53601 as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "AA" or better by a nationally recognized statistical-rating organization. Purchases of medium-term notes shall not include other instruments authorized by section 53601 and may not exceed 30% of the portfolio value.
- 8. Negotiable Certificates of Deposit. Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a state-licensed branch of a foreign bank. Securities eligible for investment under this subdivision shall be rated in the highest letter and number category by a nationally recognized rating service for short-term ratings (A-1/P1/F-1) and AA or better for longer-term ratings. Purchases of negotiable certificates of deposit may not exceed 30 percent of the District's aggregate portfolio.
- 9. **Time Deposits.** The District may invest in non-negotiable time deposits (CDs) that are FDIC insured or fully collateralized in a state or national bank, savings association or federal association, federal or state credit union located in California, including U.S. branches of foreign banks licensed to do business in California. To be eligible to receive local agency deposits, a financial institution must receive a minimum overall

"satisfactory rating" for meeting the credit needs of California Communities in its most recent evaluation. CDs are required to be collateralized as specified under Government Code Section 53630 et seq. The District, at its discretion, may waive the collateralization requirements for any portion that is covered by federal deposit insurance. The District shall have a signed agreement with any depository accepting District funds per Government Code Section 53649. No deposits shall be made at any time in CDs issued by a state or federal credit union if a member of the Governing Council or the Finance Director serves on the board of directors or any committee appointed by the board of directors of the credit union. In accordance with Government Code Section 53638, any deposit shall not exceed that total shareholder's equity of any depository bank, nor shall the deposit exceed the total net worth of any institution.

- 10. Local Agency Investment Fund (LAIF) is a pooled investment fund through the State Chief Financial Officer. Deposits for the purpose of investment in the Local Agency Investment Fund of the State Treasury may be made up to the maximum amount permitted by State Treasury policy.
- 11. **Money Market Funds.** The Chief Financial Officer may invest in shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (Government Code Section 53601(k).)

The following criteria will be used in evaluating companies:

- a. Attain the highest ranking letter and numerical rating provided by not less than two nationally recognized rating services; or
- b. Have an investment advisor registered or exempt from registration with the Securities and Exchange Commission with not less than five (5) years' experience managing money market mutual funds and with assets under management in excess of \$500,000,000.
- c. The maximum purchase price of shares shall not exceed 20% of the portfolio. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund.
- 12. Local Government Investment Pools. Shares of beneficial interest issued by a joint powers authority organized pursuant to Government Code Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (o) of Government Code Section 53601, inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

- a. The adviser is registered or exempt from registration with the Securities and Exchange Commission.
- b. The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (o) Government Code Section 53601, inclusive.
- c. The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

Credit criteria and sectors and issuers percentages for investments listed in this section will be determined at the time the security is purchased. A decline in the overall investment balances that causes the percent to any investment above its maximum policy limit will not be considered out of compliance. The District may from time to time be invested in a security whose rating is downgraded. In the event a rating drops below the minimum allowed rating category for that given investment type, the Chief Financial Officer shall notify the District General Manager and District Council and recommend a plan of action.

10.0 Prohibited Investments:

Under the provisions of California Government Code Sections 53601.6 and 53631.5, the District shall not invest any funds covered by this Investment Policy in inverse floaters, range notes, mortgage-derived, interest-only strips or any investment that may result in a zero interest accrual if held to maturity.

11.0 Collateralization:

Collateralization is required on Certificates of Deposit as per California Government Code section 53601. The collateralization level for certificates of deposit is 100% of market value of principal and accrued interest.

The entity chooses to limit collateral to the following: U.S. Treasuries and Federal Agency Obligations. Collateral will always be held by an independent third party with whom the entity has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the entity and retained. The right of collateral substitution is granted.

12.0 Safekeeping and Custody:

All securities purchased may be delivered versus payment ("DVP") basis, and held in safekeeping pursuant to a safekeeping agreement.

13.0 Maximum Maturities:

To the extent possible, the District will attempt to match its investments with anticipated cash flow requirements. For certain instruments, the term of the investment is limited by market
convention or as otherwise prescribed herein. No investments may be acquired that exceed five (5) years, unless approved by the Board at least 90 days in advance of the purchase.

14.0 Internal Control:

The Chief Financial Officer shall establish an annual process of independent review by an external auditor. This review will provide internal control by assuring compliance with policies and procedures. The Chief Financial Officer may, at any time, further restrict the securities approved for investment as deemed appropriate.

15.0 Performance Standards:

The investment portfolio will be designed to obtain a market average rate of return during budgetary and economic cycles, taking into account the District's investment risk constraints and cash flow needs.

16.0 Reporting:

In accordance with Government Code Section 53607, the Chief Financial Officer shall submit an annual report to the Board indicating the types of investment by fund, institution, date of maturity, and amount of deposit, and shall provide the current market value of all securities with a maturity of more than twelve (12) months, rates of interest, and expected yield to maturity.

17.0 Investment Policy Adoption:

The Chief Financial Officer may, at any time, further restrict the securities approved for investment as deemed appropriate.

Additionally, the Chief Financial Officer shall annually send a copy of the current Investment Policy to all approved dealers. Each dealer is required to return a signed statement indicating receipt and understanding of the District's investment policies.

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, STATE OF CALIFORNIA, DECLARING AND RATIFYING THE APPROPRIATION LIMIT FOR FISCAL YEAR 2020-21

WHEREAS, Article XIIIB of the California Constitution ("Article XIIIB") places various limitations on the appropriations of the State of California and local public agencies; and

WHEREAS, Article XIIIB requires the Sonoma-Marin Area Rail Transit District ("SMART") to set an annual appropriations limit based on factors which include the appropriations limit for the prior fiscal year, population growth (if any), and inflation; and

WHEREAS, SMART's annual appropriations limit was first set at \$100,000,000 for Fiscal Year 2008-09 with the passage of Measure Q; and

WHEREAS, SMART approved subsequent annual appropriations limits as required by law; and

WHEREAS, the information supporting these adjustments is attached hereto as Exhibit A; and

WHEREAS, the information used to make these calculations for SMART was made available for public inspection in SMART's offices on May 22, 2020 and has been available for at least 15 days prior to the scheduled adoption of this resolution, in accordance with the requirements of California Government Code Section 7910.

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct.

BE IT FURTHER RESOLVED that the Appropriations Limit for SMART FISCAL YEAR 2020-21 shall be \$146,414,925.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marin Area Rail Transit District held on the 17^h day of June, 2020, by the following vote:

DIRECTORS:

AYES: NOES: ABSENT: ABSTAIN:

> Eric Lucan, Chair, Board of Directors Sonoma-Marin Area Rail Transit District

ATTEST:

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

EXHIBIT A

CALCULATION OF SMART APROPRIATION LIMITS

| FISCAL YEAR | 2018-19 | 2019-20 | 2020-21 | |
|--|------------------------|------------------------|---------------------------|--|
| | | | | |
| BEGINNING LIMIT | \$132,986,287 | \$137,563,577 | \$142,288,336 | |
| PER CAPITA INCREASE IN COST OF LIVING | 1.0367 | 1.0385 | 1.0373 | |
| POPULATION CHANGE | 0.9978 | 0.9960 | 0.9920 | |
| POPULATION FACTORS USED* | TOTAL SONOMA COUNTY | TOTAL SONOMA COUNTY | TOTAL SONOMA COUNTY | |
| TOTAL | \$137,563,577 | \$142,288,336 | \$146,414,925 | |

* Per Government Code §7901, special districts located in two or more counties, such as SMART, may choose to use the change in population for the portion of the district which has the highest assessed valuation.



Attachment 3 AGENDA ITEM 8

June 3, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian

General Manager

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

SMART Board of Directors June 3, 2020 Page 4 of 4

The budget also outlines year-end balances for three special purpose reserves. First, we show the selfinsured 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



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954

SUBJECT: Contract Extensions for the Start of Fiscal Year 2020-21

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to execute seven contract amendments totaling \$417,000 as needed for Fiscal Year 2020 -21.

SUMMARY:

As the current fiscal year comes to a close on June 30th and we begin Fiscal Year 2020-21, there are a number of ongoing contracts that we request yourauthority to extend. The total amount of the contract authority we are seeking is \$417,000. Funding for the contract extensions is included in the Fiscal Year 2020-21 budget proposal and the actual contract extensions are attached to this Board report.

Following this staff report we have provided a detailed list of each contractor, a description of their work, the amount of amendment, total not-to-exceed amount and the expiration date of each contract. We request your authority to execute these amendments for the new fiscal year.

FISCAL IMPACT: The total cost of the contract amendments is included in the Fiscal Year 2020-21 budget.

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

Very truly yours,

/s/

Erin McGrath Chief Financial Officer

Attachment(s):

Contract Amendment Summary Sheet

- Aramark Uniform Services Contract Amendment No. 4
- Barbier Security Group Contract Amendment No. 2
- Certified Employment Group Contract Amendment No. 6
- Empire Cleaners Amendment No. 3
- Herzog Contracting Corporation Contract Amendment No.3
- Parodi Investigative Solutions Contract Amendment No. 7
- WRA, Inc. Contract Amendment No. 3

CONTRACT AMENDMENT SUMMARY

| Contractor and Scope | Туре | Proposed Amendment Amount | New Not-to- Exceed Amount | New Expiration Date |
|---|---|---------------------------------|---------------------------------|---------------------------|
| ARAMARK Uniform Dry Cleaning, Laundering, and Related Services for the Operations Department | Uniform Cleaning Services | \$18,000 | \$118,000 | 12/31/20 |
| BARBIER SECURITY GROUP As-needed security patrol services along SMART's Right-of Way | Security Services | \$50,000 | \$250,000 | 6/30/2021 |
| CERTIFIED EMPLOYMENT GROUP As-needed temporary staffing services for SMART's Petaluma administrative office as well as its Rail Operation Center in Santa Rosa Rates and staff vary depending on need | Capital and Operations: Extra Help | \$35,000 | \$269,953 | 6/30/2021 |
| EMPIRE CLEANERS Uniform Dry Cleaning, Laundering, and Related Services for the Operations Department | Uniform Cleaning Services | \$30,000 | \$149,000 | 6/30/2021 |
| HERZOG CONTRACTING COPORATION Rental of specialized Hyrail Scrubber truck necessary to remove debris from track and maintain service schedule | Operations: Rail Maintenance Vehicle | \$130,000 | \$703,750 | 6/21/2021 |
| PARODI INVESTIGATIVE SOLUTIONS As-needed pre-employment background investigation services. | Pre-Employment Background Investigation Services | \$10,000 | 110,000 | 6/30/2021 |
| WRA, INC. Environmental permitting management, technical consulting, construction compliance monitoring, and related support services | Engineering Environmental Support | \$144,000 | \$770,000 | 6/30/2021 |

FOURTH AMENDMENT TO THE AGREEMENT FOR CONTRACTOR SERVICES BETWEEN ARAMARK UNIFORM SERVICES AND SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

This Fourth Amendment dated as of June 17, 2020 (the "Fourth Amendment"), to the Service Agreement by and between Aramark Uniform Services (hereinafter "Contractor") and the Sonoma-Marin Area Rail Transit District (hereinafter "SMART"), dated as of September 27, 2016 (the "Original Agreement," as amended and supplemented by the First Amendment through the Third Amendment, and this Fourth Amendment, the "Agreement").

RECITALS

WHEREAS, SMART and Contractor entered into the Original Agreement to employ the services of Contractor to provide uniform and towel services; and

WHEREAS, SMART desires to amend the Agreement to extend the term through December 31, 2020, and increase the not-to exceed amount by \$18,000 for a total not-to-exceed amount of \$118,000.

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

AGREEMENT

1. **ARTICLE 4 TERM OF AGREEMENT.** Article 4 is amended as follows:

"The term of this Agreement shall be from September 20, 2016 through and including December 31, 2020, unless terminated earlier in accordance with <u>Article 8."</u>

2. **ARTICLE 5. PAYMENT.** Article 5 is amended as follows:

"Contractor shall be paid, in accordance with the rates set forth in Exhibit 1, for the total not-to-exceed amount of \$118,000. This amount shall include the costs of services for all equipment, materials, delivery, labor, insurance, overhead, profit, use/excise Taxes, and all other costs necessary to perform services under the Contract."

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

ARAMARK UNIFORM SERVICES THIRD AMENDMENT OP-SV-16-005 Page 1 of 2

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

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

By_____ Farhad Mansourian, General Manager

ARAMARK UNIFORM SERVICES

Dated:

Dated: _____

By_____

APPROVED AS TO FORM:

Dated:

By_____ District Counsel

SECOND AMENDMENT TO THE AGREEMENT FOR CONTRACTOR SERVICES BETWEEN SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND BARBIER SECURITY GROUP

This Second Amendment dated as of June 17, 2020 (the "Second Amendment"), to the Agreement for Contractor Services by and between Barbier Security Group (hereinafter "Contractor") and the Sonoma-Marin Area Rail Transit District (hereinafter "SMART"), dated as of July 17, 2019 (the "Original Agreement," as amended by the First Amendment, and now this Second Amendment, the "Agreement").

RECITALS

WHEREAS, SMART and Contractor entered into the Original Agreement to employ the services of Contractor for the provision of professional security and related services; and

WHEREAS, SMART desires to amend the Agreement to increase the not-to-exceed amount by \$50,000 or a not-to-exceed amount of \$250,000 for the Agreement.

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

AGREEMENT

ARTICLE 5. PAYMENT Section 5.02 of the Agreement is amended as follows:

"Consultant shall be paid in accordance with the rates established in Exhibit B; provided, however, that the total payments to Consultant shall not exceed \$250,000 without prior written approval of SMART."

1. **ARTICLE 6. TERM OF AGREEMENT.** Section 6.01 is amended as follows:

"The term of this Agreement shall be from July 17, 2019 through and including June 30, 2021, unless terminated earlier in accordance with <u>Article 7."</u>

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

BARBIER SECURITY GROUP SECOND AMENDMENT SF-PS-19-003

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

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated:

By_____ Farhad Mansourian, General Manager

BARBIER SECURITY GROUP

Dated:

By_____

APPROVED AS TO FORM:

Dated:

By_____ District Counsel

BARBIER SECURITY GROUP SECOND AMENDMENT SF-PS-19-003

SIXTH AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND CERTIFIED EMPLOYMENT GROUP

This Sixth Amendment dated as of June 3, 2020 (the "Sixth Amendment") to the Agreement for Consultant Services by and between the Sonoma-Marin Area Rail Transit District ("SMART") and Certified Employment Group ("CONSULTANT"), dated as of July 27, 2015 (the "Original Agreement," and as amended by the First through Fifth, and this Sixth Amendment, the "Agreement").

RECITALS

WHEREAS, SMART and CONSULTANT previously entered into the Original Agreement and subsequent Amendments to provide temporary staffing services, Direct Hire Search services, and computer skills testing; and

WHEREAS, SMART previously amended the Agreement to increase the not-to-exceed amount and alter the fee structure; and

WHEREAS, SMART desires to increase the amount of the Agreement by \$35,000 for a total not-to-exceed amount of \$269,953, and to extend the term of the Agreement of June 30, 2021.

NOW, THEREFORE, in consideration of the recitals set forth above and the covenants contained herein, it is mutually agreed by and between the parties that:

AGREEMENT

1. **"PRICING/FEES AND BILL RATES"** Section of the Agreement is amended as follows:

The Agreement amount shall be increased by \$35,000 for the provision of services, with a total not-to-exceed amount of \$269,953.

2. "TERM" Section of the Agreement is hereby amended as follows:

The term of this Agreement shall remain in effect until June 30, 2021.

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

Certified Employment Group Sixth Amendment Contract No. HR-PS-15-001

Page 1 of 2

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment as set forth below.

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: By_____ Farhad Mansourian, General Manager

CERTIFIED EMPLOYMENT GROUP

Dated: By_____ Its _____

APPROVED AS TO FORM:

Dated: _____

By_____ District Counsel

THIRD AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND EMPIRE CLEANERS

This Third Amendment dated as of June 17, 2020 (the "Third Amendment") to the Agreement for Consultant Services by and between the Sonoma-Marin Area Rail Transit District ("SMART") and Empire Cleaners ("CONSULTANT"), dated as of March 1, 2017 (the "Original Agreement," and now as amended by the First Amendment, Second Amendment, and this Third Amendment, the "Agreement").

RECITALS

WHEREAS, SMART and CONSULTANT previously entered into the Original Agreement to provide dry cleaning, uniform laundering, and related services to SMART; and

WHEREAS, SMART desires to amend the Agreement to extend the term through June 30, 2021 and increase the not-to-exceed amount by \$30,000 for a total not-to-exceed amount of \$149,000; and

NOW, THEREFORE, in consideration of the recitals set forth above and the covenants contained herein, it is mutually agreed by and between the parties that:

AGREEMENT

1. **ARTICLE 5. PAYMENT.** Section 5.02 of the Agreement is amended as follows:

The total not-to-exceed amount is increased by \$30,000 for a total not-to-exceed amount of \$149,000 for the Agreement.

2. **ARTICLE 6. TERM OF AGREEMENT**. Section 6.1 of the Agreement is hereby removed and replaced with the following:

The term of this Agreement shall be in effect through June 30, 2021, unless terminated earlier in accordance with the provisions of <u>Article 7</u>.

3. ARTICLE 16. MISCELLANEOUS PROVISIONS. Article 16 is amended to add Section 16.09 as follows:

Section 16.09 <u>Acceptance of Electronic Signatures and Counterparts.</u> 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 the original

Empire Cleaners Third Amendment OP-SV-17-001

Page 1 of 3

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.

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

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Empire Cleaners Third Amendment OP-SV-17-001

Page 2 of 3

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as set forth below.

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

By_____ Dated: Farhad Mansourian, General Manager

EMPIRE CLEANERS

Dated:

By_____ Its

APPROVED AS TO FORM:

Dated:

By_____ District Counsel

Empire Cleaners Third Amendment OP-SV-17-001

Page 3 of 3

THIRD AMENDMENT TO THE EQUIPMENT LEASE AND SERVICE AGREEMENT BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND HERZOG CONTRACTING CORP.

This Third Amendment dated as of June 17, 2020 (the "Third Amendment") to the Equipment Lease and Service Agreement between the Sonoma-Marin Area Rail Transit District ("LESSEE") and Herzog Contracting Corp. ("LESSOR"), dated as of December 20, 2016 (the "Original Agreement," as supplemented and amended by the First Amendment, Second Amendment, and now this Third Amendment, the "Agreement").

RECITALS

WHEREAS, PARTIES previously entered into the Original Agreement for LESSOR to lease Equipment #798 / Class #128 / Truck-Brush Truck / Hyrail 2015 Freightliner Model 108SD from LESSOR; and

WHEREAS, the Agreement was previously amended to alter the monthly lease amount and extend the term; and

WHEREAS, LESSEE desires to extend the term of the Agreement to June 21, 2021 and increase the Agreement by \$130,000, establishing a not-to-exceed (NTE) amount of \$703,750; and

NOW, THEREFORE, in consideration of the recitals set forth above and the covenants contained herein, it is mutually agreed by and between the parties that:

AGREEMENT

1. **TERM** is hereby deleted in its entirety and replaced with the following:

"The term of this Equipment Lease shall commence on December 21, 2016, and will remain in effect until June 21, 2021."

2. TERM / RENT shall be amended as follows:

"The monthly rent payment shall be set to \$10,000 plus applicable tax effective rental month September 2017 forward. The not-to-exceed amount of the Agreement is established as \$703,750 to include all rental payments and applicable taxes."

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

Herzog Contracting Corp Third Amendment

Page 1 of 2

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as set forth below.

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Herzog Contracting Corp Third Amendment

Page 2 of 2

SEVENTH AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND PARODI INVESTIGATIVE SOLUTIONS

This Seventh Amendment dated as of June 17, 2020 (the "Sixth Amendment") to the Agreement for Consultant Services by and between the Sonoma-Marin Area Rail Transit District ("SMART") and Parodi Investigative Solutions ("CONSULTANT"), dated as of November 1, 2015 (the "Original Agreement," as amended and supplemented by the First through the Sixth, and now this Seventh Amendment, the "Agreement").

RECITALS

WHEREAS, SMART and CONSULTANT previously entered into the Original Agreement to provide pre-employment background investigations and related services; and

WHEREAS, SMART and CONSULTANT previously entered into various Amendments to the Agreement between July 1, 2016 and July 1, 2019, to increase the not-to-exceed amount and to extend the term of the Agreement; and

WHEREAS, SMART desires to amend the Agreement to increase the not-toexceed amount by \$10,000 for a total not-to-exceed amount of \$110,000, and to extend the term to June 30, 2021; and

NOW, THEREFORE, in consideration of the recitals set forth above and the covenants contained herein, it is mutually agreed by and between the parties that:

AGREEMENT

1. "ARTICLE 5. PAYMENT" Article 5 of the Agreement is amended as follows:

The contract amount shall be increased by an amount not-to-exceed \$10,000, for the provisions of services, for an aggregate not-to-exceed amount of \$110,000 for the Agreement.

2. **"ARTICLE 6. TERM OF AGREEMENT"** Article 6 of the Agreement is amended as follows:

The term of this Agreement shall remain in effect until June 30, 2021 unless terminated earlier in accordance with the provisions of **Article 7**.

3. ARTICLE 16. MISCELLANEOUS PROVISIONS. Article 16 is amended to add Section 16.09 as follows:

Section 16.09 <u>Acceptance of Electronic Signatures and Counterparts.</u> The parties agree that this Contract, Agreements ancillary to this Contract, and related documents PARODI INVESTIGATIVE SOLUTIONS SEVENTH AMENDMENT SF-PS-15-002 Page 1 of 3 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 the 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.

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

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IN WITNESS WHEREOF, the parties hereto have executed this Seventh Amendment as set forth below.

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: By_____ Farhad Mansourian, General Manager PARODI INVESTIGATIVE SOLUTIONS Dated: By_____ Its _____ **APPROVED AS TO FORM:**

Dated:

By_____ District Counsel

PARODI INVESTIGATIVE SOLUTIONS SEVENTH AMENDMENT SF-PS-15-002

Page 3 of 3

THIRD AMENDMENT TO AGREEMENT FOR CONTRACTOR SERVICES BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND WRA, INC.

This Third Amendment dated as of June 3, 2020 (the "Third Amendment") to the Agreement for Contractor Services by and between the Sonoma-Marin Area Rail Transit District ("SMART") and WRA, Inc. ("Contractor"), dated as of July 1, 2018 (the "Original Agreement," and now as amended by the First Amendment, Second Amendment, and this Third Amendment, the "Agreement").

RECITALS

WHEREAS, SMART and Contractor entered into the Original Agreement to provide environmental permitting management, technical consulting, construction compliance monitoring, and related support services; and

WHEREAS, SMART previously amended the Agreement to increase the not-toexceed amount and amend the Scope of Work to include baseline studies necessary for the Windsor Extension Project and the Novato to Suisun Passenger Rail Feasibility Study; and

WHEREAS, SMART desires to amend the Agreement to increase the not-toexceed amount by \$144,000 for a total not-to-exceed amount of \$770,000 for continued monitoring, permitting, maintenance, and compliance support, as well as extend the term of the Agreement through June 30, 2021.

NOW, THEREFORE, in consideration of the recitals set forth above and the covenants contained herein, it is mutually agreed by and between the parties that:

AGREEMENT

1. "ARTICLE 5. PAYMENT." Article 5 shall be amended as follows:

"Section 5.02 Contractor shall be paid on a time and expense basis in accordance with **Exhibit B**; provided, however, that total payments to Contractor shall not exceed <u>\$770,000</u> without the prior written approval of SMART."

2. **"ARTICLE 6. TERM OF AGREEMENT."** Article 6 is amended as follows:

Section 6.01 The term of this Agreement shall remain in effect until June 30, 2021 unless terminated earlier in accordance with the provisions of **Article 7**.

Page 1 of 3

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

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IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as set forth below.

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

| Dated: | By Farhad Mansourian, General Manager | | |
|--------|--|--|--|
| | WRA, INC. | | |
| Dated: | By | | |
| | Its | | |
| | APPROVED AS TO FORM: | | |
| Dated: | By District Counsel | | |



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Hwy, Suite 200 Petaluma, CA 94954

SUBJECT: Approval of SPTJ Consulting Contract Amendment No. 9

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to execute Contract Amendment No. 9 in the amount of \$340,470 to the existing Information Technology (IT) Services contract with SPTJ Consulting for IT support services for a total not-to-exceed amount of \$1,979,601 and to extend the term of the contract to June 30, 2021.

SUMMARY:

Chien Liew of SPTJ Consulting has been performing IT maintenance and support services for SMART since June 2012. His services have included continuous monitoring of all Cisco routers, firewalls, VPN concentrators, and switches, IT backup support for email, phone systems, network maintenance and troubleshooting.

The performance and reliability of our IT security and IT systems has been excellent despite our need for maintaining a fully functioning 24-hour rail operation. We recommend continuing to utilize SPTJ's expertise in the outside IT support role to ensure a healthy and secure network infrastructure and to maintain a high level of competency in the IT department.

Maintenance of Cisco routers, firewalls, VPN concentrators, and switches is required to ensure secure, reliable communications between the Petaluma office, the Fulton MOW Facility, the Rail Operations Center, and the Roblar Operations office. SPTJ Consulting continues to assist us with connections to our Sonic.net fiber backbone, SMART work from home infrastructure, and ongoing system security updates.

SPTJ has a history of working with SMART for many years. Their experience with and institutional knowledge of our complex systems puts this specific firm in a uniquely qualified position to provide the best and most valuable services to SMART.

SMART staff recommends continuing the use of SPTJ consulting for a number of reasons. First, SPTJ has a proven their ability to maintain and update our network equipment to our demanding standards. Secondly, since SPTJ has been involved with SMART network design, maintenance and operations for quite some time, this firm brings a wealth of institutional knowledge to SMART. Finally, having SPTJ Consulting on call for rapid response to any emergent situations allows SMART to maintain a lean IT department, thereby keeping admin costs as low as possible.

Staff is recommending approval of Amendment No. 9 in the amount of \$340,470 for professional IT support services, for a total not-to-exceed contract amount of \$1,979,601.

FISCAL IMPACT: Funding for the contract is included in the proposed Fiscal Year 2020-2021 budget.

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

Very truly yours,

/s/ Bryan Crowley Information Systems Manager

Attachment (s): SPTJ Consulting Contract Amendment No. 9

NINTH AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND SPTJ CONSULTING

This Ninth Amendment dated as of June 3, 2020 (the "Ninth Amendment"), to the Agreement for Consultant Services by and between SPTJ Consulting (hereinafter referred to as "CONSULTANT") and the Sonoma-Marin Area Rail Transit District (hereinafter referred to as "SMART"), dated as of July 31, 2012 (the "Original Agreement," as amended and supplemented by the First through Eighth, and now this Ninth Amendment, the "Agreement").

RECITALS

WHEREAS, CONSULTANT and SMART previously entered the Original Agreement on July 31, 2012 to provide infrastructure migration, improvement and setup services and other related information technology services; and

WHEREAS, SMART and CONSULTANT previously entered into various Amendments to the Agreement between December 15, 2012 and June 5, 2019 to increase the not-to-exceed amount, amend the scope of services, and extend the term of the Agreement; and

WHEREAS, SMART desires to amend the Agreement to extend the term of the Agreement to June 30, 2021 and increase the not-to-exceed amount by \$340,470 for a total not-to-exceed of \$1,979,601.

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

AGREEMENT

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

In addition to the not-to-exceed amount set forth in the Original Agreement and subsequent Amendments, the contract amount shall be increased by an amount not-to-exceed \$340,470 for a total not-to-exceed amount of \$1,979,601 for the Agreement.

2. **"ARTICLE 6. TERM OF AGREEMENT"** is hereby deleted and replaced in its entirety with the following:

"ARTICLE 6. TERM OF AGREEMENT. The term of this Agreement shall remain in effect until June 30, 2021, unless terminated earlier in accordance with the provisions of <u>Article 7</u>."

SPTJ CONSULTING NINTH AMENDMENT OT-PS-12-011 3. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement, together with all supplements, amendments and exhibits thereto is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to, modify, invalidate, or otherwise affect any provision of the Agreement.

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SPTJ CONSULTING NINTH AMENDMENT OT-PS-12-011

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

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: _____

By_____ Farhad Mansourian, General Manager

SPTJ CONSULTING

Dated: _____

By_____ Chien Liew, President

APPROVED AS TO FORM:

Dated:

By_____ District Counsel

SPTJ CONSULTING NINTH AMENDMENT OT-PS-12-011



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Hwy, Suite 200 Petaluma, CA 94954

SUBJECT: Approval of Hanson Bridgett, LLP Contract Amendment No. 9

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to execute Amendment No. 9 with Hanson Bridgett LLP for legal support services in the amount of \$100,000 for a contract not-to-exceed amount of \$650,000.

SUMMARY:

Hanson Bridgett LLP has been under contract with SMART since 2005 and has assisted SMART with a number of projects and legal matters over the past several years, most recently as part of the labor negotiations team, assisting Human Resources in collective bargaining contract negotiations and other labor related issues.

In 2019, SMART re-negotiated three collective bargaining agreements with three separate unions representing Operations employees in the Transportation, Vehicle Maintenance, and Maintenance of Way Divisions. One collective bargaining agreement negotiated in January of 2019 will be expiring at the end of Fiscal Year 2020-21. Staff recommends that the District continue to retain the services of Hanson Bridgett for supplemental legal and labor relations support on an as-needed basis.

FISCAL IMPACT: Funding for the contract is included in the proposed budget for FY 2020-21.

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

Sincerely,

/s/ Lisa Hansley Human Resources Manager

Attachment(s): Hanson Bridgett, LLP Contact Amendment No. 9

NINTH AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND HANSON BRIDGETT, LLP

This NINTH AMENDMENT dated as of June 17, 2020 (the "Ninth Amendment") to the Agreement by and between the SONOMA-MARIN AREA RAIL TRANSIT DISTRICT ("SMART") and HANSON BRIDGETT, LLP ("CONSULTANT"), dated as of June 20, 2012 (the "Original Agreement," and as amended by the First through Eighth Amendments and now this Ninth Amendment, the "Agreement").

RECITALS

WHEREAS, SMART and CONSULTANT previously entered into the Original Agreement to provide specialized legal expertise in public employee benefits, public transportation issues, and intellectual property matters; and

WHEREAS, SMART and CONSULTANT previously entered into various Amendments to the Agreement between July 1, 2013 and January 8, 2020, to update the Scope of Services, increase the not-to-exceed amount, and extend the term of the Agreement; and

WHEREAS, SMART desires to amend the Agreement to increase the not-toexceed amount by \$100,000 for a total not-to-exceed of \$650,000 and to extend the term through June 30, 2021; and

NOW, THEREFORE, in consideration of the recitals set forth above and the covenants contained herein, it is mutually agreed by and between the parties that:

AGREEMENT

1. "ARTICLE 2. COMPENSATION" Is hereby amended as follows:

"Compensation for services over the life of the Agreement shall not exceed \$650,000 without a formal Amendment to the Agreement."

2. "ARTICLE 3. TERM" Is hereby deleted and replaced in its entirety with the following:

"The term of this Agreement shall remain in effect until June 30, 2021, unless terminated earlier in accordance with the provisions of <u>Article 8</u>."

Hanson Bridgett Ninth Amendment Contract No. LG-PS-12-002

Page 1 of 3

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

THIS SPACE INTENTIONALLY LEFT BLANK

Hanson Bridgett Ninth Amendment Contract No. LG-PS-12-002

Page 2 of 3

IN WITNESS WHEREOF, the parties hereto have executed this Ninth Amendment as set forth below.

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Dated: _____

By_____ Farhad Mansourian, General Manager

HANSON BRIDGETT, LLP

Dated: _____

By_____ Madeline Chun, Partner

APPROVED AS TO FORM:

Dated: _____

By_____ District Counsel

Hanson Bridgett Ninth Amendment Contract No. LG-PS-12-002

Page 3 of 3



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

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Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian

General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954

SUBJECT: Authorize the General Manager to Award an On-Call Service Agreement for Biohazard Remediation to Environmental Logistics, Inc. and American Integrated Services, Inc. each in the amount of \$150,000.

Dear Board Members:

RECOMMENDATION:

Your Fiscal Year 2020-21 Budget includes funding for as-needed emergency services. Staff recommends authorizing the General Manager to award an on-call Service Agreement for Biohazard Remediation to Environmental Logistics, Inc. and American Integrated Services, Inc. each in the amount of \$150,000.

SUMMARY:

SMART's existing On-Call Biohazard Remediation Agreement expires June 30, 2020. This service provides the clean-up, disinfecting, deodorizing, sanitizing, and disposal of biohazardous materials on SMART's property related to SMART emergency events. In anticipation of the existing Agreement's expiration date, a Request for Proposal was issued on April 10, 2020 under Solicitation No. OP-SV-20-005. SMART received a total of 7 responsive Proposals from the following service providers:

- 1. ACT enviro
- 2. American Integrated Services, Inc.
- 3. Bridges Restoration, LLC (DBA West Coast Fire and Water)
- 4. Clean Harbors Environmental Services, Inc.
- 5. Environmental Logistics, Inc.
- 6. NRC Environmental Services, Inc.
- 7. Pacific Restoration, Inc. (DBA ServPro of Petaluma/Rohnert Park)
SMART's evaluation committee reviewed the seven proposals using the evaluation criteria identified in the Request for Proposal, which included: cost, service provider's approach and demonstrated history of providing this service, quality of work as verified by references, response time, and the level of training and certification of personnel. The terms and conditions of the Request for Proposal allow SMART to award a contract to one or more service providers. SMART's evaluation committee selected the top two ranked proposers for award. Environmental Logistics, Inc. is selected as the primary service provider and American Integrated Services, Inc. as the secondary service provider for redundancy purposes.

Staff recommends authorizing the General Manager to award an on-call Service Agreement for Biohazard Remediation to Environmental Logistics, Inc. and American Integrated Services, Inc. each in the amount of \$150,000.

FISCAL IMPACT: Funding is included in the Fiscal Year 2020-21 budget.

REVIEWED BY: [x] Finance <u>/s/</u> [x] Counsel <u>/s/</u>

Very truly yours,

/s/ Ken Hendricks Procurement Coordinator

Attachment(s): Agreement No. OP-SV-20-005 – Environmental Logistics, Inc. Agreement No. OP-SV-20-006 – American Integrated Services, Inc.

SERVICE AGREEMENT

This Agreement ("Agreement"), dated as of July 1, 2020 ("Effective Date") is by and between the Sonoma-Marin Area Rail Transit District (hereinafter "SMART"), and Environmental Logistics, Inc. (hereinafter "Service Provider").

RECITALS

WHEREAS, Service Provider represents that it is duly qualified and experienced in the areas of On-Call Biohazard Remediation Services; and

WHEREAS, in the judgment of SMART, it is necessary and desirable to employ the services of Service Provider for On-Call Biohazard Remediation Services; and

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

<u>A G R E E M E N T</u>

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) <u>Exhibit A</u>: Scope of Work
- (b) Exhibit B: Schedule of Rates
- Article 3. Request for Services.

Section 3.01 <u>Initiation Conference</u>.

SMART's Superintendent of Vehicle Maintenance, ("Superintendent"), his designee, or SMART's 24/7 Dispatch personnel, will initiate all requests for services by telephone with a follow-up email. During the initial request for service, SMART's Superintendent and Service Provider will establish and agree on a specific task for the project.

Section 3.02 <u>Amount of Work</u>.

SMART does not guarantee a minimum or maximum amount of work under this

Agreement.

Article 4. Scope of Services.

Section 4.01 Scope of Work.

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

Section 4.02 <u>Cooperation With SMART</u>.

Service Provider shall cooperate with the SMART's Superintendent in the performance of all work hereunder.

Section 4.03 <u>Performance Standard</u>.

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

Section 4.04 <u>Assigned Personnel</u>.

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

(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 Service Provider are deemed by SMART to be key personnel whose services were a material inducement to SMART to enter into this Agreement, and without whose services SMART would not have entered into this Agreement. Service Provider shall not remove, replace, substitute, or otherwise change any Key Personnel without the prior notification to SMART.

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

Mark Grayson – Senior Account Manager

Chris Whitt – Project Manager

Pedro Gonzalez – Project Manager

Article 5. Payment.

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

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

Section 5.02 Service Provider shall be paid on a task basis in accordance with **Exhibit B**; provided, however, that total payments to Service Provider shall not exceed \$150,000.00 without the prior written approval of SMART. Service Provider shall submit its invoices upon completion of each task in a form approved by the Chief Financial Officer. The invoices shall show or include: (i) the task(s) performed; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate of the incident response team performing the task(s), and (iv) the itemized disposal manifest. SMART does not reimburse Service Provider for travel time without prior written approval from SMART's Superintendent of Vehicle Maintenance. In the unlikely event that overnight stay is required, it must be approved by SMART's Superintendent of Vehicle Maintenance in advance and must comply with SMART's Travel Guidelines for SMART Contractors.

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

Article 6. Term of Agreement.

Section 6.01 The term of this Agreement shall remain in effect for three years with two (1) one-year options to renew thereafter at SMART's discretion unless

terminated earlier in accordance with the provisions of Article 7 below.

Article 7. Termination.

Section 7.01 <u>Termination Without Cause</u>. 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 <u>Termination for Cause</u>. Notwithstanding any other provision of this Agreement, should Service Provider fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, SMART may immediately terminate this Agreement by giving Service Provider written notice of such termination, stating the reason for termination.

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

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

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

Article 8. Indemnification

Service Provider agrees to accept all responsibility for loss or damage to any person or entity, including SMART, and to indemnify, hold harmless, and release SMART, its officers, agents, and employees, from and against any actions, claims,

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

Article 9. Insurance.

With respect to performance of work under this Agreement, Service Provider shall maintain and shall require all of its Subcontractors, and other agents to maintain, insurance as described below. Service Provider shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of work hereunder and the results of that work by the Service Provider, its agents, representatives, employees, or subcontractors. Coverage should be maintained for a minimum of five (5) years after project completion.

Section 9.01 <u>Workers' Compensation Insurance</u>. 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 <u>Automobile Liability Insurance</u>. 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 9.03 <u>Commercial General Liability Insurance</u>.

Commercial General Liability insurance covering products-completed and ongoing operations, property damage, bodily injury and personal injury using an occurrence policy form, in an amount no less than \$2,000,000 per occurrence. Policy shall include a Railroad 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 9.04 Pollution Liability.

Contractors Pollution Liability insurance in an amount no less than \$2,000,000 per incident. The Contractor's Pollution Liability policy shall be written on an occurrence basis with coverage for bodily injury, property damage and environmental damage, including cleanup costs arising out of third-party claims, for pollution conditions, and including claims of environmental authorities, for the release of pollutants caused by activities related to the Contract. Coverage shall include the Service Provider as the named insured and shall include coverage for acts by others for whom the Service Provider is legally responsible.

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

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

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

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

(c) Inclusion of the Insureds as additional insureds shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Licensee. Said policy shall protect Service Provider and the Insureds in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

(d) Service Provider hereby grants to SMART a waiver of any right to subrogation which any insurer of said Service Provider may acquire against SMART by virtue of the payment of any loss under such insurance. Service Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not SMART has received a waiver of subrogation endorsement from the insurer. (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.

(f) Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to SMART.

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

Section 9.05 <u>Deductibles and Retentions</u>. Service Provider shall be responsible for payment of any deductible or retention on Service Provider's policies without right of contribution from SMART. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible of retention provision limiting payment to the name insured is not acceptable.

Section 9.06 <u>Claims Made Coverage</u>. If any insurance specified above is written on a claims-made coverage form, Service Provider 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, Service Provider shall purchase "extending reporting" coverage for a minimum of three (3) years after completion of the work.

Section 9.07 <u>Documentation</u>. 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. Service Provider agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with SMART for the duration of this Agreement.

(b) Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement. Service Provider agrees to maintain current endorsements evidencing the

above-specified requirements on file with SMART for the duration of this Agreement.

(c) Upon SMART's written request, Service Provider shall provide certified copies of the insurance policies to SMART. Said policy copies shall be submitted within thirty (30) days of SMART's request. After the Agreement has been signed, signed Certificates of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

Section 9.08 <u>Policy Obligations</u>. Service Provider's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 9.09 <u>Material Breach</u>. If Service Provider, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of this Agreement. SMART, in its sole option, may terminate this Agreement and obtain damages from Service Provider resulting from said breach. These remedies shall be in addition to any other remedies available to SMART.

Article 10. **Prosecution of Work.**

When work is requested of Service Provider by SMART, all due diligence shall be exercised and the work accomplished without undue delay, within the performance time specified in the Task Order. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God, the time for Service Provider's performance of this Agreement shall be extended by a number of days equal to the number of days Service Provider 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 Superintendent of Vehicle Maintenance must authorize all other extra or changed work. The parties expressly recognize that SMART personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Service Provider to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Service Provider shall be entitled to no compensation whatsoever for the performance of such work. Service Provider further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of SMART.

Article 12. Representations of Service Provider.

Section 12.01 <u>Standard of Care</u>. SMART has relied upon the professional ability and training of Service Provider as a material inducement to enter into this Agreement. Service Provider hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with 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 Service Provider's work by SMART shall not operate as a waiver or release.

Section 12.02 <u>Status of Service Provider</u>. The parties intend that Service Provider, 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. Service Provider is not to be considered an agent or employee of SMART and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits SMART provides its employees. In the event SMART exercises its right to terminate this Agreement pursuant to **Article 7**, above, Service Provider expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

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

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

Section 12.05 Conflict of Interest. Service Provider covenants that it

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

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

Section 12.07 <u>Assignment of Rights</u>. Service Provider assigns to SMART all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Service Provider in connection with this Agreement. Service Provider agrees to take such actions as are necessary to protect the rights assigned to SMART in this Agreement, and to refrain from taking any action which would impair those rights. Service Provider's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as SMART may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of SMART. Service Provider shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of SMART.

Section 12.08 <u>Ownership and Disclosure of Work Product</u>. All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Service Provider or Service Provider's Subservice Providers, Service Providers, and other agents in connection with this Agreement shall be the property of SMART as allowed by law. SMART shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement subject to current law. Upon expiration or termination of this Agreement, Service Provider shall promptly deliver to SMART all such documents, which have not already been provided to SMART in such form or format, as SMART deems appropriate. Such documents shall be and will remain the property of SMART without restriction or limitation. Service Provider may retain copies of the above- described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement

without the express written permission of SMART.

Article 13. Demand for Assurance.

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

Article 14. Assignment and Delegation.

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

Article 15. Method and Place of Giving Notice, Submitting Invoices and Making Payments.

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

| If to SMART Billing: | Sonoma-Marin Area Rail Transit District 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954 <u>billing@sonomamarintrain.org</u> (707) 794-3330 |
|------------------------------|--|
| If to SMART Project Manager: | Sonoma-Marin Area Rail Transit District Attn: Husani Longstreet 3748 Regional Parkway Santa Rosa, CA 95403 <u>hlongstreet@sonomamarintrain.org</u> 707-790-3938 |

If to Service Provider: Mark Grayson – Senior Account Manager Environmental Logistics 3200 Depot Road Hayward, CA 94545 510-670-9901 (Office) 510-962-0620 Cell) mgrayson@envlogs.com

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

Article 16. Miscellaneous Provisions.

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

Section 16.03 <u>Consent</u>. 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 <u>No Third-Party Beneficiaries</u>. 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 <u>Applicable Law and Forum</u>. 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 <u>Captions</u>. 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 <u>Merger</u>. 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 Licensing Laws. The Service Provider shall comply with the provisions of Chapter 9 of Division 3 of the Business and Professions Code concerning the licensing of Service Providers. All Service Providers shall be licensed in accordance with the laws of the State of California and any Service Provider not so licensed is subject to the penalties imposed by such laws. Prior to commencing any work under the Contract, all Subservice Providers must show that they hold appropriate and current California Licenses. The Service Provider shall provide such Subservice Provider information, including the class type, license number and expiration date to the District.

Section 16.09 <u>Property Damage.</u> The Service Provider shall be responsible for any damages to existing infrastructure and any adjacent property, resulting from Service Provider's negligence. The Service Provider shall reimburse SMART any and all costs to restore, repair, and replace all property, regardless of ownership, which is damaged or altered by the Service Provider's or its Subservice Provider's negligence.

Section 16.10 <u>Disposal of Materials.</u> Service Provider shall be responsible for the proper disposal of all related materials and equipment in accordance with all state and local laws and regulations.

Section 16.11 <u>Time of Essence</u>. Time is and shall be of the essence of this Agreement and every provision hereof.

Section 16.12 <u>Prevailing Wage</u>. Service Provider and each Subcontractor shall pay to all workers employed on the Work not less than the prevailing rate of wages as determined in accordance with the Labor Code as indicated herein. All contractors/vendors doing business with public agencies throughout the State of California (including SMART) shall comply with applicable labor compliance requirements including, but not limited to prevailing wages, SB 854, Labor Code Sections 1725.5, 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815. Public Works Contractor Registration Program, Electronic Certified Payroll Records submission to the State Labor Commissioner and other requirements described at http://www.dir.ca.gov/Public-Works/Contractors.html.

Applicable projects are subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

Section 16.13 <u>Acceptance of Electronic Signatures and Counterparts.</u> The parties agree that this Contract Agreements ancillary to this Contract, and related documents to be entered into this Contract will be considered executed when the signature of a party is delivered by scanned image as an attachment to electronic mail. Such scanned signature must be treated in all respects as having the same effect as an original signature. Each party further agrees that this Contract may be executed in two or more counterparts, all of which constitute one and the same instrument.

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

SERVICE PROVIDER: _____

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 AND TIMELINE

General Objective

The Sonoma-Marin Area Rail Transit District ("SMART"), a public agency, is contracting with Environmental Logistics, Inc. ("Service Provider") to provide Biohazard Remediation Services on an "as-needed" basis at any SMART property.

The Service Provider shall furnish all labor, supervision, equipment, and other materials as necessary in accordance with the RFP and all appropriate Federal, State and local laws and regulations. Service Provider shall be prepared to respond to emergency and non-emergency incidents.

Services shall include the clean-up, disinfecting, deodorizing, sanitizing, and disposal of biohazardous materials, such as human blood, bodily fluids and other associated residues related to SMART emergency events.

Service Provider will ensure that, in the execution of said services, crosscontamination does not occur between the affected equipment and any of SMART's equipment, facilities, and personnel.

Service Provider must be able to respond to any call for services within 1 to 2 hours upon receiving notification from SMART and must be available on-call to respond to these situations 24 hours a day, 7 days a week, 365 days a year. Response is defined as having all equipment and personnel onsite and ready to begin performing services.

Project Manager

All work will be initiated by SMART's Superintendent of Vehicle Maintenance, his designee, or SMART's 24/7 Dispatch personnel. All work will be reviewed and approved by SMART's Superintendent of Vehicle Maintenance, ("Superintendent" or "Project Manager") or his designee.

Initiation of Work

All work shall be requested by telephone contact followed by an email. SMART shall call the 24/7 Dispatch number for Environmental Logistics: **(510)-670-9901**.

The initial contact from SMART shall contain the following elements, including but not limited, to:

- 1. SMART's description of incident;
- 2. Location of incident;
- 3. Site conditions;
- 4. Information about access limitations;
- 5. Identification of potential staging locations;
- 6. Identification of SMART's On-Site Point of Contact and contact information.

The Service Provider is expected to have the necessary equipment and personnel onsite within 1 to 2 hours from initial contact for emergencies. Service Provider shall provide SMART's Project Manager with a dedicated single point of contact for use throughout the incident.

Once Service Provider's personnel and equipment are at the agreed upon staging location the following will occur:

- 1. Service Provider's designated On-Site Point-of-Contact shall contact SMART's Project Manager.
- 2. SMART's Project Manager will provide:
 - a. Known site conditions and site access briefing;
 - b. A safety briefing;
 - c. Direction for work activities;
 - d. Detailed log requirements per incident;
 - e. Communication expectations.

<u>Personnel</u>

Service Provider shall employ individuals that possess all required certifications and training to safely perform the work required. All personnel shall be expected to follow instructions from SMART's Project Manager or his designee. All personnel shall wear the required Personal Protective Equipment (PPE) for each task and shall ensure that safety is the top priority.

Equipment Requirements

Service Provider shall provide all transportation, tools, materials and equipment, including labels and warning signs required for adequate protection of materials during the packaging, transporting and disposal activities.

All Service Provider's equipment must be in full compliance with all applicable state and federal regulations.

Other Hazardous Materials

Service Provider will be responsible for clean-up of any and all hazardous materials resulting from work being performed under this contract. All hazardous material

ENVIRONMENTAL LOGISTICS, INC. AGREEMENT OP-SV-20-005 incidents shall be handled in accordance with all Federal, State of California, and Local laws and regulations.

Reporting

Service Provider shall submit detailed incident logs in a form as specified by SMART within 24 hours covering the prior day's work activities. SMART shall provide this form in advance of any services being performed.

Right-Of-Way Access

Service Provider shall keep all equipment and personnel at the designated staging areas until SMART's Project Manager authorizes access to the right-of-way.

Acceptance Criteria

When the work is complete, SMART's Project Manager or designee and Service Provider's Project Manager, Incident Response Team Lead or Field Manager will perform a site inspection and equipment evaluation to ensure all work has been completed and in conformance with the SMART Project Manager's directions.

EXHIBIT B SCHEDULE OF RATES

SMART's Project Manager shall inform Environmental Logistics at the time of initial request if the Minimum Incident Response Team will be sufficient for the incident. In the event that additional personnel, equipment or materials are needed above what is included in the Minimum Incident Response Team rate, the Service Provider must receive prior approval from SMART's Superintendent of Vehicle Maintenance or his designee prior to deploying. Time and Materials rates for additional personnel, equipment or materials are listed in Item 2 below.

1. Minimum Incident Response Team Rate

| Package Description | Straight-Time | <u>Overtime</u> | Double-Time |
|-----------------------------------|-----------------------|-----------------------|-----------------------|
| Minimum Incident Response Team | \$495.00 per hour. | \$742.50 per hour. | \$990.00 per hour. |
| lean | | | nour. |

There is a 4-Hour Minimum Requirement for each response.

Straight-Time is defined as: Monday through Friday from 8:00a.m. – 4:30p.m., Pacific;

Overtime is defined as Monday through Friday between 4:30p.m. and 8:00a.m., Pacific, and up to 12 hours on Saturday; and

Double-Time is defined as all day Sunday, U.S. Observed Holidays, any day of a Holiday Weekend, and after 4 Hours of Overtime.

Minimum Incident Response Team shall include:

- One experienced Project Manager;
- Two specially-trained Technicians;
- One fully-stocked emergency response vehicle;
- One closed box van vehicle to transport biohazardous wastes;
- One drum or bio-waste container;
- All necessary absorbents, disinfectants, bleach, sprayers, hand tools and personal protective equipment.

2. Time and Material Rates for Additional Personnel, Equipment or Materials

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Any additional personnel, equipment or materials approved by SMART's Project Manager shall be charged according to the following rates:

| Qty. | Units | Item | Rate | Cost |
|--------------|---------------|--|------------------|--------|
| | Hours | Emergency Response Coordinator | \$110.00 | \$0.00 |
| | Hours | Project Manager | \$95.00 | \$0.00 |
| | Hours | Equipment Operator | \$75.00 | \$0.00 |
| | Hours | Lead Technician | \$75.00 | \$0.00 |
| | Hours | Field Technician | \$60.00 | \$0.00 |
| | Hours | Field Administration Clerk | \$65.00 | \$0.00 |
| | Hours | Health & Safety Officer | \$95.00 | \$0.00 |
| | Hours | Certified Industrial Hygienist | \$190.00 | \$0.00 |
| | Hours | Chemist | \$125.00 | \$0.00 |
| | Hours | Geologist | \$125.00 | \$0.00 |
| | Hours | Lodging Per Person | \$155.00 | \$0.00 |
| | Hours | Per Diem Per Person | \$40.00 | \$0.00 |
| | Hours | Technical Support | \$65.00 | \$0.00 |
| bor Subto | otal | | | \$0.00 |
| ur Hour Min | imum applies | to all personnel and vehicles | | |
| rmal rates a | apply between | 8:00 AM and 4:30 PM Monday through Friday | | |
| Times the | normal labor | rate applies between 4:30 PM and 8:00 AM Monday through Friday and | all day Saturday | |

| | - Smith | Instrumentation | 1 | 24 Y U.S. |
|----------|-------------------|-----------------------------------|------------|-----------|
| Qty. | Units | ltem | Rate | Cost |
| | Hours | Combustible Gas Indicator ~ LEL | \$175.00 | \$0.00 |
| | Hours | Organic Vapor Analyzer, PID, HNU. | \$275.00 | \$0.00 |
| | Daily | Mercury Vapor Analyzer Per Day | \$1,500.00 | \$0.00 |
| | Daily | Drager Pump | \$65.00 | \$0.00 |
| | Each | Drager Tubes | \$40.00 | \$0.00 |
| | Daily | Radiation Detector | \$150.00 | \$0.00 |
| | Daily | Haz Cat Kit | \$450.00 | \$0.00 |
| nstrumer | strument Subtotal | | | \$0.00 |

| Equipment | | | | |
|-----------|------------|---|------------|-------|
| Qty. | Units | ltem | Rate | Cost |
| | Hours | 40-Foot Tractor and Trailer | \$105.00 | \$0.0 |
| | Hours | 40-Foot Flatbed Trailer and Tractor | \$105.00 | \$0.0 |
| | Hours | 24-Foot Bobtail Truck with Lift Gate | \$105.00 | \$0.0 |
| | Hours | Vacuum Truck (50 Barrel) | \$105.00 | \$0.0 |
| | Hours | Vacuum Truck (70 Barrel) | \$105.00 | \$0.0 |
| | Hours | Vacuum Truck (120-130 Barrel - Black Iron) | \$105.00 | \$0.0 |
| | Hours | Vacuum Truck (120-130 Barrel - Stainless Steel) | \$125.00 | \$0. |
| _ | Hours | Pressure Washer/Steam Cleaner | \$56.00 | \$0.0 |
| | Hours | Service Truck | \$45.00 | \$0.0 |
| | Hours | ER Manager Gear Truck | \$85.00 | \$0.0 |
| | Hours | Emergency Response Unit | \$250.00 | \$0.0 |
| | Hours | Front Loader | \$185.00 | \$0.0 |
| | Hours | Skid Steer | \$160.00 | \$0. |
| | Hours | Vactor Support Vehicle | \$56.00 | \$0.0 |
| | Hours | Super Sucker / Guzzler | \$250.00 | \$0.0 |
| | Hours | Excavator with grapple or thumb attachment | \$210.00 | \$0. |
| 1 | Hours | Water Truck | \$110.00 | \$0. |
| | Hours | Roll off/End Dump Truck 80,000 lbs, GVW | \$85.00 | \$0. |
| | Daily | Compressor | \$250.00 | \$0. |
| | Daily | 5k Watt Generator | \$175.00 | \$0. |
| | Daily | Portable Light Standards | \$175.00 | \$0. |
| | Daily | Diaphram Pump | \$175.00 | \$0. |
| | Daily | Rivet Buster | \$200.00 | \$0. |
| | Daily | Flood Light | \$45.00 | \$0. |
| | Daily | Gas Powered Cutoff Saw | \$35.00 | \$0. |
| | Daily | Sawzall (Day) | \$35.00 | \$0. |
| | Daily | Drum Rotator / Grabber | \$205.00 | \$0. |
| | Daily | Tripod Extraction Device | \$250.00 | \$0. |
| | Daily | Air Injection Unit W/ Hoses | \$250.00 | \$0. |
| | Daily | Drum Sling | \$15.00 | \$0. |
| | Daily | Pallet Jack | \$25.00 | \$0. |
| | Daily | Confined Space Rescue Equipment | \$200.00 | \$0. |
| | Daily | Mercury Hepa Vacuum | \$150.00 | \$0. |
| | Daily | Skill Saw | \$25.00 | \$0. |
| | Daily | Lock Out Tag Out | \$50.00 | \$0. |
| | Daily | 30" Flat Surface Concrete Cleaner | \$250.00 | \$0. |
| | Daily | Portable Spill Containment** | \$1,200.00 | \$0. |
| | Daily | Roll Off Box | \$14.00 | \$0. |
| - | Daily | Banding Machine | \$45.00 | \$0. |
| | Daily | Chemical Transfer Trailer (Day) | \$45.00 | \$0. |
| | Daily | Drum Vaccum | \$1,500.00 | \$0. |
| | Daily | | \$150.00 | \$0. |
| | t Subtotal | Breathing Air Trailer (Day) | \$5,000.00 | \$0. |

| | | Sampling Equipment | | at the second |
|---------|-------------|---------------------------------|----------|---------------|
| Qty. | Units | Item | Rate | Cost |
| | Day | Processing, Packaging, Shipping | \$140.00 | \$0.00 |
| | Each | Profile Fees | \$85.00 | \$0.00 |
| | Each | Emergency Profile Fees | \$185.00 | \$0.00 |
| | Each | Initial Waste Streams | \$85.00 | \$0.00 |
| | Each | PH Test Strips, pH 0-14 (Box) | \$23.50 | \$0.00 |
| | Each | Chain Of Custody | \$4.00 | \$0.00 |
| | Project | Speed Wrench | \$20.00 | \$0.00 |
| | Project | Bung Wrench | \$20.00 | \$0.00 |
| | Project | Drum Dolly | \$25.00 | \$0.00 |
| | Each | Sample Jars | \$8.50 | \$0.00 |
| ampling | Equipment S | ubtotal | | \$0.00 |

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| Qty. | Units | Safety Equipment | Rate | Cost |
|-----------|-------------|---------------------------------------|------------|-------|
| wey. | Each | Level {A} Personal Protective** | \$1,000.00 | \$0.0 |
| - | Each | Level {B} Personal Protective | \$1,000.00 | \$0.0 |
| | Each | | \$50.00 | |
| | Each | Level (C) Personal Protective | | \$0.0 |
| | Each | Level {D} Personal Protective | \$35.00 | \$0.0 |
| | | Breathing Air (224 Cubic Ft Cylinder) | \$75.00 | \$0.0 |
| | Each | SCBA/Standby | \$45_00 | \$0.0 |
| | Each | Tyvek | \$25.00 | \$0.0 |
| | Each | Poly Coated Tyvek (Yellow) or Saranex | \$45.00 | \$0.0 |
| | Day | Acid suit (replacement cost \$1,500) | \$175.00 | \$0.0 |
| | Each | Disposable Dust Mask | \$6.50 | \$0.0 |
| | Pair | Ear Plugs | \$4.00 | \$0.0 |
| | Pair | Safety Glasses | \$10.00 | \$0.0 |
| | Pack | Latex Gloves | \$35.00 | \$0.0 |
| | Pair | OV/Ag Resp. Cartridges | \$25.00 | \$0.0 |
| | Pair | Blk Pvc Gloves (Each) | \$9.50 | \$0.0 |
| | Pair | Leather Gloves (Each) | \$9.50 | \$0.0 |
| | Each | Portable Eyewash Station | \$105.00 | \$0.0 |
| | Each | Drinking Water (5 Gallon) | \$20.00 | \$0.0 |
| | Each | Drinking Water Bottle (16 Oz) | \$2.00 | \$0.0 |
| | 100' | Life Line (100') | \$25.00 | \$0.0 |
| | Day | Safety Harness | \$45.00 | \$0.0 |
| | Each | Decontamination Pool | \$45.00 | \$0.0 |
| | Each | Confined Space Entry Permit | \$200.00 | \$0.0 |
| afety Equ | uipment Sub | total | | \$0.0 |

| | Materials and Supplies | | | |
|------|------------------------|--|----------|--------|
| Qty. | Units | ltem | Rate | Cost |
| | Bag | Vermiculite | \$30.00 | \$0.0 |
| | Bag | Clay Absorbent | \$15.00 | \$0.0 |
| | Bag | Caustic Soda | \$50.00 | \$0.0 |
| | Bag | Boric Acid | \$75.00 | \$0.0 |
| | Bag | Suck It Up Absorbent | \$23.00 | \$0.0 |
| - | Bundle | Absorbent Pads | \$150.00 | \$0.0 |
| | Each | Absorbent Booms (8 Inch X 10 Ft) | \$150.00 | \$0.0 |
| | Each | 55-Gallon D.O.T. Steel Drums (Open | \$55.00 | \$0.0 |
| | Each | 55-Gallon D.O.T. Steel Drums (Closed | \$55.00 | \$0.0 |
| | Each | 55-Gallon D.O.T. Poly Drums (Open Top) | \$80.00 | \$0.0 |
| | Each | 55-Gallon D.O.T. Poly Drums (Closed | \$80.00 | \$0.00 |
| | Each | 55-Gallon PCB Drum, 17-C | \$175.00 | \$0.0 |
| | Each | 30-Gallon D.O.T. Metal Pail | \$65.00 | \$0.0 |
| | Each | 30-Gallon D.O.T. Plastic Pail | \$65.00 | \$0.0 |
| | Each | 14-Gallon D.O.T. Metal Pail | \$45.00 | \$0.0 |
| | Each | 14-Gallon D.O.T. Plastic Pail | \$45.00 | \$0.0 |
| | Each | 5-Gallon Metal Pail | \$23.50 | \$0.0 |
| | Each | 5-Gallon Plastic Pail | \$23.50 | \$0.0 |
| | Each | Cardboard Drum (Light Tube) 4' Or 8' | \$65.00 | \$0.0 |
| | Each | Recovery Drum, 85-Gallon Steel | \$180.00 | \$0.0 |
| | Each | Recovery Drum, 85-Gallon Poly Screw | \$225.00 | \$0.0 |
| | Each | Tri-Wall Hazardous Waste Containers | \$150.00 | \$0.0 |
| | Each | Pallets (Wood) | \$35.00 | \$0.0 |
| | Each | Biohazard Container, (1qt) | \$52.00 | \$0.0 |
| | Each | Drum Liners (55-Gallon) | \$6.50 | \$0.00 |
| | Each | Drum Liners (35-Gallon) | \$6.50 | \$0.0 |
| | Each | Drum Ring And Bolt, For 55-Gallon | \$25.00 | \$0.0 |
| | Each | Bags, 6-Mil Asbestos | \$5.50 | \$0.0 |
| | Each | Hazardous Waste Labels | \$3.00 | \$0.00 |
| | Each | Hazardous \ Caution Tape | \$47.00 | \$0.00 |
| | Each | Shrink Wrap (Roll) | \$45.00 | \$0.0 |
| | Each | Plastic Sheet (Visqueen) 100ft Roll | \$100.00 | \$0.00 |
| | Each | Hazardous & Non-Hazardous Manifest | \$4.00 | \$0.0 |

| | | Materials and Supplies (Continued) | and the second and | L D L D R L L L |
|--------|---------------|--|--------------------|--|
| Qty. | Units | Item | Rate | Cost |
| | Each | Drum Funnel | \$78.00 | \$0.0 |
| | Each | Disposable Hand Pump | \$20.00 | \$0.0 |
| | Each | Barricades / Traffic Cones (Each/Day) | \$12.00 | \$0.0 |
| | Panel | Temporary Fence (6' x 12' Panel/Month) | \$200.00 | \$0.0 |
| | Each | Disposable Coliwasa | \$40.00 | \$0.0 |
| | Each | Bill Of Lading | \$4.00 | \$0.0 |
| | 1 Gal | Industrial Degreaser 1gal Bol Sg | \$45.00 | \$0.0 |
| | 1 Gal | Industrial Degreaser 1 Gal - Gc | \$125.00 | \$0.0 |
| | Day | Digital Camera | \$35.00 | \$0.0 |
| | Each | Cell Phone | \$50.00 | \$0.0 |
| | Each | End Dump Liner | \$55.00 | \$0.0 |
| | Each | Digital Report | \$250.00 | \$0.0 |
| | Each | Roll Off Box Liner | \$25.00 | \$0.0 |
| | Each | Gold Crew (Per Gallon) | \$35.00 | \$0.0 |
| | Each | Air Injection Unit W/Hoses (Day) | \$150.00 | \$0.0 |
| | Each | Hudson Sprayer | \$35.00 | \$0.0 |
| | Each | 20' Extension Ladder (Day) | \$35.00 | \$0.0 |
| | Each | Squeegee 24" | \$38.00 | \$0 |
| | Each | Steel Shovel | \$38.00 | \$0 |
| | Each | Pick | \$38.00 | \$0 |
| | Each | Push Broom 24" | \$38.00 | \$0 |
| | Each | Plastic Vactor Hose (Per Foot) | \$2.25 | \$0 |
| | Each | Plywood (4x8) Heat Treated | \$30.00 | \$0 |
| | Each | Dunnage Wood (2x6x8) | \$12.00 | \$0 |
| | Each | Trailer Door Seal | \$2.00 | \$0 |
| | Each | Dunnage Air Bags | \$0.00 | \$0 |
| | Each | Rags (Bundle) | \$70.00 | \$0 |
| pplies | and Materials | | \$70,00 | \$0 |
| | | Disposal | | 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1 |
| Qty. | Units | Item | Rate | Cost |
| | CY/Ton | Non-Haz Solid (Bulk) Per Cubic Yard or Ton (whichever is greater) | \$75.00 | \$0. |
| | Drum | Non-Haz Solid (55 Gallon Drum) | \$145.00 | \$0. |
| | Drum | Non-Haz Liquid (55 Gallon Drum) | \$145.00 | \$0. |
| | Gallon | Non-RCRA Liquid (Bulk) (300 Gallon Minimum) | \$0.95 | \$0 |
| | Gallon | Non-Haz Liquid (Bulk) (300 Gallon Minimum) | \$0.65 | \$0 |
| | Gallon | Solids Surcharge On Bulk Liquid (Gallon) | \$2.50 | \$0. |
| | CY/Ton | Non-RCRA Solid (Bulk) Per Cubic Yard or Ton (whichever is greater) | \$95.00 | \$0. |
| | Drum | Non-RCRA Solid (55 Gallon Drum) | \$195.00 | \$0 |
| - | Drum | Non-RCRA Liquid (55 Gallon Drum) | \$195.00 | \$0 |
| | Wash | Tanker Washout | \$300.00 | \$0 |
| | Subtotal | Former Fradrivat | \$300.00 | \$U. |

3. <u>Emergency Declaration Rates</u>

In the event that services are provided during a declared State or Federal emergency, in which immediate action is required to prevent or mitigate the loss or impairment of life, health, property, or essential services, Service Provider must follow Caltrans-approved rates for labor and equipment. Those rates can be found at this link <u>https://dot.ca.gov/programs/construction/equipment-rental-rates-and-labor-surcharge</u>

SERVICE AGREEMENT

This Agreement ("Agreement"), dated as of July 1, 2020 ("Effective Date") is by and between the Sonoma-Marin Area Rail Transit District (hereinafter "SMART"), and American Integrated Services, Inc. (hereinafter "Service Provider").

RECITALS

WHEREAS, Service Provider represents that it is duly qualified and experienced in the areas of On-Call Biohazard Remediation Services; and

WHEREAS, in the judgment of SMART, it is necessary and desirable to employ the services of Service Provider for On-Call Biohazard Remediation Services; and

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

<u>A G R E E M E N T</u>

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) <u>Exhibit A</u>: Scope of Work
- (b) Exhibit B: Schedule of Rates
- Article 3. Request for Services.

Section 3.01 <u>Initiation Conference</u>.

SMART's Superintendent of Vehicle Maintenance ("Superintendent") his designee, or SMART's 24/7 Dispatch personnel, will initiate all requests for services by telephone with a follow-up email. During the initial request for service, SMART's Superintendent and Service Provider will establish and agree on a specific task for the project.

Section 3.02 <u>Amount of Work</u>.

SMART does not guarantee a minimum or maximum amount of work under this

Agreement.

Article 4. Scope of Services.

Section 4.01 Scope of Work.

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

Section 4.02 <u>Cooperation With SMART</u>.

Service Provider shall cooperate with the SMART's Superintendent in the performance of all work hereunder.

Section 4.03 <u>Performance Standard</u>.

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

Section 4.04 <u>Assigned Personnel</u>.

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

(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 Service Provider are deemed by SMART to be key personnel whose services were a material inducement to SMART to enter into this Agreement, and without whose services SMART would not have entered into this Agreement. Service Provider shall not remove, replace, substitute, or otherwise change any Key Personnel without the prior notification to SMART.

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

Carlos Sanchez, Emergency Response Manager, Northern California; Jenilee Houghtailing, Transportation Manager, Northern California; Juan Rubio, Emergency Response Foreman, Northern California.

Article 5. Payment.

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

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

Section 5.02 Service Provider shall be paid on a task basis in accordance with **Exhibit B**; provided, however, that total payments to Service Provider shall not exceed \$150,000.00 for the base term without the prior written approval of SMART. Service Provider shall submit its invoices upon completion of each task in a form approved by the Chief Financial Officer. The invoices shall show or include: (i) the task(s) performed; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate of the incident response team performing the task(s), and (iv) the itemized disposal manifest. SMART does not reimburse Service Provider for travel time without prior written approval from SMART's Superintendent of Vehicle Maintenance. In the unlikely event that overnight stay is required, it must be approved by SMART's Superintendent of Vehicle Maintenance in advance and must comply with SMART's Travel Guidelines for SMART Contractors.

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

Article 6. Term of Agreement.

Section 6.01 The term of this Agreement shall remain in effect for three years with two (1) one-year options to renew thereafter at SMART's discretion unless

terminated earlier in accordance with the provisions of Article 7 below.

Article 7. Termination.

Section 7.01 <u>Termination Without Cause</u>. 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 <u>Termination for Cause</u>. Notwithstanding any other provision of this Agreement, should Service Provider fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, SMART may immediately terminate this Agreement by giving Service Provider written notice of such termination, stating the reason for termination.

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

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

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

Article 8. Indemnification

Service Provider agrees to accept all responsibility for loss or damage to any person or entity, including SMART, and to indemnify, hold harmless, and release SMART, its officers, agents, and employees, from and against any actions, claims,

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

Article 9. Insurance.

With respect to performance of work under this Agreement, Service Provider shall maintain and shall require all of its Subcontractors, and other agents to maintain, insurance as described below. Service Provider shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of work hereunder and the results of that work by the Service Provider, its agents, representatives, employees, or subcontractors. Coverage should be maintained for a minimum of five (5) years after project completion.

Section 9.01 <u>Workers' Compensation Insurance</u>. 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 <u>Automobile Liability Insurance</u>. 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 9.03 <u>Commercial General Liability Insurance</u>.

Commercial General Liability insurance covering products-completed and ongoing operations, property damage, bodily injury and personal injury using an occurrence policy form, in an amount no less than \$2,000,000 per occurrence. Policy shall include a Railroad 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 9.04 Pollution Liability.

Contractors Pollution Liability insurance in an amount no less than \$2,000,000 per incident. The Contractor's Pollution Liability policy shall be written on an occurrence basis with coverage for bodily injury, property damage and environmental damage, including cleanup costs arising out of third-party claims, for pollution conditions, and including claims of environmental authorities, for the release of pollutants caused by activities related to the Contract. Coverage shall include the Service Provider as the named insured and shall include coverage for acts by others for whom the Service Provider is legally responsible.

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

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

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

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

(c) Inclusion of the Insureds as additional insureds shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Licensee. Said policy shall protect Service Provider and the Insureds in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

(d) Service Provider hereby grants to SMART a waiver of any right to subrogation which any insurer of said Service Provider may acquire against SMART by virtue of the payment of any loss under such insurance. Service Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not SMART has received a waiver of subrogation endorsement from the insurer. (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.

(f) Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to SMART.

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

Section 9.05 <u>Deductibles and Retentions</u>. Service Provider shall be responsible for payment of any deductible or retention on Service Provider's policies without right of contribution from SMART. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible of retention provision limiting payment to the name insured is not acceptable.

Section 9.06 <u>Claims Made Coverage</u>. If any insurance specified above is written on a claims-made coverage form, Service Provider 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, Service Provider shall purchase "extending reporting" coverage for a minimum of three (3) years after completion of the work.

Section 9.07 <u>Documentation</u>. 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. Service Provider agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with SMART for the duration of this Agreement.

(b) Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement. Service Provider agrees to maintain current endorsements evidencing the

above-specified requirements on file with SMART for the duration of this Agreement.

(c) Upon SMART's written request, Service Provider shall provide certified copies of the insurance policies to SMART. Said policy copies shall be submitted within thirty (30) days of SMART's request. After the Agreement has been signed, signed Certificates of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

Section 9.08 <u>Policy Obligations</u>. Service Provider's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 9.09 <u>Material Breach</u>. If Service Provider, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of this Agreement. SMART, in its sole option, may terminate this Agreement and obtain damages from Service Provider resulting from said breach. These remedies shall be in addition to any other remedies available to SMART.

Article 10. **Prosecution of Work.**

When work is requested of Service Provider by SMART, all due diligence shall be exercised and the work accomplished without undue delay, within the performance time specified in the Task Order. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God, the time for Service Provider's performance of this Agreement shall be extended by a number of days equal to the number of days Service Provider 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 Superintendent of Vehicle Maintenance must authorize all other extra or changed work. The parties expressly recognize that SMART personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Service Provider to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Service Provider shall be entitled to no compensation whatsoever for the performance of such work. Service Provider further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of SMART.

Article 12. Representations of Service Provider.

Section 12.01 <u>Standard of Care</u>. SMART has relied upon the professional ability and training of Service Provider as a material inducement to enter into this Agreement. Service Provider hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with 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 Service Provider's work by SMART shall not operate as a waiver or release.

Section 12.02 <u>Status of Service Provider</u>. The parties intend that Service Provider, 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. Service Provider is not to be considered an agent or employee of SMART and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits SMART provides its employees. In the event SMART exercises its right to terminate this Agreement pursuant to **Article 7**, above, Service Provider expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

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

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

Section 12.05 Conflict of Interest. Service Provider covenants that it

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

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

Section 12.07 <u>Assignment of Rights</u>. Service Provider assigns to SMART all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Service Provider in connection with this Agreement. Service Provider agrees to take such actions as are necessary to protect the rights assigned to SMART in this Agreement, and to refrain from taking any action which would impair those rights. Service Provider's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as SMART may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of SMART. Service Provider shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of SMART.

Section 12.08 <u>Ownership and Disclosure of Work Product</u>. All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Service Provider or Service Provider's Subservice Providers, Service Providers, and other agents in connection with this Agreement shall be the property of SMART as allowed by law. SMART shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement subject to current law. Upon expiration or termination of this Agreement, Service Provider shall promptly deliver to SMART all such documents, which have not already been provided to SMART in such form or format, as SMART deems appropriate. Such documents shall be and will remain the property of SMART without restriction or limitation. Service Provider may retain copies of the above- described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement

without the express written permission of SMART.

Article 13. Demand for Assurance.

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

Article 14. Assignment and Delegation.

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

Article 15. Method and Place of Giving Notice, Submitting Invoices and Making Payments.

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

| If to SMART Billing: | Sonoma-Marin Area Rail Transit District 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954 <u>billing@sonomamarintrain.org</u> (707) 794-3330 |
|------------------------------|--|
| If to SMART Project Manager: | Sonoma-Marin Area Rail Transit District Attn: Husani Longstreet 3748 Regional Parkway Santa Rosa, CA 95403 <u>hlongstreet@sonomamarintrain.org</u> 707-790-3938 |

If to Service Provider:

Matt Nicely, Regional Manager, Northern California American Integrated Services, Inc. 1300 Oliver Road, Suite 185 Fairfield, CA 94534 <u>mnicely@americanintegrated.com</u> 408-425-9271

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

Section 16.03 <u>Consent</u>. 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 <u>No Third-Party Beneficiaries</u>. 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 <u>Applicable Law and Forum</u>. 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 <u>Captions</u>. 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 <u>Merger</u>. 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 <u>Licensing Laws.</u> The Service Provider shall comply with the provisions of Chapter 9 of Division 3 of the Business and Professions Code concerning the licensing of Service Providers. All Service Providers shall be licensed in accordance with the laws of the State of California and any Service Provider not so licensed is subject to the penalties imposed by such laws. Prior to commencing any work under the Contract, all Subservice Providers must show that they hold appropriate and current California Licenses. The Service Provider shall provide such Subservice Provider information, including the class type, license number and expiration date to the District.

Section 16.09 <u>Property Damage.</u> The Service Provider shall be responsible for any damages to existing infrastructure and any adjacent property, resulting from Service Provider's negligence. The Service Provider shall reimburse SMART for any and all costs to restore, repair, and replace all property, regardless of ownership, which is damaged or altered by the Service Provider's or its Subservice Provider's negligence.

Section 16.10 <u>Disposal of Materials.</u> Service Provider shall be responsible for the proper disposal of all related materials and equipment in accordance with all state and local laws and regulations.

Section 16.11 <u>Time of Essence</u>. Time is and shall be of the essence of

this Agreement and every provision hereof.

Section 16.12 <u>Prevailing Wage</u>. Service Provider and each Subcontractor shall pay to all workers employed on the Work not less than the prevailing rate of wages as determined in accordance with the Labor Code as indicated herein.

All contractors/vendors doing business with public agencies throughout the State of California (including SMART) shall comply with applicable labor compliance requirements including, but not limited to prevailing wages, SB 854, Labor Code Sections 1725.5, 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815. Public Works Contractor Registration Program, Electronic Certified Payroll Records submission to the State Labor Commissioner and other requirements described at http://www.dir.ca.gov/Public-Works/Contractors.html.

Applicable projects are subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

Section 16.13 <u>Acceptance of Electronic Signatures and</u> <u>Counterparts.</u> The parties agree that this Contract Agreements ancillary to this Contract, and related documents to be entered into this Contract will be considered executed when the signature of a party is delivered by scanned image as an attachment to electronic mail. Such scanned signature must be treated in all respects as having the same effect as an original signature. Each party further agrees that this Contract may be executed in two or more counterparts, all of which constitute one and the same instrument. IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

AMERICAN INTEGRATED SERVICES, INC.

Ву: _____

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: | | | |
|-------|--|--|--|
| Daie. | | | |

EXHIBIT A SCOPE OF WORK AND TIMELINE

General Objective

The Sonoma-Marin Area Rail Transit District ("SMART"), a public agency, is contracting with American Integrated Services, Inc. ("Service Provider") to provide Biohazard Remediation Services on an "as-needed" basis at any SMART property.

The Service Provider shall furnish all labor, supervision, equipment, and other materials as necessary in accordance with all appropriate Federal, State and local laws and regulations. Service Provider shall be prepared to respond to emergency and non-emergency incidents.

Services shall include the clean-up, disinfecting, deodorizing, sanitizing, and disposal of biohazardous materials, such as human blood, bodily fluids and other associated residues related to SMART emergency events.

Service Provider will ensure that, in the execution of said services, crosscontamination does not occur between the affected equipment and any of SMART's equipment, facilities, and personnel.

Service Provider must be able to respond to any call for services within 1 to 2 hours upon receiving notification from SMART and must be available on-call to respond to these situations 24 hours a day, 7 days a week, 365 days a year. Response is defined as having all equipment and personnel onsite and ready to begin performing services.

Project Manager

All work will be initiated by SMART's Superintendent of Vehicle Maintenance, his designee, or SMART's 24/7 Dispatch personnel. All work will be reviewed and approved by SMART's Superintendent of Vehicle Maintenance, ("Superintendent" or "Project Manager") or his designee.

Initiation of Work

All work shall be requested by telephone contact followed by an email. For emergency services, SMART shall call the 24/7 Emergency Hotline number for American Integrated Services at <u>1-888-423-6060</u>. The Emergency Response Manager for SMART is Carlos Sanchez. His number is **707-210-5529**. The initial contact from SMART shall contain the following elements, including but not limited, to:

AMERICAN INTEGRATED SERVICES AGREEMENT OP-SV-20-006

Page **16** of **19**

- 1. SMART's description of incident;
- 2. Location of incident;
- 3. Site conditions;
- 4. Information about access limitations;
- 5. Identification of potential staging locations;
- 6. Identification of SMART's On-Site Point of Contact and contact information.

The Service Provider is expected to have the necessary equipment and personnel onsite within 1 to 2 hours from initial contact for emergencies based on the information provided by SMART. Once onsite, should the Service Provider's Project Manager determine additional teams will be required, the Service Provider must receive approval from SMART to deploy additional teams. The estimated response time for additional response team(s) is 4-6 hours from the time of activation. Service Provider shall provide SMART's Project Manager with a dedicated single point of contact for use throughout the incident.

Once Service Provider's personnel and equipment are at the agreed upon staging location the following will occur:

- 1. Service Provider's designated On-Site Point-of-Contact shall contact SMART's Project Manager.
- 2. SMART's Project Manager will provide:
 - a. Known site conditions and site access briefing;
 - b. A safety briefing;
 - c. Direction for work activities;
 - d. Detailed log requirements per incident;
 - e. Communication expectations.
- Service Provider's Project Manager shall establish the work zones (i.e. hot zone/exclusion zone, warm zone/contamination reduction zone, cold zone/support zone) as needed to ensure all personnel on-site, including SMART and any third-party personnel, understand the roles of the zones. These zones shall be physically and clearly defined to ensure the safety of all parties.

<u>Personnel</u>

Service Provider shall employ individuals that possess all required certifications and training to safely perform the work required. All personnel shall be expected to follow instructions from SMART's Project Manager or his designee. All personnel shall wear the required Personal Protective Equipment (PPE) for each task and shall

AMERICAN INTEGRATED SERVICES AGREEMENT OP-SV-20-006

Page **17** of **19**

ensure that safety is the top priority.

Equipment Requirements

Service Provider shall provide all transportation, tools, materials and equipment, including labels and warning signs required for adequate protection of materials during the packaging, transporting and disposal activities.

All Service Provider's equipment must be in full compliance with all applicable state and federal regulations.

Other Hazardous Materials

Service Provider will be responsible for clean-up of any and all hazardous materials resulting from work being performed under this contract. All hazardous material incidents shall be handled in accordance with all Federal, State of California, and Local laws and regulations.

Reporting

Service Provider shall submit detailed incident logs in a form as specified by SMART within 24 hours covering the prior day's work activities. SMART shall provide this form in advance of any services being performed.

Right-Of-Way Access

Service Provider shall keep all equipment and personnel at the designated staging areas until SMART's Project Manager authorizes access to the right-of-way.

Acceptance Criteria

When the work is complete, SMART's Project Manager or designee and Service Provider's Project Manager, Incident Response Team Lead or Field Manager will perform a site inspection and equipment evaluation to ensure that all work has been completed and in conformance with the SMART Project Manager's directions.

AMERICAN INTEGRATED SERVICES AGREEMENT OP-SV-20-006

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EXHIBIT B SCHEDULE OF RATES

SMART's Project Manager shall inform American Integrated Services, Inc. at the time of an initial request if the Minimum Incident Response Team is expected to be sufficient for the incident. Additional charges for personnel, equipment or materials in excess of the Minimum Incident Response Team Rate shall be incurred only with the prior approval of SMART's Superintendent of Vehicle Maintenance or his designee.

1. Minimum Incident Response Team Rates

| Package Description | Straight-Time | Over-Time |
|---------------------------|----------------------|-----------------------|
| Minimum Incident Response | \$778.00 per hour | \$830.00 per hour. |

The Minimum Incident Response Rate includes:

- One Project Manager;
- One Field Supervisor;
- Three Technicians;
- Mobilization, equipment and materials (all-inclusive).

There is a 4-Hour Minimum Requirement for each response.

Over-Time will be charged on incidents lasting over 12 Hours.

Disposal of each container of biological hazardous waste (typically a 30-gallon drum), will be charged at \$275.00 per container. This includes the transportation and disposal of each barrel/drum of waste and no other fees will apply.

Emergency Declaration Rates

In the event that services are provided during a declared State or Federal emergency, in which immediate action is required to prevent or mitigate the loss or impairment of life, health, property, or essential services, Service Provider must follow Caltrans-approved rates for labor and equipment. Those rates can be found at this link https://dot.ca.gov/programs/construction/equipment-rental-rates-and-labor-surcharge



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Highway, Suite 200 Petaluma, CA 94954

SUBJECT: Approve Resolutions authorizing the submittal of State Transit Assistance fund claims to the Metropolitan Transportation Commission and the submittal of State Rail Assistance fund applications to the California State Transportation Agency

Dear Board Members:

RECOMMENDATIONS:

Approve Resolution Numbers:

- 2020-12 authorizing the General Manager to submit an application on behalf of SMART for State Rail Assistance Funds for the SMART Commuter Rail Operations Project,
- 2020-13 authorizing the General Manager to submit claims on behalf of SMART for State Transit Assistance Revenue Funds, State Transit Assistance Population Funds and State Transit Assistance State of Good Repair funds, and
- 2020-14 authorizing the use of State Transit Assistance State of Good Repair funds for the SMART Capital Spare Parts Project.

SUMMARY:

Since the start of passenger rail services, SMART has become eligible to receive several State funding sources. For some of these funds, Board resolutions authorizing submittal of all necessary application materials are required. This is the fourth year SMART is eligible to receive the funds that are the subject of this staff report: State Transit Assistance (STA) Revenue Funds (Public Utilities Code Section 99314); STA Population Funds (PUC Section 99313); STA State of Good Repair Funds (PUC Section 99314); and, State Rail Assistance Funds. Each of these programs are fully or partially financed with Senate Bill 1 funds.

State Rail Assistance Funds

The State Rail Assistance Program was created by Senate Bill 1 and continuously appropriates the revenue received from a ½ percent sales tax on diesel fuel for the State's three Intercity Passenger Rail agencies and five Commuter Rail agencies. The funds are divided according to formula and can be used for operating or capital projects. The formula for Commuter Rail agencies was fixed for the first three years of the program and was revised for Fiscal Year 2021 and going forward, requiring a new allocation request from SMART. With Your Board's approval, SMART used the first three years of SRA formula funds for the SMART Commuter Rail Operations Project such that SMART was able to provide more weekday and weekend rail trips than was originally planned for when the system launched.

Given SMART's current financial status and pandemic concerns, these State Rail Assistance funds continue to be critical for SMART in order to maintain the level of service reviewed by Your Board as part of the Fiscal Year 2021 Annual Budget. The ability for SMART to achieve and maintain the operating service levels proposed for Fiscal Year 2021 assumes that these State Rail Assistance funds are allocated to SMART for operations expenses. These State Rail Assistance funds are currently estimated at \$3,700,000 for Fiscal Year 2020-2021, a decrease of 10% from Fiscal Year 2019-2020.

We recommend your Board approve the attached Board resolution (Resolution 2020-12) authorizing the execution of the State Rail Assistance-funded project, titled SMART Commuter Rail Operations, and also authorizing the execution of any necessary documents to receive the funds.

State Transit Assistance Funds

STA funds can be used to support transit operating and capital expenditures and are programmed to transit operators according to the rules of the individual category of funds. For STA Revenue funds, the State Controller directly apportions revenues to transit operators according to their local revenues spent on prior year operating expenses. For STA Population funds, the Metropolitan Transportation Commission (MTC) asks that transit operators agree to sub-divide funds at a County-level through the Congestion Management Agencies.

For STA State of Good Repair Funds, an extra step of submitting a project application for determining eligibility must take place. Applications must be submitted separately to Caltrans from MTC for programming approval with a Board resolution adopted by July 1, 2020 for the Fiscal Year 2020/21 STA State of Good Repair Funds. These STA-SGR funds can be used for transit capital projects or for services to maintain or repair a transit operator's existing fleet or transit facilities. SMART has used these funds for three fiscal years for the SMART Capital Spare Parts Project for rail vehicles and maintenance of way and signal equipment, as approved by Your Board. SMART's Fiscal Year 21 Annual Budget assumes these funds will continue to be used for Capital Spare Parts, subject to Your Board's approval today.

For all three of these categories of STA funds, the actual distribution of monies is certified and allowed by MTC via an "STA Claims Process". That Claims Process has several requirements before an operator is approved to receive the funds. For the State Transit Assistance fund claims the requirements include:

- Governing body resolution authorizing the submittal of the claim
- Opinion of Agency Counsel and Certification and Assurances for State of Good Repair filed annually regarding submittal of the claim
- Provision of SMART's National Transit Database report from two years prior to claim
- Provision of SMART's most recent State Controller's Report and Fiscal Audit
- Productivity Improvement Program (PIPs) Projects are required by MTC of all transit operators three years after the start of service.
- Adherence to MTC's Resolution 3866, the MTC Transit Coordination Implementation Plan.

Fiscal Year 2020-21 State Transit Assistance (STA) funds totaling \$1,630,016 currently await SMART's claim (per State Controller and MTC estimates). This Fiscal Year 2020-21 STA claim is down 35.4% from Fiscal Year 2019-20 and includes the following:

- STA Revenue funds estimated for FY21 in the amount of \$1,007,061 as of the May budget revise (down 40.2% from the \$1,685,153 FY21 estimate released in February 2020), and
- STA Marin County Population funds of \$55,753 or 3.45% of FY21 funds available in Marin County (down 48% from the FY20 claim), and
- STA Sonoma County Population funds of \$297,613, or 8.2% of FY21 funds available in Sonoma County (down 35% from the FY20 claim), and
- STA State of Good Repair Funds estimated in the amount of \$269,589 in FY21 (unchanged from the February 2020 estimate and up 3% from FY20).

The Metropolitan Transportation Commission requires a Board resolution authorizing the General Manager to submit claims for State Transit Assistance funds and that resolution is attached (Resolution Number 2020-13). The State of California and the Metropolitan Transportation Commission require a Board resolution naming the project for which the General Manager is authorized to submit STA State of Good Repair claims and that resolution is also attached (Resolution Number 2020-14).

FISCAL IMPACT: SMART assumes these fund sources within the Fiscal Year 2020-21 Operations Budget.

Very truly yours,

/s/ Joanne Parker Programming and Grants Manager

Attachment(s): 1) Resolution Number 2020-12 2) Resolution Number 2020-13 3) Resolution Number 2020-14

Resolution No. 2020-12 Sonoma-Marin Area Rail Transit District June 17, 2020

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AUTHORIZING THE EXECUTION OF THE CERTIFICATION AND ASSURANCES AND AUTHORIZED AGENT FORMS FOR STATE RAIL ASSISTANCE FUNDS AND AUTHORIZING THE EXECUTION OF THE STATE RAIL ASSISTANCE PROJECT, SMART COMMUTER RAIL OPERATIONS FOR FISCAL YEARS 2020-21 FOR AN ESTIMATED \$3,900,000

WHEREAS, the Sonoma-Marin Area Rail Transit District (SMART) is an eligible project sponsor and may receive funding from State Rail Assistance (SRA) for transit projects; and

WHEREAS, the statues related to state-funded transit project require implementing agencies to abide by various regulations; and

WHEREAS, Senate Bill 1 (2017) named the California State Transportation Agency (CalSTA) as the administering agency for the SRA; and

WHEREAS, CalSTA has developed guidelines for the purpose of administering and distributing SRA funds to eligible project sponsors (Agencies identified as eligible recipients of these funds); and

WHEREAS, SMART wishes to delegate authorization to execute these documents and any amendments thereto to Farhad Mansourian, General Manager, and Erin McGrath, Chief Financial Officer; and

WHEREAS, SMART wishes to implement the SMART Commuter Rail Operations Project.

NOW, THEREFORE, BE IT RESOLVED THAT THE Board of Directors of the SMART District hereby:

- 1. Authorizes the submittal of the SMART Commuter Rail Operations Project for nomination and allocation request to CalSTA for State Rail Assistance funds for \$3.9 million in Fiscal Year 2020-21; and
- 2. Agrees to comply with all conditions and requirements set for in the Certifications and Assurances and Authorized Agent documents and applicable statutes, regulations and guidelines for all SRA funded transit projects; and

3. Designates Farhad Mansourian, General Manager, and Erin McGrath, Chief Financial Officer, to be authorized to execute all required documents of the SRA program and any Amendments thereto with the California Transportation Agency which may be necessary for the completion of the aforementioned project.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marin Area Rail Transit District held on the 17th day of June, 2020, by the following vote:

DIRECTORS: AYES: NOES: ABSENT: ABSTAIN:

> Eric Lucan, Chair, Board of Directors Sonoma-Marin Area Rail Transit District

ATTEST:

Leticia Rosas-Mendoza, Clerk of Board of Directors Sonoma-Marin Area Rail Transit District RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AUTHORIZING THE SUBMITTAL OF A CLAIM FOR STATE TRANSIT ASSISTANCE FUNDS AND DESIGNATION OF THE GENERAL MANAGER AS THE AUTHORIZED AGENT TO SUBMIT AND EXECUTE ALL REQUIRED DOCUMENTS FOR STATE TRANSIT ASSISTANCE FUNDS ON BEHALF OF THE DISTRICT FOR FISCAL YEARS 2020-21

WHEREAS, the Sonoma-Marin Area Rail Transit District (SMART) is an eligible project sponsor and may receive funding from State Transit Assistance (STA) Funds, including STA Revenue Funds (PUC 99314), STA Population Funds (PUC 99313), STA Revenue State of Good Repair Funds (PUC 99314), and STA Population State of Good Repair Funds (PUC 99314), and STA Population State of Good Repair Funds (PUC 99313) for transit projects; and

WHEREAS, the state and regional statues related to these state transit funds require implementing agencies to abide by various state and regional regulations; and

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional agency responsible for disbursement of STA funds, including the STA State of Good Repair funds programmed by the State Department of Transportation (Caltrans) and STA Revenue Funds apportioned by the State Controller's Office; and

WHEREAS, MTC has developed guidelines for the purpose of administering and distributing STA funds to eligible project sponsors, described in MTC's Annual Fund Application Manual; and

WHEREAS, SMART wishes to delegate authorization to submit and execute all required STA claim documents and any amendments thereto to the SMART General Manager, or designee; and

WHEREAS, SMART wishes to implement the SMART Commuter Rail Operations Project for Fiscal Year 2021 and beyond;

NOW, THEREFORE, BE IT RESOLVED THAT THE Board of Directors of the SMART District hereby

1. Authorizes the submittal of the SMART Commuter Rail Operations Project claim for State Transit Assistance Revenue and Population funds and the SMART Capital Spare Parts Project claim for State Transit Assistance State of Good Repair funds to the Metropolitan Transportation Commission for Fiscal Years 2021; and

- 2. Agrees to comply with all conditions and requirements set for in MTC's Annual Fund Application Manual and applicable statutes, regulations and guidelines for all State Transit Assistance funded transit projects; and
- 3. Designates SMART's General Manager, or designee, to be authorized to execute all required documents of the State Transit Assistance program and any Amendments thereto with the Metropolitan Transportation Commission which may be necessary for the completion of the aforementioned project.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marin Area Rail Transit District held on the 17th day of June, 2020, by the following vote:

| DIRECTORS: |
|------------|
| AYES: |
| NOES: |
| ABSENT: |
| ABSTAIN: |

Eric Lucan, Chair, Board of Directors Sonoma-Marin Area Rail Transit District

ATTEST:

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

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AUTHORIZING THE SUBMITTAL OF APPLICATIONS, SUPPORTING DOCUMENTS AND EXECUTION OF FUNDING AGREEMENTS FOR FISCAL YEAR 2020-21 STATE TRANSIT ASSISTANCE STATE OF GOOD REPAIR FUNDS FOR THE SMART CAPITAL SPARE PARTS PROJECT

WHEREAS, the Sonoma-Marin Area Rail Transit District (SMART) is an eligible project sponsor and may receive State Transit Assistance funding from State of Good Repair Account (SGR) now or sometime in the future for transit projects; and

WHEREAS, the statues related to state-funded transit projects require a local or regional implementing agency to abide by various regulations; and

WHEREAS, the State Controller's Office has released the Fiscal Year 2021 SGR apportionments and SMART is estimated to receive \$269,589 in SGR funds; and

WHEREAS, SMART's Capital Spare Parts Project is an eligible project per the SGR program guidelines; and

WHEREAS, Senate Bill 1 (2017) named the Department of Transportation (Department) as the administering agency for the SGR; and

WHEREAS, the Department has designated the Metropolitan Transportation Commission (MTC) as the regional entity responsible for coordinating the administration of all SGR projects and distribution of SGR funds to eligible project sponsors (local agencies) within the nine county Bay Area; and

WHEREAS, SMART wishes to delegate the submittal of applications, necessary supporting documents and any amendments thereto to SMART's General Manager or his designee,

NOW, THEREFORE, BE IT RESOLVED THAT THE Board of Directors of the SMART District hereby designates SMART's General Manager, Farhad Mansourian, or his designee, be authorized to execute all required documents of the SGR program and any amendments thereto with the Metropolitan Transportation Commission and State of California.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marin Area Rail Transit District held on the 17th day of June, 2020, by the following vote

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Lucan, Chair, Board of Directors Sonoma-Marin Area Rail Transit District

ATTEST:

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



June 17, 2020

Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Highway, Suite 200 Santa Rosa, CA 94954

SUBJECT: Authorize the General Manager to Execute Contract No. CV-PS-19-001 with GHD, Inc. for a total contract amount of \$949,138

Dear Board Members:

RECOMMENDATION:

Adopt Resolution No. 2020-15 Authorizing the General Manager to Execute Contract No. CV-PS-19-001 with GHD, Inc for Engineering Design and Support Services - Petaluma, Penngrove, and Santa Rosa Various Non-Motorized Pathway Segments for a total contract amount of \$949,138.

SUMMARY:

This professional services contract for engineering design will prepare construction documents for three sections of Non-Motorized Pathway (NMP) in Sonoma County, a total of 9.1 miles, 1) Lakeville Street to Payran Street in Petaluma; 2) Southpoint Blvd to Main Street in Penngrove; and 3) Golf Course Drive to Bellevue Avenue in Santa Rosa. After completing a completive procurement, staff is recommending executing a contract with GHD, Inc. for the total amount of \$949,138.

The Petaluma, Penngrove, and Santa Rosa Various Non-Motorized Pathway (NMP) Segments Project, represents a key step forward in the expansion and connections of the SMART NMP network. SMART issued a Request for Proposals on February 27, 2020 for Civil Engineering Design and optional work for Environmental and Permitting and Construction Support services this section of Non-Motorized Pathway in the City of Petaluma, Penngrove, Rohnert Park and Santa Rosa.

There are three sections of pathway within this contract:

- 1. Lakeville Street in Petaluma to Payran Street in Petaluma (0.2 mile).
- 2. Southpoint Blvd in Petaluma to Main Street in Penngrove (4.4 mile).
- 3. Golf Course Drive in Rohnert Park to Bellevue Avenue in Santa Rosa (4.5 mile).

These pathway segments will be almost entirely within SMART's existing Right-of-Way (ROW).

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SMART received three (3) proposals on April 10, 2020 and rated them through a compiled score that included reviewing written proposals as well as conducting interviews with each proposer. Based on the review process, the evaluation team rated GHD, Inc. was the highest-ranking proposer, with and an excellent demonstrated history of providing similar services locally.

The Contract scope of work includes: Project Management, Engineering Design, Surveys and Mapping, Utility Coordination, Right-of-Way Phase and Determination and Coordination with Adjacent Properties. Optional services to be provided include Environmental Studies and Permitting, and Construction Support.

This work will be funded with local Sonoma County Transportation Authority (SCTA) Measure M funding that has been programmed for SMART for the implementation of the pathway in Sonoma County. Our negotiations with the proposer resulted in a mutually agreed upon price of \$949,138 for the work which is fair and reasonable based on SMART's review of the cost proposal

We recommend adopting Resolution No. 2020-15 Authorizing the General Manager to execute Contract No. CV-PS-19-001 with GHD, Inc., for a total contract amount of \$949,138.

FISCAL IMPACT: Costs are included in the Fiscal Year 2020-21 budget.

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

Very truly yours,

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

Attachment(s):

- 1) Resolution No. 2020-15
- 2) GHD, Inc Contract No. CV-PS-19-001

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT APPROVING CONTRACT NO. CV-PS-19-001 WITH GHD INC. FOR ENGINEERING DESIGN AND SUPPORT SERVICES – PETALUMA, PENNGROVE, AND SANTA ROSA VARIOUS NON-MONTORIZED PATHWAY SEGMENTS

WHEREAS, the Sonoma-Marin Area Rail Transit District (SMART) is developing segment of non-motorized pathway between 1) Lakeville Street to Payran Street in Petaluma; 2) Southpoint Blvd to Main Street in Penngrove; and 3) Golf Course Drive to Bellevue Avenue in Santa Rosa; and

WHEREAS, SMART issued a Request for Proposals on February 27, 2020 for professional Engineering Design, Environmental Permitting and Construction Support services; and

WHEREAS, SMART received three (3) proposals on April 10, 2020; and

WHEREAS, SMART determined that GHD, Inc. was the highest-ranking proposer; and

WHEREAS, this contract is funded by The Sonoma County Transportation Authority (SCTA) Measure M funding that has been programmed for SMART for the implementation of the pathway in Sonoma County; and

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF SMART HEREBY FINDS, DETERMINES, DECLARES, AND ORDERS AS FOLLOWS:

- 1. The forgoing Recitals are true and correct and are incorporated herein and form a part of this Resolution.
- 2. Authorize the General Manager to execute Contract No. CV-PS-19-001 with GHD, Inc., for a total contract amount of \$949,138.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marin Area Rail Transit District held on the 17TH day of June, 2020, by the following vote:

DIRECTORS:

AYES: NOES: ABSENT: ABSTAIN:

> Eric Lucan, Chair, Board of Directors Sonoma-Marin Area Rail Transit District

ATTEST:

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



AGREEMENT FOR CONSULTANT SERVICES CONTRACT NO. CV-PS-19-001

CONSULTANT: GHD, INC.

ENGINEERING DESIGN SERVICES & SUPPORT PETALUMA, PENNGROVE, AND SANTA ROSA VARIOUS NON-MOTORIZED PATHWAY SEGMENTS

AGREEMENT FOR CONSULTANT SERVICES

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ARTICLE I INTRODUCTION

This AGREEMENT is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:

The name of the "CONSULTANT" is as follows: <u>GHD</u>, Inc.

Incorporated in the State of California

The Project Manager for the "CONSULTANT" will be: Lindsey Van Parys

The name of the "LOCAL AGENCY" is as follows: Sonoma-Marin Area Rail Transit District (SMART)

The Contract Administrator for LOCAL AGENCY will be: <u>Ahmed Thleiji</u>

- A. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONSULTANT's Cost Proposal dated May 8, 2020. The approved CONSULTANT's Cost Proposal is attached hereto (Attachment A Cost Proposal) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence. The indirect cost rates included in the Attachment A Cost Proposals shall be held for the entire project.
- B. This AGREEMENT contains Optional Tasks as described in Article III Statement of Work that may be Amended into the Agreement at a later date.
- C. CONSULTANT agrees to accept all responsibility for loss or damage to any person or entity, including LOCAL AGENCY, and to indemnify, hold harmless, and release LOCAL AGENCY, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including CONSULTANT, to the extent caused by the CONSULTANT'S negligence, recklessness or willful misconduct in its performance or obligations under this Agreement. CONSULTANT agrees to provide a complete defense for any claim or action brought against LOCAL AGENCY based upon a claim relating to CONSULTANT'S performance or obligations under this Agreement. CONSULTANT'S obligations under this section apply whether or not there is concurrent negligence on LOCAL AGENCY'S part, but to the extent required by law, excluding liability due to LOCAL AGENCY'S conduct. LOCAL AGENCY shall have the right to select its legal counsel at CONSULTANT'S expense, subject to CONSULTANT'S approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for CONSULTANT or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

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- D. CONSULTANT in the performance of this AGREEMENT, shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONSULTANT's assigned personnel shall not be entitled to any benefits payable to employees of the LOCAL AGENCY.
- E. LOCAL AGENCY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the AGREEMENT, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.
- F. Any third-party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against the LOCAL AGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- G. Except as expressly authorized herein, CONSULTANT's obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the Local AGENCY. However, claims for money due or which become due to CONSULTANT from LOCAL AGENCY under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.
- H. CONSULTANT shall assign the following key personnel for the term of this AGREEMENT:

Bill Silva, Project Director (GHD, Inc.)
Lindsey Van Parys, Project Manager (GHD, Inc.)
Pat Tortora, Project Engineer (GHD, Inc.)
Colby Phelps, CAD/Designer (GHD, Inc.)
Frank Perry, Crossings Lead (GHD, Inc.)
Kristine Gaspar, CEQA and Environmental Technical Advisor (GHD, Inc.)
Anthony Richardson, Structures Project Manager (Biggs Cardosa Associates, Inc.)
Leslie Allen, Permitting Lead (WRA, Inc.)
Jim Dickey, Lead Surveyor (Cinquini & Passarino, Inc.)
Jonathan Marshall, Rail Engineer (JMA Civil, Inc.)
Michelle Tovar, Wildlife Biologist (Stantec Consulting Services, Inc.)
Chris Trumbull, Lead Geotechnical Engineer (Crawford & Associates, Inc.)
John Almazan, Right-of-Way Lead (Interwest Consulting Group, Inc.)

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

GHD, Inc. Agreement CV-PS-19-001 CONSULTANT are deemed by SMART to be key personnel whose services were a material inducement to SMART to enter into this AGREEMENT, and without whose services SMART would not have entered into this AGREEMENT. CONSULTANT shall not remove, replace, substitute, or otherwise change any key personnel without prior written consent of SMART.

- I. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- J. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- K. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the LOCAL AGENCY's Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

ARTICLE III STATEMENT OF WORK

CONSULTANT shall perform design and engineering services to prepare construction documents for the following three sections of Non-Motorized Pathway (NMP) in Sonoma County:

- 1. Lakeville Street in Petaluma (MP 39.0) to Payran Street in Petaluma (MP 39.2)
- 2. Southpoint Blvd in Petaluma (MP 40.4) to Main Street in Penngrove (MP 44.8)
- 3. Golf Course Drive in Rohnert Park (MP 46.8) to Bellevue Avenue in Santa Rosa (MP 51.3)

The NMP is primarily located in the SMART right-of-way and includes some short on-road sections, as well as, roadway crossings:

- 1. Lakeville Road
- 2. Payran Road

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- 3. McDowell Boulevard
- 4. Corona Road
- 5. Ely Road
- 6. Golf Course Drive
- 7. Scenic Avenue
- 8. Todd Road
- 9. West Robles Avenue

The design work for these segments of the NMP will include, but will not be limited to, a Class 1 pathway with 8' paved path and 2' aggregate base shoulders on each side that will be built adjacent to the SMART train track. Typically, the NMP is paved with asphalt concrete that ranges from 2 to 6 inches deep over Class 2 aggregate base that ranges from 4 to 6 inches deep. In some circumstances retaining walls, culverts extension, and pedestrian bridges are needed for the new pathway.

This Project is being administered through the Caltrans Office of Local Assistance. As such, the Consultant is expected to have a thorough understanding of the Local Assistance manual and procedures. The Consultant is responsible for preparing all required forms and submittals to assist SMART in obtaining approval from the Office of Local Assistance to bid the project and enter the construction phase.

CONSULTANT shall perform this scope of work in accordance with the tasks and services listed below:

- A. Consultant Tasks and Services:
 - 1. **Project Management Task** The consultant shall be responsible for project management activities throughout the life of the contract and the scope of activities includes but not limited to:
 - a. Coordinate work activity with the project staff.
 - b. Update SMART on the design progress, and establish work priorities.
 - c. Identify key issues and major decisions and bring them to the attention of the SMART management for resolution and decision making.
 - d. Ensure that appropriate arrangements are made to satisfy SMART, local, state, and federal requirements for quality assurance, safety and security, and environmental compliance.
 - e. Prepare required forms for SMART to submit to Caltrans Local Assistance to secure E76 approval.
 - f. Assist SMART with the bidding process to award a contract for construction of the project.
 - g. Provide two weeks for SMART review and comment on each of the design review packages.
 - h. Ensure quality assurance and quality control with all deliverables.
 - 2. **Engineering Design Task** Develop general project locations and design concepts and related activities needed to establish the parameters for final design such as Geometrics, Hydraulics, Geotechnical, Bridge, Traffic Operations, Electrical, etc. the designer shall focus on the following:

- a. Develop Class 1 pathway construction documents. These documents shall be signed and stamped by a licensed California Engineer, as appropriate.
- b. Develop detailed engineering designs with sections, details, and supporting calculations.
- c. Develop geotechnical analysis and reports necessary for final design.
- d. Develop traffic operation analysis memorandum.
- e. Develop wetland mitigation avoidance to support the pathway design.
- f. Develop structural design that utilizes standard prefabricated pedestrian H10 rated bridges matching existing SMART pedestrian bridges at Copland Creek or Hinebaugh Creek used in East Cotati to Golf Course pathway project. Free span bridge preferred. This work shall be in accordance with the SMART Design Criteria Manual.
- g. Develop hydrology and hydrologic study appropriate for any drainage improvements necessary for construction of the pathway.
- h. Pathway shall meet SMART Design Criteria and applicable codes. The pathway shall provide full connectivity to existing sidewalks at track or roadway pedestrian crossings.
- i. Prepare Contract Documents that include Technical Specifications, Special Provisions, bid forms, instructions to bidders, and required forms for bidding purposes to hire a contractor to construct the project.
- j. Prepare a detailed construction cost estimate for the work. The estimate shall be based upon the construction documents and shall correspond to the contract bid sheet.

DELIVERABLES:

- i. Traffic impact and operation memorandum.
- ii. Preliminary wetland impact analysis memorandum.
- iii. 50% Design review package: Electronic copy and four (4) half sized hard copies of construction plans, specifications and construction cost estimate (PS&E).
- iv. 75% Design review package: Electronic copy, four (4) half sized hard copies of PS&E, and two (2) copies of preliminary or draft Studies.
- v. 95% Design review package: Electronic copy, four (4) half sized hard copies of PS&E, and two (2) copies of Studies.
- vi. Issued for Construction (IFC) package: Electronic copy, four (4) half sized hard copies of PS&E, two (2) full sized hard copies of plan, two (2) final hard copies of Studies, four (4) hard copies of Specifications, and two (2) copies of Engineers Cost Estimate. All IFC deliverables shall be signed and stamped by a licensed California Engineer, as appropriate, by the designer.
 - The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications shall be provided in both Microsoft Word format and PDF format. Consultant shall assist SMART if needed in responding to questions that arise during the bid phase and prepare addendums which will be distributed by SMART as necessary.
- 3. **Surveys and Mapping Task** The Consultant shall be responsible for data collection, mapping and surveying necessary for engineering, design, cost estimates, right-of-way impacts, and the level of environmental clearance. The scope of comprehensive base mapping and surveying includes but is not limited to Control Surveys, Design Level

Topographic Surveys, Right-of-Way Retracement, and a Record of Survey. The consultant shall also perform a tree survey and wetland mapping to aid the final NPM design.

DELIVERABLE: AutoCad format copy of final topographical survey compatible with SMARTs existing base file system. The survey shall use SMARTs drawing standards (drawing entity layers, file naming and xref pathing, and coordinate basis) to match existing topographic base mapping.

4. **Utility Coordination Task** – Prepare utility composite improvement plans that are suitable to be submitted to utility companies in accordance with their requirements. Identify all potential utility conflicts and develop relocations for each conflict. Coordinate utility relocations, including relocation of utility poles and other types of facilities such as boxes, conduits, meters, etc... in and outside the SMART's ROW as needed to construct the work.

DELIVERABLE: Electronic and 2 hard copies of utility coordination report with utility composite drawings identifying conflicts and resolutions to be incorporated into the pathway design. Completed right-of-way certification paper work in appropriate form for submittal to the Office of Local Assistance.

5. **Right of Way Phase & Determination Task** – Consultant shall prepare Request for Authorization to advance project to Right of Way Phase using procedures outlined in the Caltrans Local Assistance Procedures Manual. When authorized, Consultant shall review right-of-way records and establish additional right-of-way along the entire alignment, if necessary.

DELIVERABLE: completed right-of-way certification paper work in appropriate form for submittal to the Office of Local Assistance.

- 6. **Coordination with Adjacent Properties Task** Assist the SMART team in any effort needed to coordinate with adjacent property owners to establish driveway locations and other modifications required in front of their property such as fence relocations, mailbox relocation, or tree removal. The effort will include maps, plans, details, etc. the SMART will remain the sole point of contact to property owners.
- 7. **Construction Phase Authorization Task** Consultant shall prepare Request for Authorization to advance project to Construction using procedures outlined in the Caltrans Local Assistance Procedures Manual.

DELIVERABLE: completed forms/ paper work in appropriate form for submittal to the Office of Local Assistance.

- 8. **Environmental Studies and Permitting Task (Optional Item)** SMART may elect at a later date to amend this Agreement to add this Task. This Task would direct the consultant to complete the environmental review; including identifying necessary state, federal, and local permits required for the construction, and prepare permit application(s) for submittal by SMART. Consultant shall develop environmental mitigation plan(s) that identify all required mitigation and shall include options for fulfilling these requirements. This work will be in accordance with SMART's "Natural Environmental Study July 2014".
- 9. **Construction Support Task (Optional Item)** SMART may elect at a later date to amend this Agreement to add this Task. This Task would direct the Consultant Team to assist with project implementation which could include construction administration, inspection, independent testing and other functions.

10. **Rail Engineering Task** - Perform alternative rail design and analysis to possibly shift the rail slightly in locations where obstacles such as utilities or wetlands compromise the design and construction of the NMP. Integrate the rail design fully with the NMP design submittals.

DELIVERABLE: Submit a Basis of Design Memorandum and include Rail Design in all design packages.

Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion, a Caltrans Deputy District Director signs the Finding of No Significant Impact, or the Caltrans District Director signs the Record of Decision (see <u>LAPM Chapter 6: Environmental Procedures</u>, and the Standard Environmental Reference).

Equipment Requirements - The Consultant shall have and provide adequate office equipment and supplies to complete the work required by this Contract. Consultant shall have and provide adequate field tools, instruments, equipment, materials, supplies, and safety equipment to complete the required field work and that meet or exceed Caltrans Specifications per the Caltrans Manuals.

Quality Control/Assurance Measures – Implementing and maintaining quality control procedures to manage conflicts, ensure product accuracy, and identify critical reviews and milestones. Also, provide knowledge, experience, and familiarity Quality Control and Quality Assurance (QC/QA) for California Test Methods and laboratory.

Materials to be provided by the Agency - Unless otherwise specified in this Contract, the Consultant shall provide all materials to complete the required work in accordance with the delivery schedule and cost estimate outlined in each Task Order. Materials (if deemed applicable, necessary, and when available from the Sonoma-Marin Area Rail Transit District) that may be furnished or made available by the Sonoma-Marin Area Rail Transit District and where listed in the individual Task Orders and this Contract, are for the Consultant's use only, shall be returned at the end of the Contract.

Work to be performed by the Agency – SMART will be the lead agency in coordinating with utilities and property owners. The consultant shall assist SMART in any plans, documentation, reports, permits, sketches, estimates, and any required support required for said coordination.

Conflict of Interest Requirements - Throughout the term of this AGREEMENT, any person, firm or subsidiary thereof who may provide, has provided or is currently providing Design Engineering Services and/or Construction Engineering Services under a contractual relationship with a construction contractor(s) on any local project listed in this Scope of Work must disclose the contractual relationship, the dates and the nature of the services. The prime consultant and its subconsultants shall also disclose any financial or business relationship with the construction contractor(s) who are working on the projects that are assigned for material Quality Assurance services through task orders on the AGREEMENT.

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Similar to the disclosures regarding contractors, all firms are also required to disclose throughout the term of this AGREEMENT, any Design Engineering services including claim services, Lead Project Management services and Construction Engineering Services provided to all other clients on any local project listed in this Scope of Work.

In addition to the disclosures, the CONSULTANT shall also provide possible mitigation efforts, if any, to eliminate or avoid any actual or perceived conflicts of interest.

The CONSULTANT shall ensure that there is no conflict before providing services to any construction contractor on any of the agency's projects listed in this Scope of Work. The submitted documentation will be used for determining potential conflicts of interest.

If a CONSULTANT discovers a conflict during the execution of an assigned task order, the CONSULTANT must immediately notify the Contract Manager regarding the conflicts of interest. The Project Manager may terminate the Task Order involving the conflict of interest and may obtain the conflicted services in any way allowed by law. Failure by the CONSULTANT to notify the Project Manager may be grounds for termination of the AGREEMENT.

ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on June 18, 2020, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on <u>August 31, 2021</u>, unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. The method of payment for this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article III Statement of Work. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT and based on the approved schedule by SMART. If GHD, Inc.
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CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.

- C. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT's work unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Sonoma-Marin Area Rail Transit District Attn: Ahmed Thleiji, Contract Administrator 5401 Old Redwood Hwy, STE 200 Petaluma, CA 94954 athleiji@sonomamarintrain.org

E. The total amount payable by LOCAL AGENCY shall not exceed <u>\$949,100.76</u>.

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
- B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.

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- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by LOCAL AGENCY by virtue of any breach of this AGREEMENT by CONSULTANT, and LOCAL AGENCY may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due LOCAL AGENCY from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to LOCAL AGENCY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSUTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, LOCAL AGENCY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
- E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by Caltrans Audits and Investigation (A&I). Caltrans A&I, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
 - 1. During Caltrans A&I's review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans A&I will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans

GHD, Inc. Agreement CV-PS-19-001 A&I identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
- b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) the accepted rate will be eighty-five percent (85%) of the proposed rate.
- c. If the proposed rate is greater than two hundred percent (200%) the accepted rate will be seventy-five percent (75%) of the proposed rate.
- 2. If Caltrans A&I is unable to issue a cognizant letter per paragraph E.1. above, Caltrans A&I may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans A&I will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
- 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if Caltrans A&I is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
- 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) Caltrans A&I accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) Caltrans A&I has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.
- 5. CONSULTANT ICRs identified in the Attachment A Cost Proposal will remain in effect for the entire project.

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ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the LOCAL AGENCY's obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.
 - A. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by LOCAL AGENCY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:

a) CONSULTANT shall maintain an inventory of all non-expendable property. Non-expendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.

b) Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (https://dot.ca.gov/programs/construction/labor-compliance). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at <u>http://www.dir.ca.gov</u>.
- D. Payroll Records
 - 1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the

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CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- a. The information contained in the payroll record is true and correct.
- b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
- 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
- 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
- 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
- 5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
- 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in

paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
 - 1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 - 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
 - 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
 - 4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.

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- b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
- c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
- d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
- 5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
- 6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.
- G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

- H. Employment of Apprentices
 - 1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
 - 2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of

journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at https://www.dir.ca.gov/das/, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title

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VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

ARTICLE XVI DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - 3. Does not have a proposed debarment pending; and
 - 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVII INSURANCE

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described below.

A. 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.

B. Automobile Liability 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.

C. Worker's Compensation Liability 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.

D. Professional Liability Insurance

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

E. Endorsements

Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance with LOCAL AGENCY 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) LOCAL AGENCY, its officers, and employees shall be named as additional insured on all policies listed above.
- b) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which Licensee is liable, up to and including the total limit of liability, without right of contribution from any other insurance effected or which may be effected by the Insureds.

- c) Inclusion of the Insureds as additional insureds shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Licensee. Said policy shall protect CONSULTANT and the Insureds in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.
- d) CONSULTANT hereby grants to LOCAL AGENCY a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against LOCAL AGENCY by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not LOCAL AGENCY 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 LOCAL AGENCY. Such insurance company shall be authorized to transact business in the state of California.

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

F. Deductibles and Retentions

CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT'S policies without right of contribution from LOCAL AGENCY. 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.

G. Claims Made Coverage

If any insurance specified above is written on a claims-made coverage form, CONSULTANT shall:

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

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H. Documentation

The following documentation shall be submitted to LOCAL AGENCY:

- 1. Properly executed Certificates of Insurance clearly evidencing all coverages and limits required above. Said Certificates shall be submitted prior to the execution of this Agreement. CONSULTANT agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with LOCAL AGENCY for the duration of this Agreement.
- 2. Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement. CONSULTANT agrees to maintain current endorsements evidencing the above-specified requirements on file with LOCAL AGENCY for the duration of this Agreement.
- 3. Upon LOCAL AGENCY'S written request, CONSULTANT shall provide certified copies of the insurance policies to LOCAL AGENCY. Said policy copies shall be submitted within thirty (30) days of LOCAL AGENCY'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.
- I. Policy Obligations

CONSULTANT'S indemnity and other obligations shall not be limited by the foregoing insurance requirements.

J. Material Breach

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

ARTICLE XVIII FUNDING REQUIREMENTS

A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual

benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.

- B. This AGREEMENT is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XIX CHANGE IN TERMS

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 LOCAL AGENCY'S Counsel. The Board of Directors, General Manager or Chief Engineer must authorize all other extra or changed work. The parties expressly recognize that LOCAL AGENCY personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of CONSULTANT to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter CONSULTANT shall be entitled to no compensation whatsoever for the performance of such work. CONSULTANT further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of LOCAL AGENCY.

There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XX CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion

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to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXI DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and SMART's Chief Legal Council who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

ARTICLE XXII INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA, if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXIII SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary

precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

C. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXIV OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of LOCAL AGENCY, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, LOCAL AGENCY shall be entitled to, and CONSULTANT shall deliver to LOCAL AGENCY, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to LOCAL AGENCY which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by LOCAL AGENCY.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of LOCAL AGENCY without restriction or limitation upon its use or dissemination by LOCAL AGENCY.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by LOCAL AGENCY for another project or project location shall be at LOCAL AGENCY's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXV CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVI CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to

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performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of LOCAL AGENCY or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, LOCAL AGENCY has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, LOCAL AGENCY's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXVII NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXVIII EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT upon request. The evaluation shall be retained as part of the AGREEMENT record.

ARTICLE XXIX RETENTION OF FUNDS

The LOCAL AGENCY shall hold retainage from the CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by LOCAL AGENCY, of the AGREEMENT work, and pay retainage to CONSULTANT based on these acceptances. The CONSULTANT, or subconsultant, shall return all monies withheld in retention from a subconsultant within thirty (30) calendar days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the AGREEMENT work by the LOCAL AGENCY. Federal law (49 CFR may take place only for good cause and with LOCAL AGENCY's prior written approval. Any violation of this provision shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified in Business and Professions Code §7108.5. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT, deficient subconsultant performance, or noncompliance by a subconsultant.

ARTICLE XXX NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT:

GHD, INC. ATTN: LINDSEY VAN PARYS, PROJECT MANAGER 2235 MERCURY WAY, SUITE 150 SANTA ROSA, CA 95407 916-782-8688 LINDSEY.VANPARYS@GHD.COM

LOCAL AGENCY:

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT ATTN: AHMED THLEIJI, CONTRACT ADMINISTRATOR 5401 OLD REDWOOD HWY, SUITE 200 PETALUMA, CA 94954 707-285-8189 ATHLEIJI@SONOMAMARINTRAIN.ORG

ARTICLE XXXI CONTRACT

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

ARTICLE XXXII SIGNATURES

CONSULTANT:

By: _____ Date: _____

Title:

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: Date: _____ Date: _____

APPROVED AS TO FORM FOR SMART:

By:

_____ Date: _____

District Counsel

GHD, INC. AGREEMENT CV-PS-19-001

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ATTACHMENT A - COST PROPOSAL

GHD Team Cost Proposal | Base Bid

| | | | | | | | GH | | STS | | | ¥ | | | BCA Bridg | - | CPI Survey, | | Stante Enviro | - | WRA Enviro | | CA Geote | | Interw RO | | JMA | | ÷. |
|---|-------------------|-----------------|---------------|-----------------|---------|----------------------------------|-------------------------|--------------------------|--------------------------|--|-----------------|-------------------------------|---------|------------|--------------|-------|----------------|-------|------------------|-------|---------------|-------|-------------|-------|-----------------|-------|----------------|-------|------------------------|
| GHD | Silva PD/QA QC | Van Parys PM | Tortora PE | Phelps Engr | TE / SE | Gaspar Envr. Tech. Advisor | Engineer∖ Stromwater | Hydrology/ Hydraulics | Hydrology/ Hydraulics | Project Coordinator/ Local Assitance | Design Enginee | Admin. Assistaı / Graphics | Hours | GHD Cost | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | TotalProject Cost |
| SMART Various NMPs | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 Project Management | 104 | 136 | 0 | 0 | 0 | 32 | 0 | 0 | 0 | 80 | 0 | | 368 | | \$16,519 | 74 | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$ 101,536 |
| 1.1 Project Management & Coordination | 20 | 104 | | | | 8 | | | | 40 | | 16 | 188 \$ | 39,128 | | | | | | | | | | | | | | | \$ 55,647 |
| 1.2 Local Assistance Coordination | 4 | 16 | | | | | | | | 40 | | | 60 \$ | 9,620 | \$ 16,519 | 74 | | | | | | | | | | | | | \$ 9,620 |
| 1.3 Quality Assurance/Quality Control | 80 | 16 | | | | 24 | | | | | | | 120 | 36,269 | | | | | | | | | | | | | | | \$ 36,269 |
| 2 Engineering Design | 4 | 113 | 264 | 450 | 136 | 9 | 180 | 10 | 80 | 96 | 360 | 46 | 1748 | | \$122,496 | 651 | \$0 | - | \$0 | - | \$14,104 | 83 | \$34,116 | 231 | \$0 | - | \$0 | - | \$ 467,810 |
| 2.1 Alternative Development & Analysis | 4 | 24 | 32 | 40 | 6 | | 4 | 2 | | | 40 | 8 | 160 \$ | 28,533 | | | | | | | | | | | | | | | \$ 28,533 |
| 2.2 Geotechnical Analysis and Report | | 2 | 2 | | | | | | | | | | 4 \$ | 878 | | | | 1 | | | | 1 | \$ 34,116 | 231 | | | | | \$ 34,994 |
| 2.3 Hydraulic & Hydrologic Analysis & Memorandum | | 2 | 6 | | | | | 8 | 80 | | | | 96 \$ | 16,524 | | | | | | | | | | | | | | | \$ 16,524 |
| 2.4 Traffic Operations Analysis & Memorandum | | 4 | 8 | | 60 | | | | | | 40 | | 112 \$ | 22,671 | | | | 1 | | | | 1 | | | | | | | \$ 22,671 |
| 2.5 50% Design Review Package | | 32 | 120 | 180 | 32 | | 80 | | | 40 | 100 | 16 | 600 \$ | 101,511 | \$ 64,120 | | | | | | | | | | | | | | \$ 165,631 |
| 2.6 75% Design Review Package | | 24 | 60 | 120 | 24 | | 60 | | | 32 | 96 | 8 | 424 \$ | 69,990 | \$ 35,167 | 175 | | | | | | | | | | | | | \$ 105,157 |
| 2.7 95% Design Review Package | | 16 | 24 | 70 | 8 | | 24 | | | 16 | 60 | 8 | 226 \$ | 36,175 | \$ 14,553 | 75 | | | | | | | | | | | | | \$ 50,728 |
| 2.8 Issued for Construction (IFC) Package | | 8 | 12 | 40 | 6 | | 12 | | | 8 | 24 | 6 | 116 \$ | | \$ 8,656 | | | | | | | | | | | | | | \$ 27,519 |
| 2.9 Mitigation Strategy Memorandum | | 1 | | | | 9 | | | | | | - | 10 \$ | | | | | | | | \$14,104 | 83 | | | | | | | \$ 16.052 |
| 3 Surveys & Mapping | 0 | 0 | 12 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 48 | 0 | 60 9 | 8.434 | \$0 | 0 | \$64,436 | 325 | \$19.573 | 144 | \$49.122 | 357 | \$0 | - | \$0 | - | \$0 | - | \$ 141.565 |
| 3.1 Data Review | | | | | | | | | - | | | | 0 \$ | | | | \$ 983 | | | | +, | | | | | | | | \$ 983 |
| 3.2 Topographic Mapping | | | 6 | | | | | | | | 16 | | 22 \$ | | | | \$ 59,476 | | | | | | | | | | | | \$ 62.697 |
| 3.3 Control Diagram | | | 2 | | | | | | | | | | 2 \$ | | | | \$ 3,977 | | | | | | | | | | | | \$ 4,387 |
| 3.4 Wetland, Wildlife and Special Status Plant Survey/Mapping | | | 2 | | | | | | | | 16 | | 18 9 | | | | \$ 0,011 | | \$ 19,573 | 144 | \$ 23,122 | 144 | | | | | | | \$ 45.097 |
| 3.5 Tree Survey | | | 2 | | | | | | | | 16 | | 18 \$ | | | | | | φ 10,070 | | \$ 26,000 | 213 | | | | | | | \$ 28,402 |
| 4 Utility Coordination | 0 | 18 | 58 | 0 | 0 | 0 | 0 | 0 | 0 | 56 | 120 | 0 | 252 | | \$0 | 0 | \$0 | | \$0 | - | \$0 | | \$0 | - | \$0 | - | \$0 | | \$ 37.305 |
| 4.1 Utility Mapping & Coordination | - × | 2 | 8 | , v | , v | , v | · · | , v | | 16 | 16 | - V | 42 \$ | | ΨΟ | - | ψŪ | - | ΨŪ | | ψυ | - | ψŪ | - | ψU | _ | ΨΟ | - | \$ 5,890 |
| 4.2 Utility Conflict Mapping | | 4 | 8 | | | | | | | 10 | 40 | | 52 \$ | | | | | | | | | | | - | | - | | | \$ 7,556 |
| 4.3 Utility Relocation Plans & Noticing | | 6 | 30 | | | | | | | 8 | 40 | | 84 \$ | | | | | | | | | | | | | | | | \$ 13,427 |
| 4.4 Report of Investigation | | 4 | 8 | | | | | | | 32 | 24 | | 68 \$ | | | | | | | | | | | - | | - | | | \$ 9,144 |
| 4.5 Utility Certification | | 2 | 4 | | | | | | | 52 | 24 | | 6 9 | | | | | | | | | | | | | | | + + | \$ 1.288 |
| 5 Right of Way | 0 | 4 | 2 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 18 5 | | \$0 | 0 | \$34.876 | 182 | \$0 | - | \$0 | - | \$0 | - | \$2.556 | 22 | \$0 | | \$ 40.411 |
| 5.1 Right of Way Surveys | U | 4 | 4 | 4 | U | U | U | U | U | U | 8 | U | 12 9 | | φU | U | \$ 34.876 | | φU | - | φU | - | φU | - | \$ ∠,550 | 22 | φU | - | \$ 36.508 |
| | | 1 | 0 | 4 | | | | | | | 0 | | | | | | \$ 34,670 | 102 | | | | | | | * 0.550 | | | | |
| 5.2 Right of Way Certification | 0 | 4 | 2 | 40 | 0 | 0 | 0 | - | 0 | 0.4 | 40 | 0 | 6 \$ | | \$0 | 0 | \$0 | | \$0 | | \$0 | | \$0 | | \$ 2,556 \$0 | 22 | \$0 | | \$ 3,903 \$ 28,318 |
| 6 Coordination with Adjacent Properties | U | 40 | 24 | 40 40 | U | U | U | 0 | U | 24 | 40 40 | U | 168 9 | | \$0 | U | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$ 28,318 \$ 28.318 |
| Coordination with Adjacent Properties | - | 40 | 24 | | - | - | • | - | - | 24 | | - | 168 | | <u>^</u> | - | ^ | | ^ | | <u>^</u> | | ^ | | * 0 | | <u> </u> | | |
| 7 Construcion Phase Authorization | 4 | 12 | 16 | 32 | 8 | 0 | 6 | 6 | 0 | 0 | 40 | 8 | 132 \$ | | \$0 | 0 | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$ 23,039 |
| Construcion Phase Authorization | 4 | 12 | 16 | 32 | 8 | | 6 | 6 | | - | 40 | 8 | 132 \$ | | 6 0 | | <u></u> | | | | 00 | | | _ | | | AF4 000 | 070 | \$ 23,039 |
| 10 Rail Engineering | 2 | 8 | 16 | 24 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 0 | 58 9 | | \$0 | 0 | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$0 | - | \$54,806 | 372 | \$ 65,372 |
| Rail Engineering | 2 | 8 | 16 | 24 | L | - | L | L | L | 8 | L | L | 58 \$ | 10,566 | | | | | | | | | | | | | \$54,806 | 372 | \$ 65,372 |
| | | | | | | | | 1 | | | | 1 | 1.0000 | | | | | | | | | | | | | | | | |
| TOTAL HOURS | 114 | 331 | 392 | 550 | 144 | 41 | 186 | 16 | 80 | 264 | 616 | 70 | 2804 \$ | 492,753 | \$ 139,015 | 725 | \$ 99,312 | 507 | \$ 19,573 | 144 | \$ 63,226 | 440 | \$ 34,116 | 231 | \$ 2,556 | 22 | \$ 54,806 | 372 | \$ 905,357 |
| DIRECT COSTS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ODC1 Travel Costs | | | | | | | | | | | | | 9 | | | | | | \$ 1,150 | | \$ 503 | | \$ 230 |) | | | \$ 259 | | |
| ODC2 Per Diem (Meals & Lodging) | | | | | | | | | | | | | 9 | | | | | | | | | | \$ 604 | | | | | | |
| ODC3 Equipment and Rental Supplies | | | | | | | | | | | | | 9 | 3,500 | | | | | \$ 240 | | | | | | | | | | |
| ODC4 Permit & Filing Fees | | | | | | | | | | | | | \$ | - | | | \$ 1,500 | | | | | | \$ 1,100 | | | | | | |
| ODC5 Drilling and Field Investigation | | | | | ļ | | | | | | L | | 9 | - | | | | | | | | | \$ 15,000 | | | | | | |
| ODC6 Laboratory Testing | | | | | | | | | | | | | 4 | | | | | | | | A | | \$ 7,460 |) | | _ | | | |
| ODC7 Plotting, Printing Postage | | | | | | | | | | | | | 9 | | \$ 300 | | \$ 190 | | | | \$ 2,295 | | | | | | | | |
| ODC8 | | | | | | | | | | | | | 9 | | | | | | | | | | | | | _ | | | |
| ODC9 | | | | | | | | | | | | | 9 | | \$ 2.435 | | | | | | | | | _ | | - | | | |
| Estimated Salary Escalation | | | - | - | | - | | - | - | | | - | 9 | | ə 2,435 | - | | - | | | | _ | | _ | | _ | | | |
| TOTAL DIRECT COSTS | | - | | - | | - | | | | | | 1 | 1 | | \$ 2.735 | | \$ 1.690 | - | \$ 1.390 | | \$ 2.798 | | \$ 24.394 | | \$ | 0 | \$259 | | \$ 43.744 |
| | | | 1 | | | | | | | | | | | | ¥ 2,135 | | ÷ 1,090 | - | ¥ 1,530 | | ¥ 2,130 | - | y 24,034 | | 3 | · | φ203 | | |
| TOTAL | | | | | | | | | | | | | \$ | 503,231.41 | | | | | | | | | | | | | | | \$ 949,101 |

| Project No.SMART Various NMP SegmentsContract No. $CV-PS-19-001$ Date $s.May:$ Dates.May:DIRECT LABORClassification/TitleNameHoursActualProject Manager*TotalProject Manager*Dates.May:Project Manager*TotalPatrick Tortora392S62.52\$Poject Engineer *Patrick Tortora392S62.52\$23.653.36Project Manager*DateNote: State St | | <u>COST-PLUS-FIXED FEE</u> OR <u>L</u> | | FIRM FIXED | | CTS | | | | | |
|---|---|--|--------------|--------------|--------------------|-------|-----------------|----------|----------------------------|--|--|
| Consultant GHD Project No. <u>SMART Various NMP Segments</u> Contract No. <u>CV-PS-19-001</u> Date <u>8-May:</u> DIRECT LABOR Trace Classification/Title <u>Name Hours Actual</u> <u>Total</u> Project Manager* <u>Lindsey Van Parys</u> 331 \$71.46 \$ 23.563.26 Project Manager* <u>Colby Phelps</u> 550 \$48.56 \$ 24.507.84 Engineer Level D2 Colby Phelps 550 \$48.56 \$ 24.507.84 Engineer Level D2 Kormwater 186 \$53.42 \$ 9.936.12 Engineer Level D2 Hydraulics/Hydrology 16 \$77.41 \$ 1.238.56 Engineer Level D2 Hydraulics/Hydrology 16 \$77.41 \$ 1.238.56 Engineer Level D2 Hydraulics/Hydrology 80 \$48.80 \$ 3.304.00 Engineer Level D3 Constant Administration 70 \$33.98 \$ 2.3395.68 Admin Assistant Administration 70 \$33.98 \$ 2.3395.68 Admin Assistant \$ 0.00 %) \$ 0 TOTAL DIRECT LABOR COSTS (a) + (b)] \$ 5154.936.7 NDIRECT COSTS \$ 0 TOTAL DIRECT LABOR COSTS (a) + (b)] \$ 53.437.69 (b) Overhood (Rat: 134.49 %) \$ 0 Ototal Fringe Benefits (Rat: 134.59 %) \$ 0 Ototal Fringe Benefits (Rat: 134.59 %) \$ 0 Total Fringe Benefits (Rat: 134.59 %) \$ 0 Total Fringe Benefits (Rat: 134.59 %) \$ 0 Ototal Fringe Benefits (R | Note: Mark-ups are Not Allowed | | | | , | nt 🗆 | 2nd Tier St | ubconsul | tant | | |
| Project No.MART Various NMP SegmentsContract No. $CV-PS-19-001$ Date $s.May:$ Dates.May:DIRECT LABORClassification/TitleNameHoursActualProject Manger*TotalProject Manger*Dates.May:Project Manger*TotalPatrick Tortora392S62.52\$Project Manger*Dates.May:Project Manger*TotalProject Manger*TotalPatrick Tortora392S62.52\$23.653.326Project Manger*Distign EngineerColspan="4">Atta \$58.12\$23.653.326Engineer Cvel D2Hydraulics/Hydrology16\$77.41\$1.238.56Engineer Level D2Hydraulics/Hydrology80\$44.807.93\$\$3.394.60Colspan="4">Colspan="4">Colspan="4">Atta \$58.12\$\$3.394.60Colspan="4">Colspan="4">Colspan="4">Atta \$58.12\$\$3.396.68Atta \$58.12\$\$Colspan="4"> | * | | | | | | | | | | |
| DIRECT LABORClassification TitleNameActualProject Principal*Bill Silva114\$106.59\$ 12,151.26Project Engineer*Patrick Tortora392\$62.52\$ 24,507.84Project Engineer*Colby Phelps550\$48.56\$ 2,3653.26Technologist E2*Colby Phelps550\$48.56\$ 2,3653.26Engineer Evel D2Frank Renry/ Structural144\$76.86\$ 11.067.84Engineer Level D2Billydraulics/Hydrology16\$77.41\$ 1,238.56Engineer Level B3Hydraulics/Hydrology80\$48.80\$ 3,904.00Technologist E1*Design Engineer616\$33.98\$ 2,3375.68Engineer Level B3Hydraulics/Hydrology80\$48.80\$ 3,904.00Technician Level DLocal Assist./PC264\$34.13\$ 9,010.32Engineer Level B3Design Engineer616\$33.98\$ 2,3375.68Admin. AssistantAdministration70\$33.98\$ 2,378.602804LABOR COSTSa) Subtotal Direct Labor Costs $$150,334.40$ b) Anticipated Salary Increases (see page 2 for calculation) $$24,602.35$ c) OTAL DIRECT LABOR COSTS (a) $$0.00 $154,936.7$ (a) General and Administrative (Rate: 0.00 %) $$0.00 $10 CASL INDIRECT Costs (e) + (g) + (i)]$ $$228,021.60$ (b) ConsultArt's OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necesary)Deceription of Item $$$ | | D.C | | | CU DC 10 001 | | | Dete | | | |
| Classification/Title Name Hours Attual Hourly Rate Houry Rate Project Enjines Total Project Enjinest* Bill Silva 114 \$106.59 \$12,151.26 Project Enjinest* Patrisk Tortora 392 \$62.52 \$24,507.84 Technologist E2* Colby Phelps 550 \$48.56 \$26,708.00 Traffic Engineer/Structural Frank Penry/Structural 144 \$76.86 \$11,067.84 Engineer Level D2 Stormwater 186 \$53.42 \$9,936.12 Engineer Level D2 Hydraulics/Hydrology 80 \$48.80 \$3,904.00 Technician Level D Local Assist./PC 264 \$34.13 \$9,010.32 Engineer Level B Design Engineer 616 \$37.98 \$2,3395.68 Admin. Assistant Administration 70 \$33.98 \$2,337.60 NDIRECT COSTS a) Subtotal Direct Labor Costs \$150,334.40 \$01 oen & Admin [(c) x (h)] \$231,53.96 i) Orat Administrative (Rate: 0.00 %) i) Gene & Admin [(c) x (h)] | Project No. SMART Various NM | IP Segments | _Contract N | 0 | <u>v-PS-19-001</u> | | | Date | 8-May-2 | | |
| Classification/TitleNameHoursHoursHours kateTotalProject Manager*Bill Silva114\$106.59\$12,151.26Project Manager*Lindsey Van Parys331\$71.46\$23,653.26Project Engineer*Patrick Tortora392\$62.52\$24,507.84Project Manager*Colby Phelps550\$48.56\$26,708.00Traffic Engineer/StructuralFrank Penry/Structural144\$76.86\$11,067.84Engineer Level D2Stormwater186\$53.42\$9.936.12Engineer Level D2Hydraulies/Hydrology16\$77.41\$1.238.56Engineer Level D2Hydraulies/Hydrology80\$48.80\$3.904.00Cehnican Level DLocal Assist./PC264\$34.13\$9.010.32Engineer Level BDesign Engineer616\$37.98\$23.395.68Admin. AssistantAdministration70\$33.98\$2.378.602804LABOR COSTSa) Subtotal Direct Labor Costs\$\$150.334.40\$\$154.936.7b) Anticipated Salary Increases (see page 2 for calculation)\$\$4.602.35\$\$() Total DIRECT COSTS (a) Optimal and Administrative (Rate: 30.00 %)i) Gen & Admin (e) x (h)\$\$231.583.96\$a) Subtotal Direct Labor Costs() Total FixED FEE (c)+(i)] x fixed fee1.0656\$678.0() Total Labor Costs (c) (c) (c) (c) (c) (c | DIRECT LABOR | | | r | | | | | | | |
| Project Principal* Bill Silva 114 \$106.5.9 \$ 12,151.26 Project Manager* Parick Tortora 392 \$62,52 \$24,507.84 Project Engineer* Parick Tortora 392 \$62,52 \$24,507.84 Traffic Engineer/* Colby Phelps 550 \$48,56 \$ 26,708.40 Engineer/* Frank Penry/ Structural 144 \$76.86 \$ 23,507.84 Engineer Level D2 Stormwater 186 \$53.42 \$ 9,936.12 Engineer Level D2 Hydraulics/Hydrology 16 \$77.41 \$ 12,33.56 Engineer Level D2 Hydraulics/Hydrology 80 \$ 33,904.00 Technician Level D Local Assist./PC 264 \$\$ 34.13 \$ 9,010.32 Engineer Level B Design Engineer 616 \$37.98 \$ 2,378.60 Admin. Assistant Administration 70 \$\$3.39.8 \$ 2,378.60 Disbotal Direct Labor Costs \$ 150,334.40 \$\$154,936.7 a) Subtotal Direct Labor Costs \$ 100cmhad (Rate: 14.49, %) \$ 10 cent Admin (c) x (h) \$\$23,437.69 b) Anticipated Salary Increases (see page 2 for calculation) \$ 9,002.15 <th>Classification/Title</th> <th>Name</th> <th>Hours</th> <th></th> <th></th> <th></th> <th>Total</th> <th></th> <th></th> | Classification/Title | Name | Hours | | | | Total | | | | |
| Project Manager* Lindsey Van Parys 331 \$71,46 \$ 23,653,26 Project Engineer* Colby Phelps 550 \$ 24,507,84 Project Engineer* Colby Phelps 550 \$ 24,507,84 Environental Planner* Frank Penry/ Structural 144 \$76,86 \$ 11,067,84 Environental Planner* Kristine Gaspar 41 \$58,12 \$ 2,382,92 Engineer Level D2 Stormwater 186 \$ \$ 1,238,56 Engineer Level D2 Hydraulics/Hydrology 80 \$ \$ 3,904,00 Engineer Level D2 Local Assist./PC 264 \$ \$ 2,378,60 Engineer Level B Design Engineer 616 \$ \$ 2,378,60 2804 2804 2 23,334,40 \$ \$ b) Anticipated Salary Increases (see page 2 for calculation) \$ \$ \$ \$ 10 Fringe Benefits (Rate: 34,49 %) c) TOTAL DIRECT LABOR COSTS (a) \$ \$ \$ | Project Principal* | Bill Silva | 114 | | | \$ | 12,151.26 | | | | |
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\$20,962.56 Stantec WRA \$66,024.19 \$58,510.13 Crawford & Associates \$2,556.24 \$55,064.70 Interwest Consulting Group JMA m) TOTAL SUBCONSULTANTS' COSTS \$445,869.35 n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] \$456,347.35

TOTAL COST [(c)+(j)+(k)+(n)]\$949,100.76

NOTES:

Key personnel <u>must</u> be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.

2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual

accounting period and established by a cognizant agency or accepted by Caltrans.

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

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EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

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

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

| Direct Labor | Total Hours | | Avg | 5 Year |
|-------------------|-------------------|---|---------|-------------|
| Subtotal per Cost | per Cost Proposal | | Hourly | Contract |
| Proposal | | | Rate | Duration |
| \$150,334.40 | 2,804 | = | \$53.61 | Year 1 Avg |
| | | | | Hourly Rate |

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

| | Avg Hourly Rate | | Proposed Escalation | | | |
|--------|-----------------|---|------------------------|---|---------|------------------------|
| Year 1 | \$53.61 | + | 2% | = | \$54.69 | Year 2 Avg Hourly Rate |
| Year 2 | \$54.69 | + | 2% | = | \$55.78 | Year 3 Avg Hourly Rate |
| Year 3 | \$55.78 | + | 2% | = | \$56.90 | Year 4 Avg Hourly Rate |
| Year 4 | \$56.90 | + | 2% | = | \$58.03 | Year 5 Avg Hourly Rate |

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

| | Estimated % Complet Each Year | ed | Total Hours per Proposal | | Total Hours Year | |
|--------|----------------------------------|----|-----------------------------|---|---------------------|------------------------|
| Year 1 | 50.00% | * | 2,804 | = | 1402.0 | Estimated Hours Year 1 |
| Year 2 | 50.00% | * | 2,804 | = | 1402.0 | Estimated Hours Year 2 |
| Year 3 | 0.00% | * | 2,804 | = | 0.0 | Estimated Hours Year 3 |
| Year 4 | 0.00% | * | 2,804 | = | 0.0 | Estimated Hours Year 4 |
| Year 5 | 0.00% | * | 2,804 | = | 0.0 | Estimated Hours Year 5 |
| Total | 100% | | Total | = | 2804.0 | |

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

| | Avg Hourly Rate | | Estimated hours | | Cost per |
|--------|--------------------|---------|-------------------------|---|------------------------------------|
| | (calculated above) | | (calculated above) | | Year |
| Year 1 | \$53.61 | * | 1402 | = | \$75,167.20 Estimated Hours Year 1 |
| Year 2 | \$54.69 | * | 1402 | = | \$76,670.54 Estimated Hours Year 2 |
| Year 3 | \$55.78 | * | 0 | = | \$0.00 Estimated Hours Year 3 |
| Year 4 | \$56.90 | * | 0 | = | \$0.00 Estimated Hours Year 4 |
| Year 5 | \$58.03 | * | 0 | = | \$0.00 Estimated Hours Year 5 |
| | Total Dire | ct Labo | or Cost with Escalation | = | \$151,837.74 |
| | Direct La | oor Sub | total before Escalation | = | \$150,334.40 |
| | Estimate | d Total | of Direct Labor Salary | | \$1,503.34 Transfer to Page 1 |
| | | | Increase | = | \$4,602.35 |

NOTES:

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

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

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

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

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

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

Prime Consultant or Subconsultant Certifying:

| Name: Bill Silva | Title *: Project Principal | |
|--|-------------------------------------|------------|
| Signature: P.E. | Date of Certification (mm/dd/yyyy): | 05/08/2020 |
| Email: Bill.Silva@ghd.com | Phone Number: <u>707-484-8236</u> | |
| Address: 2235 Mercury Way Suite 150 Santa Rosa | a, California 95407 | |

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

List services the consultant is providing under the proposed contract:

Project Management Engineering Design Surveys & Mapping Utility Coordination Right of Way Coordination with Adjacent Properties Construction Phase Authorization

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS

Note: Mark-ups are Not Allowed

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES) \Box Prime Consultant \boxtimes Subconsultant

 \Box 2nd Tier Subconsultant

Consultant Biggs Cardosa Associates

Project No.

____ Contract No. _____ Date <u>4/30/2020</u>

DIRECT LABOR

| Classification/Title | Name | Hours | Actual Hourly Rate | Total |
|----------------------|----------------------|-------|--------------------|-----------|
| Principal | Mahvash Harms * | 40 | \$ 107.31 | \$ 4,292 |
| Principal | Dan Devlin | 24 | \$ 95.77 | \$ 2,298 |
| Associate | Anthony Richardson * | 157 | \$ 69.81 | \$ 10,960 |
| Senior Engineer | Greg Tolan | 222 | \$ 62.60 | \$ 13,897 |
| Project Engineer | | 148 | \$ 54.66 | \$ 8,100 |
| Senior Drafter | | 118 | \$ 53.22 | \$ 6,280 |
| Admin | | 16 | \$ 29.57 | \$ 473 |

LABOR COSTS

a) Subtotal Direct Labor Costs

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

c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$47,102

\$ 46,291_____

\$ 811

INDIRECT COSTS

FIXED FEE

\$_____\$79,192 d) Fringe Benefits (Rate: %) e) Total Fringe Benefits [(c) x (d)] g) Overhead [(c) x (f)] Overhead (Rate: 168.13%) f)

h) General and Administrative (Rate: ____%) i) Gen & Admin [(c) x (h)] \$_____

j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$ 79,192

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 12.0%] \$ 15,155

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

| Description of Item | Quantity | Unit | Unit Cost | Total |
|-------------------------------|----------|------|---------------|-------|
| Printing and Postage | 1 | LS | \$300 | \$300 |
| Equipment Rental and Supplies | | | \$ | \$ |
| Permit Fees | | | \$ | \$ |
| Plan Sheets | | | \$ | \$ |
| Test | | | \$ | \$ |
| | | | _ ~ ~ ~ ~ ~ ~ | A |

1) TOTAL OTHER DIRECT COSTS \$300

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

| Subconsultant 1: | \$ |
|--|------------|
| Subconsultant 2: | \$ |
| Subconsultant 3: | \$ |
| Subconsultant 4: | \$ |
| m) TOTAL SUBCONSULTANTS' COSTS | \$ |
| | |
| n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)] | \$ 300 |
| TOTAL COST $[(c) + (j) + (k) + (n)]$ | \$_141,750 |

NOTES:

1. Key personnel <u>must</u> be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.

- 2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- 3. Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

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

| Direct Labor <u>Subtotal</u> per Cost Proposal | Total Hours per Cost Proposal | | Avg Hourly Rate | 5 Year Contract Duration |
|--|----------------------------------|---|-----------------------|--------------------------------|
| \$46,291 | 725 | = | \$63.85 | Year 1 Avg Hourly Rate |

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

| | Avg Hourly Rate | | Proposed Escalation | | | |
|--------|-----------------|---|---------------------|---|---------|------------------------|
| Year 1 | \$63.85 | + | 5% | = | \$67.04 | Year 2 Avg Hourly Rate |
| Year 2 | \$67.04 | + | 5% | = | \$70.39 | Year 3 Avg Hourly Rate |
| Year 3 | \$70.39 | + | 5% | = | \$73.91 | Year 4 Avg Hourly Rate |
| Year 4 | \$73.91 | + | 5% | = | \$77.61 | Year 5 Avg Hourly Rate |

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

| | Estimated % Completed Each Year | | Total Hours per Cost Proposal | | Total Hours per Year | |
|--------|------------------------------------|---|----------------------------------|---|-------------------------|------------------------|
| Year 1 | 65.0% | * | 725 | = | 471 | Estimated Hours Year 1 |
| Year 2 | 35.0% | * | 725 | = | 254 | Estimated Hours Year 2 |
| Year 3 | 0.0% | * | 725 | = | 0 | Estimated Hours Year 3 |
| Year 4 | 0.0% | * | 725 | = | 0 | Estimated Hours Year 4 |
| Year 5 | 0.0% | * | 725 | = | 0 | Estimated Hours Year 5 |
| Total | 100% | | Total | = | 725 | |

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

| | Avg Hourly Rate (calculated above) | | Estimated hours (calculated above) | | Cost per Year | |
|---|---------------------------------------|---|------------------------------------|---|------------------|------------------------|
| Year 1 | \$63.85 | * | 471 | = | \$30,073 | Estimated Hours Year 1 |
| Year 2 | \$67.04 | * | 254 | = | \$17,029 | Estimated Hours Year 2 |
| Year 3 | \$70.39 | * | 0 | = | \$0 | Estimated Hours Year 3 |
| Year 4 | \$73.39 | * | 0 | = | \$ | Estimated Hours Year 4 |
| Year 5 | \$77.61 | * | 0 | = | \$ | Estimated Hours Year 5 |
| Total Direct Labor Cost with Escalation | | | | = | \$47,102 | |
| Direct Labor Subtotal before Escalation | | | | = | \$46,291 | |
| Estimated total of Direct Labor Salary | | | Labor Salary | = | | Transfer to Page 1 |
| | | | Increase | | \$811 | |

NOTES:

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

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

| Name: <u>Mahvash Harms</u> | Title *: Vice President |
|---------------------------------------|--|
| Signature : Malwosh Hamm | Date of Certification (mm/dd/yyyy): <u>4/30/2020</u> |
| Email: <u>mharms@biggscardosa.com</u> | Phone Number:408-296-5515 |
| A 11 | (07.402) |

Address: 1111 Broadway, Suite 1510, Oakland, CA 94607-4036

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

List services the consultant is providing under the proposed contract:

Structural Engineering

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

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

| Mark-ups are Not Allowed | Prime Consultant | 🗷 Subo | consultant | | □ Secon | d Tier S | ubconsultant |
|---|----------------------------|----------------------------|-------------------|-----------|----------------------|----------|--------------|
| Consultant: Cinquini & Passarino, I Project No.: Penngrove Pathway | nc. Contract No. | : | | | Date: | | May 1, 2020 |
| DIRECT LABOR | | | | | | | |
| Classification/Title | Name | | Hours | Actu | al Hourly] | Rate | Total |
| Principal Land Surveyor | Anthony Cinquini | | 18 | | \$80.000 | | \$1,440 |
| Principal Land Surveyor | James Dickey | | 51 | | \$80.000 | | \$4,080 |
| Prof. Land Surveyor II | Mathew Dudley | | 32 | | \$55.000 | | \$1,760 |
| Prof. Land Surveyor I | Leslie Kirby | | | | \$52.500 | | \$0 |
| Staff Surveyor I | Clayton Ferrari | | 42 | | \$32.400 | | \$1,360 |
| Staff Surveyor I | TBD | | | | \$25.500 | | \$0 |
| Survey Technician | Jeff Meyer | | 164 | | \$37.040 | | \$6,074 |
| Two Person Field Crew | TBD | | 200 | | \$88.090 | | \$17,618 |
| ABOR COSTS) Subtotal Direct Labor Costs: | | | | | \$32. | ,333.36 | |
|) Anticipated Salary Increases (see p | age 2 for calculation): | | | | | \$0.00 | |
| | | c) TOTAL | DIRECT | LABOR | COSTS [(| a)+(b)]: | \$32,333 |
| NDIRECT COSTS | | | | | | | |
|) Fringe Benefits (Rate: | 67.72% | () | e) Total | Fringe E | Benefits [(c) | x(d)]: | \$21,896.15 |
| Overhead (Rate: | 39.80% | - ′ | · | nead [(c) | | | \$12,868.68 |
|) General and Adminitrative (Rate: | 66.72% | - ′ | i) Overh | - · · | | | \$21,572.82 |
| , | | — * | | / | ` S [(e)+(g)+ | -6)]. | \$56,337 |
| IXED FEE | k) TOTAL FIXED | • | | | | (1)]. | \$10,640 |
| | , | | | | | | \$10,040 |
| CONSULTANT'S OTHER DIRECT Description of Item | COSTS (ODC) – ITEMIZ | CE (Add additi Quantity | onal page Unit | | ssary) nit Cost | | Total |
| Aileage Costs | | Quantity | miles | | 0.535 | \$ | - |
| Equipment Rental and Supplies | | | | | | \$ | - |
| eview Fees & Filing | | 2 | each | \$ | 750.00 | \$ | 1,500.00 |
| lan Sheets-Mylar | | 10 | each | \$ | 19.00 | \$ | 190.00 |
| Other (specify) Title Reports Other (specify) Lidar Flight | | | each | | 1,000.00 5,000.00 | \$ \$ | - |
| uner (specify) Lidar Flight | | | each | | 1 | | - |
| | 11 | 1) TOTAL O | I HEK DI | KECI | .0515: | \$ | 1,690.00 |
| UBCONSULTANTS' COSTS (Add a Subconsultant 1: | luuluonal pages II necessa | гу) | | | | | |
| | | | | _ | | | |
| Subconsultant 2: | | | | _ | | | |
| Subconsultant 3: | | | | | | | |
| Subconsultant 4: | | | | | | | |
| Subconsultant 5: | | | | | | . | |
| | m) TOTAL SUBCO | | | | | \$0.00 | |
| n) TOTAL OTHER DIRECT COST | S INCLUDING SUBCON | SULTANTS [| (l) + (m)]: | | | ,690.00 | |
| | TOTAL COS | | | | ¢101 | ,001.53 | |

1. Key personnel <u>must</u> be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All

costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting

period and established by a cognizant agency or accepted by Caltrans.

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

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

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

| Direct Labor <u>Subtotal</u> per Cost Total Hours per Cost Proposal Proposal | | | Average Hourly Rate | 5 Year Contract Duration |
|---|-----|---------------|------------------------|--------------------------------|
| \$32,333.36 | 507 | \rightarrow | \$63.774 | ← Year 1 average rate |

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

| | Avg Hourly Rate | | Proposed Escalation | | | |
|--------|-----------------|---|---------------------|---|---------|-------------------------------------|
| Year 1 | \$63.77 | + | 5% | = | \$66.96 | \leftarrow Year 2 Avg Hourly Rate |
| Year 2 | \$66.96 | + | 5% | = | \$70.31 | ← Year 3 Avg Hourly Rate |
| Year 3 | \$70.31 | + | 5% | = | \$73.83 | \leftarrow Year 4 Avg Hourly Rate |
| Year 4 | \$73.83 | + | 5% | = | \$77.52 | \leftarrow Year 5 Avg Hourly Rate |

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

| | Estimated % Completed Each Year | To | tal Hours per Cost Proposal | | Total Hours per Year | |
|--------|------------------------------------|----|--------------------------------|---------|-------------------------|--------------------------|
| Year 1 | 100.0% | х | 507 | = | 507 | ← Estimated Hours Year 1 |
| Year 2 | 0.0% | х | 507 | = | 0 | ← Estimated Hours Year 2 |
| Year 3 | 0.0% | х | 507 | = | 0 | ← Estimated Hours Year 3 |
| Year 4 | 0.0% | х | 507 | = | 0 | ← Estimated Hours Year 4 |
| Year 5 | 0.0% | х | 507 | = | 0 | ← Estimated Hours Year 5 |
| Total | 100% | | | Total = | 507 | |

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

| | Avg Hourly Rate (calculated above) | _ | Estimated hours calculated above) | | Cost per Year | |
|--------|---------------------------------------|---|--------------------------------------|---|------------------|-------------------------|
| Year 1 | \$63.77 | X | 507 | = | \$32,333.36 | ← Estimated Cost Year 1 |
| Year 2 | \$66.96 | x | 0 | = | \$0.00 | ← Estimated Cost Year 2 |
| Year 3 | \$70.31 | X | 0 | = | \$0.00 | ← Estimated Cost Year 3 |
| Year 4 | \$73.83 | x | 0 | = | \$0.00 | ← Estimated Cost Year 4 |
| Year 5 | \$77.52 | x | 0 | = | \$0.00 | ← Estimated Cost Year 5 |
| | Total D | Total Direct Labor Cost with Escalation | | | \$32,333.36 | |
| | Direct I | Direct Labor Subtotal Before Escalation | | = | \$32,333.36 | |
| | Estimated total of | Estimated total of Direct Labor Salary Increase | | | \$0.00 | ← Transfer to Page 1 |

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.

2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. $$250,000 \times 2\% \times 5 \text{ yrs} = $25,000 \text{ is not an acceptable methodology}$

3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.

4. Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

<u>Certification of Direct Costs:</u>

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

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

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

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

Prime Consultant or Subconsultant Certifying:

| Name: | Jim Djekey | Title *: | President |
|------------|-------------------------------|-------------------------|---|
| Signature: | | Date of Certification (| mm/dd/yyyy): 5/1/2020 |
| Email: | jdickey@cinquinipassarino.com | Phone Number: | (707)542-6268 |
| Address: | | 1360 North Duttor | n Avenue, Suite 150, Santa Rosa, CA 95401 |

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

List services the consultant is providing under the proposed contract:

Professional Surveying and ROW Engineering Services

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

✓ Subconsultant

2nd Tier Subconsultant

Note: Mark-ups are Not Allowed Consultant WRA, Inc. Project No.: SMART Sonoma NMP Prime Consultant

Contract No. CV-PS-19-001

Date: 4/10/2020

DIRECT LABOR

LABOR COSTS

| Classification/Title | Name | Hours | Actual Hourly Rate | Total |
|------------------------|-----------------|-------|---------------------------|------------|
| Senior Associate | Leslie Allen * | 53 | \$69.02 | \$3,658.06 |
| Senior Associate | Aaron Arthur | 1 | \$51.11 | \$51.11 |
| GIS Professional | Chris Zumwalt | 50 | \$44.62 | \$2,231.00 |
| Associate | Scott Yarger | 106 | \$40.23 | \$4,264.38 |
| Scientist | Andrew Cawley | 4 | \$35.46 | \$141.84 |
| Scientist | Jemma Williams | 84 | \$38.06 | \$3,197.04 |
| Restoration Foreman | Rolland Mathers | 102 | \$35.50 | \$3,621.00 |
| Restoration Technician | Ben Adamo | 35 | \$28.00 | \$980.00 |
| Clerical | Kelly Mouton | 5 | \$43.68 | \$218.40 |
| | | 440 | | |

a) Subtotal Direct Labor Costs \$18,362.83 \$1,599.70 b) Anticipated Salary Increases (see page 2 for sample) c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$19,962.53 **INDIRECT COSTS** e) Total Fringe Benefits [(c) x (d)] d) Fringe Benefits (Rate: \$15,095.67 75.62% g) Overhead [(c) x (f)] \$22,419.92 f) Overhead (Rate: 112.31% h) General and Administrative 0.00% i) Gen & Admin [(c) x (h)] \$0.00 (Rate: \$37,515.59 j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]

FIXED FEE

k) TOTAL FIXED PROFIT $[(c) + (j)] \times \text{fixed fe}$

\$5,747.81

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

| Description | Quantity | Unit | Unit Cost | Total |
|-----------------------------|---------------|--------------|-------------------------|-----------------|
| Mileage Costs | 750 | miles | \$0.575 | \$431.25 |
| Roadway Tolls | 12 | each | \$6.00 | \$72.00 |
| Equipment Rental & Supplies | 17 | days | \$135.00 | \$2,295.00 |
| | | ТОТА | AL OTHER DIRECT COSTS | \$2,798.25 |
| m) SUBCONSULTANT'S COSTS | | | | |
| Subconsultant 1 | | | | |
| Subconsultant 2 | | | | |
| | | TOTAL S | UBCONSULTANT'S COSTS | \$0.00 |
| | | | | |
| | n) TOTAL OTHE | R DIRECT COS | STS INCLUDING SUBCONSUL | TANTS [(l)+(m)] |

\$66,024.19 **TOTAL COST** [(c) + (j) + (k) + (n)]

10.00%

NOTES:

1. Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.

2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.

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

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

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

| Direct Labor <u>Subtotal</u> Total Hours | | | Avg Hourly | 5 Year Contract |
|--|-------------------|---|------------|------------------------|
| per Cost Proposal | per Cost Proposal | | Rate | Duration |
| \$18,362.83 | 440 | = | \$41.73 | Year 1 Avg Hourly Rate |

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

| | Avg Hourly Rate | | Proposed Escalation | | | |
|--------|-----------------|---|---------------------|---|---------|------------------------|
| Year 1 | \$41.73 | + | 3.5% | = | \$43.19 | Year 2 Avg Hourly Rate |
| Year 2 | \$43.19 | + | 3.5% | = | \$44.71 | Year 3 Avg Hourly Rate |
| Year 3 | \$44.71 | + | 3.5% | = | \$46.27 | Year 4 Avg Hourly Rate |
| Year 4 | \$46.27 | + | 3.5% | = | \$47.89 | Year 5 Avg Hourly Rate |

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

| | Estimated % Completed Each Year | | Total Hours per Cost Proposal | | Total Hours per Year | |
|--------|------------------------------------|---|----------------------------------|---|-------------------------|------------------------|
| Year 1 | 10.00% | * | 440.0 | = | 44.0 | Estimated Hours Year 1 |
| Year 2 | 15.00% | * | 440.0 | = | 66.0 | Estimated Hours Year 2 |
| Year 3 | 25.00% | * | 440.0 | = | 110.0 | Estimated Hours Year 2 |
| Year 4 | 25.00% | * | 440.0 | = | 110.0 | Estimated Hours Year 2 |
| Year 5 | 25.00% | * | 440.0 | = | 110.0 | Estimated Hours Year 2 |
| Total | 100% | | Total | = | 440.0 | |

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

| | Avg Hourly Rate (calculated above) | | Estimated hours (calculated above) | | Cost per Year | |
|---|---------------------------------------|---|------------------------------------|---|---------------|------------------------|
| Year 1 | \$41.73 | * | 44 | = | \$1,836.28 | Estimated Hours Year 1 |
| Year 2 | \$43.19 | * | 66 | = | \$2,850.83 | Estimated Hours Year 2 |
| Year 3 | \$44.71 | * | 110 | = | \$4,917.68 | Estimated Hours Year 2 |
| Year 4 | \$46.27 | * | 110 | = | \$5,089.80 | Estimated Hours Year 2 |
| Year 5 | \$47.89 | * | 110 | = | \$5,267.94 | Estimated Hours Year 2 |
| Total Direct Labor Cost with Escalation | | | | = | \$19,962.53 | |
| Direct Labor Subtotal before Escalation | | | | = | \$18,362.83 | |
| Estimated total of Direct Labor Salary Increase | | | | = | \$1,599.70 | Transfer to Page 1 |

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase,

the # of years of the contract, and a breakdown of the labor to be performed each year.

2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.

(i.e. $$250,000 \times 2\% \times 5 \text{ yrs} = $25,000 \text{ is not an acceptable methodology})$

3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.

4. Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 COST PROPOSAL

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

| Name: Bianca McCarron | Title *: Vice President, Finance | | | |
|---|--|--|--|--|
| Signature : | Date of Certification (mm/dd/yyyy): 04/01/2020 | | | |
| Email: <u>mccarron@wra-ca.com</u> | Phone Number: <u>415-454-8868</u> | | | |
| Address: 2169-G East Francisco Blvd, San Rafael, CA 94901 | | | | |

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

List services the consultant is providing under the proposed contract:

Environmental consulting

Exhibit 10-H1 Cost Proposal

EXHIBIT 10-H1 COST PROPOSAL PAGE 1 OF 2

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Project No

Prime Consultant

☑ Subconsultant □ 2nd Tier Subconsultant

Consultant Stantec Consulting Services Inc.

Contract No. CV-PS-19-001

Date 4/30/2020

| DIRECT LABOR | | _ | | | |
|---------------------------------|-------------------------|--------------|---------------------|----------------------------------|-------------|
| Classification/Title | Name | Hourly Range | Hours | Actual Hourly Rate | Total |
| Principal Biologist/Regulatory | Michelle Tovar | 70-115 | 4 | \$80.61 | \$322.44 |
| Senior Biologist/Regulatory | Sara Cortez | 45-75 | 24 | \$48.03 | \$1,152.72 |
| Biologist/Botanist | John Holson | 40-70 | 68 | \$43.59 | \$2,964.12 |
| Biologist/Wildlife/Wetlands | Jared Elia | 40-70 | 41 | \$46.56 | \$1,908.96 |
| Biologist/Wildlife/Wetlands | Scott Elder | 35-50 | 2 | \$34.62 | \$69.24 |
| Technical Editor | Chris Broderick | 15-45 | 0 | \$29.43 | \$0.00 |
| GIS Specialist | Paul Glendening | 20-50 | 2 | \$42.53 | \$85.06 |
| Project Administrator | Shelley Nguyen | 15-45 | 3 | \$21.00 | \$63.00 |
| | | | | | \$0.00 |
| | | | | | \$0.00 |
| | | | | | \$0.00 |
| | | | | | \$0.00 |
| | | | | | \$0.00 |
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| | | | | | \$0.00 |
| | | | | | \$0.00 |
| | | | | | \$0.00 |
| | | | | | \$0.00 |
| | | | | | \$0.00 |
| LABOR COSTS | | | 144 | | |
| a) Subtotal Direct Labor Costs | | | | \$6,565.54 | |
| b) Anticipated Salary Increases | (see page 2 for sample) | | | \$0.00 | |
| | | c) TOTAL | DIRECT LABO | PR COSTS [(a) + (b)] | \$6,565.54 |
| FRINGE BENEFITS | | | | | |
| d) Fringe Benefits (Rate | 52.39%) | e) Total | Fringe Benefits | \$ | |
| | | | [(c) x (d)] | \$3,439.69 | |
| INDIRECT COSTS | | | | | |
| f) Overhead | (Rate: 28.13% |) g) Ov | verhead [(c) x (f)] | \$1,846.89 | |
| h) General and Administrative | (Rate: 85.65% |) i) Gen & . | Admin $[(c) x (h)]$ | \$5,623.39 | |
| | 166.17% | j |) Total Indirect | Costs [(e) + (g) + (i)] | \$10,909.96 |
| FEE (Profit) | | | | | |
| q) (Rate: 12.00% |) | k) TOT | AL FIXED PRO | DFIT $[(c) + (j)] x (q)]$ | \$2,097.06 |

| Local Assist | ance Procedures Manual | | | | Exhibit 10-H1 |
|--------------|--|-------------|----------------------|------------------------|---------------|
| OTHER D | IRECT COSTS (ODC) | | | | |
| Description | n | Unit(s) | Unit Cost | Total | |
| 1) | Travel/Mileage Costs (supported by consultant | | | | |
| | actual costs) (Itemized below) | | _ | \$1,150.00 | |
| m) | Equipment Rental and Supplies (itemized below) |) | | \$240.00 | |
| n) | Permit Fees (itemize), Plan sheets (each), Test | | | | |
| | Holes (each), etc. (| | | \$0.00 | |
| o) | Subconsultant Costs (attach detailed cost propos | al | | | |
| | in same format as prime consultant estimate for | | | | |
| | each subconsultant) | | | \$0.00 | |
| | | p) Total Ot | her Direct Costs [(] | (1) + (m) + (n) + (o) | \$1,390.00 |
| | | | TOTAL COST [(| (c) + (j) + (k) + (p)] | \$20,962.56 |

NOTES:

- Employees subject to prevailing wage requirements to be marked with an *. ٠
- ODC items should be based on actual costs and supported by historical data and other documentation. •
- ODC items that would be considered "tools of the trade" are not reimbursable.
- ODC items should be consistently billed directly to all clients, not just when client will pay for them as a direct cost. •
- ODC items when incurred for the same purpose, in like circumstances, should not be included in any indirect cost pool or • in overhead rate.

ITEMIZATION - OTHER DIRECT COSTS (ODC)

Description

Travel/Mileage Costs (supported by consultant actual costs) 1)

| | Unit(s) | Unit Cost | Total |
|---|---------|--------------|------------|
| Airfare | 0 | \$350.00 | \$0.00 |
| Per Deim | 0 | \$55.00 | \$0.00 |
| Lodging | 0 | \$160.00 | \$0.00 |
| Mileage | 2000 | \$0.58 | \$1,150.00 |
| | | | \$0.00 |
| | | | \$0.00 |
| | | | \$0.00 |
| | | Subtotal (l) | \$1,150.00 |
| Equipment Rental and Supplies (itemize) | | | |

| m) | Equipment Rental and Supplies (itemize) | | | |
|------|---|--------------------|-----------------------|-------------------------------------|
| 111) | Equipment Rental and Supplies (nemize) | Unit(s) | Unit Cost | Total |
| | D_{1} 1 1 1 1 $(0.5, 11)$ | Unit(S) | | |
| | Black and white copies (8.5 x 11) | | \$0.06 | \$0.00 |
| | Black and white copies (11 x 17) | | \$0.11 | \$0.00 |
| | Color copies (8.5 x 11) | | \$0.75 | \$0.00 |
| | Color copies (11 x 17) | | \$1.50 | \$0.00 |
| | Graphics (Poster Boards) | | \$45.00 | \$0.00 |
| | Other Direct Cost, Info Center | | \$250.00 | \$0.00 |
| | Submeter GPS Usage (per day) | | \$60.00 | \$0.00 |
| | Miscellaneous | 2 | \$120.00 | \$240.00 |
| | | | Subtotal (m) | \$240.00 |
| n) | Permit Fees (itemize), Plan sheets (each), Test | t Holes (each), et | tc | |
| , | | Unit(s) | Unit Cost | Total |
| | | | | \$0.00 |
| | | | | \$0.00 |
| | | | | \$0.00 |
| | | | Subtotal (n) | \$0.00 |
| o) | Subconsultant Costs (attach detailed cost prop | osal in same for | mat as prime consulta | nt estimate for each subconsultant) |
| , | Ϋ́ΥΫ́ΥΫ́ΥΫ́ΥΫ́ΥΫ́ΥΫ́ΥΫ́ΥΫ́ΥΫ́ | Unit(s) | Unit Cost | Total |
| | | | | \$0.00 |

\$0.00 \$0.00 \$0.00 \$0.00 \$0.00

| Local Assista | ance Procedures Manu | ual | | | | Exhibit 10-H1 |
|---------------|----------------------------------|-------------------|--|---------------------|-------------------------|------------------------|
| | | | | Subtotal (o) | \$0.0 | |
| | | | | | 1) | Page 1 of 5 |
| | | | COST PROPOSAL | • | / | |
| | | | IXED FEE OR LUMP SU CULATIONS FOR ANTIC | | · · | AC IS |
| Consultant | Stantec Consulting | | Contract No. | II ATED SALAR | , | te 2/21/2019 |
| Consultant | Stantee Consulting | , bervices me. | Prime Consu | ıltant | Da | |
| 1. Calculat | te Average Hourly F | Rate for 1st year | r of the contract (Direct I | | vided by total hour | s) |
| | | - | | | · | |
| | Direct Labor Subto | | Total Hours | | Avg Hourly | 5 Year Contract |
| | per Cost Proposal | 1 | per Cost Proposal | | Rate | Duration |
| | \$6,565.54 | | 144 | = | \$45.59 | Year 1 Avg Hourly Rate |
| | | | | | | |
| 2. Calculat | te hourly rate for all | l years (Increas | e the Average Hourly Rat | te for a year by pr | oposed escalation | % |
| | Avg Hourly Rate | | Proposed Escalation | | | |
| Year 1 | \$45.59 | + | 4% | = | \$47.42 | Year 2 Avg Hourly Rate |
| Year 2 | \$47.42 | + | 4% | = | \$49.31 | Year 3 Avg Hourly Rate |
| Year 3 | \$49.31 | + | 4% | = | \$51.29 | Year 4 Avg Hourly Rate |
| Year 4 | \$51.29 | + | 4% | = | \$53.34 | Year 5 Avg Hourly Rate |
| 3. Calculat | te estimated hours p | er year (Multip | oly estimate % each year | by total hours) | | |
| | | | | | | |
| | Estimated % Completed Each Ye | ear | Total Hours per Cost Proposal | | Total Hours per Year | |
| Year 1 | 100.00% | * | 144.0 | = | 144.0 | Estimated Hours Year 1 |
| Year 2 | 0.00% | * | 144.0 | = | 0.0 | Estimated Hours Year 2 |
| Year 3 | 0.00% | * | 144.0 | = | 0.0 | Estimated Hours Year 3 |
| Year 4 | 0.00% | * | 144.0 | = | 0.0 | Estimated Hours Year 4 |

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

144.0

Total

| | Avg Hourly Rate (calculated above) | | Estimated hours (calculated above) | | Cost per Year | _ |
|--------|---------------------------------------|---|------------------------------------|---|---------------|------------------------|
| Year 1 | \$45.59 | * | 144 | = | \$6,565.54 | Estimated Hours Year 1 |
| Year 2 | \$47.42 | * | 0 | = | \$0.00 | Estimated Hours Year 2 |
| Year 3 | \$49.31 | * | 0 | = | \$0.00 | Estimated Hours Year 3 |
| Year 4 | \$51.29 | * | 0 | = | \$0.00 | Estimated Hours Year 4 |

0.00%

100%

Year 5

Total

Estimated Hours Year 5

0.0

144.0

=

=

Local Assistance Procedures Manual

Exhibit 10-H1

| Year 5 | \$53.34 | * | 0 | = | \$0.00 | Estimated Hours Year 5 |
|---|----------------|-----------------|------------|---|------------|------------------------|
| | Total Direct I | Labor Cost with | Escalation | = | \$6,565.54 | |
| Direct Labor Subtotal before Escalation | | | | = | \$6,565.54 | |
| Estimated total of Direct Labor Salary | | | | = | \$0.00 | Transfer to Page 1 |

NOTES:

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

Page 2 of 5

NOTES:

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

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

| Name:Jim Grasty | Title *: Senior Vice President |
|-------------------------------|---|
| Signature : | Date of Certification (mm/dd/yyyy): <u>5-21</u> |
| Email: Jim.Grasty@Stantec.com | Phone Number: Direct: 916 669-5960 |
| | |

Address: <u>555 Capitol Mall Suite 650 Sacramento CA 95814-4583</u>

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

List services the consultant is providing under the proposed contract:

-2020

Environmental services including wildlife and plant surveys and species permits.

| | EVIIDIT 10 III C | | AL D. 1.62 | • | | Cost Proposal |
|--|--|-------------------|------------------|--------------------|---------|---------------|
| ACTUA | EXHIBIT 10-H1 C L COST-PLUS-FIXED FE®I | | e | | | |
| ACTOR | (DESIGN, ENGINEERI | | | - | | |
| Note: Mark-ups are Not Allowed | | Prime Consultan | _ | · | onsulta | int |
| Consultant Crawford & A | ssociates, Inc. | | | | | |
| Project No. TBD RFQ No. CV-PS-19-001 Dat | | | | | | 04/30/20 |
| Project Name SMART Petal | uma, Penngrove, and San | ta Rosa Variou | ıs Non-Motorize | d Pathway Segments | 5 - G | eotech Design |
| DIRECT LABOR | | | | | | |
| Classification/Title | Name | | Hours | Actual Hourly Rate | | Total |
| Principal * | Richard Sow | ers | | \$66.95 | \$ | - |
| Principal * | Benjamin Crav | Benjamin Crawford | | \$64.99 | \$ | 584.91 |
| Senior Project Manager * | Chris Trumbull | | 44 | \$66.35 | \$ | 2,919.40 |
| Senior Project Manager * | Eric Nichols | | 16 | \$54.63 | \$ | 874.08 |
| Senior Engineer / Geologist | TBD | | 8 | \$47.42 | \$ | 379.36 |
| Project Engineer II | TBD | | 56 | \$42.05 | \$ | 2,354.80 |
| Project Engineer I | TBD | | 62 | \$35.48 | \$ | 2,199.76 |
| Staff Engineer / Drafter | TBD | | 24 | \$26.78 | \$ | 642.72 |
| Project Assistant | TBD | | 12 | \$24.52 | \$ | 294.24 |
| | | | 231 | | | |
| INDIRECT COSTS d) Fringe Benefits f) Overhead | c) TOTAL DIRECT LABOR COSTS $[(a) + (b)]$ Rate: <u>65.48%</u> e) Total Fringe Benefits $[(c) \times (d)]$ <u>\$ 6,711.22</u> Rate: <u>111.72%</u> g) Overhead $[(c) \times (f)]$ <u>\$ 11,450.48</u> tive Rate: 20.00% i) Gen & Admin $[(c) \times (h)]$ <u>\$ 2,049.85</u> | | | | | 10,249.27 |
| h) General and Administrative Combined | Rate: 20.00% d ICR %: 197.20% | , | | | - | |
| j) TOTAL INDIRECT COSTS $[(e) + (g) + (i)]$ | | | | | | 20,211.56 |
| FIXED FEEk) TOTAL FIXED FEE $[(c) + (j)] x$ fixed fee12.0% | | | | | \$ | 3,655.30 |
| I) CONSULTANT'S OTHER DI | BECT COSTS (ODC) - I | TEMIZE (Add | l additional nag | es if necessary) | | |
| Description of | · · · · · · · · · · · · · · · · · · · | Quantity | Unit | Unit Cost | | Total |
| Mileage (Current IRS Rate) | | 400 | Mile | 0.575 | \$ | 230.00 |
| Per Diem (Meals & Lodging) Go | eneral Rate | 4 | Day | \$151.00 | \$ | 604.00 |
| Permit Fees | | 1 | Each | \$1,100.00 | \$ | 1,100.00 |
| Drilling (non-DBE) | | 3 | Day | \$5,000.00 | \$ | 15,000.00 |
| Drilling (DBE) | | | Day | \$7,500.00 | \$ | - |
| Wildcat DCP Equipment | | | Day | \$750.00 | \$ | - |
| Traffic Control | | | Day | \$2,500.00 | \$ | _ |
| Laboratory Testing | | 1 | Each | \$7,460.00 | \$ | 7,460.00 |
| | | l) | | R DIRECT COSTS | \$ | 24,394.00 |
| m) SUBCONSUL otal Combin | ed ICR: | | | | | |
| Subconsultant 1: | | | | | \$ | - |
| Subconsultant 2: | | | | | \$ | - |
| | | m) TOT | AL SUBCONSU | JLTANT'S COSTS | \$ | - |
n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)] \$ 24,394.00 TOTAL COST [(c) + (j) + (k) + (n)] \$ 58,510.13

NOTES:

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

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

ACTUAL COST-PLUS-FIXED FEØR LUMP SUM(FIRM FIXED PRICE) CONTRACTS

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

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

| Direct Labor Subtotal | Total Hours | | Avg Hourly | 5 Year Contract |
|-----------------------|-------------------|---|------------|------------------------|
| per Cost Proposal | per Cost Proposal | | Rate | Duration |
| \$10,249.27 | 231 | = | 44.37 | Year 1 Avg Hourly Rate |

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

| | Avg Hourly Rate | | Proposed Escalation | | | |
|--------|-----------------|---|---------------------|---|---------|------------------------|
| Year 1 | \$44.37 | + | 3.0% | = | \$45.70 | Year 2 Avg Hourly Rate |
| Year 2 | \$45.70 | + | 3.0% | = | \$47.07 | Year 3 Avg Hourly Rate |
| Year 3 | \$47.07 | + | 3.0% | = | \$48.48 | Year 4 Avg Hourly Rate |
| Year 4 | \$48.48 | + | 3.0% | = | \$49.94 | Year 5 Avg Hourly Rate |

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

| (| Estimated % Completed Each Yea | r | Total Hours per Cost Proposal | | Total Hours per Year | |
|--------|-----------------------------------|---|----------------------------------|---|-------------------------|------------------------|
| Year 1 | 100% | * | 231 | = | 231.00 | Estimated Hours Year 1 |
| Year 2 | 0% | * | 231 | = | 0.00 | Estimated Hours Year 2 |
| Year 3 | 0% | * | 231 | = | 0.00 | Estimated Hours Year 3 |
| Year 4 | 0% | * | 231 | = | 0.00 | Estimated Hours Year 4 |
| Year 5 | 0% | * | 231 | = | 0.00 | Estimated Hours Year 5 |
| Total | 100% | | Total | = | 231.00 | |

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

| | Avg Hourly Rate (calculated above) | | Estimated hours (calculated above) | | Cost per Year | |
|--------|---------------------------------------|------------|------------------------------------|---|---------------|------------------------|
| Year 1 | \$44.37 | * | 231 | = | 10249.27 | Estimated Hours Year 1 |
| Year 2 | \$45.70 | * | 0 | = | \$0.00 | Estimated Hours Year 2 |
| Year 3 | \$47.07 | * | 0 | = | \$0.00 | Estimated Hours Year 3 |
| Year 4 | \$48.48 | * | 0 | = | \$0.00 | Estimated Hours Year 4 |
| Year 5 | \$49.94 | * | 0 | = | \$0.00 | Estimated Hours Year 5 |
| | Total Direct Labo | r Cost wit | h Escalation | = | \$10,249.27 | |
| | Direct Labor Sub | total befo | re Escalation | = | \$10,249.27 | |
| E | stimated total of Direct | Labor Sa | lary Increase | = | \$0.00 | Transfer to Page 1 |

NOTES:

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

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

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

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

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

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

Prime Consultant or Subconsultant Certifying:

| Name: | Benjamin D. Crawford | Title *: | President/Principal | |
|-----------|---|--------------------------|---------------------|----------|
| Signature | ty 1.5 | Date of Certification (m | m/dd/yyyy): | 04/30/20 |
| Email: | ben.crawford@crawford-inc.com | Phone Number: | (916) 455-4225 | |
| Address: | Crawford & Associates, Inc., 1100 Corpo | orate Way, Suite 230, S | Sacramento, CA 9583 | 1 |

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

List services the consultant is providing under the proposed contract:

Geotechnical Engineering Services

| <u>COST-P</u> | EXHIBIT 10-H1 CO LUS-FIXED FEE OR LUMP S (DE <u>SIG</u> N, ENGINEERING, A | UM OR FIRM FL | XED PRICE CON | TRACTS | | | |
|--|--|-------------------------------------|---|---|----------------------------|----------|-------------------|
| Note: Mark-ups are Not Allowed | Prime Consultant | X | Subconsultant | | | 2nd T | ier Subconsultant |
| Consultant Interwest Consulting Group, Inc. | | | | _ | | | |
| Project No. SMART Project - ROW CERT | Contract No. | CV-PS-19-001 | | | Date | 3/26/20 | 020 |
| DIRECT LABOR | | | | | | | |
| Classification/Title | Name | | Hours | Actual F | Iourly Rate | | Total |
| Project Manager | John Almaza | | 20.0 | \$ | 57.69 | \$ | 1,153.85 |
| Real Property Agent | Jay Stauding | er | 0.0 | \$ | 36.06 | \$ ¢ | - |
| Administrative Support | Lisa Coen | | 2.0 | \$ | 30.05 | \$ | 60.10 |
| | | | | \$ | - | \$ | - |
| | | | | \$ | - | \$ | - |
| | | | | \$ \$ | - | \$ \$ | - |
| | | | | \$ | - | \$ | - |
| | | | | \$ | - | \$ | - |
| | | | | \$ | - | \$ | - |
| INDIRECT COSTS d) Fringe Benefits f) Overhead h) General and Administrative | Rate: 47.48% Rate: 15.53% Rate: 21.40% | e) Total fringe g) C i) Gen & | benefits [(c) x (d) verhead [(c) x (f)] & Admin [(c) x (h)] |] <u>\$</u>] <u>\$</u>] <u>\$</u> | 585.03 191.35 263.68 | | 1,232.16 |
| | | j) TOTA | L INDIRECT CO | OSTS [(e) | +(g)+(i)] | \$ | 1,040.06 |
| FIXED FEE | k) TOTA | L FIXED FEE [(| (c) + (j) x fixed fee | e 12.50% | | \$ | 284.03 |
| 1) CONSULTANT'S OTHER DIRECT COS | | | | | | | |
| Description of Ite Mileage Costs | m | Quantity 0 | Unit | Uni \$ | it Cost 0.58 | \$ | Total - |
| Equipment Rental and Supplies | | 0 | | \$ | 7.50 | \$ | - |
| Permit Fees | | | | | | \$ | - |
| Plan Sheets | | | | - | | \$ ¢ | - |
| Test | | |)) TOTAL OTHE | RDIREC | CT COSTS | \$ \$ | |
| m) SUBCONSULTANTS' COSTS (Add addi Subconsultant 1: Subconsultant 2: Subconsultant 3: Subconsultant 4: | | | m) SUBCONS | | | | - |
| n) | TOTAL OTHER DIRECT (| LUSTS INCLUDI | ING SUBCONSU TOTAL COST | | | | - 2,556.24 |
| NOTES: | mole (*) and american start | aubient to a second 'l' | | | | | |

Key personnel <u>must</u> be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.

2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accept by Caltrans.

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

EXHIBIT 10-H1 COST PROPOSAL (Page 2 of 3)

COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

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

| Direct Labor <u>Subtotal</u> per Cost Proposal | | Total Hours per Cost Proposal | | Avg Hourly Rate | 5 Year Contract Duration |
|--|---|----------------------------------|---|-----------------------|--------------------------------|
| \$1,213.95 | / | 22.0 | = | \$55.18 | Year 1 Avg Hourly Rate |

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

| | Avg Hourly Rate | | Proposed Escalation | | | |
|--------|-----------------|---|---------------------|---|---------|------------------------|
| Year 1 | \$55.18 | + | 3.0% | = | \$56.83 | Year 2 Avg Hourly Rate |
| Year 2 | \$56.83 | + | 3.0% | - | \$58.54 | Year 3 Avg Hourly Rate |
| Year 3 | \$58.54 | + | 3.0% | - | \$60.30 | Year 4 Avg Hourly Rate |
| Year 4 | \$60.30 | + | 3.0% | = | \$62.10 | Year 5 Avg Hourly Rate |

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

| | Estimated % Completed Each Year | | Total Hours per Cost Proposal | | Total Hours per Year | |
|--------|------------------------------------|---|----------------------------------|---|-------------------------|------------------------|
| Year 1 | 50.0% | * | 22.0 | = | 11.0 | Estimated Hours Year 1 |
| Year 2 | 50.0% | * | 22.0 | = | 11.0 | Estimated Hours Year 2 |
| Year 3 | | * | 22.0 | = | 0.0 | Estimated Hours Year 3 |
| Year 4 | | * | 22.0 | = | 0.0 | Estimated Hours Year 4 |
| Year 5 | | * | 22.0 | = | 0.0 | Estimated Hours Year 5 |
| Total | 100% | | Total | = | 22.0 | |

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

| | Avg Hourly Rate | burly Rate Estimated hours | | | Cost per | |
|--------|--------------------|----------------------------|---------------------------------|---|------------|---------------------------|
| | (calculated above) | | (calculated above) | | Year | |
| Year 1 | \$ 55.18 | * | 11.0 | = | \$606.97 | Estimated Hours Year 1 |
| Year 2 | \$ 56.83 | * | 11.0 | = | \$625.18 | Estimated Hours Year 2 |
| Year 3 | \$ 58.54 | * | 0.0 | = | \$0.00 | Estimated Hours Year 3 |
| Year 4 | \$ 60.30 | * | 0.0 | = | \$0.00 | Estimated Hours Year 4 |
| Year 5 | \$ 62.10 | * | 0.0 | = | \$0.00 | Estimated Hours Year 5 |
| | Tota | al Dire | ect Labor Cost with Escalation | = | \$1,232.16 | |
| | Dir | ect La | abor Subtotal before escalation | = | \$1,213.95 | |
| | Estimated tota | l of D | irect Labor Salary Increase | = | \$18.21 | Transfer to Page 1 |

NOTES:

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

EXHIBIT 10-H1 COST PROPOSAL (Page 3 of 3)

Certification of Direct Costs

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

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

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

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

Prime Consultant or Suconsultant Certifying:

| Name: | Kent Jorgensen | Title*: | VP and Director of Real Estate Services |
|------------|-----------------------------|------------|--|
| Signature: | Kent Jorgensen | Date of Ce | rtification (mm/dd/yyyy): <u>3/26/2020</u> |
| Email: | kjorgensen@interwestgrp.com | Phone Nur | nber: 949-870-5401 |
| Address: | | | |

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

List services the consultant is providing under this proposed contract:

Prepare ROW Certification.

Cost Proposal

| ACTUAL CO | OST-PLUS-FIXED FEE ((DESIGN, ENGINEERII | | | | NIKACIS | |
|---|---|--------------------------|---------------|--------------------|--------------|--------------------------|
| Note: Mark-ups are Not Allowe | • | Prime Consultan | | | 2nd Tier Sub | consultant |
| Consultant JMA Civil, Inc. | u | | L X | oubconsultant | | Jonsanani |
| Project No. | | Contract No. | | Date | 5/4/2020 | |
| - | | Contract No. | | Date | 5/4/2020 | |
| DIRECT LABOR | | | | | | |
| | Name | | hours | Actual Hourly | | * 2.040.45 |
| PRINCIPAL ENGINEER SR. CIVIL ENGINEER (RAIL) | Jon Marshall Allene Riege | | 40 48 | \$96.15 | | \$3,846.15 |
| CIVIL ENGINEER (RAIL) | Zhaoyang Wa | | 40 | \$81.73 \$48.08 | | \$3,923.04 \$7,692.31 |
| SR. PROJECT ENGINEER | Thomas Wilco | | 100 | \$48.08 | | \$4,326.92 |
| PROJECT ENG/CAD Tech | Allison Mars | | 0 | \$32.50 | | \$0.00 |
| SR. PROJECT ADMIN | Araceli Reynoso or E | | 4 | \$50.48 | | \$201.92 |
| | | | | \$001.0 | | \$201102 |
| LABOR COSTS | | | | | | |
| a) Subtotal Direct Labor Costs | | | | \$19,990.35 | | |
| b) Anticipated Salary Increase | | | | \$299.86 | | |
| | c) I (| OTAL DIRECT L | ABOR CO | STS [(a) + (b)] | | 520,290.20 |
| FRINGE BENEFITS | 00.400/ | a) Tatal Frimm | Domofile | | | |
| d) Fringe Benefits (Rate: | 29.40%_) | e) Total Fringe | | ¢5 065 22 | | |
| f) Overhead | (Rate: 111.77% | g) Overhea | [(c) x (d)] | | | |
| i) Overnead | | | | | | |
| h) General and Administrative | (Rate: 0.00% | i) Gen & Admir | ı [(c) x (h)] | \$0.00 | | |
| | | i) Total Indi | rect Costs | [(e) + (g) + (i)] | ¢ | \$28,643.68 |
| | | j) Fotal Inali | | | | 20,010.00 |
| FIXED FEE | k) TOTAL FIXE | D FEE [(c) + (j)] | x fixed fee | 12% | | \$5,872.07 |
| I) CONSULTANT'S OTHER D | RECT COSTS (ODC) - I | TEMIZE (Add ad | ditional n | ages if necess | arv) | |
| Description | | Quantity | Unit | Unit Cost | Total | |
| Mileage Costs | | 450 | mile | 0.575 | \$ | 258.75 |
| Equipment Rental and Supplies | S | | - | | | |
| Permit Fees | | | | | | |
| Reproduction | | | sheet | \$0.12 | \$ | - |
| Postage/Overnight/Delivery | | | package | | \$0.00 | |
| | | I) TOTAL | OTHER D | RECT COSTS | | \$258.75 |
| | TC (Add additional nag | | 、 | | | |
| m) SUBCONSULTAN'TS COS | 15 (Add additional pag | jes if necessary |) | | | |
| Subconsultant 1: | | | • | | | |
| Subconsultant 2: | | | • | | | |
| Subconsultant 3: | | | • | | | |
| Subconsultant 4: | | | • | | | |
| | | m) TOTAL SUB | CONSULT | ANTS' COSTS | | \$0.00 |
| n)TOTAL OT | HER DIRECT COSTS IN | | | | | \$258.75 |
| , - | - | | | (c)+(j)+(k)+(n)] | | \$55,064.70 |
| NOTES: | | | - | | | |

1 Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own costs proposals.

2 The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordnace with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans

Anticipated salary increase calculation (page 2) must accompany.

EXHIBIT 10-H COST PROPOSAL (EXAMPLE #1) PAGE 2 OF 3

| ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS | | | | | | | |
|--|----------------------------|----|---------------------|----|---------------|------------------------|--|
| (CALCULATIONS FOR ANTICIPATED SALARY INCREASES) | | | | | | | |
| Consultant JMA Civil, Inc. | | | Contract N | lo | Date 5/4/2020 | | |
| 1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours) | | | | | | | |
| C | Direct Labor <u>Subtot</u> | al | Total Hours | | Avg Hourly | 5 Year Contract | |
| per Cost Proposal | | | per Cost Proposal | | Rate | Duration | |
| | \$19,990.35 | | 372 | = | \$53.74 | Year 1 Avg Hourly Rate | |
| 2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by propos | | | | | | | |
| | Avg Hourly Rate | | Proposed Escalation | | | | |
| Year 1 | \$53.74 | + | 5% | = | \$56.42 | Year 2 Avg Hourly Rate | |
| Year 2 | \$56.42 | + | 5% | = | \$59.25 | Year 3 Avg Hourly Rate | |
| Year 3 | \$59.25 | + | 5% | = | \$62.21 | Year 4 Avg Hourly Rate | |
| Year 4 | \$62.21 | + | 5% | = | \$65.32 | Year 5 Avg Hourly Rate | |
| | | | | | | | |

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

| | Estimated % Completed Each Year | | Total Hours per Cost Proposal | | Total Hours per Year | |
|--------|------------------------------------|---|----------------------------------|---|-------------------------|------------------------|
| Year 1 | 70.00% | * | 372.0 | = | 260.4 | Estimated Hours Year 1 |
| Year 2 | 30.00% | * | 372.0 | = | 111.6 | Estimated Hours Year 2 |
| Year 3 | 0.00% | * | 372.0 | = | 0.0 | Estimated Hours Year 3 |
| Year 4 | 0.00% | * | 372.0 | = | 0.0 | Estimated Hours Year 4 |
| Year 5 | 0.00% | * | 0.0 | = | 0.0 | Estimated Hours Year 5 |
| Total | 100% | | Total | = | 372.0 | |

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

| | Avg Hourly Rate (calculated above) |) | Estimated hours (calculated above) | | Cost per Year | |
|--|---------------------------------------|---|------------------------------------|---|------------------|------------------------|
| Year 1 | \$53.74 | * | 260.4 | - | \$13,993.24 | Estimated Hours Year 1 |
| Year 2 | \$56.42 | * | 111.6 | - | \$6,296.96 | Estimated Hours Year 2 |
| Year 3 | \$59.25 | * | 0.0 | | \$0.00 | Estimated Hours Year 3 |
| Year 4 | \$62.21 | * | 0.0 | | \$0.00 | Estimated Hours Year 4 |
| Year 5 | | * | | - | | Estimated Hours Year 5 |
| Total Direct Labor Cost with Escalation | | | | = | \$20,290.20 | |
| Direct Labor Subtotal before Escalation | | | | = | \$19,990.35 | |
| Estimated total of Direct Labor Salary Increase | | | , | = | \$299.86 | Transfer to Page 1 |

NOTES:

1 This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.

2 An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.

(i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)

- 3 This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- 4 Calculations for anticipated salary escalation must be provided

EXHIBIT 10-H1 COST PROPOSAL PAGE 3 OF 3

Certification of Direct Costs:

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

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

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

Prime Consultant or Subconsultant Certifying:

| Name: | Ethan James Hartsell | Title *: Presic | lent |
|------------|--|-------------------|--------------------------|
| Signature: | SR (mon) | Date of Certifica | tion (mm/dd/yyy): 5/4/20 |
| Email: | ehartsell@jmacivil.com | Phone Number: | 925.400.4356 x102 |
| Address: | 3930 Pacheco Blvd., Martinez, CA 94553 | | |

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

List services the consultant is providing under the proposed contract:

Prepare approx. 1600' track shift plans, specifications and estimates. Limited support team's environmental, ROW and basis of design effort and development. Attend up to 5 in-person or conference call meetings, including the kick off meeting. Provide support for the bid and construction phases of the project for the track shift. See separate scope and assumptions.



Eric Lucan, Chair Transportation Authority of Marin

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

Judy Arnold Marin County Board of Supervisors

Damon Connolly Marin County Board of Supervisors

Debora Fudge Sonoma County Mayors' and Councilmembers Association

Patty Garbarino Golden Gate Bridge, Highway/Transportation District

Dan Hillmer Marin County Council of Mayors and Councilmembers

Joe Naujokas Sonoma County Mayors' and Councilmembers Association

Gary Phillips Transportation Authority of Marin

David Rabbitt Sonoma County Board of Supervisors

Chris Rogers Sonoma County Mayors' and Councilmembers Association

Shirlee Zane Sonoma County Board of Supervisors

Farhad Mansourian General Manager

5401 Old Redwood Highway Suite 200 Petaluma, CA 94954 Phone: 707-794-3330 Fax: 707-794-3037 www.sonomamarintrain.org Sonoma-Marin Area Rail Transit Board of Directors 5401 Old Redwood Highway, Suite 200

Santa Rosa, CA 94954

June 17, 2020

SUBJECT: Authorize the General Manger to purchase Seasonal Wetland Mitigation Credits for the construction of the Windsor Extension

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to enter into purchase agreement with the Laguna Valley Mitigation Bank for an amount not to exceed \$275,000 for the purchase of 2.2 acres of seasonal wetland mitigation credits.

SUMMARY:

As part of constructing the extension of the SMART passenger rail system and pathway from Airport Boulevard to downtown Windsor, the project is impacting seasonal wetlands along the project alignment. The California Department of Fish and Wildlife (CDFW), the Water Quality Control Board and the US Army Corps of Engineers have oversight jurisdiction for the seasonal wetlands. SMART has worked closely with the agencies to identify exact quantities of permanent and temporary impacts.

SMART is not able to mitigate for the impacts to the wetlands within the project site. Therefore, our only option is to purchase mitigation credits at private mitigation bank that is approved by the agencies.

On May 8, 2020 SMART issued an Invitation for Bid for the Purchase of 2.2 Acres of Seasonal Wetland Credits. SMART received two bids for the wetland credits on May 22, 2020. The lowest responsive and responsible bidder was the Laguna Valley Mitigation Bank which is located at 2767 Llano Road in the Santa Rosa Plain.

Time is of the essence in completing this purchase in order to fulfill permit requirements which will allow us to begin construction of bridges (both rail and pathway) this summer. This work is on the Project "critical path" and can only be done during the dry months: mid-June through October. Therefore, staff recommends authorizing the General Manager to enter into purchase agreement with the Laguna Valley Mitigation Bank for an amount not to exceed \$275,000.00 for the purchase of 2.2 acres of seasonal wetlands mitigation credits for the Windsor Extension Project.

FISCAL IMPACT: This purchase is budgeted in the Windsor Extension Project Budget in Fiscal Year 2019-20.

REVIEWED BY: [x] Finance <u>/s/</u> [x] Counsel <u>/s/</u>

Very truly yours,

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

Attachment(s): Purchase Agreement No. EV-CS-20-001

AGREEMENT FOR SALE OF SEASONAL WETLAND MITIGATION CREDITS ("AGREEMENT")

This Agreement is entered into this ______day of ______, 2020 by and between Laguna Valley Mitigation Bank, Lynda Carinalli, and the Sonoma-Marin Area Rail Transit District (SMART), herein referred to as "**Project Proponent**" as follows:

RECITALS

- A. Bank Sponsor has developed Laguna Valley Mitigation Bank located in Sonoma County, California;
- B. Bank was approved by U.S. Army Corps of Engineers (USACE) and the U.S. Environmental Protection Agency (USEPA), MBRT on 08-18-2005;
- C. Bank Sponsor has received approval from the Approving Agencies to offer Seasonal Wetland Credits for sale as compensation for the loss of seasonal wetland as specified in the Laguna Valley Mitigation Bank Enabling Instrument;
- D. Project Proponent is seeking to implement the construction of the Windsor Extension Project as described in Exhibit "A" attached hereto. Project implementation may impact seasonal wetlands and Project Proponent seeks to compensate for the loss of such habitat by purchasing Seasonal Wetland Credits.
- E. Project Proponent has been authorized by the USACE and USEPA, to purchase 2.2 acres of Seasonal Wetland Credits from Bank Sponsor's Bank (Sonoma Resource Conservation District);
- F. Project Proponent desires to purchase from Bank Sponsor's Bank and Bank Sponsor desires to sell to Project Proponent 2.2 acres of Seasonal Wetland Credits; and
- G. Bank Sponsor warrants the Bank is in good standing and authorized to sell Seasonal Wetland Credits.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- 1. Bank Sponsor hereby sells to Project Proponent and Project Proponent hereby purchases from Bank Sponsor's Bank 2.2 acres of Seasonal Wetland Credits for the purchase price of \$275,000.00. Bank Sponsor will then deliver to Project Proponent an executed "Bill of Sale" in the manner and form as attached hereto and marked Exhibit "B." The purchase price for said Seasonal Wetland Credits shall be paid by wire transfer of funds or other mutually approved method according to written instructions by Bank Sponsor to Project Proponent.
- 2. The sales and transfer herein is not intended as a sale or transfer to Project Proponent of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.
- 3. Project Proponent shall have no obligation whatsoever by reason of the purchase of the compensatory Seasonal Wetland Credits, to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the credits sold, or the Bank. Pursuant to the CBA for the Bank, Bank Sponsor shall monitor and make reports to the appropriate agency or agencies on the status of any compensatory Seasonal Wetland Credits sold to Project Proponent. Bank Sponsor shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the compensatory Seasonal Wetland Credits, by all state or federal jurisdictional agencies.

Page 1 of 7

- 4. The compensatory Seasonal Wetland Credits sold and transferred to Project Proponent shall not be used as compensatory mitigation for any other Project or purpose, except as set forth herein.
- 5. Upon purchase of 2.2 acres of Seasonal Wetland Credits specified in Paragraph E above, Bank Sponsor shall complete the "Payment Receipt" form attached hereto as "Exhibit C," and shall submit the completed "Payment Receipt" to the Approving Agencies.
- 6. This Agreement may be executed electronically and in multiple identical counterparts, each of which shall be deemed an original, and the counterpart signature pages may be detached and assembled to form a single original Agreement.
- 7. This Agreement shall be governed by the laws of the State of California. Any action at law or equity brought in connection with this Agreement shall be filled in the Superior Court for the County of Sonoma.
- 8. If any legal dispute arises under this Agreement, the prevailing party shall recover as an element of its costs of suit its actual attorney's fees and costs, including expert witness fees from the other Party. A Party not entitled to recover its costs of suit shall not recover attorney's fees.

THIS SPACE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

BANK SPONSOR: LAGUNA VALLEY MITIGATION BANK

By: Lynda Carinalli

Its: Owner

Date: _____

PROJECT PROPONENT: SONOMA-MARIN AREA RAIL TRANSIT DISTRICT (SMART)

By: Farhad Mansourian

Its: General Manager

Date: _____

Approved as to Form and Substance:

By: _____

Its: Counsel

Date: _____

EXHIBIT A DESCRIPTION OF PROJECT TO BE MITIGATED

The Sonoma-Marin Area Rail Transit District (SMART) is reconstructing approximately 3.5 miles of the existing Northwestern Pacific Railroad (NWP) between Airport Boulevard (MP 59.9) in Santa Rosa and the Town of Windsor at approximately 0.45 miles North of Windsor River Road (MP 63.4), in Sonoma County (See Attachment A – Project Location). SMART seeks bids from established mitigation banks in Sonoma County for 2.2 acres of seasonal wetland mitigation (creation, not preservation) credits for the Windsor Extension Project.

EXHIBIT B BILL OF SALE

Laguna Valley Mitigation Bank 4905 Gravenstein Hwy. South Sebastopol, CA 95472 707-795-7052 lovemoo@comcast.net

Buyers: Sonoma-Marin Area Rail Transit

Type and Amount of Credits: 2.2 Acres of Seasonal Wetland Credits

Project Name: Windsor Extension Project

Project Assessor's Parcel Numbers: Multiple

Contract Date: _____

Army Corps File Number: 2019-00230_____

WDID No.: 1B190067WNSO_____

CDFW Notification No.: _1600-2019-0190____

In consideration of \$275,000.00, receipt of which is hereby acknowledged, Laguna Valley Mitigation Bank, does hereby bargain, sell and transfer to Sonoma-Marin Area Rail Transit, collectively herein referred to as "Buyer," 2.2 acres of Seasonal Wetland Credits in the County of Sonoma, Sonoma Resource Conservation District as Banker for Laguna Valley Mitigation Bank in Sonoma County, California, developed and approved by the U.S. Army Corps of Engineer (USACE), U.S. Environmental Protection Agency (USEPA), and Sonoma Resource Conservation District (Banker).

Laguna Valley Mitigation Bank represents and warrants that it has good title to the Seasonal Wetland Credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Laguna Valley Mitigation Bank covenants and agrees with the Buyer to warrant and defend the sale of the Seasonal Wetland Credits herein before described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED: _____

Laguna Valley Mitigation Bank

By:

Lynda Carinalli

Its: Owner

PURCHASE AGREEMENT EV-CS-20-001

Page 5 of 7

EXHIBIT C PAYMENT RECEIPT

Laguna Valley Mitigation Bank 4905 Gravenstein Hwy. South Sebastopol, CA 95472 707-795-7052 lovemoo@comcast.net

PROJECT: _____

PAYMENT RECEIPT: 2.2 ACRES SEASONAL WETLAND CREDITS

PARTICIPANT INFORMATION:

Name: Sonoma-Marin Area Rail Transit District (SMART)
Address: 5401 Old Redwood Highway – Suite 200, Petaluma, CA 94954
Telephone: 707-794-3330
Contact: Bill Gamlen, Chief Engineer

PROJECT INFORMATION:

Project Description: Windsor Extension Project Army Corps File Number: <u>2019-00230</u> WDID No.: <u>1B190067WNSO</u> CDFW Notification Number: <u>1600-2019-0190</u> Habitat Affected: Seasonal Wetlands Credits Purchased: 2.2 Acres of Seasonal Wetland Credits Payment Amount: \$275,000.00 Project Location: Airport Blvd to Windsor Depot County: Sonoma Assessor's Parcel Number: Multiple

PAYMENT INFORMATION:

Payee: Sonoma Resource Conservation District, For the Benefit of the Laguna Valley Mitigation Bank.Payer: Sonoma-Marin Area Rail Transit District (SMART)Amount: \$275,000.00Method of Payment: Check

PURCHASE AGREEMENT EV-CS-20-001

Page 6 of 7

RECEIVED:

Sonoma-Resources Conservation District

By: <u>Adrienne Pettit</u>

Its: Director of Finance

Date: _____

CONFIRMED BY:

Laguna Valley Mitigation Bank

By: Lynda Carinalli

Its: Owner

Date: _____