



**BOARD OF DIRECTORS
MEETING AGENDA
September 16, 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, September 15, 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 September 2, 2020 Board Minutes
3. Board Member Announcements
4. General Manager’s Report
5. Public Comment on Non-Agenda Items

Consent Calendar

- 6a. Approval of DeAngelo Brothers Contract Amendment No. 2
- 6b. Approval of Portola Systems Inc. Contract Amendment No. 7
- 6c. Accept Monthly Ridership Report – August 2020

Regular Calendar

7. Authorize the General Manager to Execute an Agreement with Ventek Transit Inc. for Operations, Maintenance and Revenue Collection Services in an amount of \$886,124 which includes an Initial Three-Year Term and Two Options
8. Approve a Resolution Authorizing SMART to submit a Regional Measure 3 Allocation request and a Letter of No Prejudice request for the SMART System Extension to Windsor project.
9. Approve Resolution Creating Debt Issuance Policy in accordance with SB 1029
10. Approve a Resolution and Receive Fiscal Year 2019-20 Year End Information and Fiscal Year 2020-21 Additional Reduction Information
11. Next Regular Meeting of the Board of Directors, October 7, 2020 – 1:30 PM
12. Adjournment

DISABLED ACCOMODATIONS:

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



**BOARD OF DIRECTORS
REGULAR MEETING MINUTES
September 2, 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, Naujokas, Phillips, Pahre, Rabbitt, and Zane were present; Directors Garbarino, Hillmer and Rogers joined later.

2. Approval of the July 15, 2020 Board Minutes

Directors Garbarino and Rogers joined 1:31pm

Director Connolly stated that he submitted minor edits to page 13 of 15 of the Board Minutes to the Clerk of the Board.

MOTION: Director Phillips moved approval of the July 15, 2020 Board Minutes. Director Rabbitt second. The motion carried 11-0-1 (Director Hillmer absent).

3. Board Members Announcements

Director Rogers stated that tonight is the first of many Listening Forums Session that the SMART Board is hosting across Sonoma and Marin counties to bring community members together to exchange ideas on how to best position SMART for the future.

Director Fudge stated that she will be joining the Listening Session today. The Town of Windsor has completed the underground utilities at the Windsor Depot intersection. The

intersection was closed Friday, Saturday and Sunday, SMART's contractor Stacy and Whitbeck installed track and completed the work 24-hour ahead of schedule. There is a lot of excitement in Windsor in anticipation of the train coming to Windsor.

Chair Lucan stated that SMART participated in a Listening Session with the League of Women Voters from Sonoma and Marin. The League provided some good feedback and one of the items that was discussed is on the Board's agenda today. He congratulated the incredible SMART's staff on its 3rd Anniversary of passenger service.

Director Hillmer joined 1:38pm

4. General Manager's Report

General Manager Mansourian reported that since the start of passenger service in August 2017, SMART has carried 1,900,000 passengers, 191,000 bicycles, and over 7,000 wheelchairs. The July ridership data is on agenda item 6b. He continues to provide weekly ridership data that it is also available on SMART's website.

He stated that the listening session with the League of Women Voters provided SMART staff with excellent feedback. Two items that were discussed and SMART staff is working on are: 1) the Citizens Oversight Committee Roles and Duties and 2) Public Record Request reporting.

He said that the Metropolitan Transportation Commission launched a low-income pilot program. At the February meeting, the Board unanimously approved SMART's formal request to participate in the regional Clipper START Low Income Fare Program and the original request was rejected. In the summer 2020, MTC expanded the program and SMART was notified that it would be included in the program. The program will start in November 2020, and staff will bring it back to the Board to launch the program.

He stated that on Monday, September 7th Labor Day Holiday, SMART will not operate train service and will be notifying the public.

He announced that Chief Financial Officer, Erin McGrath will not be renewing her contract in December. A search for her replacement has already begun. It's very mixed emotions, she has been terrific, he added. We will continue to figure out how we can have her change her mind. I am grateful she is giving us months of notice so we can figure out if there is a miracle to find someone who can even begin to fill her shoes. Also, Communications and Marketing Manager, Julia Gonzalez has accepted her dream job with Sonoma State University as Vice President of Strategic Communications, where she starts on September 14th. We wish her tremendous success in her new job.

Lastly, he said that August 25th marked SMART's 3rd year of passenger service. He is proud of the excellent and dedicated staff. Nine years after the sales tax was approved, we were able to build and open a brand-new transit agency. Only three months into operations, the

devastating fires in Sonoma County hit. We continued our operations to make sure emergency personnel and evacuated folks had a reliable transportation system at their disposal, at no cost to them. Three years later, again we are dealing with fires and pandemic of COVID-19. We are still serving our communities, serving the essential workers who rely on us for getting to and from their essential jobs. I have shared with the Board and staff a PowerPoint of SMART's 3-year journey, which will be posted on SMART's Website.

Comments

Director Fudge stated that she is sad that Ms. McGrath is leaving and offered a lifetime of her homemade jam if she stayed, she acknowledged her years of service with SMART. General Manager Mansourian has mentioned all the devastations that SMART has endured that last three years, she thanked SMART staff that continued to keep the train running, and is glad that ridership continues to increase.

Director Zane acknowledged Ms. McGrath for her years of service with SMART, and said "it's hard to imagine she will not be here". She recalls being on the hiring committee which consisted of Directors Fudge, Pahre and Russell that offered Ms. McGrath the job.

Ms. McGrath thanked Directors Fudge and Zane for their kind words.

Chair Lucan stated that the Board will have plenty of time to share gifts, jams, and sentiments with Ms. McGrath. He thanked her for all the work she has done for the agency; he wished Ms. Gonzalez her the best.

5. Public Comment on Non-Agenda Items

Dani Sheehan congratulated SMART staff on 3 years of passenger service. She stated that a public survey was conducted regarding train service on Labor Day holiday. She is disappointed that she can't plan a trip on the holiday. Providing service on the holiday could help bring tourism back.

6. Consent

- a. Approval of Monthly Financial Reports – July 2020
- b. Accept Monthly Ridership Report - July 2020
- c. Approval of American Rail Engineers Corporation Contract Amendment No. 2

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

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

7. Authorize the General Manager to Award a Sole Source Purchase Orders to ZF North America, Inc. and Knorr Brake for the Purchase of Specialized Diesel Multiple Unit (DMU) Maintenance Agreement in an amount of \$665,727.63

Procurement Coordinator, Ken Hendricks, stated that the item before the Board today is included in the current budget. The purchases of 7 gear assemblies and 70 brake discs, for SMART's Diesel Multiple Units (DMUs).

ZF North America, Inc. is the sole manufacturer and distributor of certain vehicle equipment, including gear assemblies, installed on SMART's DMUs. Knorr Brake Company is the sole manufacturer and distributor of certain brake assembly equipment, including brake discs, installed on SMART's DMUs. The specific parts and equipment are manufactured by the Original Equipment Manufacturer, which do not have authorized resellers of their equipment. These parts have undergone rigorous safety and performance testing specific to passenger rail operations prior to being approved by the original car builder.

Staff recommends authorizing the General Manager to award a Sole-Source Purchase Order to ZF North America, Inc. for the purchase of seven (7) gear assemblies in the amount of \$513,344.10 and Knorr Brake Holding Corporation for the purchase of seventy-seven (70) brake discs in the amount of \$152,383.53.

Comments

Director Phillips asked since these two companies are the only ones providing parts, is SMART in jeopardy of losing them as providers? What assurance does SMART have that they will continue to provide these parts when needed? Mr. Hendricks responded that the gear assemblies would complete the purchase and SMART does not anticipate purchasing more. Knorr Brake Company is the sole manufacturer and distributor of the brake discs and provider to various rail agencies and a very dedicated partner with SMART. Director Phillips asked if the brakes are being replaced is SMART's DMU at risk for the future? Superintendent of Vehicle Maintenance, Husani Longstreet, responded that maintenance is performed ever 500-1000 miles, he does not anticipate replacement unless there is a catastrophic need. Director Phillips asked if there is a need to purchase at this time if the parts are not needed? Mr. Longstreet responded yes, and mentioned that various DMU's have been out of service for a long period due to third party contractors performing service, having these parts in stock will provide faster service and the parts take over a year to fabricate.

Chair Lucan clarified that this expense was included in SMART's budget.

Director Rabbitt stated that the Board has the authority to approve and secure adequate spare parts for SMART's DMU's and keep them in service. It's cheaper and more efficient to have available spare parts and not have the DMU's out of service more than a month. SMART Board received correspondence from a transit advocate outlining the brakes are a nice thing to have, he concurs that having brakes is essential.

MOTION: Director Pahre moved to Authorize the General Manager to Award a Sole Source Purchase Orders to ZF North America, Inc. and Knorr Brake for the Purchase of Specialized Diesel Multiple Unit (DMU) Maintenance Agreement in an amount of \$665,727.63 as presented. Director Naujokas second. The motion carried 12-0-0

8. Provide Input of the Reorganization of the SMART Citizen Oversight Committee

Chair Lucan briefly mentioned that this item came to us at the suggestions of Citizen Oversight Committee Chair Columbo reaching out to the Board asking for guidance, review and clarification of roles for the future and also from the League of Woman Voters.

General Manager Mansourian gave an overview of SMART Citizen Oversight Committee (COC). The COC was created in the 2008 Expenditure Plan as part of the effort to approve Measure Q. The role of the COC is to review the Strategic Plan every 5 years. In 2008, the Board appointed seven (7) members and two alternates to serve on the COC, with no defined representation of any particular groups and terms. The Board has the ability to change the Expenditure Plan as well as the COC, at any time.

Most operating transit agencies like SMART have public input committees for various reasons and they use the term Advisory Committee. Other transportation funding authorities, Sonoma County Transportation Authority and Transportation Authority of Marin use the term Oversight Committee. Some transit agencies don't have Committees and others like BART have nine (9) committees.

We are requesting that the Board provides input on the following options: 1) Name of Committee; 2) Issues and Duties; 3) Membership and Process; and 4) Meeting Frequency and Bylaws.

1. Name of the Committee

What would you like to name the Committee? There are a variety of options and we have provided information of other operating transit agencies using the term Advisory Committee and Oversight Committee.

2. Issues and Duties

Because they are a Committee of a public agency, according to SMART's District Counsel the Committee will need to comply with the Brown Act provisions. The roles and responsibilities will need to be set by the Board. We provided you various list of Issues and Duties, not to limit the scope but as examples. Once the Issues are defined, it will be manageable list so that the Committee knows what the focus of its meetings should be. The staff report provided the following ideas:

- Riders
- Bicycle users and pedestrians
- Financial planning
- Capital Expansion
- Business and Economic Development Needs
- Housing Development Needs
- Environmental and local service issues
- Minority or disadvantaged community access

3. Membership and Process

Transit and planning agencies use different methods. The two most common options are 1) designated seats each for each of the "Issue" areas identified in #2 with perhaps the remainder chosen to balance the geographic, economic and racial diversity of the District; and 2) designate certain seats for certain organizations and request that those organizations nominate, subject to your Board's approval, a representative for a defined period to fill them.

Since SMART serves two counties, we suggest that in order to achieve these two goals, the committee membership have limited terms, be larger than the current seven (7) members to ensure adequate participation, but small enough to keep committee discussions manageable and productive.

4. Meeting Frequency and Bylaws

We recommend that meeting frequency be set at a minimum of twice a year (or potentially quarterly). Staff will draft Bylaws in advanced, based on similar committees in other transit agencies and we will share with the Board and the League of Women Voters to receive feedback.

Lastly, Mr. Mansourian stated that this is the beginning of the process, once your Board provides input and direction on these issues, we will share your comments with members of the current COC to get any further input they may have. After collecting all this information, we can return with an action item reflecting the feedback from your Board and the Citizen's Oversight Committee on how to structure this new community input committee.

Chair Lucan stated that staff has provided a list of various options to consider for the COC.

Comments

Director Zane asked if the committee can have as many members the Board desires? She suggested waiting until the Listening Forum Sessions are concluded to receive public feedback. Mr. Mansourian responded that the Board can design and have as many members they desire, however the Committee will follow the Brown Act requirements and having a very large group could be difficult to manage. Also, the process can take several months to finalize and based on feedback received it could be modified. She suggested having stakeholders and industries as representatives instead of organizations on the committee and a reasonable number of members, like no more than 12.

Director Naujokas suggested having multiple committees with subjects such as Bicycles and First and Last Mile. Mr. Mansourian responded that he would like to research other agencies and Staff. Small transit agencies don't have multiple committees but large transit agencies do have them since they have adequate staff. If specialized committee is considering only that topic and they don't have the benefit of hearing each other.

Director Pahre stated that there is a place for certain committees, however there is something rich to hear others point of view. The committee needs to be broad based.

Director Rogers suggested waiting until the Listening Forum Session are concluded to make a final decision. If committees are established, they need to be open to the public, for them to provide feedback. We need a Committee to look at items holistically and provide recommendations to the Board and occasionally meet with the Board Chair to discuss topic. There needs to be a discussion of implications of Brown Act, it limits the discussion topics and the meetings provide transparency, however, the downside is that an open conversation can't occur. The Board needs to weight the benefits on how it is structured to achieve the outcome that is needed from the Advisory Committee.

Director Phillips stated that part of the Committee should be structured for specific interest areas, such as finance, homeless, pension and others subjects. It provides an opportunity for groups which has an interest and expertise in the areas, their recommendations would be reported to the Board.

Director Rabbitt suggested making the final decision on the structure of the COC until the Listening Forum Sessions are concluded. He likes the idea for an Advisory body, and have representation in which the Board has control.

Director Fudge suggested waiting for the Listening Forum Sessions to be concluded. She warned on having too many Brown Act Committees, as an early Board Member, along with Directors Pahre and Arnold who served on Real Estate Committee, Operations Committee, Board Meetings, and COC meetings. The work load on the small staff was very intense, some of the committee produced so much work at that time that needed to happen. We don't have the staff to have various committees, she suggested not having more than two committees.

Public Comments

Willard Richards stated that he is having a hard time understanding the idea that the committee can't be in open forum. He suggested that the Committee itself set the topics of discussion. He asked why is having term limits necessary? He suggested meeting quarterly at the minimum and having subcommittees of the Advisory Committee.

Rick Coates stated that he serves on the MTC Policy Advisory Council. It's an advisory group and Brown Act group and the committee members are selected on the basis of Stakeholders. The Brown Act Committee does impose a lot of staff time.

Jack Swearingen stated that the Friends of SMART met bi-monthly to discuss SMART's agenda. They are working on a series of White Papers in various topics, such as freight and passenger service, SMART's impact in the environment, first and last mile, quite zones and safety.

Steve Birdleough stated that he serves on the Advisory Committee of the Sonoma County Transportation Authority. The Committee meets on the last Monday of the month for about 90 minutes and have a very wide scope. He suggested evaluating this committee and perhaps the Transportation of Marin that can be models for SMART. He has served on the COC since

inception and looking at this from both perspective and glad to be part of the process.

Duane Bellinger asked if the duties and responsibilities of the current COC on SMART's website? Would the COC covered by the Brown Act? The current COC was promised for Measure Q, and the financial advisory who was chosen have the expertise and need a second committee to have different expertise.

Mike Pechner stated that he just finished his second term with MTC Advisory Council Group. The Advisory group met monthly for 2-hours and they also provided additional information when needed.

Patricia Tuttle Brown stated that after the first COC meeting subsequent to the election defeat, she asked to join the COC. The reason she wants to join the group is partly due to the discussions today and a group too specialized does not see the entire picture. She tried to address her concerns during the update of the Strategic Plan, however failed. She said that it's the COC's job to update the Strategic Plan. The whole Strategic Plan itself was not thoroughly vetted. Since, the Board was leaving it to the COC it was apparent in her view especially the Pathway needed to be reviewed closely. She wishes to join the COC and bring a broad perspective to the group. She suggested not talking about the Pathway without including pedestrians. She said that the General Manager's report has a section of various trespassers and would like the dialogue to be flipped and say that this is a wonderful opportunity for us to realize how much import the path has along the tracks.

Chair Lucan stated that if the Board is reforming an Advisory Committee then its very important to inform the Committee what are the areas the Board needs advice. The COC Chair Colombo asked for the Board to provide direction on the areas they can advise the Board. He asked if there is anything that was not captured during this discussion.

Director Rogers stated that limiting size is important and suggested 15 or fewer and the Committee having within AdHoc Committees. Also, including Procurement in the duties section.

Director Naujokas appreciates all the input and comments. He suggested having the committee focus on increasing the overall service to the community. How do you incorporate all the specialize ideas into one committee?

Director Connolly is looking forward in participating in the Listening Forum Session today. He suggested renaming the committee to Citizens Advisory Committee based on the issues and duties outlined. Based on what the Board wants to accomplish the group size should be no more than 15 members and meet quarterly or more frequently if necessary. He said that sees a few goals and the group should reflect the issues that are important to the stakeholder communities that we are going to rely on. In addition to the various groups identifies there could be other topics that could arise and having a catch all topic maybe helpful. One goal would be to be broad enough to reflect meaningful input and the other is to bring a diverse

group together, the participants themselves out of their perspectives and to look at a broader picture. Lastly, how will the issues be determined.

Director Fudge stated that she likes the Committee to be relevant to the community in both counties. She suggested naming the Committee, SMART Advisory Committee (SAC). Her preference right now would be to have members for stakeholder groups and not from defined groups. The Committee should meet quarterly and recommends having a single committee of 12-15 members. That single committee can create Ad Hoc committees as necessary. Having a catch all topic could be helpful when items arise that they could assist with. She looks forward in having a large diverse group that the Board can work together with various interest. The session with the League of Women Voters was very constructive, they offered to assist staff and the Board in creating Bylaws and had a sincerely positive conversation with great ideas. She hopes that all the Listening Sessions are very productive.

Chair Lucan stated that the Board and the public provided excellent feedback. He said that having a Committee of up to 15 members would be great and including the word Advisory in and removing Citizens. How make those initial appointments and how to fill vacancies. Having members from stakeholder and industry groups instead of organizations.

9. Status Report on Freight and Related Activities

General Manager Mansourian provided an update on the status of Freight Service and related activities. Your Board on May 20th, approved a number of policies to become a Freight Service provider. The following activities have taken place and are ongoing:

- The State of California has been funded the \$4M for the purchase. The funds have been encumbered and deposited into an escrow account;
- The State of California has funded the \$2 million for SMART for freight maintenance. The funds have been encumbered and deposited into an escrow account;

Mr. Mansourian clarified and stated that SMART has not spend any funds to purchase NWPCo. All the funds are from the State of California and deposited into an escrow account.

The following two Agreements are pending execution: 1) The Asset Transfer Purchase Agreement between SMART and NWPCo. This agreement is for SMART to purchase the assets once the funds are received; and 2) The Baseline Agreement between the State of California and SMART has been finalized and is pending execution. Both of these Agreements will be executed upon release of the report from the State Task Force to the State Legislators as required by SB 1029. The provisions of SB 1029 states that upon the completion of due diligence by mid-September.

He announced that a Request for Proposal (RFP) has been released for a consultant to conduct a Freight Market Analysis of financial and business evaluations and opportunities. The report is expected to be completed by the end of 2020; we will bring back to the Board in the near future.

Lastly, the Board will need to develop policies to reflect our responsibility and ability to allow for or modify existing spur/crossing for freight operations. We anticipate presenting them for your considerations by the end of 2020 for your Board approval.

Comments

Director Zane asked if the Consultant can also develop the policies. Mr. Mansourian responded that the first step is to evaluate if financial and business opportunities are available along the corridor. The second step would be to develop the policies on the opportunities that are presented in the report. For example, there is a sign in the incorporated area of Sonoma County stating Amazon will be moving. These are perfect opportunities to research. Director Zane stated that this is an exciting opportunity and there are a lot of possibilities and could subsidize revenue.

Doug Kerr stated that SMART's mission as defined in Measure Q is to provide passenger service from Cloverdale to Larkspur. He is concerned of procurements being issued and Measure Q funds being used for freight service and East of Novato. We need to continue to stay focused on the original mission.

Mike Arnold stated that General Manager Mansourian has misstated what the opposition to the Measure in May is was? It was not rail opponent, that were objecting the decisions of the Board, it was the prior SMART Chairperson who voted against it because he found it incomprehensible that this Board would go along with something that can have financial implication positive or negative. Your Board has committed financially this particular action without having the information. SMART now has RFP several months later asking for the information that should have been done earlier. He said that he had a lengthy conversation with Jason Liles and would like to convey they discussed. Senator McGuire did not represent SMART, however Senator McGuire thought it was a good idea to have passenger and freight service under a public umbrella. It was up to SMART to evaluate if freight service was a good idea, however SMART still does not know all the potential risks.

Mike Pechner stated that if SMART gets a business opportunity it does not have any spurs. Any customer on the railroad need to have spurs to bring in freight or loadout freight. It was discussed that SMART will not be placing a spur at Prudent the only Industrial Park which is the only area that was rail served. He said that Mr. Alan Hemphill, from North Coast Rails and Trails has identified 21 customers from Cloverdale to north. SMART has zero business opportunities besides the existing customers.

Steve Birdleough stated that the Feasibility Study that was conducted from East to Suisun was funded by the State of California. He suggested tracking freight and passenger funds separately, some of these items could have been done 6 months or a year ago, however other issues were occurring at the time. Freight service is important for the environment and the city.

Sheila Baker stated that freight services can get trucks off the road, which will be good for the environment.

General Manager Mansourian stated that in addition to Measure Q funds, SMART receives state, federal, regional, and local funds and the Board decides how to utilize those funds. SMART owns 70 miles of right-of-way, as a railroad you are required to do certain maintenance and services. Once the report is completed a funding source will be defined. The report was not conducted earlier, because SMART did not spend any funds to purchase NWPCo and second a Policy decision was not developed to provide freight service. Staff is doing a methodical approach and we will continue to provide information to the Board.

Chair Lucan clarified that the Novato to Suisun Feasibility Study was funded by a State grant.

10. SMART's Fiscal Year 2019-20 Revenue Update

Chief Financial Officer, Erin McGrath gave a brief revenue update. Highlights include:

- Cares Act Update
 - Budgeted to receive a combined amount of \$14.95M, which is \$1.9M less than budgeted
- Sales Tax Update
 - Decrease from FY 19 tax receipts
 - SMART chose the same sales tax projection that Sonoma County Transportation Authority utilized (HDL (w/Beacon) – Fiscal Year 2019-20 (-15%) and Fiscal Year 2020-21 (-18%))
 - Fiscal Year 2018-19 earnings, produced the following - \$33.6M in Fiscal Year 2019-20 and \$33M in Fiscal Year 2020-21
 - On August 25th, SMART received the final sales tax allocation from the State of California:
 - Sales tax allocation received in August relate to June's collections
 - Final amount received was \$39.8, which is \$6M higher than budgeted
- Combined Change in revenues for Fiscal Year 2020-21 from both sources is \$4M higher than budgeted.
- We continue to monitor sales tax and will get last quarter in two weeks
- The data will inform us if we anticipate a better Fiscal Year 2020-21 than budgeted
- We continue to follow all economic forecasts of the region and will continue to provide updated as information becomes available
- More Budget Updates
 - Staff will be providing a broader budget updated that will include the following:
 - 1) Final anticipated revenues from all sources; 2) Final expenditures, including salaries
 - New vacant positions that could be eliminated to achieve greater savings
- Public Comments Received
 - Mike Arnold who, for the last 15 years has accused SMART of overestimating revenue

- Mike Arnold has now during the greatest recession of our lifetimes accused SMART of **under** estimating revenue
- Mike Arnold argues that July payments are evidence of what should have been included in the budget prepared in late May
- Mike Arnold repeats his incorrect statements that payments received from the State of California, relate to whatever Fiscal Year they are received – **this is false**
- Mike Arnold argued that SMART received \$34.2M in sales tax for Fiscal Year 2020. This was and is incorrect. SMART had received \$27M through April for Fiscal Year 2020
- Mike Arnold also argues that data from the first 3 months of the calendar year are good predictors of the future – the opposite of what every projection shows. The logic of this comments argues that SMART should have ignored the historic rapid shutdown and book revenue as if nothing would change after March
- Conclusion
 - The projections that we use for the budget are based on best available data and regionally available projections
 - The right approach, in these very volatile uncertain times, is to err on the side of caution
 - Our practice, that we will continue to recommend, is to collaborate with other agencies and provide your Board with projections that are vetted, reasonable and err on the side of caution

Chair Lucan thanked Ms. McGrath for the presentation and update, he said the he and the Board fully trust the numbers she provides the Board, “you have an entire career and fortunate to have you at SMART”.

Director Rabbitt thanked Ms. McGrath for the updated and said that she will be greatly missed. He remembers being impressed with the 6 agencies that he is involved regarding the budget information being provided post COVID-19 and Shelter in Place in March. Ms. McGrath was the first to provide the direction of SMART. He stated that having a conservative budget is better than having to make drastic decisions right of way. The CARES Act initial grant funding distribution was 61%, out of which SMART received a good allocation. In the second round of discussions there was politics and negotiations involved, which received less than projected. The County of Sonoma will begin budget hearings next week. The County was looking at a \$45M deficit, however it looks like now is approximately \$15M deficit due to recent sales tax amounts being received and other funding sources.

Director Naujokas stated that he appreciates SMART taking a conservative budget approach during these difficult and uncertain times. He asked how much of the sales tax is from e-commers. Ms. McGrath responded SMART has received some initial data. The sales tax revenue has increased at bigger retailers like Costco and Target, delivery services such as Amazon and other service during this period.

Duane Bellinger stated that the Financial Report does not provide bicycle station revenue. He would like to see the following items listed separately: 1) fare revenue; 2) parking revenue and 3) bicycle storage.

Mike Arnold suggested that staff not include member of the public names on slides. The source of the information is a careful analysis that he has done based on State data that is readily available as to whether it is a better predictor of the ultimate revenue going to be to the Agency. The CDFT data is actually pretty accurate. In private industry one of the things the CFO's do internally is that they understate revenue streams so they can present good news to management at a later time and this is what is precisely happening now. The revenues were understated because there was redbelly available independent information that the revenues were going to be several million higher in May than what was presented and approved in the budget to get the good news headlines.

Chair Lucan stated that the Board will continue to stick with the data that is presented by SMART's Chief Financial Officer of which is absolutely accurate information and nothing was understated and was very clear what was presented at the time. He thanked Ms. McGrath for the information presented and provided.

Director Phillips said that he has been on the Board for approximately nine years and Board members may take his comment as negative, however he has the best interest of SMART. He stated that the ridership is flat and thinks it will continue to be flat for a longer period than anticipated. He suggested that the Board re-visit the number of train trips if ridership continues to remain the same, to eliminate wearing down the equipment and adding cost when ridership is down.

Director Rabbitt stated that we need to keep things in perspective, this is incredible times and more in the transit agencies world. The CARES Act funds are to keep transit agencies operating and staff employed, it was an economic stimulus by the Federal Government. All the 26 transit agencies in the Bay Area faces a fiscal cliff in the near future. The Ferry ridership is at 2% and has not increased. The issue of SMART's ridership is not just SMART, it is the entire Bay Area, California, Nation and World.

Lastly, Chair Lucan stated that ridership is gradually increasing since shelter in place occurred in March 2020.

Director Naujokas asked Director Rabbitt that given the transit travel patterns if MTC has the ability to provide SMART with future ridership predictions. Director Rabbitt responded that that the pandemic will pass and get back to the new normal at some point. Another point that will be considered is the percentage of people who will continue to work from home, MTC is considering keeping the system in place, however there will be changes. The next item on the agency will communicate to the public that it is safe to take public transportation. It is very challenging times.

Director Phillips he suggested that the reason for his concern is and have a great deal of respect for Directors Rabbitt and Connolly. As you recall, the reason why SMART Measure I was placed on the ballot was because SMART was not meeting the operating expensed even with 3000 riders and SMART is operating at a significant deficit. Chair Lucan responded that the Board and the public will be provided with a budget update at the next meeting. The earlier budget item outlines that SMART is \$4M higher than budgeted.

11. Presentation regarding Cleaning Protocols and Enhanced Sanitizing Measures (COVID 19)

General Manager Mansourian introduced Superintendent of Vehicle Maintenance, Husani Longstreet, and acknowledged his staff as well as Vehicle Engineer, Michael Wiltermood, for their initiative in getting SMART prepared for cleaning the trains. SMART has become a leader in the world of transit on how many times staff cleans and disinfects the train to provide a safety to the public.

Superintendent of Vehicle Maintenance, Husani Longstreet gave an overview presentation of SMART Cleaning Protocols and Enhanced Sanitation Measures. Highlights include:

- Initial Impacts of COVID 19
 - In March 2020, Shelter in Place orders were issued
 - Shelter in Place have a profound effect on public transit industry
 - Public transportation is one of the essential services operating during the COVID pandemic and vital to the reopening of the economy
 - SMART has been operating under enhanced cleaning protocols to provide a healthy and sanitized environment for our passengers and staff
- Preventive Actions
 - SMART has implemented multiple measure to prevent and limit the spread of COVID-19:
 - Installed hand sanitizer stations in the train
 - Post local Health Official Guidelines
 - Increased cleaning of the train to twice daily
 - Requiring the use of facial covering by staff and passengers
 - Adding the usage of electrostatic sanitizers to the vehicle cleaning procedures
 - Upgraded the onboard air circulation system including:
 - Upgrading the onboard recirculation filters
 - Implementing UV sanitizer for circulating air
- Availability of Handwashing
 - SMART has restroom facilities on each train for passengers to wash their hands
- Increased Cleaning
 - SMART cleans and sanitizes its fleet and stations **2x per day** using products on the Environmental Protection Agency
- SMART Supplied Facial Covering
 - SMART's Conductors have been supplying facial coverings to any passenger who does not have one

- Electrostatic Sanitizers
 - SMART uses an electrostatic application system which offers an increased level of surface disinfection
 - SMART also provides hand sanitizer towelettes upon request to passengers
- Onboard HVAC Operation
 - Each train has 2 heating, Ventilation, and Air Conditioning Units
 - These units each pull in 25% of their air supply from outside (fresh air) and 75% of their air from the inside (recirculated/filtered).
 - SMART's HVAC units replace the air in the car with filtered/fresh roughly every 1 minute and 20 seconds. They also entirely replace the air in the car with fresh outside air every 5 minutes and 20 seconds.
- Air Filter Upgrade
 - SMART is upgrading all onboard filters to MERV-13, a new expert recommendation
- Adding UV Sanitization to Onboard HVAC
 - Ultraviolet light (UV) has been found to have a germicidal effect on airborne virus' causing cellular damage and inhibiting a virus' ability to replicate itself
 - SMART is implementing this technology within the existing HVAC system
 - By implementing UV light within the HVAC system, all air recirculated through the car will receive the UV treatment prior to being released back into the car
- SAFETY IS OUR PRIMARY GOAL
 - SMART recognizes that our passengers and employee's safety is paramount.
 - SMART has been and will continue to implement the most up to date technologies and best practices to provide the community with a safe high-quality transportation option

Comments

Chair Lucan thanked Mr. Longstreet for an excellent presentation and the extra precautions taken to keep the public and employees safe.

Director Naujokas stated that the presentation was very compelling especially how the air circulates in the trains. To what degree can we continue to inform the public that they should feel comfortable riding the train? Mr. Mansourian responded that the public has been receiving notifications and that Ms. Gonzalez is working on another portion prior to her departure. SMART's staff continues to coordinate with MTC staff. MTC provides videos and flyers to assure the public how safe public transportation is at this time. In the world of train, we are completely different than buses. Director Naujokas thanked staff for their efforts.

Director Fudge stated that she has not seen Mr. Longstreet in a long time and it was great to see him. Mr. Longstreet department is doing the same work as Airlines, and he is not allowed to leave SMART to work for Airlines. There has been Facebook posts regarding SMART cleaning measures. She suggested adding post regarding the air supply circulation and ventilation.

Steve Birdlebough thanked staff for an excellent report. He would like to see the presentation on SMART's website. He asked how often is staff being checked to make sure they are virus free.

Jack Swearingen said that the Friends of SMART are working on White Papers and will be happy for provide staff and the Board information collected.

Sheila Baker stated that is safer to be in the SMART train than Memorial Hospital. She feels very safe riding the train and thanked staff for an excellent job. She suggested having a video to share with the public.

Mr. Mansourian responded that SMART's Operation Manager has very strict protocols that were developed by the requirements of the Center for Disease Control and Prevention (CDC). Any employee that reports to work and shows or have symptoms or been exposed, they are asked to stay home until further notice.

Vice Chair Pahre thanked staff for the report. She said that in the early stages of the pandemic Vanderbilt conducted a study to figure out what the ridership return would be. MTC and Golden Gate Bridge reviewed that study, it should be comfortably that as a region the entire Bay Area is trying to move forward. She thanked SMART for taking initiative in the protocol measures.

Chair Lucan said if it's safe to say that the cars still have the new train smell? Mr. Longstreet responded always will and have.

Lastly, Chair Lucan stated that a series of Listening sessions will start tonight at 5:30pm in Santa Rosa via Zoom.

12. Next Regular Meeting of the Board of Directors, September 16, 2020 – 1:30pm
13. Adjournment – Meeting adjourned at 4:18pm

Respectfully submitted,

Leticia Rosas-Mendoza
Clerk of the Board

Approved on: _____



September 16, 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
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Farhad Mansourian
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www.sonomamarintrain.org

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

SUBJECT: Approval of DeAngelo Brothers, LLC Contact Amendment No. 2

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to execute Contract Amendment No. 2 to Agreement No. OP-SV-18-014 with DeAngelo Brothers, LLC in an amount of \$38,000 for vegetation and brush control services for total not-to-exceed amount of \$113,302.18 which includes an initial one-year term and two one-year options to extend the contract.

SUMMARY:

DeAngelo Brothers LLC was chosen in a competitive process in 2018 to provide on track and off-track vegetation and brush control services. DeAngelo Brothers LLC has specialized spray trucks with hyrail gear and 3,000-gallon tanks that allow them to access all areas of the right of way. They have been providing this service along SMART's right of way in a timely and quality manner for over 2 years.

This Amendment will invoke the second of two options to extend the services for an additional year. The Second Amendment will increase the contract by an annual amount of \$38,000 for a total not to exceed amount of \$113,302.18.

We recommend your Board approve Second Amendment with DeAngelo Brothers, LLC to continue the ongoing vegetation maintenance of our right-of- way.

FISCAL IMPACT: The budget for Fiscal Year 2020-21 includes funding for the contract.

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

Very truly yours,

 /s/
Marc Bader
Acting Operations Manager

Attachment(s): DeAngelo Brothers, LLC Contract Amendment No. 2

**SECOND AMENDMENT TO THE AGREEMENT FOR CONTRACTOR SERVICES
BETWEEN SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AND DEANGELO
BROTHERS, LLC (dba DBI SERVICES)**

This Second Amendment dated as of August 31, 2020 (the “Second Amendment”), to the Agreement for Contractor Services by and between DeAngelo Brothers, LLC (dba DBI Services) (hereinafter “Contractor”) and the Sonoma-Marín Area Rail Transit District (hereinafter “SMART”), dated as of November 13, 2018 (the “Original Agreement,” as amended and supplemented the First Amendment and by this, the Second Amendment, the “Agreement”).

RECITALS

WHEREAS, SMART and Contractor entered into the Original Agreement to employ the services of Contractor for the provision of vegetation control services; and

WHEREAS, SMART desires to amend the Agreement to utilize the second of two one (1) year options to renew to extend the term of the Agreement until August 30, 2021, and to increase the not-to-exceed amount by \$38,000 for a not-to-exceed amount of \$113,302.18 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

1. ARTICLE 5. PAYMENT Section 5.02 shall be removed and replaced with the following:

Section 5.02 Contractor shall be paid, as full compensation for the satisfactory completion of the work described in the Scope of Work (**Exhibit A**) on a task basis in accordance with the budget established in **Exhibit B**, provided, however, that Contractor agrees to perform all services described in the Scope of Work for the negotiated amount of **\$113,302.18**, regardless of whether it takes Contractor more time to complete or costs are more than anticipated. The not-to-exceed (NTE) amount for this Agreement is **\$113,302.18** which includes labor, supervision, applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance, equipment, materials and supplies; in no case shall Contractor be reimbursed for an amount in excess of the NTE amount without a formal written amendment to this Agreement. The hourly rates included herein are for SMART’s evaluation, review and auditing purposes only. Contractor shall submit its invoices in arrears on a monthly basis in a form approved by the Chief Financial Officer. The invoices shall show or include: (i) the task(s) performed; (ii) the time in

EXHIBIT B
DEANGELO BROTHERS, LLC
SECOND AMENDMENT
OP-SV-18-014

hours devoted to the task(s); and (iii) the hourly rate or rates of the persons performing the task(s).

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

Section 6.01 The term of this Agreement shall remain in effect until August 30, 2021, by exercising the second of the two one-year options to renew at SMART's discretion unless terminated earlier in accordance with the provisions of **Article 7**.

3. **ARTICLE 14. MISCELLANEOUS PROVISIONS.** Article 14 is amended to add Section I as follows:

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

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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

DEANGELO BROTHERS, LLC

Dated: _____

By _____

APPROVED AS TO FORM:

Dated: _____

By _____
District Counsel

**EXHIBIT B
SCHEDULE OF RATES**

ITEM	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL
1	On-Track Spray	Track Miles	43	\$806.30	\$34,670.90
2	Off Track Spray	Acres	3	\$885.89	\$2,657.67
3	Brush Control Spray	Acres	2	\$161.26	\$322.52
TOTAL					\$37,651.09

OPTIONAL & AS-NEEDED ADDITIONAL WORK

SMART may require additional work above and beyond the quantity of track miles and acres listed above on an as-needed basis. Any additional work will be issued by task order and invoiced at the below rates:

ITEM	ITEM DESCRIPTION	UNIT	UNIT PRICE
1	On-Track Spray	Track Mile	\$806.30
2	Off Track Spray	Acre	\$885.89
3	Brush Control Spray	Acre	\$161.26

The rates listed above represent the total amount for the work specified in the Exhibit A Scope of Work & Timeline, including the cost of license fees, permits, insurance, all applicable taxes, and any other cost, direct or indirect, incidental to the contract.

Retention: SMART shall retain 15% of each invoice as retention. The final 15% held in retention at the completion of all work in this Agreement shall be invoiced no sooner than August 30, 2019. In the event of SMART utilizes the options to extend the contract term, retention for each subsequent year shall be held until August 30th of the following year at which time the Contractor may invoice SMART.



September 16, 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
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SUBJECT: Approval of Portola Systems Inc. Contract Amendment No. 7

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to execute Contract Amendment No. 7 with Portola Systems Inc. for an amount of \$70,425 for IT support services for a total not-to-exceed amount of \$2,002,126 and to extend the term of the contract to June 30, 2021.

SUMMARY:

Portola Systems Inc. is a local IT service provider firm based out of Sonoma County. They were chosen in a competitive procurement process in 2016 to perform IT maintenance and support services for SMART's station network. Their services included monthly monitoring of all Cisco routers and Cisco SMARTnet maintenance contracts, firewalls, and switches for the Stations Network including CCCTV, Fare Collection, and Wi-Fi at the platforms. Maintenance of these devices is required to ensure secure, reliable communications between the Station Platforms, Fare Collection, and CCTV Administration offices. Portola Systems has been providing these services to SMART in a timely, quality, and cost-effective manner.

This amendment provides continued network support for all SMART stations for nine months. This amendment is set to expire at the end of the fiscal year so that future station network support contracts can be matched to our fiscal year for ease of budgeting.

Staff is recommending approval of Contract Amendment No. 7 in the amount of \$70,425 for professional IT support services for a total not-to-exceed contract amount of \$2,002,126.

FISCAL IMPACT: This contract is funded in the Fiscal Year 2020-21 budget.

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

Very truly yours,

 /s/
Bryan Crowley
Information Systems Manager

Attachment: Portola Systems, Inc Contract Amendment No. 7

**SEVENTH AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
AND PORTOLA SYSTEMS, INC.**

This Seventh Amendment dated as of October 3, 2020 (the “Seventh Amendment”) to the Agreement for Consultant Services by and between the Sonoma-Marin Area Rail Transit District (“SMART”) and Portola Systems, Inc. (“CONSULTANT”), dated as of April 6, 2016 (the “Original Agreement,” and as amended by the First through Sixth Amendments, and now this Seventh Amendment, the “Agreement”).

RECITALS

WHEREAS, SMART and CONSULTANT previously entered into the Original Agreement to provide station network configuration services for its SMART stations; and

WHEREAS, SMART desires to amend the Agreement to increase the not-to-exceed amount by \$70,425, for a total not-to-exceed amount of \$2,002,126 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 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, the contract amount shall be increased by an amount not-to-exceed \$70,425 for the provisions of the services, for an aggregate not-to-exceed amount of \$2,002,126, 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. **EXHIBITS.** The following exhibits are attached hereto and incorporated herein:

- (a) EXHIBIT A: SCOPE OF WORK

All references in the Original Agreement and previous Amendments to Exhibit A shall include reference to Exhibit A of this Seventh Amendment.

(b) EXHIBIT B: SCHEDULE OF RATES

Exhibit B in the Original Agreement shall be deleted in its entirety and replaced with the Exhibit B of this Seventh Amendment.

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

Section 16.09 “Acceptance of Electronic Signatures and Counterparts. The parties agree that this Contract, Agreements ancillary to this Contract, and related documents to be entered into this Contract will be considered executed when all parties have signed this Agreement. Signatures delivered by scanned image as an attachment to electronic mail or delivered electronically through the use of programs such as DocuSign must be treated in all respects as having the same effect as an original signature. Each party further agrees that this Contract may be executed in two or more counterparts, all of which constitute one and the same instrument.”

5. 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

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

PORTOLA SYSTEMS, INC.

Dated: _____

By _____
Its _____

APPROVED AS TO FORM:

Dated: _____

By _____
District Counsel

EXHIBIT A
SCOPE OF WORK

All work described in this Exhibit A of the Seventh Amendment is in addition to the work described in the Exhibit A of the Original Agreement and any addendums made by all previous Amendments. Task Number 12 has been added to the scope of work to add 9 months of Station Network Maintenance. Portola will provide SMART with the following services:

Task Number 12 – SMART Station Network Maintenance (October 3, 2020 – June 30, 2021)

- Continuation of SMART Station Network Maintenance, to be billed on a monthly basis.
- Support Services
Support for the following stations:

Larkspur
San Rafael East/West
Marin Civic Center
Novato Hamilton
Novato Downtown
Novato San Marin
Petaluma Downtown
Cotati East/West
Rohnert Park
Santa Rosa Downtown
Santa Rosa North
Sonoma County Airport

EXHIBIT B
SCHEDULE OF RATES

Task No.	Task Description	Seventh Amendment Amount	Milestone Amount	Cumulative Amount
1	Design Meetings and Design Approval		\$ 121,246	\$ 121,246
2	Hardware / Software / Materials Procurement		\$ 784,410	\$ 905,656
3	Lab Configuration / Testing		\$ 60,623	\$ 966,279
4	Field Implementation / Installing / Testing		\$ 60,623	\$ 1,026,902
5	Validation, Documentation, Final Delivery		\$ 36,374	\$ 1,063,276
6	Final Acceptance		\$ 60,624	\$ 1,123,900
7	One Year Network Maintenance (monthly billing)		\$ 88,560	\$ 1,212,460
8	Milestone 1 - Wi-Fi Network Engineering		\$ 11,100	\$ 1,223,560
	Milestone 2 - VenTek Fare Collection Support		\$ 6,550	\$ 1,230,110
	Milestone 3 - Test / Replace data cables at Cotati & Santa Rosa Downtown		\$ 3,600	\$ 1,233,710
	Milestone 4 (Optional) - Time & Materials for any additional testing and data cable replacement as needed		\$ 5,000	\$ 1,238,710
	Fourth Amendment (One Year Network Maintenance & Cisco SMARTnet Services 24 x 7 x 4)		\$ 178,627	\$ 1,417,337
9	One Year Product Coverage - Cisco SMARTnet Services (24 x 7 x 4)		\$ 326,564	\$ 1,743,901
10	One Year Network Maintenance (10/3/18 - 10/2/19)		\$ 93,900	\$ 1,837,801
11	One Year Network Maintenance (10/3/19 - 10/2/20)		\$ 93,900	\$ 1,931,701
12	One Year Network Maintenance (10/3/20 - 6/30/21)	\$ 70,425	\$ 70,425	\$ 2,002,126
	Contract Total	\$ 70,425	\$ 2,002,126	\$ 2,002,126



September 16, 2020

Eric Lucan, Chair
Transportation Authority of Marin

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

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Marin County Board of Supervisors

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SUBJECT: Monthly Ridership Report – August 2020

Dear Board Members:

RECOMMENDATIONS: Information Item

SUMMARY:

We are presenting the monthly ridership report for activity for the month of August 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 July 2020 was posted on the SMART Ridership web site (<http://sonomamarintrain.org/RidershipReports>) and SMART's August 2020 data will be posted once validated.

The August 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): August 2020 Monthly Ridership Report

AUGUST 2020 SMART RIDERSHIP

COVID-19 related public health orders to Stay at Home in August 2020 have been partially lifted in various 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 slight increases in ridership compared to the early months of the pandemic (April & May).

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 first week of August saw a weekday average ridership of 435. That figure slightly increased to 439 average weekday riders during the first week in September.

SMART’s August 2020 ridership is down 87% overall compared to August 2019. Fare payments through the Clipper and SMART App systems are down 85%. The total number of bicycles is down 76%. However, the percentage of riders bringing bicycles onboard grew from 12% in August 2019 to 22% in August 2020.

MONTHLY TOTALS YEAR-OVER-YEAR	August 2019	August 2020	% Change
Total Ridership (Onboard Counts)	65,352	8,681	-87%
Total Paid Ridership (Clipper + App Only)	55,794	8,144	-85%
Average Weekday Ridership (Onboard Counts)	2,584	414	-84%
Average Weekday Paid Ridership (Clipper + App Only)	2,261	387	-83%
Average Weekend/Holiday Ridership (Onboard Counts)	944	0	-100%
Average Weekend/Holiday Paid Ridership (Clipper + App Only)	672	0	-100%
Total Bikes Onboard	7,999	1,883	-76%
Total Wheelchairs Onboard	206	20	-90%

FISCAL YEAR-TO-DATE	Fiscal Year 2020	Fiscal Year 2021	% Change*
Total Ridership (Onboard Counts)	128,203	18,108	-86%
Total Paid Ridership (Clipper + App Only)	109,417	16,864	-85%
Average Weekday Ridership (Onboard Counts)	2,497	412	-84%
Average Weekday Paid Ridership (Clipper + App Only)	2,185	382	-83%
Average Weekend/Holiday Ridership (Onboard Counts)	1,020	0	-100%
Average Weekend/Holiday Paid Ridership (Clipper + App Only)	738	0	-100%
Total Bikes Onboard	14,665	4,026	-73%
Total Wheelchairs Onboard	374	44	-88%

**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*



September 16, 2020

Eric Lucan, Chair
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5401 Old Redwood Highway, Suite 200
Santa Rosa, CA 94954

SUBJECT: Approval of Agreement with Ventek Transit, Inc. for Operations, Maintenance and Revenue Collection Services

Dear Board Members:

RECOMMENDATION:

Authorize the General Manager to Execute an Agreement with Ventek Transit Inc. for a not-to-exceed amount of \$886,124 which includes the initial three-year contract term.

SUMMARY:

Ventek Transit Inc, located here in Petaluma, was chosen in a competitive process in 2015 to both build and provide maintenance for SMART's Clipper vending machines, which are now installed on each SMART platform and used by riders each day. They have provided an excellent, easy to use product for our customers, and performed speedy, reliable maintenance since opening day in 2017. Their contract was originally approved by your board in 2017 prior to opening day, and was amended last year to add maintenance costs for the new Novato Downtown and Larkspur stations.

Ventek is both a local firm and one that has specialized knowledge of the components, maintenance requirements, and other important aspects of the revenue collection machines; they are therefore uniquely capable of continuing to provide this service to SMART. They have performed maintenance for other entities, including VTA, Caltrain and the San Francisco Airport and will soon be providing the same service for the Golden Gate Ferry.

The contract for services on our Clipper vending machines would provide for ongoing maintenance and servicing of the Ventek-built machines, including the manufacturers' required preventive maintenance, troubleshooting, and contracted revenue collection services for three years until September 1, 2023, with two options to extend the contract for one year. The annual cost remains flat throughout the initial term and both optional extension years. The annual cost of work included in the scope is \$282,704 for our current service to Airport Station and \$296,710 including service to Windsor. The total initial three-year cost of the contract is anticipated to be \$886,124 which includes 1 year of existing service, 2 years of service to Windsor, and an additional \$10,000 for as-needed repair services not specifically included in the agreement.

During the shutdown, Ventek has provided us credits to reflect the fact that SMART is not operating on weekends which has saved us \$7,374. We have also built into the contract a lower cost structure reflecting our current reduced service that would be applied until full-service resumes. That would lower costs by at least \$50,348 on an annual basis.

Our Clipper vending machines are linked electronically to both our Rail Operations Center and to Ventek's corporate offices in Petaluma. Ventek provides detailed monitoring of information for each machine in the field to identify major issues. There is also a more detailed level of reporting and analysis that will be performed remotely which may allow for the diagnosis and repair without a site visit. Again, this is a very technical, specialized area of work that Ventek is uniquely able to do. Because reliability and availability of our machines is so important, the agreement is very detailed and includes penalties assessed for poor performance, required maintenance intervals, and designated response times. The agreement also makes clear that Ventek is responsible for coordination, training and procuring revenue collection services, which will involve a professional revenue servicing company (currently Garda). This company will be responsible for any cash collected at the machines including cash transportation, counting and depositing to SMART's accounts. SMART will continue to have access to daily reports from the Ventek machines, the credit card processing company associated with the machines, and the revenue collection agent. We will reconcile all amounts as well as reports from the Clipper system to ensure that all funds are accounted for and recorded in our finances.

We recommend your Board approve the attached contract with Ventek Transit, Inc. to continue the ongoing maintenance of our Clipper station machines.

FISCAL IMPACT: The proposed budget for Fiscal Year 2020-21 includes funding for the contract.

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

Very truly yours,

 /s/
Marc Bader
Acting Operations Manager

Attachment(s): Ventek Transit, Inc. Operations and Maintenance Agreement

AGREEMENT FOR OPERATIONS, MAINTENANCE AND REVENUE COLLECTION SERVICES

This agreement (“Agreement”), dated as of September 1, 2020 (“Effective Date”) is by and between the Sonoma-Marín Area Rail Transit District (hereinafter “SMART”), and VenTek Transit Inc. (hereinafter “Contractor”).

RECITALS

WHEREAS, Contractor represents that it is a duly qualified and experienced provider of transit fare vending equipment operations, maintenance and related servicing; and

WHEREAS, in the judgment of the Board of Directors of SMART or District, it is necessary and desirable to employ the services of Contractor for operations and maintenance of VenTek-manufactured fare vending machines installed on SMART property.

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

AGREEMENT

ARTICLE 1. RECITALS.

Section 1.01 The above Recitals are true and correct.

ARTICLE 2. LIST OF EXHIBITS.

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

- (a) Exhibit A: Scope of Work & Timeline
- (b) Exhibit B: Fees and Related Charges

ARTICLE 3. SCOPE OF SERVICES.

Section 3.01 Scope of Work. Contractor shall perform services within the timeframe outlined in Exhibit A (cumulatively referred to as the “Scope of Work”).

Section 3.02 Cooperation With SMART. Contractor shall cooperate with designated SMART personnel in performance of all work hereunder. For financial matters, designated staff is the SMART Chief Financial Officer. For operational issued, the designated personnel is the Superintendent of Maintenance of Way.

Section 3.03 Performance Standard. Contractor shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally

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

Section 3.03 Assigned Personnel.

- (a) Contractor shall assign only competent personnel to perform work hereunder. In the event that at any time SMART, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform work hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from SMART.
- (b) Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder on behalf of the Contractor are deemed by SMART to be key personnel whose services were a material inducement to SMART to enter into this Agreement, and without whose services SMART would not have entered into this Agreement. Contractor shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of SMART. Key personnel shall be as listed in the applicable Task Order.
- (c) In the event that any of Contractor's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Contractor's control, Contractor shall be responsible for timely provision of adequately qualified replacements.
- (d) Contractor shall assign the following key personnel for the term of this Agreement through a written Communication Process as outlined in Section 1.3.1 *Field Support Process* in the Scope of Services (**Exhibit A**).

ARTICLE 4. PAYMENT.

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

Section 4.01 Contractor shall invoice SMART on a monthly basis based on costs and penalties outlined in **Exhibit B**. SMART shall pay Contractor within 30 days after submission of the invoices with Monthly Operations and Maintenance Reports.

Section 4.02 Contractor shall be paid in accordance with **Exhibit B**; provided, however, that total payment to Contractor shall not exceed \$886,124. Contractor shall submit its invoices on a monthly basis in a form approved by the Chief Financial Officer. The invoices shall be separated by Item Number. Any reimbursable cost per Section 1.2.2 of the Scope of Services must receive prior approval before costs are incurred. Contractor's reimbursement for

materials/expenses shall not include items already included in Contractor's scope. SMART will not reimburse Contractor for travel time, unless authorized by Project Manager in writing.

Section 4.03 Contractor must submit all invoices on a timely basis, but no later than thirty (30) days from the date the services/charges were incurred. District shall not accept invoices submitted by Contractor after the end of such thirty (30) day period without District pre-approval. Time is of the essence with respect to submission of invoices and failure by Contractor to abide by these requirements may delay or prevent payment of invoices or cause such invoices to be returned to the Contractor unpaid.

ARTICLE 5. TERM OF AGREEMENT.

Section 5.01 The term of this Agreement shall remain in effect until September 1, 2023 with two one-year extension options provided that changes in the terms and conditions of each one-year extension is mutually agreed upon by both parties unless terminated earlier in accordance with the provisions of **Article 6** below.

ARTICLE 6. TERMINATION.

Section 6.01 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, both parties shall have the right, at their sole discretion, to terminate this Agreement by giving 30 days written notice to the other party.

Section 6.02 Termination for Cause. Notwithstanding any other provision of this Agreement, should Contractor fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, SMART may immediately terminate this Agreement by giving Contractor written notice of such termination, stating the reason for termination.

Section 6.03 Delivery of Work Product and Final Payment Upon Termination. In the event of termination by either party, Contractor, within 14 days following the date of termination, shall deliver to SMART all materials and work product subject to **Section 11.08** 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 6.04 Payment Upon Termination. Upon termination of this Agreement by SMART, Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Contractor bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on an hourly or daily basis, then Contractor shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination times the applicable hourly or daily rate; provided further that if SMART terminates the Agreement for cause pursuant to **Section 6.02**, SMART shall

deduct from such amount the amount of damage, if any, sustained by SMART by virtue of the breach of the Agreement by Contractor.

Section 6.05 Authority to Terminate. The Board of Directors has the authority to terminate this Agreement on behalf of SMART. In addition, the Chief Financial Officer, in consultation with SMART Counsel, shall have the authority to terminate this Agreement on behalf of SMART.

ARTICLE 7. INDEMNIFICATION

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

ARTICLE 8. INSURANCE.

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

Section 8.01 Workers' Compensation Insurance. Workers' Compensation as required by the State of California, with Statutory Limits, and Employer's Liability insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

Section 8.02 General Liability Insurance. Commercial General Liability insurance covering products-completed and ongoing operations, property damage, bodily injury and personal injury using an occurrence policy form, in an amount no less than \$1,000,000 per occurrence, and \$2,000,000 aggregate. Said policy shall include a Railroads CG 24 17 endorsement removing the exclusion of coverage, if applicable, for bodily injury or property damage arising out of operations within 50 feet of any railroad property and affecting any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing.

Section 8.03 Automobile Insurance. Automobile Liability insurance covering bodily injury and property damage in an amount no less than \$1,000,000 combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned

vehicles. Said policy shall also include a CA 20 70 10 13 endorsement removing the exclusion of coverage for bodily injury or property damage arising out of operations within 50 feet of any railroad bridge, trestle, track, roadbeds, tunnel, underpass or crossing.

Section 8.04 Professional Liability. 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.

Section 8.05 Endorsements. Prior to commencing work, Contractor shall file Certificate(s) of Insurance with SMART evidencing the required coverage and endorsement(s) and, upon request, a certified duplicate original of any of those policies. Said endorsements and Certificate(s) of Insurance shall stipulate:

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

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

Section 8.06 Deductibles and Retentions. Contractor shall be responsible for payment of any deductible or retention on Contractor's policies without right of contribution

from SMART. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the name insured is not acceptable.

Section 8.07 Claims Made Coverage. If any insurance specified above is written on a claims-made coverage form, Contractor 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, Contractor shall purchase “extending reporting” coverage for a minimum of three (3) years after completion of the work.

Section 8.08 Documentation. The following documentation shall be submitted to SMART:

- (a) Properly executed Certificates of Insurance clearly evidencing all coverages and limits required above. Said Certificates shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with SMART for the duration of this Agreement.
- (b) Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current endorsements evidencing the above-specified requirements on file with SMART for the duration of this Agreement.
- (c) Upon SMART’s written request, Contractor shall provide certified copies of the insurance policies to SMART. Said policy copies shall be submitted within thirty (30) days of SMART’s request. After the Agreement has been signed, signed Certificates of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

Section 8.09 Policy Obligations. Contractor’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section 8.10 Material Breach. If Contractor, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of this Agreement. SMART, in its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, SMART may purchase such required insurance coverage, and without further notice to Contractor, SMART

may deduct from sums due to Contractor any premium costs advanced by SMART for such insurance. These remedies shall be in addition to any other remedies available to SMART.

ARTICLE 9. PROSECUTION OF WORK.

When work is requested of Contractor by SMART, all due diligence shall be exercised and the work accomplished without undue delay, within the performance time specified in the Task Order. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God, the time for Contractor's performance of this Agreement shall be extended by a number of days equal to the number of days Contractor has been delayed.

ARTICLE 10. 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 Chief Financial Officer must authorize all other extra or changed work. The parties expressly recognize that SMART personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Contractor to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Contractor shall be entitled to no compensation whatsoever for the performance of such work. Contractor further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of SMART.

ARTICLE 11. REPRESENTATIONS OF CONTRACTOR.

Section 11.01 Standard of Care. SMART has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by SMART shall not operate as a waiver or release.

Section 11.02 Status of Contractor. The parties intend that Contractor, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Contractor is not to be considered an agent or employee of SMART and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits SMART provides its employees. In the event SMART exercises its right to terminate this Agreement pursuant to **Article 6**, above, Contractor expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

Section 11.03 Taxes. Contractor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including but not limited to state and federal income and FICA taxes. Contractor agrees to indemnify and hold SMART harmless from any liability which it may incur to the United States or to the State of California as a consequence of Contractor's failure to pay, when due, all such taxes and obligations. In case SMART is audited for compliance regarding any withholding or other applicable taxes, Contractor agrees to furnish SMART with proof of payment of taxes on these earnings.

Section 11.04 Records Maintenance. Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to SMART for inspection at any reasonable time. Contractor shall maintain such records for a period of four (4) years following completion of work hereunder. Contractor and Subcontractors shall permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by the State, for the purpose of any investigation to ascertain compliance with this document.

Section 11.05 Conflict of Interest. Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by SMART, Contractor shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with SMART disclosing Contractor's or such other person's financial interests.

Section 11.06 Nondiscrimination. Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, SMART's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference

Section 11.07 Assignment Of Rights. Contractor assigns to SMART all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Contractor in connection with this Agreement. Contractor agrees to take such actions as are necessary to protect the rights assigned to SMART in this Agreement, and to refrain from taking any action which would impair those rights. Contractor's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as SMART may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of SMART.

Contractor shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of SMART.

Section 11.08 Ownership And Disclosure Of Work Product. All reports, original drawings, graphics, plans, studies, and other data or documents (“documents”), in whatever form or format, assembled or prepared by Contractor, Contractor’s subcontractor, consultants, and other agents in connection with this Agreement shall be the property of SMART. SMART shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Contractor shall promptly deliver to SMART all such documents, which have not already been provided to SMART in such form or format, as SMART deems appropriate. Such documents shall be and will remain the property of SMART without restriction or limitation. Contractor may retain copies of the above- described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of SMART.

ARTICLE 12. 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 6**.

ARTICLE 13. 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 14. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING INVOICES AND MAKING PAYMENTS.

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

If to SMART Project Manager: Sonoma-Marine Area Rail Transit District
Attn: Chief Financial Officer
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954
707-794-3330

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

If to Contractor: VenTek Transit Inc.
975 Transportation Way
Petaluma, CA 94954

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 15. MISCELLANEOUS PROVISIONS.

Section 15.01 No Waiver of Breach. The waiver by SMART of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

Section 15.02 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Contractor and SMART acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Contractor and SMART acknowledge

that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

Section 15.03 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

Section 15.04 No Third-Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

Section 15.05 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Venue for any action to enforce the terms of this Agreement or for the breach thereof shall be in the Superior Court of the State of California in the County of Marin.

Section 15.06 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

Merger. This writing is intended both as the final expression of the Agreement between the parties here to 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 15.07 Acceptance of Electronic Signatures and Counterparts. The parties agree that this Contract, Agreements ancillary to this Contract, and related documents to be entered into this Contract will be considered executed when all parties have signed this Agreement. Signatures delivered by scanned image as an attachment to electronic mail or delivered electronically through the use of programs such as DocuSign must be treated in all respects as having the same effect as an original signature. Each party further agrees that this Contract may be executed in two or more counterparts, all of which constitute one and the same instrument.

Section 15.08 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

THIS SPACE INTENSIONALLY LEFT BLANK

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

CONTRACTOR: VENTEK TRANSIT INC.

By: _____

Its : _____

Date: _____

SONOMA-MARIN AREA RAIL TRANSIT (SMART)

By: _____
Erin McGrath, Chief Financial Officer

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 Services

Contents

- Exhibit A: Scope of Services 14
- 1 Overview and Reference..... 18
- 1.1 Definitions..... 18
- 1.2 Scope of Work 18
 - 1.2.1 Work Included..... 19
 - 1.2.2 Work Excluded..... 19
- 1.3 CVM Locations..... 20
 - 1.3.1 Field Support Process..... 21
 - 1.3.2 Event Escalation..... 21
- 2 CVM Maintenance Services 22
- 2.1 On-site repair..... 22
- 2.2 Maintenance 25
 - 2.2.1 On-site monthly..... 25
 - 2.2.2 In-shop maintenance 25
 - 2.2.3 Off-site repair 25
 - 2.2.4 Site Access and Safety 26
- 3 Software and Central Computer (VCC) Support 27
- 3.1 VCC Hardware and System Support..... 27
 - 3.1.1 VCC Backup, Archive and Retrieval, and Recovery 27
 - 3.1.2 CVM System Software Support 28
 - 3.1.3 Software Support Methods..... 28
 - 3.1.4 Local (live system) Software Support.....28
 - 3.1.5 Software Updates.....29
 - 3.1.6 Custome Software.....29
- 4 Revenue and Consumables Service 30

4.1	<u>Revenue Information</u>	30
4.2	<u>Consumables Replenishment</u>	30
4.3	<u>Removal and replacement of cash vaults</u>	30
4.4	<u>Restocking Clipper Cards and removal of rejected cards</u>	31
4.5	<u>Replenishment of Receipt Stock</u>	32
5	<u>Equipment and Maintenance Performance</u>	33
5.1	<u>Failure Definitions</u>	33
5.1.1	<u>Chargeable Failures</u>	33
5.1.2	<u>Non-Chargeable Failures</u>	34
5.2	<u>Performance Requirements</u>	34
5.2.1	<u>Key Performance Indicators</u>	34
5.2.2	<u>CVM Reliability</u>	35
5.2.3	<u>CVM Accuracy</u>	35
5.2.4	<u>CVM Availability</u>	35
5.2.5	<u>Back Office Accuracy</u>	36
5.2.6	<u>Back Office Availability</u>	36
5.2.7	<u>Level 1 Maintenance Response Time</u>	37
5.2.8	<u>Level 2 Maintenance Reponse Time</u>	37
6	<u>Spares</u>	38
6.1	<u>Revenue Service Spares</u>	39
7	<u>Software Escrow</u>	40
	<u>Appendix 1 – Preventative Maintenance</u>	41
	<u>Exhibit B: Fees and Related Charges</u>	45
	<u>Key Performance Indicator Penalty Assessment</u>	48

List of Figures

Figure 1 Field Reporting and Repair 24
Figure 1. O & M Payment Schedule.....46-47

List of Tables

Table 1 CVM locations and quantity 20
Table 2 Escalation 21
Table 3 Recommended Spares38
Table 4 Revenue Service Spares.....39

1 Overview and Reference

This document provides the detailed activities to be performed by VenTek Transit (VenTek) with regard to SMART Card Vending Machine maintenance and repair, including revenue servicing.

Acronyms used in this document:

SMART	Sonoma-Marín Area Rail Transit
SMART Contract	CVM Design and Build Contract with MTC, November 2015
O & M Contract	SMART-Ventek Contract, September 2020
VenTek	VenTek Transit Inc.
LRU	Lowest Replaceable Unit
Tri-Reader	Clipper card read/write device supplied by Cubic
BNR	Bank note validator supplied by CPI
ROC	SMART Rail Operations Center, Sonoma County
CVM	Card Vending Machine
VCC	VenTek Central Controller
PA-DSS	Payment Application Data Security Standard
PCI	Payment Card Industry

1.1 Definitions

Active Units – Lowest Replaceable Units per Figure 3

TVM Accuracy – Audit Tickets – Reconciliation Report (Sales, Cash Balance, Net Cash) vs Sales

Dependent Failures

1.2 Scope of Work

This Agreement applies to the maintenance services required to be carried out by VenTek for seventeen (17) CVMs located at various locations as specified per Table 1, metrics used to evaluate performance under this contract, revenue service to be provided by a third party managed by VenTek, and the fees associated with this scope of work.

1.2.1 Work Included

- On-site Preventative Maintenance at station platforms
- Scheduled bench (depot) maintenance of components as recommended by the manufacturer
- Field Maintenance and Repair
- Bench (depot) repair or replacement of failed components
- Upgrade of component firmware as required by new currency
- Credit/Debit PA-DSS firmware updates
- Consumables purchase (excluding Clipper Cards)
- Consumables replenishment
- Cash Collection, deposit, and reconciliation services
- Equipment monitoring and reporting
- Repair or replacement of VenTek supplied servers.
- Software maintenance for servers and workstations utilizing VenTek software.
- On-call maintenance services

1.2.2 Work Excluded

- Unauthorized modification and alteration of the system by SMART or third party.
- Bench (off-site) repair of the Cubic TR3 tri-reader
- Certification for PA-DSS and PCI Compliance.
- Repairs of any equipment damaged by vandalism, improper packaging and shipping, abuse or misuse by SMART or SMART managed 3rd party.
- Communications failures beyond the control of VenTek.
- Relocation of equipment after initial installation
- Third party equipment and services not under VenTek control.
- Dependent or secondary failures resulting from any of the above.

VenTek services provided for excluded work are subject to time and material charges as specified below:

Repair Activities: \$ 125.00/ hour round trip from VenTek and return and bench repairs.

Repair Material: Per Price Schedule

1.3 CVM Locations

Maintenance will be performed on CVM's at the following locations:

Location	Qty
Larkspur Station	2
San Rafael Station	2
Civic Center	1
Hamilton Station	1
San Marin Station	1
Downtown Novato	1
Petaluma Station	1
Cotati Station	2
Rohnert Park Station	1
Santa Rosa Downtown	1
Santa Rosa Station North	1
(Sonoma County) Airport Station	1
Windsor*	1
Spare (currently at Ventek offices)	1
Total	17

Table 1 CVM locations and quantity

Windsor Station CVM will be installed in 2021. Invoicing for the Windsor CVM will commence upon it's in service date.

1.3.1 Field Support Process

VenTek will monitor the system (all CVMs and VCCs) in real time during SMART operating hours. SMART will also be able to monitor the system utilizing the Monitor Client installed in the Operations Center at the ROC.

Issues that involve CVM or VCC software (other than Clipper software) will be acted on by VenTek on a priority basis per Section 2.1. Clipper software issues will be referred to Cubic and coordinated by VenTek.

SMART and VenTek, will utilize a designated Communication Process for both reporting of maintenance issues and resolution of issues.

1.3.2 Event Escalation

An escalation plan will be generated to provide personnel and phone/email contacts for issues exceeding response times listed in Section 2 or any critical events. The initial call will be received by VenTek maintenance staff assigned to SMART. The plan will provide contact information for the positions indicated in Table 2, below.

Priority Level per Section 2.1	Exceeds Response Time (2 nd Call)	Exceeds estimated repair time(s)	CVM is off-line for more than 4 hours
P1	VenTek Maintenance Supervisor	VenTek Maintenance Manager	VenTek Senior Management
P2	VenTek Maintenance Supervisor	VenTek Maintenance Supervisor	VenTek Maintenance Manager
P3	VenTek Maintenance Supervisor	VenTek Maintenance Supervisor	VenTek Maintenance Manager

Table 2 Escalation

2 CVM Maintenance Services

2.1 On-site repair

VenTek will perform corrective maintenance either on site or remotely, as required to return the CVM to full operation following a failure. All equipment and installations services supplied by others such as the communications infrastructure, station power, etc. are excluded from VenTek maintenance.

The CVMs perform continuous monitoring and the system will automatically notify VenTek and SMART when a failure occurs.

When a Failure does occur, the following process will be followed:

- (a) VenTek will note the issue or SMART will contact VenTek to report a problem.
- (b) VenTek will classify the issue as a level 1, 2, or 3:
 - 1 Level 1, means a Clipper card cannot be issued or reloaded through any process at the CVM; the CVM is shut down or operations cannot continue.
 - 2 Level 2 means the CVM cannot accept a particular type of payment or other reduced functionality that prevents normal operation (bill jam, coin jam, out of media, vaults full, etc.)
 - 3 Level 3 means a minor problem; for example, where reports are still working, fares can be collected and the system is fundamentally operational but receipts cannot be issued.

VenTek will then assess the problem and contact the SMART representative with the level given to the problem, an indication of what the problem is, and when the problem is expected to be fixed as follows:

- (i) Level 1 will be responded to (problem received and acknowledged) within 1 hour, and
- (ii) Level 2 and level 3 will be responded to within 2 hours.

VenTek will respond directly to SMART personnel with the problem analysis and anticipated corrective action.

VenTek will resolve each level of failure within the following time frames:

- (i) Level 1 – corrective action will be taken within 4 hours of communication of the failure subject to the following: Problems reported after 6:00 pm will be corrected by 6:00 am the following day.
- (ii) Level 2 – corrective action will be taken within 6 hours of communication of the failure subject to the following: Problems reported after 4:00 pm will be corrected by 6:00 am the following day.
- (iii) Level 3 - corrective action will be taken within 3 calendar days of communication of the failure.

Response time is the time that an initial assessment is made and a call is made to SMART personnel. After a technical assessment is made, an estimate of the work, duration of work, and a VenTek categorization of the problem will be forwarded to a SMART representative. Once the work process is determined, work will proceed with a priority based on mutual assessment of the problem category. A report of the incident, the corrective measures, hours expended, and service cost if applicable will be included.

The response time listed above is applicable during SMART operating hours. SMART operating hours are 4:30 AM thru 8:30 PM on weekdays and 7:00 AM thru 8:00 PM on weekends and holidays.

Field issue reporting and correction is depicted in the following diagram:

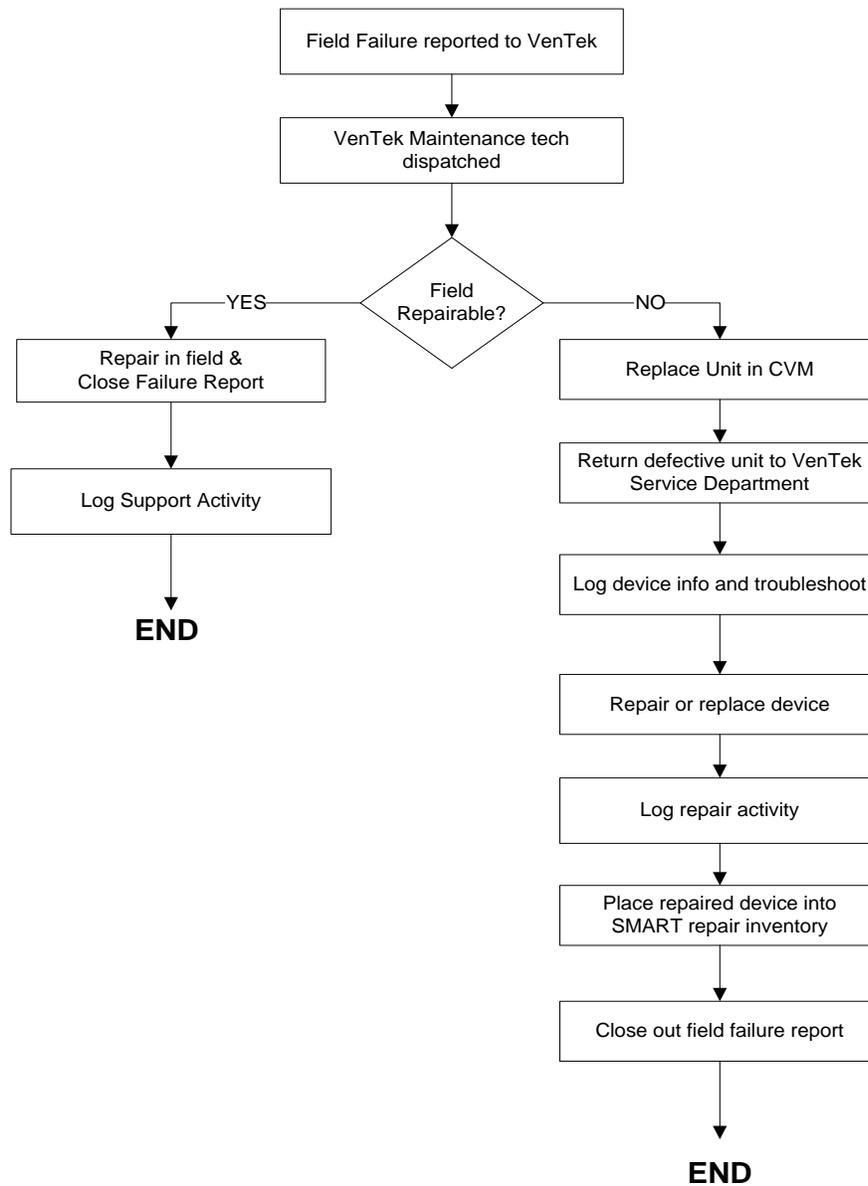


Figure 2 Field Reporting and Repair

2.2 Maintenance

The following on-site CVM maintenance activities will be performed:

2.2.1 On-site monthly

- BNR Bill Acceptor Level I maintenance in accordance with manufacturer requirements
- Thermal Printer cleaning
- Card Dispenser Preventative Maintenance (PM) per manufacturer specifications
- CVM interior and exterior cleaning, including removing any minor graffiti such as minor scratches and easily removable paint.
- Other preventative maintenance tasks as required including cleaning the display, credit card readers, fans and filters

2.2.2 In-shop maintenance

In accordance with manufacturers requirements, VenTek will remove the following modules from each CVM, replacing the modules with spares. The modules removed from the CVMs will be taken to VenTek facilities for scheduled preventative maintenance.

- BNR Bill Acceptor
- Thermal Printer
- Card Dispenser

A schedule for in-shop maintenance will be developed within six months of revenue service. Service activity is required to generate the schedule which is based on usage (cycles).

Preventive Maintenance information is contained in Appendix 1.

2.2.3 Off-site repair

VenTek will replace damaged and non-working CVM components and replace them with working spare components. VenTek will transport the non-working items to VenTek's facility for repair. The repaired item will then be returned to stock as a spare. If an item cannot be repaired, VenTek will replace the item with a new item from the manufacturer. Spares will be maintained in a segregated inventory at VenTek's facilities in Petaluma, CA.

VenTek will return non-working Tri-readers to SMART/MTC. SMART/MTC will provide replacements to maintain adequate spares of readers.

2.2.4 Site Access and Safety

When working on the CVMs, VenTek personnel will follow all safety rules and requirements set forth by SMART. All VenTek personnel will have attended any required safety or other site activity training and carry or wear any identification items required by SMART. VenTek will notify SMART when technicians are on site.

3 Software and Central Computer (VCC) Support

3.1 VCC Hardware and System Support

SMART System Controller (VCC) hardware consists of a primary and secondary server. The primary server is located at the SMART ROC and the secondary server is located at VenTek. Both systems will be configured and available 24/7 and connected to the main communications network at the ROC.

3.1.1 VCC Backup, Archive and Retrieval, and Recovery

The primary system will be on-line and connected to the station network. The secondary VCC will be updated each day with the operational data from the previous day. Operational data from each VCC will be backed up and archived to a cloud storage network. Data and system software will be downloaded weekly and stored on off-line storage media and retained by VenTek.

VCC Support functions:

- Hardware and Software Maintenance
- VCC Services
 - Daily Backup of VCC data
 - Weekly Backup of VCC System
 - Data Archive and Retrieval
 - Failure Recovery

In the event of a failure of the primary VCC, the secondary VCC will be placed on line to ensure continued on-line operations. During the period after SMART end of day operations, the secondary VCC will download the day's operational files from the CVM's. This will "sync" the CVM's and the VCC so that the secondary VCC is fully up to date. This will ensure that the previous day's data is available for reporting and analysis.

VenTek will contract with Dell for same day service of the VCC servers. Once a failed server is repaired it will be placed on line but not connected to the CVMs. During non-operating hours, both VCC's will be updated and synchronized. Once the primary VCC is available it

will be utilized as the primary controller and the secondary controller will revert to a standby system with the previous day's information.

In the unlikely event that both servers are down or that communications are not available, the CVM's will operate autonomously until normal operations are restored. The CVM's can operate in this mode for a minimum of seven (7) days. When normal service is available, the CVM's will download all information that was not transmitted during the outage period.

If communications are interrupted to the credit/debit processing server, the CVM's will be placed in a reduced capacity mode with only cash accepted for card purchase or reload.

3.1.2 CVM System Software Support

SMART software consists of CVM software and system controller software as follows:

- Configuration files
- Executable software
- Third party commercially available software
- Data files
- Other applications developed specifically for the SMART system

3.1.3 Software Support Methods

Software support is provided by the following:

- Local live Software Support
- Software Updates
- Custom Software

3.1.4 Local (live system) Software Support

The primary system controller (VCC) will be housed at SMART facilities (ROC) in Santa Rosa, CA. VenTek will document any access by VenTek personnel to the ROC VCC. VenTek access to the ROC VCC will be over a VPN configured by SMART or its contractors.

Any significant software modification that may affect system operation or stability will be developed, tested, and documented by VenTek. VenTek will provide documentation to SMART of the proposed release. The release may be a configuration modification, VCC executable or configuration file, or an update to the CVM control software.

New configuration or other CVM control software will be packaged into a release and prepared for delivery to the site CVM's. Software will be thoroughly tested and validated by VenTek prior to release. The first release may be to the SMART CVM(s) housed in the SMART maintenance facility for review by SMART personnel. Once approved the new release will be delivered to the SMART CVM's. The previous version will be available for rollback should any issues occur. This rollout will normally be generated and tested during non-peak hours.

3.1.5 Software Updates

During the maintenance period, VenTek may develop new software that will materially improve performance and/or efficiency of the SMART CVMs. These are generally performed as a result of system operational experience or requests from agencies (SMART) which are not critical to the daily operation of the equipment. These may also be required due to obsolescence of components used in the CVMs.

Scheduled Software/Firmware Updates will be provided after Release Notes have been reviewed by SMART and upgrade Terms and Conditions Agreed to. These may be optional and require additional costs. Costs will be quoted to SMART for their approval.

Software will be provided and implemented by VenTek after approval by SMART. Software is subject to the terms and conditions of the Software License Agreement.

3.1.6 Custom Software

Customized software services will be provided for SMART requested modifications providing they do not alter the baseline system. These would include special reports, export/import of data, screen designs and flows, etc. These services will be limited to ten (10) hours per calendar quarter.

Custom software which will require modification of the base system and as such will render the software unique will be quoted as an added scope task. Provision of this type of modification may increase the support scope. If so, a support modification charge will be quoted as well. All programming changes must be documented and confirmed in writing by both SMART and VenTek.

4 Revenue and Consumables Service

4.1 Revenue Information

Ventek will provide SMART all necessary access to its ProVend software, with functionality that allows for reporting on all cash and credit card activities occurring at each CVM. This software will be fully accessible as needed by SMART with proper permission. Software performance issues reported by SMART must be resolved by Ventek within 10 days of reporting.

4.2 Consumables Replenishment

The following revenue service activities will be performed by or subcontracted by VenTek:

1. Removal of and replacement of bill vaults and coin vaults when at or near capacity
2. Restocking of Clipper Cards and removal of any rejected cards
3. Restocking of receipt stock paper

VenTek will be responsible for maintaining adequate replenishment stock consistent with SMART operations. VenTek will maintain a minimum stock of one month's usage of Clipper cards. VenTek will request additional supply of Clipper cards from SMART when replenishment levels fall below the one-month level. Cards will be supplied to VenTek by SMART or direct shipped to VenTek by Cubic at no cost to VenTek.

4.3 Removal and replacement of cash vaults

The status of all bill and coin vaults will be reviewed daily for each CVM location. The CVMs will also be monitored and will report when bill or coin vaults are near capacity. Service of cash vaults is performed once per week but may be reduced if requested by SMART for cost efficiencies. The fee schedule in Exhibit B will be revised if cash collections are revised.

Cash collection will be scheduled at a convenient time to minimize interruption of payment and traffic flow at the station. Collection will be during non-peak hours. Cash collection will be scheduled to minimize a full vault situation which would require taking coin or bill collection out of service.

Vaults will be exchanged utilizing armored cash collection services. The CVM vaults will be removed and replaced with empty vaults. Cash collection personnel will be provided with

maintenance keys and vault removal keys. They will not be provided with vault access keys. Ventek and SMART will agree to written procedures for issuance, tracking and security of all keys. Removal of the vaults generates a cash report at the CVM and is included with the vault when transported.

Either or both vaults will be exchanged based on the vault status at the time of service. VenTek will attempt to optimize the process as station-by-station cash usage is generated. A cash collection by CVM report will be available to SMART when cash collection occurs utilizing the Administrative Work Station. In order to minimize cash collection costs, Ventek and SMART will cooperate to analyze cash collection frequency needs and mutually agree on changes in frequency as possible through third party cash collection contract managed by Ventek.

Ventek will provide SMART all active contracts for collection services for input on an ongoing basis and allow for SMART input prior to amending or executing new contracts. All revenue service personnel will be trained by VenTek and bonded by their respective employers. Said contract shall require that vaults be transported to a secure counting facility. The cash for each vault will be counted and the cash collected will be reported to SMART. A summary of all cash counted will be generated any day cash collection occurs. A summary cash report will be generated and cash deposited. The cash collection provider will coordinate with SMART's merchant bank for depositing of funds.

The cash collection vendor will keep the vaults for subsequent vault replacement. Additional spares will be provided to cash collection personnel in case of any on-site vault damage.

4.4 Restocking Clipper Cards and removal of rejected cards

The Clipper card dispenser has a low card sensor which will cause an alert when card stock is low. The VCC will also count all card issuance and maintain a count level as well. When card stock levels are depleted to established replenishment levels, card stock will be replaced.

Clipper cards will be provided by SMART for delivery to VenTek to maintain replacement stock. Cards will be held in a secure, segregated inventory location at VenTek. VenTek will request replenishment stock based on usage and max/min stock inventory policy.

Cards which failed to process will be removed from the card dispenser reject bin within the CVMs. These cards will be retained and shipped to SMART for disposition.

All bulk shipment of cards will be accounted for by card number and shipped via UPS or FEDEX and tracked to their destination.

Card stock replenishment may be performed along with preventative or field maintenance activities.

4.5 Replenishment of Receipt Stock

Replacement levels for CVMs will be established based on usage. When receipt stock reaches replenishment levels, the receipt stock roll will be removed and a full roll of stock will be replaced. VenTek will maintain replacement stock levels as required to ensure adequate supply for all CVMs.

Receipt stock replenishment may be performed along with preventative or field maintenance activities.

5 Equipment and Maintenance Performance

During the maintenance contract period, equipment and maintenance performance data will be generated, recorded, and reported. Key performance indicators will be utilized to measure equipment and maintenance performance.

5.1 Failure Definitions

Failures will be categorized as chargeable and non-chargeable.

5.1.1 Chargeable Failures

A chargeable failure is a hardware or software malfunction where the delivered equipment or systems fail to perform in a way that does not meet the requirements of the contract.

Significant failures include, but are not limited to, the following:

- Any malfunction which prevents a CVM system component from performing its designated function, or from meeting the performance criteria, when used and operated under the expected environmental and operational conditions
- Any occurrence that does not cause the CVM system component to become entirely inoperable, but requires manual intervention to restore normal function;
- Any occurrence where data is not successfully transmitted between elements of the CVM system;
- Planned software updates or fixes that adversely affect the operation or performance of the CVM system; and
- Scheduled warranty / repair activities that adversely affect the operation or performance of the CVM system.

Specific Chargeable Failures:

- Software anomalies and bugs (every incident of a software anomaly or bug causing a malfunction will be considered a failure)
- Hardware failures that are not clearly a result of conditions outside the requirements of this specification
- Failures of mounting hardware
- Data storage failures, including those due to the disk space provided
- Partial or complete failure of a passenger display

- Failure to properly register and report any transactions
- Data download/upload failure
- Event or alarm transmission failure
- Unexpected shutdown of equipment or a system
- All maintenance requiring module replacements

5.1.2 Non-Chargeable Failures

Non-chargeable failures may include, but are not limited to:

- Mishandling of equipment or back office system components
- Failure due to a Clipper card malfunction
- Failure to accurately read and/or process a card related to card reader, reader library, or configuration data provided by Cubic
- Any failures caused by externally applied stress conditions outside of normal operating conditions and in excess of the contract requirements
- Failures caused by incorrectly exercised operating, maintenance or repair procedures by non-VenTek personnel
- Failure caused by vandalism
- Force Majeure
- Communications failures beyond the control of VenTek
- Downtime due to scheduled maintenance
- Dependent failures as a result of a non-chargeable failure

5.2 Performance Requirements

Equipment will be maintained to a level to achieve contracted reliability and performance.

5.2.1 Key Performance Indicators

Key performance metrics will be reported monthly and penalties assessed as indicated in this section.

5.2.2 CVM Reliability

CVM reliability will be calculated as an equipment failure rate:

$$\text{Equipment Reliability} = \frac{\# \text{ of Chargeable Failures}}{\# \text{ of Active Pieces of Equipment}}$$

Chargeable failures are defined in Section 6.1. Active pieces of equipment are defined as those deployed for customer and agency use in the production environment, and do not include spares or test equipment and are as defined in Section 7, Spares (excluding the Cubic readers).

Requirement	KPI
CVM Reliability	< 10%
Measurement Period	Calendar Month
Penalty Assessed	10%

5.2.3 CVM Accuracy

CVM accuracy will be based on comparing the quantity and value of transactions generated by the devices, as recorded within the device audit registers, to those received by the back office:

$$\text{Equipment Accuracy} = \frac{|\text{Equipment Audit Register Transaction Count} - \text{Back Office Transaction Count}|}{\text{Equipment Audit Register Transaction Count}}$$

Both the transaction count and value calculations must exceed the KPI requirement in order to pass. The Reconciliation Report will be utilized for reporting of this metric.

Requirement	KPI
CVM Accuracy	> 99.99%
Measurement Period	Calendar Month
Penalty Assessed	10%

5.2.4 CVM Availability

Equipment availability will be calculated based on the total out-of-service hours across the equipment installed in the production environment:

$$\text{Equipment Availability} = 1 - \frac{\text{Out of Service Hours for Installed Equipment}}{\text{Total Operating Hours for Installed Equipment}}$$

Out of service hours are defined as all hours during which a device is not in an operational state as the result of a chargeable failure, and includes all time necessary to respond and repair. A non-operational state exists when cards cannot be purchased and value cannot be added (i.e. cash and credit/debit card payments are disabled; add-value and card issuing readers are not operational, user interface is not available.). Scheduled maintenance hours are excluded from the calculation. Total operating hours are defined as the average number of hours in the service day for the agency where the equipment is installed multiplied by the number of days in the month of measurement and the quantity of devices deployed for customer and agency use in the production environment.

Requirement	KPI
CVM Availability	> 99.9%
Measurement Period	Calendar Month
Penalty Assessed	10%

5.2.5 Back Office Accuracy

Back office accuracy will be determined based on any incident where a device or back office-generated transaction is recorded incorrectly within the associated system.

Requirement	KPI
Back Office Accuracy	< 2 incidents
Measurement Period	Calendar Month
Penalty Assessed	10%

5.2.6 Back Office Availability

Back office availability will be calculated based on the total out of service hours for the associated system:

$$Back\ Office\ Availability = 1 - \frac{Out\ of\ Service\ Hours\ for\ the\ Back\ Office\ System}{Total\ Operating\ Hours\ for\ the\ Back\ Office\ System}$$

Out of service hours are defined as all hours during which the system is not in a fully operational state, and include all time necessary to respond and repair. Scheduled maintenance hours are excluded from the calculation. Total operating hours are defined as the number of hours in a day (24) multiplied by the number of days in the month of measurement.

Requirement	KPI
Back Office Availability	> 99%

Measurement Period	Calendar Month
Penalty Assessed	10%

5.2.7 Level 1 Maintenance Response Time

Maintenance response time will be determined based on the average time for a service person to arrive onsite for any level 1 maintenance incident reported by the SMART.

$$\begin{aligned}
 & \textit{Maintenance Response Time} \\
 & = \frac{\textit{Total Time to Arrive for Reported Maintenance Incidents}}{\textit{Number of Maintenance Incidents Requiring Onsite Attention}}
 \end{aligned}$$

Requirement	KPI
Maintenance Response Time	< 4 hours
Measurement Period	Calendar Month
Penalty Assessed	5%

5.2.8 Level 2 Maintenance Response Time

Maintenance response time will be determined based on the average time for a service person to arrive onsite for any level 2 maintenance incident reported by the SMART.

$$\begin{aligned}
 & \textit{Maintenance Response Time} \\
 & = \frac{\textit{Total Time to Arrive for Reported Maintenance Incidents}}{\textit{Number of Maintenance Incidents Requiring Onsite Attention}}
 \end{aligned}$$

Requirement	KPI
Maintenance Response Time	< 6 hours
Measurement Period	Calendar Month
Penalty Assessed	5%

6 Spares

VenTek will ensure that it holds and stores an amount of spare parts that are appropriate to maintain the Equipment's operational capability. The following is the recommended operational spares for the covered CVM's:

Spares Component	Qty
Door I/O *	1
System Controller *	1
LCD Display *	2
Bill Acceptor *	2
Coin Acceptor *	2
Bill Vault *	2
Coin Vault *	2
Coin Hopper *	2
Credit/Debit PIN Pad *	2
ADA Pin Pad *	2
Credit/Debit Reader *	2
Clipper Card Reader Assy **	8
Card Dispenser *	2
Security Module *	1
Cable Set	1
UPS *	1
VBUS Hub, Power Supply *	1
Button (each color/type) *	2
LED Light Bars (2) *	1
Receipt Printer *	2
Speaker *	2
Key Set	10
Door Alarm *	2
Door Wrench	2
Additional Clipper Readers**	58

Table 3 Recommended Spares

** To be supplied and repaired by Cubic

* Active components

6.1 Revenue Service Spares

The following spares are required for revenue service:

Revenue Spares Item	Qty
Coin Vault	13
Bill Vault	13
Coin Hopper	13

Table 4 Revenue Service Spares

7 Software Escrow

VenTek will provide the source code directly to SMART subject to the VenTek Software License Agreement. This is the usual software security process utilized by VenTek with other transit agencies. Regular updates to the escrowed software will occur quarterly when there are significant modifications. Source code will be delivered on removeable media.

Appendix 1 – Preventative Maintenance

BNR Preventative Maintenance

Frequency	Every 2 month or 50k unit cycles, whichever comes first	Every 6 month or 20k loader cycles, whichever comes first
Type	cleaning	Cleaning
Location	Field	Field
Module		
Main Module	Air jet ²	
Bundler	Air jet	Air jet
Cash Box	Air jet	
Loader	Air jet	Air jet Cleaning with IPA ³
Recycler	Air jet	
Spine	Air jet	
Chassis (Interlock)	Air jet	

Every 12 month or 250k unit cycles, whichever comes first	Every 24 month or 500k unit cycles, whichever comes first
Overhaul	Overhaul
Service Center	Service Center
Clean all tires, rollers and belt (banknote path only, not the lateral belts) (IPA) Clean all light pipes and lateral belt (Air)	Clean all tires, rollers and belt (banknote path only, not the lateral belts) (IPA) Clean all light pipes, bill sensor and lateral belts (Air)
Dismantle and clean BU rollers, pulleys and bearings, gears, shafts and belts (IPA or ultrasonic bath), replace BU axle 7	Dismantle and clean BU rollers, pulleys and bearings, gears, shafts and belts (IPA or ultrasonic bath), replace BU axle 7 and use the BU maintenance kit
-	-
-	Clean all light pipes (air) and the rollers (IPA)
Clean RE tape (air) & roller (IPA) Clean all light pipes (air)	Clean RE tape (air) & roller (IPA) Clean all light pipes (air)
Clean belts & rollers (IPA) Clean all light pipes (air)	Clean belts & rollers (IPA) Clean all light pipes (air)
-	Clean all light pipes (air)

Card Dispenser Preventative Maintenance

18/10/10 **SCD-2500 IC CARD DISPENSER / ENCODER** ISSUE: 12
TECHNICAL INFORMATION

4.0 Maintenance

4.1 Important Safety Note

Persons carrying out maintenance or repairs on this product should be made aware that there are unprotected moving parts and that precautions should be taken to prevent personal injury.

4.2 General Guidelines

4.2.1 Cleaning

- Every 5,000 cycles or 1 week (whichever comes first), carry out the Cleaning Procedure as detailed in section 4.3
- Every 1 month carry out the Checking Procedure as detailed in section 4.4

NOTE: A single card dispense then eject/capture or a single card accept then eject/capture is classed as one cycle.

4.2.2 Scheduled Replaceable Items

After 400,000 cycles, the IC Card Connector Assembly should be replaced as detailed in section 4.5

4.2.3 Replaceable Items

It may be necessary to replace items due to damage or failure during the product life cycle.

All items can be identified in the Exploded Assembly View in Appendix II

The relevant procedure for changing an item will be supplied with the replacement item.

BOCA Printer Preventative Maintenance

Once a year the “opto eye” should be blown off with air. This interval will vary depending upon the environment and the quality of the ticket stock.

The print head should be cleaned periodically to prevent debris from building up on the print element. The required cleaning interval varies greatly depending on the quality of the ticket stock and the amount of dust entering the print area. Excessive dirt build up on the print head will result in reduced quality. Continuing to run the print head in a dirty condition will reduce its life expectancy, as it is unable to diffuse its heat properly.

The Platen (rubber drive roller) should be cleaned once a year to prevent paper dust from building up on the roller. (NOTE: The platen may require more frequent cleaning in dusty environments or when using inferior ticket stock.)

The BOCA cutter system is a fully integrated cutter knife mechanism powered by a stepper motor. The cutter requires no adjustments and is rated for approximately 750,000 cuts.

The interior of the printer should be cleaned whenever there is a visible accumulation of dust. Use a small vacuum for cleaning. Be careful not to jar any of the printer’s parts loose.

Preventive Maintenance Checklist - CVM

Date: _____	Location: _____	CVM # _____																																																																																																																																																																																																																																																
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Exhibit B: Fees and Related Charges

Prices below account for escalation in both labor and equipment costs during the course of the contract as well as flexibility in scheduling of weekend service. Primary components whose purchase, repair and replacement will be born as part of these fees are:

- Coin Acceptor and vault
- Bill acceptor and vault
- Touch screen display
- Credit/debit card acceptor and PIN pad
- ADA user numeric pad
- Audio amplifier
- Card dispenser
- Thermal printer
- CPU board
- Primary and Secondary VCC Server
- UPS
- VBUS Power Supply

Charges will be billed on or about the 1st of each month, in conjunction monthly reports on performance metrics required in Section 5 of this Scope. If all documents have been submitted and are correct, bills will be payable within thirty days of receipt. Maintenance billing will be at a fixed monthly rate plus costs that are excluded from the work items Section 1.2.2 and further adjusted for CVM system performance per Section 5.

Two pricing schedules are provided below depending on the presence of weekend service.

Operations and Maintenance Pricing: Reduced Service – No Weekends						
Services Section	Item	Description	Prior to 9/1/20	Starting 9/1/20 with reduced service	With Windsor	
2	1	CVM Level 1, 2, 3 Maintenance and Repair	7,898	6,288	6,708	
3.1.2	2	TVM Software Maintenance	2,500	2,575	2,575	
3.1.1	3	Back Office Services	2,750	2,833	2,833	
3.1.1	4	Back Office Software Maintenance	625	644	644	
4.1	5	Consumables Purchase and Replenishment (less Clipper Card Purchase)	975	775	827	
		<i>Subtotal - Operations and Maintenance</i>	14,748	13,115	13,586	
4.2	6	Revenue Service (every two weeks)	8,125	6,248	6,665	
	<i>Monthly</i>	<i>Total O & M plus Revenue Service</i>	22,873	19,363	20,251	
	<i>Annual</i>	<i>O & M plus Revenue Service</i>	274,470	232,356	243,015	
<p>Item 1 Services</p> <ul style="list-style-type: none"> • On-site Preventative Maintenance at station platforms • Equipment monitoring and reporting • Repair or replacement of CVM components • On-call maintenance services <p>Item 2 thru 4 Services</p> <ul style="list-style-type: none"> • VCC Hosting Services (reduced pricing from MTC quote) • VCC Hardware and Software Maintenance • Maintenance of Clipper and Moneris interfaces • Component firmware maintenance • Daily Backup of VCC data • Weekly Backup of VCC System • Data Archive and Retrieval • Failure Recovery <p>Item 5 Services</p> <ul style="list-style-type: none"> • Field replenishment of printer paper and Clipper cards • Clipper cards to be supplied by SMART 						

Figure 3. O & M Payment Schedule

Operations and Maintenance Pricing: Full Service Including Weekends						
Services Section	Item	Description	Prior to 9/1/20	Starting 9/1/20	With Windsor	
2	1	CVM Level 1, 2, 3 Maintenance and Repair	7,898	8,134	8,677	
3.1.2	2	TVM Software Maintenance	2,500	2,575	2,575	
3.1.1	3	Back Office Services	2,750	2,833	2,833	
3.1.1	4	Back Office Software Maintenance	625	644	644	
4.1	5	Consumables Purchase and Replenishment (less Clipper Card Purchase)	975	1,004	1,071	
		<i>Subtotal - Operations and Maintenance</i>	14,748	15,190	15,999	
4.2	6	Weekly Revenue Service	8,125	8,369	8,927	
	<i>Monthly</i>	<i>Total O & M plus Revenue Service</i>	22,873	23,559	24,726	
	<i>Annual</i>	<i>O & M plus Revenue Service</i>	274,470	282,704	296,710	
<p>Item 1 Services</p> <ul style="list-style-type: none"> • On-site Preventative Maintenance at station platforms • Equipment monitoring and reporting • Repair or replacement of CVM components • On-call maintenance services <p>Item 2 thru 4 Services</p> <ul style="list-style-type: none"> • VCC Hosting Services (reduced pricing from MTC quote) • VCC Hardware and Software Maintenance • Maintenance of Clipper and Moneris interfaces • Component firmware maintenance • Daily Backup of VCC data • Weekly Backup of VCC System • Data Archive and Retrieval • Failure Recovery <p>Item 5 Services</p> <ul style="list-style-type: none"> • Field replenishment of printer paper and Clipper cards • Clipper cards to be supplied by SMART 						

Figure 4. O & M Payment Schedule

Key Performance Indicator Penalty Assessment

Penalties will be assessed for a failure to meet any Key Performance Indicators (KPIs) identified as having an associated penalty (see Section 6.2) based on a three-month average. The average is reset each three-month period.

A failure will result in the percentage in the "Penalty Assessed" column being applied to the full amount of the operations payment (excludes cash collection and optional financial services) for the months of measurement.

A failure to meet the same KPI for two or more three-month periods in a row will constitute a persistent failure, and result in a multiplier being applied to the penalty percentage.

The penalty multiplier will increase by a factor of one for each period that a KPI is not met, up to the full value of the associated operations payment (e.g., if a KPI is not met two periods in a row, the penalty will be doubled in the second period; if a KPI is not met three periods in a row, the penalty will be tripled in the third period).

Successfully meeting a KPI in a period will end a persistent failure and reset the penalty multiplier.

The total penalty applied to an operations payment will not exceed the full amount of the operations payment in that period. Penalties will not be carried over from period to period.

VenTek shall be responsible for reporting on KPI penalties and will deduct penalties directly from any invoices submitted to the agency on a three-month basis.



September 16, 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-Marine Area Rail Transit Board of Directors
5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954

SUBJECT: Authorize the submittal of Regional Measure 3 Letter of No Prejudice and Allocation request to the Metropolitan Transportation Commission for the Windsor Project

Dear Board Members:

RECOMMENDATIONS:

Approve Resolution No. 2020-19 authorizing SMART to submit a Regional Measure 3 Allocation request and a Letter of No Prejudice request for the Windsor project.

SUMMARY:

On June 5, 2018, voters passed Regional Measure 3 (RM3), raising the toll for vehicles on the seven State-owned toll bridges in the San Francisco Bay Area by a total of \$3.00, phased in through one-dollar increments. This toll increase funds various transportation projects within the region that reduce congestion or to make improvements to travel in the toll bridge corridors, as identified in SB 595 (Chapter 650, Statutes of 2017). RM3 established an Expenditure Plan that identifies specific capital and operating projects and programs eligible to receive funding as identified in Sections 30914.7 (a) & (c) of the California Streets and Highways Code.

The new toll schedule established by RM3 was formally approved by the Bay Area Toll Authority (BATA), the regional toll collection authority, in December 2018 with the first \$1.00 toll increase was put into effect in January 2019. Collected RM3 funds are being held in an escrow account while the region awaits the resolution of litigation challenging state Senate Bill 595 and Regional Measure 3. At the point that projects are ready to proceed, agency governing bodies adopt resolutions requesting that Metropolitan Transportation Commission (MTC) allocate the bridge toll funds to the projects. Once approved by MTC, agencies can proceed with incurring RM3 eligible costs.

While the RM3 toll funds remain the subject of litigation, MTC has adopted a Letter of No Prejudice (LONP) process whereby a project sponsor can request approval to move forward with a specific scope of work, identifying the non-RM3 funds that will be used to advance the work, and retain RM3 eligibility for that scope. The RM3 toll was upheld by San Francisco trial court in 2019 and again in the First District Court of Appeals on June 29, 2020. The case has been appealed to the State Supreme Court and the Court has until approximately November 2020 to determine whether it will hear the case. If it declines to hear the case, the toll funds can be released and MTC can begin the process of allocating the toll funds to projects.

The Capital Program of the RM3 Expenditure Plan includes \$40 million to SMART to extend our system north from Sonoma County Airport to the Cities of Windsor and Healdsburg. In addition to RM3 funds, the Windsor Project has received \$20 million in State Transit and Intercity Capital Rail Program funds, \$5 million in Federal Railroad Administration funds and \$5 million in State Affordable Housing and Sustainable Communities program funds.

The Windsor Project has two primary design-build contracts and several support contracts already in place to complete the project, awarded by your Board in October 2018 and September 2019. The project cost estimate is \$65 million, including design and construction of civil track, systems, crossings, station, Positive Train Control systems, all project support costs and contingency. The project has nearly 100% of civil design work completed and construction has begun in the field. The project has issued Notices to Proceed (NTP) for work associated with secured funds for the project but has reserved issuance of NTP for work to be paid for with RM3 funds until the litigation is resolved. The project has utilized the non-RM3 grants so far however RM3 funds must be secured before the end of the year to avoid a shutdown of the project.

If the Supreme Court agrees to hear the case, the timing of RM3 funding becomes impossible for SMART to overcome and the project will be suspended as funds are no longer available to keep it going. However, if the Court declines the case, we must be ready to hit the ground running with the administrative process to receive the funds. In order to do that, we are recommending your consideration two requests of MTC:

- An allocation request for \$35 million of the planned RM3 funds for the SMART System Windsor Extension Project, leaving \$5 million for future work to extend SMART to Healdsburg. The details associated with this allocation request are included in the attached Initial Project Report.
- A Letter of No Prejudice request of MTC for any work done on the SMART System Windsor Extension Project between the prospective State Supreme Court decision to not hear the RM3 litigation case and the MTC action to allocate funds to SMART for this project, a time period of approximately 3-4 months or November 2020 to February 2021. During that time, the project anticipates needing to expend \$5 million.

These two actions would keep the project on schedule for an estimated revenue service start date of late 2021 and prevent cost increases due to schedule delay. This strategy is similar to a strategy utilized for the Larkspur extension project between the time contracts were awarded and the federal grant was awarded. SMART was able to incur costs that were then reimbursed by the federal government. The two actions before you are intended to allow SMART to proceed with the current project schedule while removing the financial risk associated with the administrative process leading up to the MTC allocation of SMART's RM3 funds.

We recommend your Board approve Resolution No. 2020-19 authorizing an MTC Allocation request of RM3 funds for the SMART Extension to Windsor Project and a Letter of No Prejudice for work completed prior to allocation of RM3 funds, estimated to occur between November 2020 and February 2021 in the amount of \$5 million. The resolution also authorizes the General Manager to complete any necessary documents to receive RM3 funds for Windsor. As required by MTC guidelines, the resolution identifies Measure Q as the funding SMART will use –for cashflow purposes only -- before the RM3 allocation occurs. However, Measure Q would be then reimbursed by RM3 funds after the allocation. SMART has sufficient reserves for this short term cashflow problem and is only necessary because of the delays caused by the lawsuit and the timing involved in the allocation process.

FISCAL IMPACT: Would provide \$35 million for the Windsor extension project and commit SMART to utilizing Measure Q for cashflow purposes during the MTC allocation process.

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

Very truly yours,

 /s/
Joanne Parker
Programming and Grants Manager

Attachment(s):

- 1) Resolution No. 2020-19
- 2) SMART Windsor Extension Regional Measure 3 Initial Project Report
- 3) SMART Windsor Extension Regional Measure 3 Letter of No Prejudice Request

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AUTHORIZING THE REQUEST FOR ALLOCATION OF REGIONAL MEASURE 3 BRIDGE TOLL FUNDS IN THE AMOUNT OF \$35,000,000 FOR THE COMPLETION OF THE SMART WINDSOR EXTENSION AND AUTHORIZING THE REQUEST FOR A LETTER OF NO PREJUDICE FOR UP TO \$5,000,000 OF THOSE REGIONAL MEASURE 3 FUNDS

WHEREAS, SB 595 (Chapter 650, Statutes 2017), commonly referred as Regional Measure 3, identified projects eligible to receive funding under the Regional Measure 3 Expenditure Plan; and

WHEREAS, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for Regional Measure 3 funds, pursuant to Streets and Highways Code Section 30914.7(a) and (c); and

WHEREAS, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 3 funding; and

WHEREAS, Letter of No Prejudice (LONP) requests to MTC must be submitted consistent with procedures and conditions as outlined in Regional Measure 3 Policies and Procedures (MTC Resolution No. 4404); and

WHEREAS, Sonoma-Marín Area Rail Transit District (SMART) is an eligible sponsor of transportation project(s) in the Regional Measure 3 Expenditure Plan; and

WHEREAS, the SMART System Extension to Windsor and Healdsburg is an eligible project for consideration in the Regional Measure 3 Expenditure Plan, as identified in California Streets and Highways Code Section 30914.7(a); and

WHEREAS, the SMART System Extension to Windsor is an eligible sub-project eligible for consideration in the Regional Measure 3 Expenditure Plan, as identified in California Streets and Highways Code Section 30914.7(a); and

WHEREAS, the Regional Measure 3 LONP request, attached hereto in the Initial Project Report and LONP Request Form, and incorporated herein as though set forth at length, lists the project, purpose, schedule, budget, expenditure and cash flow plan for which SMART is requesting that MTC issue an allocation and LONP for Regional Measure 3 funds;

NOW, THEREFORE, BE IT RESOLVED THAT THE Board of Directors of the SMART District hereby agrees that SMART, and its agents shall comply with the provisions of the Metropolitan Transportation Commission’s Regional Measure 3 Policies and Procedures; and be it further

RESOLVED that SMART will fund the scope of work covered under the LONP with Measure Q local sales tax and that SMART proceeds with this scope of work at-risk, in the event that RM3 funds do not become available for allocation; and be it further

RESOLVED that SMART understands it will only be eligible for reimbursement for this scope of work from RM3 funds following an allocation by MTC, for expenses incurred following the date of the LONP approval; and be it further

RESOLVED that SMART certifies that the project is consistent with the Regional Transportation Plan (RTP), has received necessary environmental clearances and permitting, and is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 et seq.) and if relevant the National Environmental Policy Act (NEPA), 42 USC Section 4-1 et seq. and the applicable regulations thereunder; and be it further

RESOLVED that SMART approves the LONP request, the Initial Project Report, and the cash flow plan attached to this resolution and certifies that the project identified has a full funding plan and will result in an operating usable segment; and be it further

RESOLVED that SMART has reviewed the project needs and has adequate staffing resources to deliver and complete the project within the schedule set forth in the LONP request and updated Initial Project Report, attached to this resolution; and be it further

RESOLVED that SMART is an eligible sponsor of projects in the Regional Measure 3 Expenditure Plan, in accordance with California Streets and Highways Code 30914.7 and is authorized to submit an allocation request and an application for an LONP request for Regional Measure 3 funds for SMART System Windsor Extension in accordance with California Streets and Highways Code 30914.7(a); and be it further

RESOLVED that there is no legal impediment to SMART making LONP requests for Regional Measure 3 funds and that there is no pending or threatened litigation which may in any way adversely affect the proposed project, or the ability of SMART to deliver such a project; and be it further

RESOLVED that SMART agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and be it further

RESOLVED, that SMART shall indemnify and hold harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of SMART, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services

under this allocation of RM3 funds. SMART agrees at its own cost, expense, and risk, to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, BATA, and their Commissioners, officers, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments. In addition to any other remedy authorized by law, so much of the funding due under any future allocation of RM3 funds to this scope as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages, and be it further

RESOLVED, that SMART shall, if any revenues or profits from any non-governmental use of property (or project) that those revenues or profits shall be used exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the Metropolitan Transportation Commission is entitled to a proportionate share equal to MTC's percentage participation in the project(s); and be it further

RESOLVED, that assets purchased with RM3 funds including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the Metropolitan Transportation Commission (MTC) shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to MTC in the same proportion that Regional Measure 3 funds were originally used; and be it further

RESOLVED, that following an allocation of RM3 funds for this scope of work SMART shall post on both ends of the construction site(s) at least two signs visible to the public stating that the Project is funded with Regional Measure 3 Toll Revenues; and be it further

RESOLVED, that SMART authorizes its General Manager, or his/her designee, to execute and submit an allocation request for the Design-Build Construction phase with MTC for Regional Measure 3 funds in the amount of \$35,000,000, for the project, purposes and amounts included in the project application attached to this resolution; and be it further

RESOLVED, that SMART authorizes its General Manager, or his/her designee, to execute and submit an LONP request for the Design-Build Construction phase with MTC for Regional Measure 3 funds in the amount of \$5,000,000 of the total allocation request, for the project, purposes and amounts included in the project application attached to this resolution; and be it further

RESOLVED, that the General Manager, or his/her designee, is hereby delegated the authority to make non-substantive changes or minor amendments to the LONP request or IPR as he/she deems appropriate.

RESOLVED, that a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the SMART application referenced herein.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 16th day of September, 2020, by the following vote:

DIRECTORS:

AYES:

NOES:

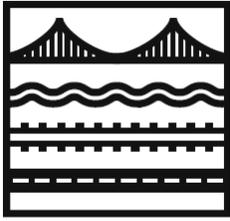
ABSENT:

ABSTAIN:

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

ATTEST:

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



Regional Measure 3

Initial Project Report

Subproject Details

SB 595 Project Information

Project Number	7
Project Title	SMART System Extension to Windsor and Healdsburg
Project Funding Amount	\$40,000,000

Subproject Information

Subproject Number	7.1
Subproject Title	SMART System Windsor Extension
Subproject Funding Amount	\$35,000,000

I. Overall Subproject Information

a. Subproject Sponsor / Co-sponsor(s) / Implementing Agency

Sonoma-Marín Area Rail Transit District (SMART)

b. Detailed Subproject Description *(include definition of deliverable segment if different from subproject)*

Extend the SMART rail system 3.3 miles north between Sonoma County Airport and the Town of Windsor. Project includes just over 3-miles of Class 4 mainline track (rated for passenger service up to 79 mph) and 1-mile Class 4 secondary track, over 5 bridges, one station with amenities, gauntlet tracks to accommodate freight train passage, six grade crossings that will require modifications to comply with Federal Railroad Administration Positive Train Control requirements, and 3-miles of contiguous bicycle-pedestrian pathway.

c. Impediments to Subproject Completion

Regional Measure 3 fund availability critical to advance Windsor extension components to maintain cost estimate accuracy. The project contracts have been awarded, design has been completed and construction is underway utilizing State Transit and Intercity Rail Capital Program funds. State TIRCP



Regional Measure 3 Initial Project Report

funds have been fully obligated and are over ½ drawn down as of end of Fiscal Year 2020. Narrow permit windows for the project require certain project elements to be constructed during Fall 2020 or Delays to systems and civil construction due to delays in Regional Measure 3 fund availability will drive up project costs and cause project revenue service date delays.

d. Risk Management *(describe risk management process for project budget and schedule, levels of contingency and how they were determined, and risk assessment tools used)*

SMART is implementing a similar Risk Management process for this Windsor project as was implemented for the Larkspur Extension. SMART’s design-build oversight team includes an on-sight staff Construction Manager, with supporting staff, who reports to Chief Engineer daily. Consultant and staff support for specialty items like track construction and communications. Consultant for project quality and Buy America oversight and audits who reports directly to the General Manager. A Project Management Plan has been created for the Systems work and includes periodic risk evaluation at key milestones in the project.

e. Operability *(describe entities responsible for operating and maintaining project once completed/implemented)*

SMART will be responsible for operating and maintaining the project once completed.

f. Project Graphic(s) *(include below or attach)*

See attached SMART Corridor map and Windsor Extension map.

II. Subproject Phase Description and Status

a. Environmental/Planning

Does NEPA apply? Yes No

SMART completed CEQA for the SMART project, including rail to Windsor and Healdsburg, in June 2008. Currently NEPA only applies to the Windsor Extension only for systems work.

For the Windsor Extension, the Federal Railroad Administration was the responsible agency for a Categorical Exclusion (issued September 6, 2018) for Positive Train Control-Systems work for the rail project between Sonoma County Airport and Windsor.

b. Design

For the Windsor Extension, the Design-Build contract for the Systems work was awarded by the SMART Board on September 19, 2018. The Design-Build contract for the Civil construction work was awarded in November 2019, at the completion of a year-long Design-Build procurement process that began with a



Request for Qualifications release October 26, 2018, an Industry Information Meeting held with 17 companies present, and a selection of Prequalified Design-Build entities cleared for proposal submittal.

Within the Design-Build contracts, the Systems design is approximately 50% complete by the end of August 2020, with 100% systems design completion anticipated April 2021. The civil design is approximately 90% complete in August 2020, with 100% civil design completion anticipated by the end of September 2020.

c. Right-of-Way Activities / Acquisition

Right-of-Way is publicly owned by SMART.

d. Construction / Vehicle Acquisition / Operating

For the Windsor Extension, see above (b. Design) for Design/Build contract award dates for the Systems and Civil Design Build contracts associated with the project. After the completion of construction for each of these components, there will be a service testing period and the Federal Railroad Administration review and approval process prior to the opening of the extension for passenger revenue service, currently estimated for December 2021.

III. Subproject Schedule

Phase-Milestone	Planned	
	Start Date	Completion Date
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	2006	June 2008 FEIR; September 2018 NEPA – FRA CE
Final Design - Plans, Specs. & Estimates (PS&E)	9/2018 Design-Build Systems 11/2019 Design-Build Civil	4/2021–Systems 9/2020 – Civil
Right-of-Way Activities /Acquisition (R/W)	2002	2002
Construction (Begin – Open for Use) / Acquisition (CON)	May 2020	December 2021



IV. Subproject Budget

Capital

Subproject Budget	Total Amount - Escalated to Year of Expenditure (YOE)- (Thousands)
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	N/A
Design - Plans, Specifications and Estimates (PS&E)	N/A (Design -Build Procurement)
Right-of-Way Activities /Acquisition (R/W)	N/A
Design/Build Construction (CON)	65,000
Total Project Budget (in thousands)	65,000

Deliverable Segment Budget (if different from subproject budget)	Total Amount - Escalated to Year of Expenditure (YOE)- (Thousands)
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	
Design - Plans, Specifications and Estimates (PS&E)	
Right-of-Way Activities /Acquisition (R/W)	
Construction / Rolling Stock Acquisition (CON)	
Total Project Budget (in thousands)	

Operating	Total Amount - Escalated to Year of Expenditure (YOE)- (Thousands)
Annual Operating Budget (NOTE: SMART's current service schedule and operating budget includes staffing, fleet and timetable for Windsor. Operating funds identified here are for additional fuel for 38 weekday trips, station operating costs, and	\$600



3.3-mile track/signal/pathway maintenance and can be modified depending on service schedule).	
---	--

V. Subproject Funding

Please provide a detailed funding plan in the Excel portion of the IPR. Use this section for additional detail or narrative as needed and to describe plans for any "To Be Determined" funding sources, including phase and year needed.

VI. Contact/Preparation Information

Contact for Project Sponsor

Name: Farhad Mansourian

Title: General Manager

Phone: 707-794-3057

Email: fmansourian@sonomamarintrain.org

Mailing Address: 5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954

Person Preparing Initial Project Report (if different from above)

Name: Joanne Parker

Title: Programming and Grants Manager

Phone: 707-794-3062

Email: jparker@sonomamarintrain.org

Mailing Address: 5401 Old Redwood Highway, Suite 200
Petaluma, CA 94954

**Regional Measure 3
Initial Project Report - Subproject Report
Funding Plan**

Project Title:	SMART System Windsor Extension
Subproject Title	SMART System Extension to Windsor and Healdsburg
Project/Subproject Number:	7/7.1
Total RM3 Funding:	\$ 35,000,000

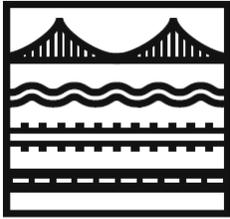
(add rows as necessary)

CAPITAL FUNDING

Funding Source	Phase	Committed? (Yes/No)	Total Amount (\$ thousands)	Amount Expended (\$ thousands)	Amount Remaining (\$ thousands)
	ENV				\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
ENV Subtotal			\$ -	\$ -	\$ -
	PSE				\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
PSE Subtotal			\$ -	\$ -	\$ -
	ROW				\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
ROW Subtotal			\$ -	\$ -	\$ -
FRA CRISI (Systems)	Design/Build Construction	Y	\$ 5,000,000	\$ 2,500,000	\$ 2,500,000
AHSC	Design/Build Construction	Y	\$ 5,000,000		\$ 5,000,000
Transit and Intercity Rail Capital Program	Design/Build Construction	Y	\$ 20,000,000	\$ 13,000,000	\$ 7,000,000
Regional Measure 3	Design/Build Construction	N	\$ 35,000,000		\$ 35,000,000
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
CON Subtotal			\$ 65,000,000	\$ 15,500,000	\$ 49,500,000
Capital Funding Total			\$ 65,000,000	\$ 15,500,000	\$ 49,500,000

OPERATING FUNDING (Annual)

Funding Source	Phase	Committed? (Yes/No)	Total Amount (\$ thousands)
Multiple - SMART Operating Budget	Operating	Y	\$ 600,000
*NOTE current service schedule and operating budget includes staffing, fleet and timetable for Windsor.			
Additional amount here assumes fuel for 38 weekday trips, station and 3.3-mile track/signal/pathway maintenance.			
Operating Funding Total			\$ 600,000



Regional Measure 3

LONP Request

SB 595 Project Information

Project Number	7
Project Title	SMART System Extensions to Windsor and Healdsburg
Project Funding Amount	\$40,000,000

Subproject Information

Subproject Number	7.1
Subproject Title	SMART System Extension to Windsor
Subproject Funding Amount	\$35,000,000 <i>(LONP Requests \$5,000,000 through February 2021)</i>

I. RM3 LONP Request Information

Describe the scope of the deliverable phase requested for LONP. Provide background and other details as necessary.

Extend the SMART rail system 3.3 miles north between Sonoma County Airport and the Town of Windsor. Project includes just over 3-miles of Class 4 mainline track (rated for passenger service up to 79 mph) and 1-mile Class 4 secondary track, over 5 bridges, one station with amenities, gauntlet tracks to accommodate freight train passage, six grade crossings that will require modifications to comply with Federal Railroad Administration Positive Train Control requirements, and 3 miles of contiguous bicycle-pedestrian pathway.

SMART is seeking a Letter of No Prejudice for project construction work to be completed through January 30, 2021, at which point the status of the legal review of the project will have been determined as to whether the State Supreme Court will accept the current appeal for review or not. If the appeal has been accepted for review by the State Supreme Court, then SMART will no longer use Regional Measure 3 funds for this Windsor extension and will instead seek currently unidentified alternative funding to advance the Windsor project

Project phase being requested	CON
RM3 funding amount planned for this phase	\$35,000,000 • \$5,000,000

<ul style="list-style-type: none"> • <i>RM3 funding subject to an LONP request through February 2021</i> 	
Substitute funding source (if multiple, list amounts)	Measure Q
Are there other fund sources involved in this phase?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Date of anticipated Implementing Agency Board approval of RM3 IPR resolution for the allocation being requested	September 16, 2020

Note: LONP requests are recommended to be submitted to MTC staff for review sixty (60) days prior to action by the Implementing Agency Board

Describe your plan for fully funding this project in the case that RM3 funding is not made available. This includes funding through construction if the LONP request is for an earlier phase.

SMART will work with local, regional, State and Federal funding partners to determine the feasibility of funding the ongoing Windsor extension construction project from other sources of funding.

List any other planned bridge toll allocation requests in the next 12 months

None planned at this time, presuming SMART's \$35,000,000 in Regional Measure 3 funds for the Windsor extension work is allocated, the State Supreme Court declines to consider the pending legal appeal against RM3, and SMART is able to complete in a timely fashion the SMART System Extension to Windsor construction project currently underway.



September 16, 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: Update on Refinancing and Debt Issuance Policy Adoption

Dear Board Members:

RECOMMENDATION: Receive report on Refinancing and Approve Resolution No. 2020-17 Creating Debt Issuance Policy

SUMMARY:

Our Fiscal Year 2020-21 budget assumed a small debt service savings of \$1 million annually from a refinancing completed this fall as directed by your Board. Today we are updating you on that process and recommending adopting a debt policy as required by CA statute.

Refinancing Background and Update:

The effort to extend the sales tax was solely to provide room for a significant refinancing of the debt related to building the current commuter rail and pathway system. That debt was necessary to make train service a reality and the expiration date of early 2029 for the tax provided little room for the debt to be amortized. Measure I would have provided us the room to achieve over \$12 million annually in debt savings.

Today we cannot achieve anything close to that level of savings, savings that would have provided needed breathing room to weather the loss of revenues. However, one of the very small benefits of the pandemic is that it has provided historically low rates that SMART, with less than 9 years remaining to spread its debt on a system that will last for many decades beyond that, can take advantage of.

During your budget process, we had early estimates that a taxable refinancing could save \$1 to \$2 million in annual debt service depending on how the debt was structured. Savings of \$1 million were assumed in the budget in anticipation of a successful refinancing and your Board provided direction to move quickly to secure those savings. Given current market conditions, we believe we are still on target to achieve those savings.

During the budget process, your Board also authorized the execution of a contract with PFM Financial Advisors, LLC to assist with the bond refinancing process. Working quickly with PFM, we have moved to secure a team of experts to work on this effort, including bond underwriters and expert bond counsel.

In preparation for assembling a team for the refinancing, we were interested in exploring different ideas for debt refinancing. As reported to you in May, we have been evaluating the merits of refinancing through a negotiated sale, a direct placement of debt with a single bank, and also possibly securing refinancing through the Federal RRIF loan process (Railroad Rehabilitation and Infrastructure Financing program). On July 10, 2020, PFM distributed a solicitation on behalf of SMART seeking interested firms to serve as either underwriter or direct purchaser in connection with SMART's proposed refunding bonds. The RFP was distributed to a diverse group of 17 firms and six firms responded to the solicitation. The attached memo from PFM describes in more detail the firms that were solicited and the process followed.

PFM recommended and we concurred with the recommendation to move forward with a syndicate of two firms: Barclays and Bank of America Securities. Barclays will serve as the lead manager and Bank of America will serve as co-senior manager. This practice of choosing more than one firm allows us to combine bond sale strategies presented by the firms as well as broaden the potential investor base thus increasing the chances of a successful sale.

We also moved quickly to secure specialized Bond Counsel for the transaction, which is required for preparation of the multiple, specialized legal documents required for issuing debt. We solicited proposals from three highly qualified firms, and awarded a contract to the most qualified proposer with experience in all the strategies we are researching and whose costs provided the best value for SMART. We have moved forward with a contract with Nixon Peabody to serve as counsel for this refinancing. The costs of this contract, which will not exceed \$100,000, will be paid out of the proceeds of the bond if a bond is issued. This is common practice and applies to all the costs associated with a bond sale.

In the month of October, we will be returning with an agenda item that will request authorization of the bond sale, including a resolution authorizing the issuance of bonds, the preliminary official statement, and the legal indenture for the debt. Our goal is to move quickly with a refinancing well before the end of the calendar year to maximize the saving to SMART within this fiscal year.

Approval of Debt Issuance Policy:

In January of 2017 a new law was enacted amending Section 8855 of the Government Code of California, which, among other things, requires local agencies within the State, such as SMART, to establish and implement a formal policy governing the process and methods by which the SMART issues debt obligations. The law requires a local government debt issuer to approve this policy 30 days prior to the issuance of any debt. Because we are now poised to refinance our debt, SMART must formally adopt a Debt Issuance Policy. The policy is required to have certain elements, including the following:

- The purposes for which the debt proceeds may be used;
- The types of debt that may be issued;

- The relationship of the debt to, and integration with, the issuer's budget and capital plans, if applicable;
- The procedures to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

The policy we have provided provides the legal flexibility for SMART to contemplate multiple types of debt but does not authorize the actual issuance of debt. The policy makes it clear that all new debt must be approved by the Board even if it is contemplated in the policy. We are recommending the attached document intended to meet the necessary requirements of the law and prepare for a refinancing action by the Board in October. In the future, there may be other aspects and considerations of a debt policy that your Board could choose to add as the need arises.

Very truly yours,

/s/

Erin McGrath
Chief Financial Officer

Attachment(s): 1) Resolution No. 2020-17
2) Proposed Debt Issuance Policy
3) PFM Underwriter Selection Memo

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT ESTABLISHING A DEBT ISSUANCE POLICY FOR FUTURE OBLIGATIONS

RESOLVED, by the Board of Directors (the “Board”) of Sonoma-Marín Area Rail Transit District (“SMART”) that,

WHEREAS, the Legislature of the State of California (the “State”) has adopted S.B. 1029 (“S.B. 1029”), amending Section 8855 of the Government Code of the State, and effective in part as of January 1, 2017, which, among other things, requires local agencies within the State, such as SMART, to establish and implement a formal policy governing the methods by which the SMART issues debt obligations (“Debt”) and the internal controls over the issuance of the Debt; and

WHEREAS, the Board has caused to be drafted a form of such a policy (the “Debt Issuance Policy”), a form of which is appended to this Resolution as Exhibit A and incorporated herein by this reference; and

WHEREAS, the Board hereby determines the Debt Issuance Policy proposed to be implemented for all future Debt issuances of SMART meets all the requirements of S.B. 1029 and ensures the greatest possible degree of transparency for the public as to any kind of Debt transaction obligating SMART; and

WHEREAS, the Board hereby determines that the Debt Issuance Policy shall be effective for all Debt issuances approved by the Board following the effective date of this Resolution, which shall occur upon the majority vote of the Directors of the Board;

NOW, THEREFORE, BE IT RESOLVED by the Sonoma-Marín Area Rail Transit District as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The form of Debt Issuance Policy attached hereto as Exhibit A shall be in effect, and staff is hereby directed to comply therewith, for all future issuances of Debt approved by the Board following the effective date of this Resolution; provided, however, that staff may review the Debt Issuance Policy and report to the Board any suggested amendments to the Debt Issuance Policy, based either upon further State legislative action or upon staff experience in implementing the Debt Issuance Policy. In the event such recommendations are made to the Board, the Board reserves the right to approve or decline to approve such amendments; any amendments will be made by further Resolution of the Board.

Section 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 16th day of September, 2020, by the following vote

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTEST:

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

Exhibit A

DEBT ISSUANCE POLICY

(See attachment)

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT DEBT POLICY

TABLE OF CONTENTS

I.	PURPOSE.....	1
II.	SCOPE OF DEBT POLICY	1
III.	LEGAL AUTHORITY; COMPLIANCE WITH LAWS, RESOLUTIONS, DEBT DOCUMENTS AND CONTRACTS	2
	A) Legal Authority	2
	B) Compliance with Law	2
	C) Compliance with Issuer Resolutions and Debt Documents	2
	D) Compliance with Other Agreements.....	2
	E) Compliance with SB 1029	2
IV.	ADMINISTRATION OF DEBT POLICY.....	3
	A) Issuer	3
	B) Chief Financial Officer	3
	C) Procedures for Approval of Debt.....	4
	D) Considerations in Approving Issuance of Debt	4
V.	PURPOSES FOR DEBT.....	5
	A) New Money Debt.....	5
	B) Refunding Debt.....	5
VI.	TYPES OF AND LIMITATIONS ON DEBT.....	6
	A) Long-Term Debt	6
	B) Short-Term Debt	6
	C) Sales Tax Revenue Debt	6
	D) Other Revenue Debt.....	6
	E) Other Federally Supported Programs.....	6
	F) Fixed-Rate Debt.....	7
	G) Variable Rate Debt.....	7
VII.	TERMS AND PROVISIONS OF DEBT	7
	A) Debt Service Structure	7
	B) Amortization of Principal	7
	C) Capitalized Interest	7
	D) Call Provisions for Debt.....	8
	E) Payment of Interest	8
	F) Determination of Variable Interest Rates on Debt.....	8
	G) Tender Options on Debt.....	8
	H) Multi-Modal Debt	9
	I) Debt Service Reserve Funds	9
	J) Lien Levels.....	9
VIII.	MAINTENANCE OF LIQUIDITY; RESERVES	9
IX.	INVESTMENT OF DEBT PROCEEDS AND RELATED MONEYS	9
X.	THIRD PARTY CREDIT ENHANCEMENT	9
	A) Bond Insurance	10
	B) Credit Facilities.....	10

XI.	USE OF DERIVATIVES	10
XII.	METHODS OF SALE AND PRICING OF DEBT	10
	A) Competitive Sale.....	11
	B) Negotiated Sale	11
	C) Private Placement.....	12
XIII.	DEBT REDEMPTION PROGRAMS	12
XIV.	PROFESSIONAL SERVICES	12
	A) Municipal Advisors.....	13
	B) Bond Counsel, Disclosure Counsel and Other Legal Counsel	13
	C) Issuer Consultant.....	13
	D) Trustees and Fiscal Agents	14
	E) Underwriters/Remarketing Agents/Broker-Dealers.....	14
	F) Feasibility Consultants.....	15
	G) Arbitrage Rebate Services Providers	15
	H) Other Professional Services	15
XV.	BUDGETING AND CAPITAL PLANNING	15
XVI.	CREDIT RATING OBJECTIVES	15
XVII.	DEBT AFFORDABILITY	16
XVIII.	RELATIONSHIPS WITH MARKET PARTICIPANTS	16
XIX.	PERIODIC REVIEW	16

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

DEBT POLICY

Dated as of October __, 2020

I. Purpose

The purpose of this Debt Policy (the "Debt Policy") is to establish comprehensive guidelines for the issuance and management of debt (herein referred as "Debt") issued by the Sonoma-Marín Area Rail Transit District (the "Issuer"). This Debt Policy is intended to help ensure that: (i) the Issuer, the governing body of the Issuer (the "Board of Directors" or the "Board"), and Issuer management and staff adhere to sound debt issuance and management practices; (ii) the Issuer achieves the most advantageous cost of capital within prudent risk parameters; (iii) the Issuer preserves future financial flexibility; and (iii) the Issuer preserves and enhances the credit ratings assigned to its debt.

II. Scope of Debt Policy

This Debt Policy shall provide guidance for the issuance and management of bonds and other forms of indebtedness of the Issuer, together with any credit, liquidity and other ancillary instruments and agreements secured or executed in connection with such transactions. While adherence to this Debt Policy is recommended in applicable circumstances, the Issuer recognizes that changes in the capital markets, Issuer programs and other unforeseen circumstances may produce situations that are not covered by the Debt Policy or require modifications or exceptions to achieve Debt Policy goals. In these cases, management flexibility is appropriate, provided specific authorization from the Board is obtained. The Issuer may approve Debt and other related agreements the terms or provisions of which deviate from this Debt Policy, upon the recommendation and approval of the Chief Financial Officer of the Issuer (the "Chief Financial Officer") as circumstances warrant. The failure by the Issuer to comply with any provision of this Debt Policy shall not affect the validity of any Debt that is otherwise duly authorized and executed.

The Chief Financial Officer is the designated administrator of the Debt Policy. The Chief Financial Officer shall have the day-to-day responsibility and authority for structuring, implementing and managing the Issuer's debt and financing program. The Debt Policy requires that each debt issuance be specifically authorized by the Board of Directors.

III. Legal Authority; Compliance with Laws, Resolutions, Debt Documents and Contracts

A) Legal Authority

The Issuer has exclusive authority to plan and issue Debt for Issuer related purposes, subject to approval by the Board of Directors.

B) Compliance with Law

All Debt of the Issuer shall be issued in accordance with applicable Federal and State laws, rules and regulations, including without limitation the Internal Revenue Code of 1986 (the "Code") with respect to the issuance of tax-exempt Debt, the Securities Act of 1933 and the Securities Exchange Act of 1934, in each case as supplemented and amended, and regulations promulgated pursuant to such laws.

C) Compliance with Issuer Resolutions and Debt Documents

Debt of the Issuer shall be issued in accordance with applicable resolutions and debt documents of the Issuer, in each case as supplemented and amended.

D) Compliance with Other Agreements

Debt of the Issuer shall be issued in compliance with any other agreements of the Issuer with credit or liquidity providers, bond insurers or other third parties.

E) Compliance with SB 1029

This Debt Policy complies with California Senate Bill 1029 (2016). The following paragraph cross-references the debt policy requirements of SB 1029 with the relevant sections of this policy.

- 1) Cal. Gov. Code Section 8855(i)(1)(A): The purposes for which the debt may be used. See Section V: Purposes for Debt.
- 2) Cal. Gov. Code Section 8855(i)(1)(B): The types of debt that may be issued. See Section VI: Types of and Limitations on Debt.
- 3) Cal. Gov. Code Section 8855(i)(1)(C): The relationship of the debt to, and integration with, the issuer's capital improvement program or budget. See Section XV: Budgeting and Capital Planning.
- 4) Cal. Gov. Code Section 8855(i)(1)(D): Policy goals related to the issuer's planning goals and objectives. See Section I: Purpose.
- 5) Cal. Gov. Code Section 8855(i)(1)(E): The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the

proposed debt issuance will be directed to the intended use. See Section IV: Administration of Debt Policy.

IV. Administration of Debt Policy

A) Issuer

The Issuer shall be responsible for:

- 1) Approval of the issuance of all Debt and the terms and provisions thereof;
- 2) Appointment of municipal advisors, bond counsel, disclosure counsel, Issuer consultants, underwriters, feasibility consultants, trustee and other professionals retained in connection with the issuance of Debt;
- 3) Approval of this Debt Policy and any supplements or amendments;
- 4) Periodic approval of the Issuer's expenditure plans;
- 5) Periodic approval of proposed Issuer annual and supplemental budgets for submission to the Board of Directors, including without limitation provisions for the timely payment of principal of and interest on all Debt; and
- 6) Maintaining internal control procedures with respect to Debt proceeds. Debt proceeds will be held either by a third-party trustee, which will disburse such proceeds to the Issuer upon the submission of one or more written requisitions, or by the Issuer to be held and accounted for in a separate fund or account, the expenditure of which will be carefully documented by the Issuer.

B) Chief Financial Officer

The Chief Financial Officer shall have responsibility and authority for the structure, issuance and management of the Issuer's Debt and financing programs. These responsibilities shall include, but not be limited to, the following:

- 1) Determining the appropriate structure and terms for all proposed debt transactions;
- 2) Undertaking to issue Debt at the most advantageous interest and other costs consistent with prudent levels of risk;
- 3) Ensuring compliance of any proposed Debt with any applicable additional debt limitations under State law, or the Issuer's Debt Policy, resolutions and debt documents;
- 4) Seeking approval from the Board of Directors for the issuance of Debt or other debt obligations;

- 5) Coordinating with other public agencies in connection with necessary approvals associated with Debt issuance;
- 6) Recommending to the Board of Directors the manner of sale of any Debt or other debt transactions;
- 7) Monitoring opportunities to refund outstanding Debt to achieve debt service savings, and recommending such refunding to the Board, as appropriate;
- 8) Providing for and participating in the preparation and review of all legal and disclosure documents in connection with the issuance of any Debt by the Issuer;
- 9) Recommending the appointment of municipal advisors, bond counsel, disclosure counsel, Issuer consultants, underwriters, feasibility consultants and other professionals retained in connection with the Issuer's debt issuance as necessary or appropriate;
- 10) Distributing information regarding the business operations and financial condition of the Issuer to appropriate bodies on a timely basis in compliance with any applicable continuing disclosure requirements;
- 11) Communicating regularly with the rating agencies, bond insurers, investment providers, institutional investors and other market participants related to the Issuer's Debt; and
- 12) Maintaining a database with summary information regarding all of the Issuer's outstanding Debt and other debt obligations.

C) Procedures for Approval of Debt

Any proposed issuance of Debt by the Issuer shall be submitted to and subject to authorization and approval by the Board of Directors.

D) Considerations in Approving Issuance of Debt

The Issuer may take into consideration any or all of the following factors, as appropriate, prior to approving the proposed issuance of Debt:

- 1) Whether the proposed issuance complies with this Debt Policy;
- 2) Source(s) of payment and security for the Debt;
- 3) Projected revenues and other benefits from the projects proposed to be funded;
- 4) Projecting operating, other costs and potential revenues with respect to the proposed projects;

- 5) Impacts, if any, on Issuer and Debt credit ratings;
- 6) Period, if any, over which interest on the Debt should be capitalized;
- 7) Extent to which debt service on the Debt should be level or non-level;
- 8) Appropriate lien priority of the Debt;
- 9) Adequacy of the proposed disclosure document.

V. Purposes for Debt

The Issuer may issue Debt for the purposes of financing and refinancing the costs of capital projects undertaken by the Issuer. The Issuer may also issue Debt to pay extraordinary unfunded costs, including, but not limited to, termination or other similar payments due in connection with interest rate swaps (if any) and investment agreements entered into in connection with Debt. Proceeds of Debt may be applied to pay costs of issuance, to fund capitalized interest and debt service reserves and to pay costs incurred in connection with securing credit enhancement, including, but not limited to, premiums payable for bond insurance and reserve fund sureties.

A) New Money Debt

New money issues are those financings that generate additional funding to be available for expenditure on capital projects. New money proceeds may not be used to fund non-capital operational activities.

B) Refunding Debt

The Issuer may issue Debt to refund the principal of and interest on outstanding Debt of the Issuer in order to (i) achieve debt service savings; (ii) restructure scheduled debt service and provide economic benefit to the issuer; (iii) convert from or to a variable or fixed interest rate structure; (iv) change or modify the source or sources of payment and security for the refunded Debt; or (v) modify covenants otherwise binding upon the Issuer. Refunding Debt may be issued either on a current or advance basis, as permitted by applicable Federal tax laws. The Issuer may also utilize a tender offer process to refund Debt that is not otherwise subject to optional call by the Issuer.

Refunding Debt should be issued to achieve debt service savings in most cases. Refundings which do not produce savings are permitted if justified based on the need for restructuring to remove covenants/pledges that are restrictive and/or no longer required by the market and/or to make other changes in debt documents that would provide economic or other benefits the current, short-term, or long term capital cost of the Issuer.

VI. Types of and Limitations on Debt

A) Long-Term Debt

The Issuer may issue Debt with longer-term maturities to amortize Issuer capital or other costs over a period commensurate with the expected life, use or benefit provided by the project, program or facilities financed from such Debt. Long-term Debt will generally have a final maturity of five (5) years or more. Long-term debt is appropriate for financing essential capital projects and certain capital equipment where the project being financed will provide benefit over multiple years and the Issuer considers the project to be of vital, time-sensitive need and there are no plausible alternative financing sources after considering other alternatives, such as pay-as-you-go funding or existing funds on hand.

B) Short-Term Debt

The Issuer may issue Debt with shorter-term maturities to provide interim funding for capital projects and expenditures that will ultimately be funded from another source such as a grant, a long-term Debt issue, or the receipt of Federal or State grants, other revenues, and/or for cash flow management. Short-term Debt shall consist of Debt of an issue with a final maturity of less than five (5) years and may include, but is not limited to, Debt in the form of Tax and Revenue Anticipation Notes, Bond Anticipation Notes, Grant Anticipation Notes, and/or Commercial Paper.

C) Sales Tax Revenue Debt

If and to the extent authorized in accordance with applicable provisions of State law, the Issuer may issue Debt payable in whole or in part from sales tax revenues. It is expected that sales tax revenue debt will represent the principal form of Debt of the Issuer.

D) Other Revenue Debt

If and to the extent authorized in accordance with applicable provisions of State law, the Issuer may issue Debt payable in whole or in part from other types of revenues.

E) Other Federally Supported Programs

The Issuer may also participate in federal loans administered or provided by the United States, including, but not limited to, loans provided by the Department of Transportation under the Railroad Rehabilitation and Improvement Financing Program, the Transportation Infrastructure Finance and Innovation Act (TIFIA), as well as federally subsidized taxable and tax-exempt bond programs, and may secure credit enhancement and/or credit support provided under Federal programs, provided such loans, bonds or programs provide an attractive funding cost or other desirable features such as, but not limited to, deep subordination of the repayment obligation, an

unusually long repayment term, or no payment due until a certain period after substantial project completion.

F) Fixed-Rate Debt

The Issuer may issue Debt that bears a fixed-rate rate of interest.

G) Variable Rate Debt

The Issuer may also issue Debt that bears a variable rate of interest, including, but not limited to, variable rate demand obligations, commercial paper and floating rate notes.

VII. Terms and Provisions of Debt

A) Debt Service Structure

The Issuer shall design the financing schedule and repayment of debt so as to take best advantage of market conditions, provide flexibility and, as practical, to recapture or maximize its debt capacity for future use. Annual debt service payments will generally be structured on a level basis; however, principal amortization may occur more quickly or slowly where permissible, to mirror debt repayment streams and/or provide future financing flexibility.

B) Amortization of Principal

Long-term Debt of the Issuer shall be issued with maturities that amortize the principal of such Debt over a period commensurate with the expected life, use or benefit (measured in years) provided by the projects, programs and/or facilities financed from the proceeds of such Debt. The weighted average maturity of such Debt (if issued as tax-exempt Debt) should not exceed one hundred and twenty percent (120%) of the reasonably estimated weighted average life, use or benefit (measured in years) of the projects, programs and/or facilities financed from the proceeds of such Debt.

Amortization of principal may be achieved either through serial maturities and/or through term Debt subject to mandatory sinking fund payments and/or optional redemptions.

C) Capitalized Interest

The Issuer may fund interest on Debt from proceeds of Debt for legal, budgeting or structuring purposes.

D) Call Provisions for Debt

- 1) Optional Call Provisions. The Issuer shall seek to include the shortest practicable optional call rights, with and/or without a call premium, consistent with optimal pricing of such Debt. Call premiums, if any, should not be in excess of then prevailing market standards and to the extent consistent with the most advantageous borrowing cost for the Issuer. Non-callable maturities may be considered and used to accommodate market requirements or other advantageous benefits to the Issuer.
- 2) Extraordinary Call Provisions. The Issuer, at its option, may include extraordinary call provisions, including for example with respect to unspent proceeds, damage to or destruction of the project or facilities financed, or other matters, as the Issuer may determine is necessary or desirable.

E) Payment of Interest

- 1) Current Interest Debt may be issued. It is anticipated that the interest on most, if not all, Debt issued will be paid on a current interest basis.
- 2) Deferred Interest Debt may also be issued. Debt of the Issuer may be issued with the payment of actual or effective interest deferred in whole or in part to the maturity or redemption date of each debt instrument, or the conversion of such debt instrument to a current interest-paying debt instrument (known, respectively, as capital appreciation bonds, zero coupon bonds and convertible capital appreciation bonds). Deferred Interest Debt may be issued to achieve optimal sizing, debt service structuring, pricing or other purposes.

F) Determination of Variable Interest Rates on Debt

The interest rate from time to time on Debt the interest of which is not fixed to maturity may be determined in such manner that the Issuer determines, including without limitation on a daily, weekly, monthly or other periodic basis, by reference to an index, prevailing market rates or other measures, and by or through an auction or other method.

G) Tender Options on Debt

The Issuer may issue Debt subject to the right or obligation of the holder to tender the Debt back to the Issuer for purchase, including, for example, to enable the holder to liquidate their position, or upon the occurrence of specified credit events, interest rate mode changes or other circumstances. The obligation of the Issuer to make payments to the holder upon any such tender may be secured by (i) a credit or liquidity facility from a financial institution in an amount at least equal to the principal amount of the Debt subject to tender, (ii) a liquidity or similar account into which the Issuer shall deposit and maintain an amount at least equal to the principal amount of the Debt subject to tender, or (iii) other means of self-liquidity that the Issuer deems prudent.

H) Multi-Modal Debt

The Issuer may issue Debt that may be converted between two or more interest rate modes without the necessity of a refunding. Such interest rate modes may include, without limitation: daily interest rates, weekly interest rates, other periodically variable interest rates, commercial paper rates, auction rates, fixed rates for a term and fixed rates to maturity (in each case with or without tender options).

I) Debt Service Reserve Funds

The Issuer may issue Debt that is secured by amounts on deposit in or credited to a debt service reserve fund or account in order to minimize the net cost of borrowing and/or to provide additional reserves for debt service or other purposes. Debt service reserve funds may secure one or more issues of Debt, and may be funded by proceeds of Debt, other available moneys of the Issuer, and/or by surety policies, letters or lines of credit or other similar instruments. Surety policies, letters or lines of credit or other similar instruments may be substituted for amounts on deposit in a debt service reserve fund if such amounts are needed for capital projects or other purposes.

Amounts in the debt service reserve funds shall be invested in accordance with the requirements of the applicable Debt documents in order to (i) maximize the rate of return on such amounts; (ii) minimize the risk of loss; (iii) minimize volatility in the value of such investments; and (iv) maximize liquidity so that such amounts will be available if it is necessary to draw upon them.

J) Lien Levels

The Issuer may create senior and junior lien pledges, as well as pledges at various lien priority levels, for each fund source which secures Debt repayment in order to optimize financing capacity.

VIII. Maintenance of Liquidity; Reserves

The Issuer may maintain unencumbered reserves in amounts sufficient in the determination of the Issuer to cover unexpected revenue losses, extraordinary payments and other contingencies, and to provide liquidity in connection with the Issuer's outstanding Debt.

IX. Investment of Debt Proceeds and Related Moneys

Proceeds of Debt and amounts in the Issuer's debt service, project fund and debt service reserve funds with respect to outstanding Debt shall be invested in accordance with the terms of the applicable Debt documents and other applicable agreements of the Issuer.

X. Third Party Credit Enhancement

The Issuer may secure credit enhancement for its Debt from third-party credit providers to the extent such credit enhancement is available upon reasonable, competitive and cost-effective terms. Such credit enhancement may include municipal bond insurance ("Bond Insurance"), letters of credit and lines of credit (collectively and individually, "Credit Facilities"), as well as other similar instruments.

A) Bond Insurance

All or any portion of an issue of Debt may be secured by Bond Insurance provided by municipal bond insurers ("Bond Insurers") if it is economically advantageous to do so, or if it is otherwise deemed necessary or desirable in connection with a particular issue of Debt. The relative cost or benefit of Bond Insurance may be determined by comparing the amount of the Bond Insurance premium to the present value of the estimated interest savings to be derived as a result of the insurance.

B) Credit Facilities

The issuance of certain types of Debt requires a letter of credit or line of credit (a "Credit Facility") from a commercial bank or other qualified financial institution to provide liquidity and/or credit support. The types of Debt where a Credit Facility may be necessary include commercial paper, variable rate Debt with a tender option and Debt that could not receive an investment grade credit rating in the absence of such a facility.

The criteria for selection of a Credit Facility provider shall include the following:

- 1) Long-term ratings from at least two nationally recognized credit rating agencies ("Rating Agencies") preferably to be equal to or better than those of the Issuer;
- 2) Short-term ratings from at least two Rating Agencies of at least P-1/A-1 or equivalent;
- 3) Experience providing such facilities to state and local government issuers;
- 4) Fees, including without limitation initial and ongoing costs of the Credit Facility; draw, transfer and related fees; counsel fees; termination fees and any trading differential; and
- 5) Willingness to agree to the terms and conditions proposed or required by the Issuer.

XI. Methods of Sale and Pricing of Debt

There are three principal methods for the sale of Debt: (i) competitive; (ii) negotiated and (iii) private placement. In addition, Debt may be incurred as a direct loan. The Issuer shall

utilize the method of sale that (a) is reasonably expected to produce the most advantageous interest cost with respect to the Debt and (b) provides the Issuer with the flexibility most desirable in connection with the structuring, timing or terms of such Debt. The Issuer shall utilize such method that is likely to provide the most advantageous borrowing costs and execution on behalf of the Issuer.

Debt may be sold at such prices, including at par, a premium or a discount, as the Issuer, in consultation with its municipal advisor, may determine is likely to produce the most advantageous interest cost under then prevailing market conditions, subject to compliance with applicable State law and Federal securities laws.

A) Competitive Sale

The competitive method of sale is appropriate when:

- 1) Bond prices are stable and/or there is strong demand for the bonds;
- 2) Market timing and interest rate sensitivity are not critical to the pricing;
- 3) Issuer has a strong credit rating and is well known to investors;
- 4) The Issuer has straightforward political and organizational structure, and the project, funding, and credit quality are easy to understand and market to potential investors;
- 5) The Debt type and structure are conventional and the transaction size is manageable.

B) Negotiated Sale

A negotiated sale is appropriate when at least one of the following conditions exist:

- 1) There is market volatility and/or weak demand and high supply of competing financings;
- 2) The Debt structure is complex;
- 3) Issuer has lower or weakening credit rating and is not well known to investors;
- 4) The Debt has non-standard structural features, such as a forward delivery, issuance of variable rate bonds, use of derivative products, or possesses a specific structuring feature that benefits from a negotiated sale;
- 5) Early structuring and market participation by underwriters are desired and there is strong projected retail demand for the Debt;
- 6) The Debt size is significantly larger and would limit competition.

For a negotiated bond sale, the Issuer, with the assistance of its municipal advisor, will conduct a competitive underwriter selection process for either a specific Debt issue or through the establishment of an underwriter pool from which to choose over a defined period of time.

C) Private Placement

A private placement is structured for one investor or a small group of investors, who are typically qualified institutional buyers, in a non-public offering conducted by an underwriting firm serving as placement agent. Since no public offering is involved, securities disclosure requirements are not as heavy. If a private placement is considered as the optimal sale method for the Issuer, the municipal advisor will conduct a competitive selection process to recommend the placement agent.

D) Direct Purchase; Direct Loan; Revolving Obligations

A direct purchase or direct loan is structured specifically for one bank (or a syndicate of banks), putting the Issuer and bank in a bilateral borrower-lender relationship. Examples include a direct purchase agreement or revolving credit facility. Securities disclosure requirements are the least burdensome for this structure. A direct purchase or direct loan may be advisable if the Issuer is unable to access the municipal capital markets. If a direct purchase or direct loan is contemplated, the municipal advisor will conduct a competitive selection process to recommend the bank. Selection criteria will include:

- 1) A term sheet to be provided along with the request for qualifications, with any requested modifications to be highlighted by the bank and taken into consideration in the evaluation process;
- 2) A representative list of clients for whom the bank has provided similar agreements; and
- 3) Evaluation of fees, specifically, cost of the agreement including index, spread, and other administrative charges. The evaluation of fees, terms and conditions will be compared to other alternative financing methods.

XII. Debt Redemption Programs

The Issuer may establish from time-to-time a plan or program for the payment and/or redemption of outstanding Debt and/or interest thereon from revenues and/or other available funds pursuant to a recommendation from the Chief Financial Officer. Such plan or program may be for the purposes of reducing outstanding Debt, managing the amount of debt service payable in any year, or other suitable purposes, as determined by the Issuer.

XIII. Professional Services

The Issuer may retain professional services providers as necessary or desirable in connection with: (i) the structuring, issuance and sale of its Debt; (ii) monitoring of and advice regarding its outstanding Debt; and (iii) the negotiation, execution and monitoring of related agreements, including without limitation Bond Insurance, Credit Facilities, Derivatives and investment agreements; and (iv) other similar or related matters. Professional service providers may include municipal advisors, bond counsel, disclosure counsel, Issuer consultants, bond trustees and Federal arbitrage rebate services providers, and may include, as appropriate, underwriters, feasibility consultants, remarketing agents, auction agents, broker-dealers, escrow agents, verification agents and other similar parties.

The Issuer shall require that its Municipal Advisors, bond and disclosure counsel and other Issuer consultants be free of any conflicts of interest, or that any necessary or appropriate waivers or consents are obtained.

A) Municipal Advisors

The Issuer may utilize one or more municipal advisors to provide ongoing advisory services with respect to the Issuer's outstanding and proposed Debt and related agreements, including without limitation Bond Insurance, Credit Facilities, Derivatives, investment agreements and other similar matters. Municipal advisors must be registered with the Municipal Securities Rulemaking Board and as a municipal advisor as such term is defined in the Securities Exchange Act of 1934 and shall be required to disclose any conflicts of interest.

B) Bond Counsel, Disclosure Counsel and Other Legal Counsel

- 1) Bond Counsel. The Issuer may utilize one or more bond counsel firms to provide ongoing legal advisory services with respect to the Issuer's outstanding and proposed Debt and related agreements, including without limitation Credit Facilities, Derivatives, investment agreements and other similar matters. All Debt issued by the Issuer shall require a written opinion from the Issuer's bond counsel, as appropriate, regarding (i) the validity and binding effect of the Debt, and (ii) the exemption of interest from Federal and State income taxes.
- 2) Disclosure Counsel. The Issuer may utilize a disclosure counsel firm to provide ongoing legal advisory services with respect to initial and continuing disclosure in connection with the Issuer's outstanding and proposed Debt. Such firm may be one of the Issuer's bond counsel firms.
- 3) Other Legal Counsel. The Issuer may encourage or require, as appropriate, the retention and use of legal counsel by other parties involved in the issuance of Debt and the execution of related agreements which are approved by the Issuer.

C) Issuer Consultant

The Issuer may utilize one or more outside Issuer consultants to provide ongoing advisory services with respect to the Issuer's outstanding and proposed Debt, Issuer fares, strategic business and financial decisions and such other matters as the Issuer requires.

D) Trustees and Fiscal Agents

The Issuer may engage bond trustees and/or fiscal agents, paying agents and tender agents, as necessary or appropriate, in connection with the issuance of its Debt.

E) Underwriters/Remarketing Agents/Broker-Dealers

The Issuer may engage an underwriter or a team of underwriters, including a senior managing underwriter, in connection with the negotiated sale of its Debt. The Issuer also may engage one or more underwriters, as necessary or appropriate, to serve as remarketing agents, broker-dealers or in other similar capacities with respect to variable rate, auction, tender option, commercial paper and other similar types of Debt issued by the Issuer.

F) Feasibility Consultants

The Issuer may retain feasibility consultants in connection with proposed project, programs, facilities or activities to be financed in whole or in part from proceeds of Debt. The criteria for the selection of such feasibility consultants, in addition to those set forth above, shall include their expertise and experience with projects, programs, facilities or activities similar to those proposed to be undertaken by the Issuer.

G) Arbitrage Rebate Services Providers

Because of the complexity of the Federal arbitrage rebate statutes and regulations, and the severity of potential penalties for non-compliance, the Issuer may retain an arbitrage rebate services provider in connection with its outstanding and proposed Debt, and may also solicit related legal and tax advice from its bond counsel or separate tax counsel. The responsibilities of the arbitrage rebate services provider shall include: (i) the periodic calculation of any accrued arbitrage rebate liability and of any rebate payments due under and in accordance with the Code and the related rebate regulations; (ii) advice regarding strategies for minimizing arbitrage rebate liability; (iii) the preparation and filing of periodic forms and information required to be submitted to the Internal Revenue Service; (iv) the preparation and filing of requests for reimbursement of any prior overpayments; and (v) other related matters as requested by the Issuer.

The Issuer shall maintain necessary and appropriate records regarding (i) the expenditure of proceeds of Debt, including the individual projects and facilities financed and the amounts expended thereon, and (ii) investment earnings on such Debt proceeds. The Issuer shall maintain such records for such period of time as shall be required by the Code.

H) Other Professional Services

The Issuer may retain such other professional services providers, including without limitation verification agents, escrow agents, auction agents, as may be necessary or appropriate in connection with its Debt.

XIV. Budgeting and Capital Planning

The Issuer's budgeting process, including its budgeting process for capital expenditures, shall provide a framework for evaluating proposed Debt issuances.

XV. Credit Rating Objectives

The Issuer shall seek to preserve and enhance the credit ratings with respect to its outstanding Debt to the extent consistent with the Issuer's current and anticipated business operations and financial condition, strategic plans and goals and other objectives, and in accordance with any developed credit strategies.

XVI. Debt Affordability

Consistent with its credit rating objectives, the Issuer shall periodically review its debt affordability levels and capacity for the undertaking of new financing obligations to fund its expenditure plans. Debt affordability measures shall be based upon the credit objectives of the Issuer, criteria identified by rating agencies, comparison of industry peers and other internal factors of the Issuer.

XVII. Relationships with Market Participants

The Issuer shall seek to preserve and enhance its relationships with the various participants in the municipal bond market, including without limitation, the Rating Agencies, Bond Insurers, credit/liquidity providers and current and prospective investors, including through periodic communication with such participants.

The Issuer shall prepare or cause to be prepared appropriate disclosures as required by the Securities and Exchange Commission Rule 15c2-12, the federal government, the State of California, rating agencies and other persons or entities entitled to disclosure to ensure compliance with applicable laws and regulations and agreements to provide ongoing disclosure.

XVIII. Periodic Review

The Chief Financial Officer shall review this Debt Policy on a periodic basis, and recommend any changes to the Board for consideration. This Debt Policy, including any proposed changes or additions hereto, shall be presented to the Board at least once every three (3) years for re-approval.



Memorandum

Date: August 10, 2020
To: Erin McGrath, CFO, *Sonoma-Marin Area Rail Transit District*
From: Sarah Hollenbeck, *PFM Financial Advisors LLC*
Robert Rich, *PFM Financial Advisors LLC*
Re: 2011A Bond Refunding – Selection of Underwriters

Purpose

The purpose of this memorandum is to describe the process used by PFM Financial Advisors LLC (“PFM”), as Municipal Advisor to SMART, to solicit proposals from underwriting firms and direct purchasers in connection with the proposed refinancing of SMART’s 2011A Sale Tax Revenue Bonds, and to provide PFM’s recommendation regarding the firms to be selected as underwriters for the proposed transaction.

Background

Given the current favorable interest rate environment, SMART has the opportunity to refinance its outstanding 2011A Sales Tax Revenue Bonds to achieve modest debt service savings and improve cashflow. Pursuant to staff’s prior presentation to the SMART Board of Directors, on July 10, 2020, PFM distributed a Request for Proposals on behalf of SMART seeking interested firms to serve as either underwriter or direct purchaser in connection with SMART’s proposed refunding bonds. The RFP was distributed to a diverse group of 17 firms, noted below.

Backstrom McCarley Berry	Goldman Sachs	State Street
Bank of America Securities	JP Morgan	UBS
Barclays	Morgan Stanley	US Bank
Bank of New York Mellon	MUFG	Wells Fargo
Cabrera Capital Markets	Siebert Williams Shank	TD Securities
Citi	SMBC	

Six of the top ranked underwriting firms responded to the solicitation: Bank of America Securities, Barclays, Citi, JP Morgan, Morgan Stanley, and Wells Fargo. All the respondents proposed to provide underwriting services for publicly offered municipal bonds, and four of the six also offered an alternative to purchase SMART’s bonds via a direct placement.

Analysis

The responses from each of the six banks were reviewed by SMART finance staff and PFM and evaluated for the following content:

- Quality of proposal

- Creativity of ideas
- Experience of the Firm
- Experience of the Team

These factors are important in selecting the best firm to execute a successful public refinancing, achieving the lowest cost and greatest flexibility available at the time of financing. Fees are not part of the evaluation but will be discussed and negotiated once the most qualified proposers are chosen.

Recommendations

Direct Placement: Although direct placements were presented as an option in the proposals, the proposed interest rates for a direct placement are higher than those for a public offering, and given the inherent complexity to the direct placement structures and their limited ability to offer a simpler issuance process, PFM is not recommending a direct placement at this time.

Choice of underwriters: PFM recommends that SMART pursue a public bond offering using an underwriting syndicate comprising two firms, Barclays and Bank of America Securities (“BofA”). Barclays would serve as lead manager, and BofA would serve as co-senior manager. The practice of choosing more than one firm allows SMART to combine the strategies and broaden the potential investor base. In this case, Barclays brings institutional knowledge of SMART (the lead banker for their team worked on both the District’s 2011 and the 2012 transactions) and strong experience with both transit and sales tax issuers, including two significant transactions in during the COVID pandemic. Their proposal was thoughtful, thorough, and demonstrated the deepest understanding of SMART’s current situation and objectives. BofA is a top-ranked underwriter of transportation sales tax bonds, a large bond distribution network and has had recent success marketing highly-rated California taxable municipal bonds to retail investors. BofA’s strengths would complement those of Barclays and, in our view, together they would provide SMART the best underwriting team for the refunding bonds.

Upon your acceptance of this recommendation we will proceed with informing the firms involved and begin the next steps in the refinancing process.



September 16, 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
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Gary Phillips
Transportation Authority of Marin

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

SUBJECT: Fiscal Year 2019-20 Year End Information and Fiscal Year 2020-21
Additional reduction information

Dear Board Members:

RECOMMENDATION: Receive Year-end savings information and Approve Resolution No. 2020-18 providing for additional reduction of two (2) full time employees (FTE).

SUMMARY:

During our budget discussions in the Spring, we discussed the unknown nature of the impact of the shelter-in-place orders and the changing financial landscape we face. Today we are providing you with updates on additional savings we were able to achieve in the last half of the fiscal year and recommending a further reduction in our employee count for Fiscal Year 2020-21. You will recall that during the budget approval process, we identified and you approved one-time and ongoing reductions of \$7.2 million which was equivalent to 20% of our operating budget and 10% of the overall budget at that time.

Year-End Summary for Fiscal Year 2019-20:

Because the Fiscal Year 2019-20 year-end numbers presented to your Board in June were developed during April and May, those numbers provided only projections of final costs and revenues amidst a constantly changing landscape. We shared at that time that we had frozen all non-essential hiring and were working to reduce costs by limiting purchases and eliminating any unnecessary costs. At the time of budget approval, we indicated that we would return in September to update you on the final numbers for the year with the hopes that we would be able to achieve additional savings from the budgeted amounts.

During the month of August, we completed processing invoices related to Fiscal Year 2019-20 that ended on June 30. Although we are still waiting for reviews and the final numbers from our auditors, we are pleased to report

that we ended the Fiscal Year with lower expenditures than budgeted, allowing us to capture additional savings that will be available for future budget challenges. The savings we were able to achieve are as follows:

- Salaries and Benefits: \$1.3 million due to holding positions vacant, overtime savings
- Administrative Services/Contracts: \$1.4 million in savings from legal services, insurance retention and consulting services
- Administrative other: \$0.5 million in savings over anticipated costs for the Measure I election
- Operations Services/Contracts/Equipment: \$3 million on fuel, maintenance contracts, emergency services set asides, equipment and switches to lower cost suppliers
- Projects and Engineering: \$4.1 million in project and capital related expenses due to savings in consulting and permit fees, release of contingencies, and value engineering

The combined value of these savings is \$10.3 million. These funds will be a valuable resource as we continue to evaluate our needs for the coming two years. We have a preliminary projection from our sales tax auditor indicating that sales tax will drop another 5.3% over our received amounts in Fiscal Year 2020, and that it will take at least two more years for receipts to reach FY 2019 amounts, if not more. The good news is that we budgeted for a greater drop and hope that their projection proves accurate.

Additional Reductions for Fiscal Year 2020-21:

During the budget process, we explained that the CARES Act funding was providing a much-needed safety net allowing us to retain our experienced, trained rail operating staff while we evaluate the length and severity of the pandemic's effects on our financial situation. Although we received less funding than anticipated, that emergency funding is still providing the support for our operations while we consider our next steps.

To date, we have not recommended layoffs for our employees because we were experiencing attrition that was sufficient to allow us to reduce our full-time equivalent (FTE) employees by 13 during the June budget approvals. Today we are reporting to you that we have additional vacancies and we recommend eliminating two additional FTEs. We have evaluated our needs under the new 6-1-6 schedule (to commence when ridership demands additional service) and believe that we can further reduce our total Engineer-Conductor count to 23 and still provide that service when the shelter in place is lifted. This number will also allow us to run weekend service whenever health orders and our partners in the region agree that ridership for those runs could be returning.

Attached is Resolution No. 2020-18 that would eliminate these 2 vacancies in the Fiscal Year 2020-21 budget, leading to an annual salary and benefits expense reduction of \$310,078. Combined with the savings of \$10.3 million we were able to achieve since the beginning of the year, and the \$3.5 million in ongoing cost reductions approved in June, we are very optimistic that we will successfully weather a pandemic that is now lasting far longer than we had hoped in the early weeks of the pandemic.

In the coming months, we will continue to monitor revenue and expense and will bring you an update whenever any significant changes are apparent. This is in addition to the monthly budget reports you will be receiving in your Agenda packet during the first Board meeting every month going forward.

Very truly yours,

/s/

Erin McGrath
Chief Financial Officer

Attachment: Resolution No. 2020-18 Amending the Fiscal Year 2020-21 budget

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT AMENDING RESOLUTION NO. 2020-10 TO REVISE THE ANNUAL BUDGET FOR FISCAL YEAR 2020-21 TO PROVIDE FOR REVISED POSITION AND EXPENDITURE AUTHORITY

WHEREAS, as part of its approval of the Annual Budget for Fiscal Year 2020-21, the Board duly considered the annual expenditures necessary for the Sonoma-Marín Area Rail Transit District; and

WHEREAS, on June 17, 2020, the Board adopted Resolution No. 2020-10 approving the annual budget for Fiscal Year 2020-21; and

WHEREAS, Resolution No. No. 2020-10 considered the creation of employee positions and fixed the compensation and salary for those positions; and

WHEREAS, the Board desires to Amend the Annual Budget to provide the revised position authority for reduced salary and benefit expenditures.

NOW, THEREFORE, BE IT RESOLVED THAT THE Fiscal Year 2020-21 Budget for the Sonoma-Marín Area Rail Transit District attached as Exhibit A to Resolution No. 2020-10 is hereby amended to revise Table 5, Fiscal Year 2020-21 Proposed Position Authorizations, to reflect position revisions as shown below.

Position	FTE	Salary Range Annual		Salary Range: Hourly	
		Low	High	Low	High
Engineer-Conductor**	25 23	\$85,155	\$100,173	\$ 40.94	\$ 48.16
** Engineer/Conductor may be filled by Conductors, Total FTE for both positions combined is 23					

BE IT FURTHER RESOLVED that the Fiscal Year 2020-21 Annual Budget for the Sonoma-Marín Area Rail Transit District attached as Exhibit A to Resolution No. 2020-10 is hereby amended to reduce authorizations as follows:

EXPENDITURES:

Operations Salaries and benefits **\$15,510,578**

BE IT FURTHER RESOLVED except as specifically amended or supplemented by this Resolution, Resolution No. 2020-10, together with all supplements, amendments and exhibits thereto is, and shall continue to be, in full force and effect as originally adopted, and nothing contained herein shall, or shall be construed to, modify, invalidate or otherwise affect any provision of Resolution No. No. 2020-10.

Resolution No. 2020-18
Sonoma-Marín Area Rail Transit District
September 16, 2020

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Sonoma-Marín Area Rail Transit District held on the 16th day of September, 2020, by the following vote:

DIRECTORS:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTEST:

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