Board of Directors Meeting: June 18, 2024 (Tuesday) – Public Comments

Date	Name	2. Approval of May 15, 2024 Board Meeting Minutes
		None
Date	**Name**	**6. Public Comment on Non-Agenda Items**
		None
Date	**Name**	**7a. Accept Monthly Ridership Report – May 2024** **7b. Approval of Monthly Financial Reports – April 2024** **7c. Authorize the General Manager to Execute Contract Amendment No. 1 to Contract No. FN-PS-21-001 with MuniServices, LLC for an amount of $50,000 for a total not-to-exceed amount of $193,322 to provide sales and use tax auditing and forecasting services** **7d. Authorize the General Manager to Execute Contract Amendment No. 5 to Contract No. FN-PS-21-002 with Sierra-Cedar for an amount of $252,000 for a total not-to-exceed amount of $610,200 to provide on-call support and consultant services for SMART's Oracle Enterprise Resource Planning Software** **7e. Approve the Procurement of Oracle Licenses in the amount of $329,412.74 for the period of July 1, 2024 – June 30, 2025** **7f. Authorize the General Manager to execute Contract No. OP-SV-24-001 with Hulcher Services, Inc. in an amount not-to-exceed $300,000 to provide on- Call Equipment Derailment Recovery and Mobile Repair Services for two-year contract with provisions for three (3) optional one-year extensions**
		None
Date	**Name**	**8. Adopt Resolutions Approving the Fiscal Year 2024-25 Annual Budget and Declaring and Ratifying the Annual Appropriation Limit for Fiscal Year 2024-25 – *Presented by Chief Financial Officer, Heather McKillop***
		None
Date	**Name**	**9. Authorize the General Manager to execute Contract Amendment No. 2 to Contract No. OP-PS-21-002 with Portola Systems for an amount of $622,540 for a total not-to-exceed amount of $1,319,000 to extend ongoing management and maintenance support for the existing SMART Station Network by two additional one-year extensions - *Presented by Information System Manager, Bryan Crowley***
		None

Date	Name	10. Authorize the General Manager to execute Contract Amendment No. 1 to Contact No. OP-IS-20-002 with Intelligent Technology Solutions, LLC (ITS) for an amount of $428,000 for a total not-to-exceed amount of $1,211,000 to provide an optional two-year extension for Maximo Software as a Service (SaaS) and associated support services - *Presented by Information System Manager, Bryan Crowley*
		None
		11. Adopt a Resolution Authorizing the General Manager to Execute Change Order 004 to Contract No. CV-BB-23-002 with Ghilotti Brothers in an amount of $827,571 and Contract Extension to March 31, 2025 for the Construction of Non-Motorized Pathway between McInnis Parkway and Smith Ranch Road, San Rafael - *Chief Engineer, Bill Gamlen*
		None
		12. Appointment of General Counsel and Approve Appointment Agreement, Effective July 8, 2024 – *Presented by General Manager Cumins*
		None
		13. Authorize the General Manager to Award Contract No. PL-PS-24-002 with Fehr & Peers for an amount not-to-exceed of $438,311 to provide the technical services and support for the development of SMART's Quality of Life and Economic Impact Assessment - *Presented by Planning Manager, Emily Betts*
06/17/2024	Mike Arnold	Attached
		14. Adopt a Resolution Approving SMART's Participation in the No-Cost and Reduced Cost Interagency Transfer Pilot Program - *Presented by Chief Financial Officer, Heather McKillop*
		None
		15. Metropolitan Transportation Commission Regional Mapping and Wayfinding Project and Downtown Santa Rosa Prototype (*Information*) – *Presented by Planning Manager, Emily Betts*
		None

To: Eric Lucan, SMART Chair and SMART Boardmembers; Eddy Cumins; Heather McKillop

From: Mike Arnold

Subject: Comment on Agenda Item #13 – Scope of Work for Fehr&Peers Study

Date: June 16, 2024

On Equity Impacts

One of the objectives of the analysis to be conducted by Fehr & Peers SMART's *Quality of Life and Economic Impact Assessment* states:

> The objective of the Study is to examine the role of SMART's rail and pathway construction and operation in driving outcomes for key quality of life indicators including mobility, the economy, land use, the environment, public health, safety, accessibility, and **equity**. (p. 227/289 in packet, emphasis added).

And on the same page, it states:

> Conduct the required quantitative and qualitative analyses for each of the quality of life indicators;

However, nowhere in the scope of work are the equity impacts associated with the funding for SMART – that is, the sales tax – asked for or even mentioned. <u>This is a critical oversight in the scope of work,</u> that is, if the agency wants to claim it is providing an unbiased analysis of this complex issue.

As every Boardmember knows, as your GM and CFO know, the sales tax is the most regressive tax in widespread use across the nation at the local level. 46 states impose sales taxes. In 2021, state and local governments collected $689B through this tax.

What does "regressivity" mean? First, less affluent households, families, and individuals, almost by definition, pay a higher percentage of their incomes in sales taxes than more affluent households for two reasons:

- As household and individual incomes rise, a higher proportion of income is spent on non-taxable services.
- As incomes rise, a higher percentage of income is saved and not taxed via the sales tax.

Both of these factors mean that as a proportion of household, family, or individual income, the less affluent are paying a higher percentage of their income to subsidize SMART operations than more affluent households. It means the funding of SMART's operations through the sales tax is decidedly **inequitable**.

Second, sales taxes paid by consumers are largely hidden in the pretax price of goods and services – even tax-exempt services – from the "pass through" of sales tax costs paid by businesses into their pretax prices. Economists believe that virtually all of the taxes paid by business are passed through via this channel[1] and as a consequence, as one Professor at UC Berkeley noted, "the price of a tax-exempt banana at Safeway contains a cost of sales taxes paid by Safeway."

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[1] For reference, see Institute of Economics and Tax Policy, "Who Pays?" (Jan 2024).

If an objective of the study is to be unbiased and transparent, shouldn't these equity impacts be included in the scope of work? Ignoring how the agency funds operations will only reinforce impressions voters have that the agency is "hiding relevant information" from the public, a reputation it earned in past administrations.[2]

For similar reasons, the study's scope of work should require Fehr&Peers to analyze the affluence of SMART passengers vs. the affluence of the residents of the county who are subsidizing travel by SMART trains. Indeed, if the average incomes of SMART passengers is higher than the average income of the residents paying sales taxes, voters might conclude that the agency is ignoring the obvious conclusion that it is an example of "Robinhood in Reverse Public Policy."

The study's scope of work should require Fehr&Peers to analyze Clipper Card data, which provides data on the frequency of card use. The data is readily available from the MTC.

When these data are analyzed, for instance, as I have found and communicated to staff, the distribution of boardings is not uniform, with each passenger—identified by Clipper Card number—taking the same number of trips over time. Indeed, a significant proportion of the boardings on SMART as well as other transit systems in the Bay Area based on this metric are by regular, frequent transit users.

What does this mean? When the high subsidy per boarding is combined with the distribution of individuals receiving the subsidy, the decidedly inequitable **equity impacts** associated with the sales tax are reinforced, rather than mitigated. Not only is the funding for subsidizing SMART's more affluent passengers derived from many less affluent households and individuals that never take the train, but the benefits of those subsidies in some cases are particularly large, because they are accruing to more affluent individuals using the train on a regular basis.

Just consider how the math works. If the taxpayer subsidy per boarding is $45, the subsidy for an individual taking 5 round trips is $450 per week.

Assessment of Multiplier Economic Impacts

Task 4 in the Scope-of-work states:

> The Consultant shall also calculate a multiplier that computes what each dollar invested in SMART generates for the local and regional economy. (p. 232/289)

Nowhere in this task are the multiplier impacts from raising taxes included in the scope. It's as if drafters of scope of work assume taxes are free from opportunity cost and have no impact on consumption. Of course, this is ridiculous. Higher sales taxes come at a cost of what would otherwise be consumed.

As a result, if the Board desires to understand employment impacts from SMART expenditures, it should also require the consultant to include the negative employment impacts from reductions in consumption of other goods and services associated with higher tax payments.

Many people think when a local government spends a dollar locally, that all of the expense flows to local businesses and residents. Of course, this too is silly because in our complex economy the inputs to the product of all goods and services contain goods and services produced elsewhere. As a result, when SMART spends money, not all of these expenditures accrue to local residents. To the extent, SMART wants to claim "economic benefits" associated with its expenditures and doesn't

[2] SMART's history on this issue is not good. It has been criticized by civil grand juries for hiding relevant information from the public and the argument was used by the NotSoSMART campaign to defeat Measure I.

want to be criticized for ignoring how local economies work, any gross expenditures must be adjusted for proportion of the expenditures that are produced outside the district.

Finally, if the objective of the study is to analyze how these impacts may play out through the year 2050, the study must include how growing sales tax revenues affect consumption and employment patterns over that period.

And for sure, the study should also include an assessment of the impact of a quarter cent sales tax on local purchases by tourists and non-residents.

How Much has SMART Reduced GHG Emissions?

Task 6 calls for the consultants to analyze GHG emission "reductions."

Such a statement is decidedly biased. SMART doesn't know and the public doesn't know how many passengers SMART needs to take before it can even use the word "reduction" because SMART vehicles, including associated truck and auto vehicles, all emit GHGs.

Admittingly, this is not a simple calculation to make. However, SMART's history on this has been entirely misleading, ignoring the complexity of the calculation. For instance, prior to every election the agency has issued a "brochure" touting its contribution to reducing GHGs without ever taking account of how complicated this calculation is because of SMART's own emissions and its impact on traffic congestion in downtown San Rafael.

For instance:

- Not all SMART riders are taking a substitute trip by SMART. Some may have otherwise traveled by bus or not taken the trip at all.
- Not all SMART riders are traveling alone. Particularly on weekends, and because of free fares for those over 65 and under 19, some of SMART passengers are couples or families that would otherwise be traveling in a single vehicle.
- If the objective is to project GHG emissions far into the future (i.e., 2050), the consultant must consider technological changes and continued adoption of EVs and higher mileage vehicles. As more vehicles are converted to EV, the "break even" ridership level increases.[3] Given the changes that have already occurred, using historical averages, as SMART has done in the past, is decidedly biased.
- Congestion caused by SMART at-grade crossings in downtown San Rafael is significant. Those vehicles waiting to cross the at-grade crossings are emitting GHGs. SMART has never measured these impacts.
- To the extent SMART owned trucks and automobiles are not EVs, what is their contribution to GHG emissions?

[3] Think of this in the extreme. Suppose all vehicles on the roadways were EVs, while SMART train engines continue to fueled by diesel. Would there be any basis for claiming SMART reduced GHGs?