

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT MEASURE R

R Shall an ordinance be adopted authorizing the Sonoma-Marín Area Rail Transit District (SMART) to construct, operate, and maintain a passenger rail project and bicycle/pedestrian pathway on publicly owned right-of-way, from Cloverdale in Sonoma County, to Larkspur in Marin County, with a connection to the Larkspur-San Francisco ferry; imposing a 1/4 cent sales tax for 20 years; establishing a Citizens Oversight Committee; and establishing an annual spending cap?

FULL TEXT OF MEASURE R

ORDINANCE NO. 2006-01

**AN ORDINANCE OF THE
SONOMA-MARIN AREA RAIL TRANSIT
DISTRICT IMPOSING A RETAIL TRANSACTIONS
AND USE TAX TO BE ADMINISTERED BY THE
STATE BOARD OF EQUALIZATION; ADOPTING
AN EXPENDITURE PLAN; AND ESTABLISHING
AN ANNUAL APPROPRIATIONS LIMIT
FOR THE SONOMA-MARIN AREA
RAIL TRANSIT DISTRICT.**

BACKGROUND FINDINGS:

The Sonoma-Marín Area Rail Transit District (SMART) was created to provide a passenger rail system along the Northwestern Pacific Railroad within Sonoma and Marin Counties. The entire 75-mile corridor is publicly owned and can be used to provide passenger rail service. SMART will provide passenger rail service and a bicycle/pedestrian pathway to 14 rail stations in Sonoma and Marin Counties. SMART is committed to providing service with the most environmentally clean passenger rail vehicle possible.

SMART requires this measure in order to provide matching revenues to existing state and federal transportation grants, to bond for the construction of the project, and to provide funding for the on-going operation and maintenance of the project.

Section 1. **TITLE.** This ordinance shall be known as the Sonoma-Marín Passenger Rail Act. The Sonoma-Marín Area Rail Transit District hereinafter shall be called "District." This ordinance shall be applicable in the incorporated and unincorporated territory of the Counties of Sonoma and Marin, which shall be referred to herein as "District."

Section 2. **OPERATIVE DATE.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the effective date of this ordinance, as set forth below.

Section 3. **PURPOSE.** This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To provide funding for the design, construction, implementation, operation, financing, maintenance and management of a passenger rail system and a bicycle/pedestrian pathway connecting the 14 rail stations from Cloverdale to Larkspur.

B. To impose a retail transactions and use tax in accor-

dance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 105115 of the Public Utilities Code which authorizes the District to adopt this tax ordinance which shall be operative if a two-thirds majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

C. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

D. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

E. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 4. **CONTRACT WITH STATE.** Prior to the operative date, the District shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Authority shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. **TRANSACTIONS TAX RATE.** For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the District at the rate of 1/4 of 1 percent (0.25%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 6. **PLACE OF SALE.** For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 7. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1/4 of 1 percent (0.25%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 8. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 9. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this District shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this District or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "District" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 10. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of

the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 11. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the District which is shipped to a point outside the District, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the District shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-District and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this District of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the District shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the District or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.

7. "A retailer engaged in business in the District" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the District.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 12. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of

Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 13. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the District, or against any officer of the State or the District, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 14. ESTABLISHMENT OF ANNUAL APPROPRIATIONS LIMIT. Taking into account the proceeds of taxes available to the District, including tax revenue that would become available upon approval of this ordinance, the appropriations limit of the Sonoma-Marine Area Rail Transit District for fiscal year 2006-2007 is established as \$60 million, unless that amount should be amended pursuant to applicable law.

Section 15. ADOPTION OF EXPENDITURE PLAN AND ACCOUNTABILITY FOR EXPENDITURE OF PROCEEDS OF THE TAX. The District Board of Directors hereby adopts the Expenditure Plan attached hereto and incorporated into this ordinance by reference. Proceeds of the tax imposed by this ordinance shall be placed in a special account, and shall be spent only to implement the project components set forth in the Expenditure Plan, including the design, construction, implementation, operation, financing, maintenance and management of the passenger rail system and bicycle/pedestrian pathway.

Section 16. ANNUAL REPORT. The Chief Financial Officer of the Sonoma-Marine Area Rail Transit District shall annually cause to be prepared a report setting forth (a) the amount of funds collected and expended; and (b) the status of any project component authorized to be funded in the Expenditure Plan adopted by the District in Section 15 herein.

Section 17. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). An Environmental Impact Report was prepared for the project described in the Expenditure Plan and was certified by the District Board of Directors on July 19, 2006, prior to the Board's adoption of this ordinance.

Section 18. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 19. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the District transactions and use taxes and shall take effect immediately upon the close of the polls on November 7, 2006, if the measure is approved by two-thirds of the electors voting on the measure at the election held that day.

Section 20. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire twenty (20) years from the operative date of this ordinance.

Section 21. REPEAL OF ORDINANCE NO. 2004-01. Ordinance No. 2004-01 is hereby repealed.

PASSED AND ADOPTED by the Board of Directors of the Sonoma-Marine Area Rail Transit District in the County of Marin, State of California, on July 19, 2006, by the following vote:

DIRECTORS:

**BORO: Aye KERN: Aye REILLY: Aye
BROWN: Noe McGLASHAN: Aye FUDGE: Aye
HEALY: Aye JEHN: Aye BREEN: Aye
DILLON-KNUTSON: Aye EDDIE: Abs. PAHRE: Aye
AYES: 10 NOES: 1 ABSENT: 1 ABSTAIN: 0**

Original on File

Al Boro, Chair, SMART Board of Directors

Attest:

s/LILLIAN HAMES
General Manager and Clerk of the Board

**COUNTY COUNSEL'S IMPARTIAL ANALYSIS
OF MEASURE R**

The Sonoma-Marine Area Rail Transit District ("SMART") is a rail district created by the Legislature in 2003 to evaluate, plan, and implement passenger rail and associated transportation services from Cloverdale in Sonoma County to a ferry terminal in Marin County that connects to San Francisco. The geographic area of the district includes all of Sonoma and Marin counties.

The District is authorized, with the approval of the voters, to propose a special tax to implement this service. The District has adopted an ordinance proposing a quarter-cent transactions and use tax (\$0.0025 on every \$1 spent), to be imposed on retail sales in Sonoma and Marin Counties, beginning April 1, 2007. Proceeds of the tax would provide funding for the design, construction, implementation, operation, financing, maintenance and management of the rail system and a bicycle/pedestrian pathway from Cloverdale in Sonoma County to Larkspur in Marin County. An Expenditure Plan for the tax revenues is incorporated into the proposed sales tax ordinance. The revenue from the tax can only be spent on project elements listed in the Expenditure Plan, including:

1. Rehabilitation and upgrading of the existing Northwestern Pacific Railroad (NWP) corridor from Cloverdale to Larkspur, including new passing sidings.
2. A parallel bicycle/pedestrian pathway.
3. Fourteen rail stations from Cloverdale to Larkspur (9 in Sonoma County, 5 in Marin County).
4. A maintenance facility in either Cloverdale or Windsor.
5. Shuttle service at selected rail stations.

The tax would be collected in the same manner as sales tax is currently collected, would begin on April 1, 2007, and would continue in effect for twenty (20) years.

The District is empowered under state law to issue bonds to fund all or part of the construction of the project, so that work can begin sooner. The bonds would be repaid over time from the tax revenue collected. The ordinance also establishes an appropriations (spending) limit for SMART.

The ordinance must be approved by two-thirds of the voters voting on the question in order for the special tax to go into effect.

s/PATRICK K. FAULKNER
Marin County Counsel
s/STEVEN WOODSIDE
Sonoma County Counsel

ARGUMENT IN FAVOR OF MEASURE R

For decades, traffic congestion on Highway 101 in Marin and Sonoma counties has grown worse, wasting our valuable time, causing stress and aggravation and costing us money. As the Bay Area continues to grow, traffic will only get worse.

That's why **the time is now to move forward with the SMART Train**, giving ourselves an affordable, convenient alternative to freeway traffic.

SMART provides an alternative to Highway 101 grid-lock, removing 5,300 car trips from our roads during the worst commute hours, more than 1.4 million annually. SMART can be running in 3 years, faster than widening the freeway.

SMART is good for our environment, removing 124,000 pounds a day of emissions that pollute our air and water and contribute to global warming. SMART's quiet, energy-efficient and low-emission trains help reduce dependence on fossil fuels.

SMART dramatically slashes commute times, giving you time to relax, enjoy your coffee and read the newspaper. A trip between Santa Rosa and San Rafael often taking more than 1 1/2 hours on Highway 101 will take just 50 minutes on SMART. SMART also cuts the time between Novato and Larkspur from 45 minutes to less than 20 minutes.

SMART supports building a 70-mile bicycle and pedestrian pathway, giving us even more ways to get out of our cars and promoting healthy, close-knit communities.

SMART provides complete fiscal accountability, with an annual spending cap, annual audits and independent citizen oversight. Reducing CO₂ emissions, saving travel time for our employees and avoiding car trips are worth the investment.

SMART increases overall transit use, providing a convenient connection to San Francisco-bound ferries in Larkspur and connecting directly with local bus service. SMART will also operate free, local shuttles.

The time is now. **Vote YES on the SMART Train**, for fewer car trips and cleaner air.

s/ALBERT J. BORO

Chair, SMART Board of Directors
Mayor, San Rafael

s/CHARLES McGLASHAN

Supervisor, County of Marin

s/PERRY NEWMAN

President, Marin League of Women Voters

s/STEVE KINSEY

Supervisor, County of Marin

s/DEB HUBSMITH

Marin County Bicycle Coalition

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE R

Look at the Facts:

SMART will not reduce congestion. Their own studies tell us this. Too few cars are removed from roads to make any difference and delays at rail crossings will worsen traffic in San Rafael.

SMART is not affordable. The taxpayer subsidy per SMART passenger is more than five times that for Golden Gate bus and ferry riders.

SMART is not convenient. There is only one midday train, no weekend service, no parking lots in San Rafael or Larkspur. The Larkspur terminal is a long inconvenient walk to the ferry. Total travel time would be longer than by car for most trips.

SMART is not good for the environment. That's why major environmental organizations in Marin are actively campaigning against it. SMART will harm Marin wetlands. The trains will emit cancer-causing diesel fumes and loud train horns will disturb neighborhoods.

SMART is not fiscally responsible. There is no detailed financial plan. Fuel costs are understated. The shuttle system is underfunded. There is no evidence that SMART can afford even the infrequent service it claims.

SMART is not designed to increase transit use in Marin. There would be no rail service to southern Marin, Ross Valley, or West Marin. SMART will compete for the same funds as our local transit. SMART could degrade our existing Golden Gate transit system.

To reduce global warming, we need to invest wisely, not gamble on a risky, expensive and limited system.

Don't be fooled. Trust the Facts. Vote No on Measure R
s/SUSAN L. ADAMS

Marin County Supervisor

s/JUDY ARNOLD

Novato City Councilmember

s/DENNIS J. RODONI

Director, North Marin Water District

s/HERMAN ARROW

Chair of Steering Committee,

Los Robles Homeowners League

s/DENNIS A. BROWN

Vice President, Marin United Taxpayers Association

ARGUMENT AGAINST MEASURE R

Vote NO on Measure R!

SMART's own \$4 Million Environmental Impact Report shows that the *single-track* train **would not relieve congestion on Highway 101.**

- Of more than 20,000 Sonoma residents working in Marin only 230 would take the train.
- Only 500 Marin residents would take the train each weekday.
- Three quarters of SMART's trips would be within Sonoma, having no effect on traffic in Marin.
- The train would worsen congestion in central San Rafael at key intersections.
- The Larkspur station is a long walk to the Golden Gate Ferry Terminal. It isn't a convenient connection to San Francisco. **Larkspur opposes this station.**
- Trains would operate only twice an hour for weekday commuters, with only one mid-day train. Trains would not operate on weekends.

Ridership is expected to drop after carpool lanes are completed in Marin and Sonoma.

The **\$1.4 billion cost** of SMART is totally out of proportion to its ridership. Golden Gate buses and ferries carry seven times as many weekday passengers for one-fifth the cost per passenger.

The taxpayer subsidy for each passenger on each one-way train trip would be more than \$50. By comparison, **the subsidy for bus and ferry riders is less than \$9.** SMART would take scarce transportation funds from transit programs that would provide better service at lower cost per passenger.

SMART would have negative environmental impacts.

- Loud train horns are required at over 100 street crossings, even in early morning hours, disturbing nearby residents.
- Residential areas, schools and parks would be exposed to diesel engine exhaust.
- Wetlands and endangered species habitats would be destroyed.

Measure R asks taxpayers to spend **\$1.4 billion** for a noisy, diesel train that would take very few riders and **would not relieve congestion.** Ask yourself, would you take this train?

Vote NO on Measure R!

s/HAROLD C. BROWN, JR.

Marin County Supervisor

s/PAT EKLUND

Novato Councilmember and former SMART and Transportation Authority of Marin Board Member

s/ROGER ROBERTS

President, Marin Conservation League

s/NINA LILIENTHAL-MURPHY

President, Lincoln-San Rafael Hill Neighborhood Association

s/BARBARA SALZMAN

President, Marin Audubon Society

REBUTTAL TO ARGUMENT AGAINST MEASURE R

Vote for the Train, Vote YES on Measure R

Opponents of the SMART Train would have us believe that continuing to rely solely on Highway 101 will solve traffic congestion and air pollution. They're wrong. Doing the same old thing isn't the answer to worsening traffic and higher levels of auto emissions.

We need an alternative to Highway 101 that's convenient and fast, that will get people out of their cars and reduce the levels of greenhouse gasses that contribute to global warming. The SMART Train gives us that alternative. SMART puts us on a more sustainable course for the future that reduces our dependence on Highway 101, fossil fuels and cars.

SMART will remove up to 1.4 million car trips annually from Marin and Sonoma roads during the heaviest traffic times. That eliminates almost 16,000 tons of auto emissions each year, emissions that harm our environment and pollute the air we breathe.

In addition, SMART includes a dedicated bicycle and pedestrian pathway running parallel to the rail line, meaning even more cars off our roads and less pollution.

By connecting to local buses and the Larkspur ferry, SMART will increase overall public transit ridership without competing for the same transportation funding. And SMART's modern, lighter and energy-efficient trains are safe, clean and quiet.

We've waited too long for an alternative to Highway 101. We don't have to wait any longer.

Vote YES on Measure R!

s/ALBERT J. BORO

Chair SMART Board, Mayor, San Rafael

s/CHARLES McGLASHAN

Marin County Supervisor

s/PERRY NEWMAN

President Marin League of Women Voters

s/STEVE KINSEY

Marin County Supervisor

s/DEB HUBSMITH

Marin County Bicycle Coalition



***SONOMA-MARIN AREA RAIL
TRANSIT DISTRICT***

2006 EXPENDITURE PLAN

I. Executive Summary: SMART Expenditure Plan

The Sonoma-Marín Area Rail Transit District (SMART) proposes a ¼ cent sales tax measure for Sonoma and Marin Counties in order to pay for the construction and operation of a passenger rail system and ancillary bicycle/pedestrian pathway along the existing Northwestern Pacific Railroad.

Passage of this measure allows SMART to access other state, regional, and federal funds for the provision of passenger rail service that are currently unavailable to Sonoma and Marin residents.

This measure would raise approximately \$668 million over a 20-year period or approximately \$33 million a year (in 2006 dollars). The proceeds of the tax would be allocated to the design, construction, implementation, operation, financing, maintenance and management of a passenger rail system and a bicycle/pedestrian pathway connecting the proposed rail stations.

SMART has prepared an Environmental Impact Report analyzing the potential environmental impacts of the proposed passenger rail corridor. (See www.sonomamarintrain.org to view the environmental documents.)

II. SMART Expenditure Plan Background

A. SMART District Role and Purpose

On January 1, 2003, the SMART District was established by the California Legislature through the enactment of AB 2224. The SMART District includes both Sonoma and Marin Counties and was created for the purpose of providing a unified and comprehensive structure for the ownership and governance of a passenger rail system within Sonoma and Marin Counties. The goal of SMART is to provide passenger rail service along the publicly-owned Northwestern Pacific Railroad (NWP) alignment.

B. AB 2224

SMART's enabling legislation authorizes the rail district to own, operate, manage, and maintain a passenger rail system within the territory of the district, to contract and employ labor, to contract for shuttle services necessary or convenient for rail transit, and to acquire, construct, and operate rights-of-way, rail lines and other facilities for rail transit, including ancillary bicycle/pedestrian pathways. *AB 2224 prohibits SMART from condemning property for transit-oriented joint development purposes.*

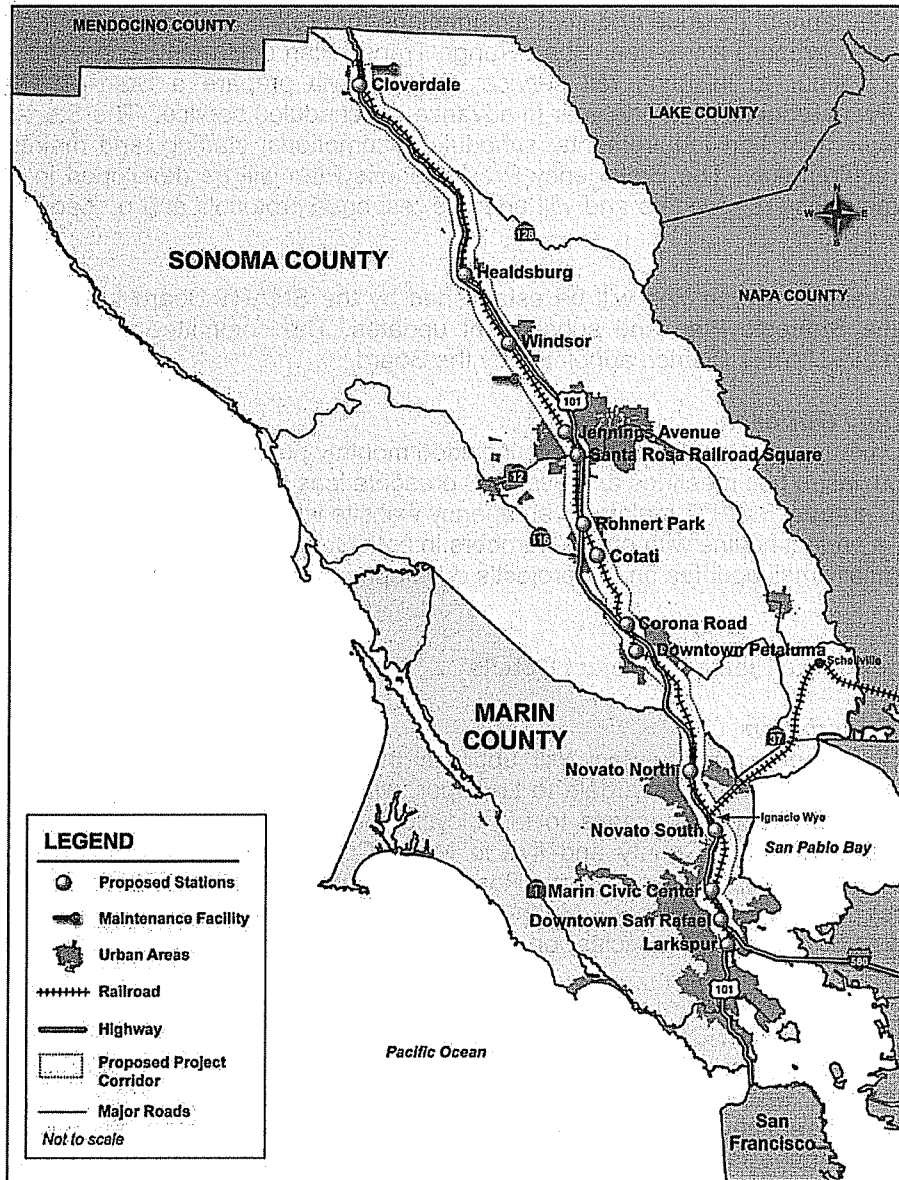
The SMART Board of Directors is composed of 12 members representing Sonoma and Marin Counties and the Golden Gate Bridge, Highway and Transportation District (Bridge District).

AB 2224 commits SMART to work with the North Coast Railroad Authority (NCRA), the local freight operator, to achieve safe, efficient and compatible operations for both passenger rail and freight service on the NWP north of Highway 37 in Novato, in the event that NCRA resumes freight service.

C. NWP Ownership and Management

The primary asset of SMART is the NWP rail right-of-way and properties contained within that right-of-way along the railroad corridor extending from Healdsburg in Sonoma County to Corte Madera in Marin County. (See Figure 1)

Figure 1





SMART is managed by an appointed General Manager, who reports to the SMART Board of Directors. SMART adopts an annual budget documenting all revenues and expenditures. Upon passage of this measure, SMART will prepare a Strategic Plan, under the direction of the SMART Board of Directors, and will update the plan at least every five years. The Strategic Plan will provide detailed annual revenue and cost assumptions for project implementation and operation. SMART will also prepare a five-year Short Range Transit Plan documenting service and funding assumptions. Prior to initiating rail service, SMART will prepare a Start-Up Plan and an Emergency Preparedness Plan one year in advance of scheduled service. The Start-Up Plan will document implementation requirements, schedule assumptions, staffing, and maintenance and operations requirements. The Emergency Preparedness Plan will be developed in coordination with local emergency responders and will address response protocols and procedures along the corridor.

A Citizens Oversight Committee will be established by the SMART Board to provide input and review on the Strategic Plan and subsequent updates. The committee will be composed of citizens from the SMART District, appointed by the Board.

D. Community Outreach

SMART's community outreach efforts have included monthly public Board meetings, public hearings, special ad hoc meetings and over 150 presentations to community, business and special issue groups. SMART maintains an agency website with regular postings of project documents, a project hotline with phone numbers in both Sonoma and Marin counties and has provided regular email updates on the project's development to over 2,200 email recipients.

III. Expenditure Plan and Project Details

A. Project Description

The SMART passenger rail project will upgrade the existing NWP right-of-way, to provide passenger rail service from Cloverdale to Larkspur, with convenient linkages to bus and shuttle feeder routes and direct connections to the bicycle/pedestrian pathway. Fourteen stations are planned, nine in Sonoma County and five in Marin County. Proposed station sites include: Cloverdale, Healdsburg, Windsor, Santa Rosa (two stations), Rohnert Park, Cotati, Petaluma (two stations), Novato (two stations), Marin Civic Center, San Rafael and Larkspur. Rail service is proposed at 30 minute frequencies, operating in the weekday am and pm commute periods, along with one mid-day train.

B. Project Components: Capital Improvements

1. Trackway & Bridges: The existing single track NWP corridor will be upgraded with passing tracks and sidings, which will accommodate train schedule requirements. All of the rail, with the exception of rail recently or currently being upgraded, will be re-laid with new ballast, ties, signage, and drainage facilities. All timber trestle bridges will be replaced with concrete trestle spans supported on concrete pilings. The Gallinas Creek Bridge and Russian River Railroad Bridge will be upgraded and rehabilitated. The Haystack Landing Bridge will be replaced.

2. Stations: Fourteen rail stations are proposed (see Figure 1). The stations would have convenient transfers to peak period, fixed route bus service, connections to regional ferry service (at the Larkspur Station) and bicycle/pedestrian pathway connections. Each station will have a boarding platform with shelter, lighting, ticket vending machines, passenger amenities and pick-



up and drop-off areas. New park-and-ride lot spaces are proposed at all stations except Santa Rosa Railroad Square, Downtown San Rafael and Larkspur stations. Bicycle parking would be provided at all stations and attended bicycle parking facilities would be provided at Santa Rosa Railroad Square and Downtown San Rafael.

3. Vehicles: Passenger rail multiple unit vehicles that are independently powered and do not require a traditional diesel locomotive are proposed. SMART is committed to using a vehicle that best meets state and federal railroad operations requirements, but which provides the least amount of noise and highest level of air quality. Passenger rail multiple units have the capability to operate using bio-diesel fuels.

4. Other Construction Items: Two tunnels will be upgraded for rail service including the CalPark Hill Tunnel between San Rafael and Larkspur and the Puerto Suello Hill Tunnel, located north of San Rafael. Over 40 public at-grade crossings will be upgraded along the corridor.

A new signal and dispatch system will be provided along the NWP to control train operations in accordance with state and federal operating rules and requirements.

5. Bicycle/Pedestrian Pathway: SMART proposes a bicycle/pedestrian pathway along the SMART rail corridor linking the 14 rail stations. The proposed bicycle/pedestrian pathway includes a combination of Class 1 and Class 2 pathways. The construction of the bicycle/pedestrian pathway is proposed both on and off the SMART right-of-way depending on physical and environmental constraints and available rights-of-way. SMART proposes to fund approximately 57% of the pathway construction. Completion of the entire pathway would require the identification of additional revenues.

6. Shuttle Services: Peak hour shuttle service is proposed for selected rail stations. A detailed service plan is to be included as part of SMART's Start-Up Plan, which will be prepared in advance of project opening in cooperation with local transit providers.

7. Maintenance Facility: A maintenance facility will be constructed to provide off-site rail vehicle maintenance and storage.

8. Quiet Zones: SMART has committed to funding Quiet Zones in urban areas along the corridor, which would allow crossings to operate without train horns, if desired by the local jurisdiction. SMART will work with local jurisdictions to identify these locations and assist them in applying for this federal waiver.

9. Environmental Mitigation: SMART will implement the environmental compliance and mitigation measures identified in the Final Environmental Impact Report.

10. Engineering, Bid Documents, Staff Support: Final engineering and preparation of all construction documents will be provided for the rail and pathway projects.

C. Project Components: On-Going Operations and Maintenance

1. Annual Forecasted Operating Costs: Operating costs include all costs of train and shuttle operations, including service contracts, vehicle fuel, insurance, administration, project staffing and overhead.



2. Annual Forecasted Maintenance Costs: Annual maintenance costs include the costs of maintaining vehicles, stations, trackway, signals, maintenance facility, railroad crossings and the portions of the bicycle/pedestrian pathway on the rail right-of-way.

IV. Project Funding and Implementation

A. Schedule

The proposed schedule for the project is as follows:

SMART District Vote	November 7, 2006
Engineering/Construction	2007-2009
Service Initiation	2009-2010

B. Sales Tax Revenues

It is estimated that \$668 million will be raised with the ¼ cent district-wide sales tax over 20 years (in 2006 dollars). Approximately \$470 million would be generated in Sonoma County and \$198 million in Marin County over a 20-year period. Annual revenues are estimated to be approximately \$33 million per year in 2006 dollars.

C. Fare Revenues

Fares for train service will be established by the SMART Board of Directors through a public process, as required by law. It is anticipated that the fare structure will incorporate a distance based zone system, similar to other transit districts in the North Bay. Based on the experience of other passenger rail systems, fares are expected to fund approximately 30% of annual rail system operating costs. The average fare assumed in this Expenditure Plan is \$4.00 per one-way trip.

D. Project Financing and Bonding

The SMART District has the authority to bond and use other financing mechanisms for the purposes of expediting the delivery of the rail and pathway project. Bonds will be paid with the proceeds of the District's sales tax. The costs and risks associated with bonding will be presented in the District's Strategic Plan and will be subject to public comment before any bond sale is approved.

SMART plans on financing a portion of the capital costs of construction in the early years of the project so that the project can be constructed and operating as quickly as possible. Financing will be used to fund the difference between regional, state and federal funding and the capital cost of the project during the construction years. The bonds will be paid back over the 20 years of the plan.

E. Expenditure Plan Allocations

Project costs are summarized in Table 1. The allocation of sales tax revenues to project costs over the 20 year plan includes the following assumptions.

1. District revenues will fund approximately 70% of total costs and include sales tax revenues, NWP leasing revenues, joint development revenues and financing.
2. Federal funding is anticipated for 6% of total costs.



3. State funding is estimated at 10% of total costs. Funding includes Proposition 116, Traffic Congestion Relief Program, State Transit Assistance, and statewide infrastructure funds.
4. Regional Measure 2 will fund approximately 3% of total costs.
5. Sonoma County's Measure M Traffic Relief Act will fund \$23 million for SMART, representing 2% of total costs.
6. Lease revenues from NWP right-of-way will fund approximately 1% of total costs.
7. Joint development of SMART-owned station right-of-way will fund approximately 2% of total costs.
8. NCRA capital contributions for trackway upgrades are estimated at 1% of total costs.
9. Fare revenues will fund approximately 30% of annual rail operating costs; or 9% of total costs over the 20-year plan.
10. A 20-year program contingency is provided.

The proposed ¼ cent sales tax measure would provide approximately \$668 million in new revenues, which would be used to leverage an estimated 20-year investment of nearly \$1.4 billion. Contingencies have been factored into all construction cost estimates and a program contingency for the 20-year term is also included. These cost and revenue estimates cover the full 20-year term of the measure and include all anticipated revenues and costs associated with the project.

TABLE 1: SMART Project Costs (All costs in 2006 dollars)

<i>Project Capital Costs</i>	
Rail Project	\$387 million
Bicycle-Pedestrian Pathway	\$ 46 million
<i>Annual Operating Costs</i>	
Rail Project	\$ 14.2 million
Bicycle-Pedestrian Pathway	\$ 750,000
Shuttle Services	\$ 1.3 million

Table 2 identifies anticipated costs and revenues for implementing the SMART program over a 20 year period.



TABLE 2: Anticipated Costs and Revenues Over 20 Years (Millions \$)

Costs		% Share		Revenues		% Share
Rail Project	\$387	28%		District (3)	\$981	70%
Pathway	46	3%		Farebox (4)	130	9%
District Operations (1)	874	62%		Regional	72	5%
Program Contingency (2)	93	7%		State	137	10%
				Federal	80	6%
Total:	\$1,400	100%		Total:	\$1,400	100%

(1) Includes annual operating, maintenance and financing costs.

(2) 20 year program contingency.

(3) Includes sales tax revenues, NWP leasing revenues, joint development revenues and financing.

(4) Fares are expected to contribute 9% of total revenues over 20 years and 30% of annual rail operating costs.

V. Implementing Guidelines

The following is a list of guidelines for implementation of this Expenditure Plan:

1. The duration of the measure will be 20 years, beginning on April 1, 2007 and expiring on March 31, 2027.
2. The measure will be administered by the Sonoma-Marín Area Rail Transit District (SMART).
3. A Citizens Oversight Committee will be established by the SMART Board to provide input and review on the Strategic Plan and subsequent updates.
4. Actual revenues may be higher or lower than expected due to changes in availability of state or federal funds, changes in cost and/or fluctuations in sales tax revenues. Estimates of actual revenue will be programmed annually by the District in its annual budget and service plan.
5. SMART will prepare a Strategic Plan prior to July 2007 which will identify planned investments in capital implementation, operations and maintenance for the duration of the tax.



6. Federal and state matching funds will be actively sought throughout the duration of this tax and the Strategic Plan updated accordingly. SMART commits to coordinating federal and state funding requests with the Sonoma County Transportation Authority, the Transportation Authority of Marin, the Golden Gate Bridge Highway and Transportation District, the Sonoma County Transit District and other local transit districts.
7. SMART is authorized to issue revenue bonds, pursuant to Public Utilities Code section 105220, to advance the commencement of, or expedite the delivery of, passenger rail service, the bicycle/pedestrian pathway and related rail transit improvements.
8. SMART shall undergo an annual financial audit.

VI. Strategic Plan

SMART will prepare a Strategic Plan, based on the commitments in this Expenditure Plan, prior to July 2007. The Strategic Plan will identify planned investments in capital implementation, operations and maintenance for the duration of the tax. The Strategic Plan will be updated at least every five years and approved by the SMART Board of Directors. The Strategic Plan will be developed with input from the public and the Citizens Oversight Committee.

VII. Amendments to the Plan

The SMART Board of Directors may annually review and propose amendments to this Expenditure Plan to provide for the use of additional federal, state and local funds, to account for unexpected revenues and to accommodate any unforeseen circumstances.