



Real Estate Acquisition Management Plan

This Real Estate Acquisition Management Plan is being provided so that the public has access to the process SMART will use for its real estate acquisition needs. This process is consistent with state and federal law.

At the time of posting of this RAMP, SMART does not have complete information regarding every component of the plan. Further information will be posted as it becomes available.

For information about this document, contact:

*Chris Coursey
415-226-0880
ccoursey@sonomamarintrain.org*

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1.0 Executive Summary

This Real Estate Acquisition Management Plan (RAMP) presents the issues associated with the appraisal and acquisition of real estate and the relocation of occupants required for construction of the Sonoma-Marín Area Rail Transit (SMART) passenger rail and pathway project (the “Project”). SMART is planning to develop the Project with the cooperation and financial assistance of multiple agencies at federal, regional, state and local levels. Acquisitions of real property will be undertaken by SMART in a cooperative approach to reach mutually agreeable purchases with property owners with property required for the SMART Project. However, SMART is a public agency with the power of eminent domain and, if feasible and necessary, may exercise that power in acquiring real property for the SMART Project should SMART be unable to reach mutually agreeable terms with affected property owners.

SMART’s intention is to preserve its ability to solicit federal and state funds through grants or reimbursements. Although the bulk of the Project will be implemented with non-federal funding, SMART will adhere to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act), applicable Federal Transit Authority (FTA) and California Transportation Commission (CTC) Guidelines; in addition to applicable state laws and regulations when acquiring real estate and relocating occupants. As such, this RAMP is intended to assist SMART in planning the SMART Project by:

- Establishing a schedule for timely acquisition of real property and relocation of occupants
- Identifying the staff and contracted consultant functions responsible for implementation of the SMART Project
- Outlining the appraisal, acquisition and relocation processes, in compliance with the Uniform Act
- Coordinating the acquisitions and relocations with the procedural requirements that the relevant federal authority imposes on Grantees as a condition of reimbursement of associated costs, as needed
- Presenting preliminary budget estimates and the basis of the cost estimate

The overall goal and focus of this RAMP is to assist team members in directing a common effort to secure the real property rights required.

1.1 Overview

SMART will construct a passenger rail and multi-use pathway project along an existing rail corridor of approximately 70 miles extending from Cloverdale in Sonoma County to Larkspur in Marin County (the “Project”). The majority of the rail corridor is owned by SMART in fee simple; however, the northernmost portion is owned by the North Coast Railroad Authority (NCRA) and SMART has a perpetual operating easement on this section of track, as further discussed below in Section 4.0.

The rail corridor runs north-south, generally parallel to Highway 101 in Sonoma and Marin Counties. When complete, the Project will include 14 rail stations, several passing sidings, an operations and maintenance facility, and shuttle service at select locations. The Project will also include a bicycle/pedestrian pathway along the rail corridor. Implementation of the Project will occur generally within the railroad right of way, with a small percentage of right of way acquisition required outside of the existing right of way.

Recognizing the complexity of implementing a major capital project involving the collective efforts of numerous entities, SMART has adopted an integrated team approach for management of the SMART Project. This approach requires the formation of a dedicated project management team, empowered with the responsibility and resources to successfully execute the Project.

The Project team, consisting of SMART staff and professional consultants, will be responsible for overall management, implementation, administration, reporting and liaison related to the appraisal, acquisition and relocation processes, as follows:

- Coordinating, monitoring and overseeing all right-of-way (ROW) activities among SMART staff, the team and associated public agencies
- Selecting qualified consultants to conduct appraisals, negotiate property purchases and relocate occupants (SMART will utilize the guidelines set forth in the California Department of Transportation (Caltrans) Consultant Qualifications and Selection Criteria's Chapter 17.06.00.00 of the Caltrans Right of Way Manual to assist in its selection of qualified consultants.)
- Obtaining title reports, real and personal property appraisal reports, making offers to purchase and conducting negotiations to acquire property rights, providing relocation assistance services, escrow closures and property certifications
- Developing and revising the real estate acquisition schedule
- Coordinating the ROW budget in support of the Full Funding Grant approval process
- Coordinating the development of agreements with legal counsel/real estate staff
- Identifying issues and possible solutions related to real estate acquisition and relocations
- Conducting real estate acquisition/coordination meetings

1.2 Property Acquisition Process

SMART will administer the right-of-way acquisition process pursuant to applicable local, State of California and Federal regulations, including the California Relocation and Real Property Acquisition Guidelines (CCR Title 25, Chapter 6), CTC's Guidelines for Caltrans Right of Way Review Process for Rail Projects and the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs; Final Rule (49 CFR Part 24), as well as the applicable procedural requirements of any potential federal funding partners, including the

Federal Transit Administration (FTA). The acquisition process will consist of the following components:

- Title search of the affected properties
- Preparation of appraisal maps, legal descriptions and plat maps
- Appraisal and appraisal review process
- Written offers to purchase required real property interests
- Negotiation with the affected property owners
- Condemnation process (if required)
- Settlement/Closing processes

SMART is developing ROW plans utilizing information contained in title reports, field surveys, assessor parcel maps and historical records for Cultural Resources Information of the impacted areas. The land acquisition and displacement impacts will be determined during engineering design. The real property interests to be acquired will be identified on a parcel-by-parcel basis.

SMART will strive to acquire property rights through negotiated agreements with mutually acceptable terms, thereby avoiding litigation. If the parties cannot resolve the terms of an agreement through a negotiated settlement, SMART will inform the property owner that an impasse has been reached and that SMART will initiate eminent domain proceedings to further advance the Program toward completion. However, SMART will continue to discuss settlement options with the property owner during the condemnation process.

SMART staff will solicit, select, and award consultant contracts in accordance with the guidelines provided in the SMART Administrative Code and any applicable State and Federal laws and guidelines and SMART's Project Management Plan. Staff will write scopes of work and prepare solicitation and contract documents; advertise contracts; evaluate, select, and contract with qualified professionals adhering to Federal Procurement guidelines and procedures, State CTC guidelines and SMART's guidelines for contracting services. SMART Staff will also direct and manage the activities of consultants; monitor consultants' progress and payments; and coordinate activities among the various disciplines.

Services required for the acquisition program include surveys, environmental site assessment consultants, appraisers, acquisition consultants, relocation consultants, environmental/biological consultants, and title and escrow services. Consultant contracts for various disciplines are grouped by function and the qualities of each proposed acquisition such as land use, occupancy, and projected difficulty of acquisition. The contracts and consultant teams will be structured in order to expedite the acquisition process, retain flexibility, and maintain quality in the acquisition process.

1.3 Guiding Documents

The Uniform Act and regulations, FTA circulars on right of way acquisition, Caltrans right of way guidelines, and railroad valuation guidelines provide general guidance to the acquisition process. State and Federal law governs property owner rights and the eminent domain process. While these documents are too voluminous for inclusion within this plan, all are available for review in SMART's offices at 750 Lindero Street, Suite 200. The RAMP outlines policies and procedures for implementing the program to acquire real property. To the extent the RAMP is inconsistent with state or federal law, the provisions of state and/or federal law shall prevail.

Requirements of the Uniform Act are contained in the Caltrans Right of Way Manual in Chapters 7 through 14. The web page link to the Caltrans manual is "<http://www.dot.ca.gov/hq/row/rowman/manual/>". Please reference this web link as the manual is updated on a regular basis. SMART's policies and procedures for completing SMART's Appraisals, Acquisitions, Condemnation, Relocation Assistance and Housing Programs, Property Management, Demolition and Clearance, Utility Relocation, and Project Certification are configured in the Caltrans Right of Way Manual. The applicable Caltrans Right of Way Procedures will be incorporated as SMART's Standard Operating Procedures. SMART has also authorized its General Manager or designee to sign Right-of-Way Certification forms for local, state and federally-funded projects by Board Resolution.

Additional guiding requirements are outlined in Title VI Compliance (Sec. 601) of the Civil Rights Act; and further outlined in the Federal Advisory Assistance Payment Program and the Relocation Assistance Payment Program (49 CFR 24). As stated earlier, all properties must be acquired or possession of the property granted by the court, and displacees must be physically relocated in accordance with the Uniform Relocation and Real Property Act (42 USC 4061 et seq.) and its regulations (49 CFR Part 24), prior to the Right of Way being certified. Certification of the Right of Way must be obtained prior to SMART advertising the construction bid.

1.4 Property Acquisition Schedule

Construction of the Project is currently envisioned to commence in 2011. Completion is projected in 2014, with operations starting in the fall of 2014, assuming funding and required approval and delivery mechanisms are in place to support this timeframe. This schedule is dependent on availability of funding and a final funding strategy.

To facilitate management and coordination of real estate acquisition activities, SMART will utilize efficient record keeping for documentation of property acquisitions. SMART will schedule the real estate acquisitions and occupant relocations in a manner that will assure legal entry onto the needed properties prior to advertising for the construction contracts.

A detailed Property Acquisition Schedule for all real estate activities will be tracked and updated on a regular basis, comparing baseline schedules with current activities. Schedule revisions will be made as required based on the effectiveness of negotiations with property owners and the need to acquire properties through the eminent domain process.

Construction phasing will be coordinated with a variety of other public and private development projects. Inter-agency agreements will allow for some adjustments in the sequence and timing of the implementation program; in addition, changing market conditions may necessitate some degree of scheduling flexibility.

1.5 Property Appraisal

SMART will retain the services of qualified California state-licensed appraisers according to the Caltrans Consultant Qualifications and Selection Criteria's Chapter 17.06.00.00 of the Caltrans Right of Way Manual. The appraisal consultants will be asked to estimate the fair market value of the rights to be acquired. SMART will exercise care in selecting the appraisal consultants in order to match the appraiser's expertise to the complexity of the appraisal problem.

Where appraisers are required to value the goodwill of a property, they will be Accredited Senior Members of the American Society of Appraisers and will follow the California Eminent Domain Law.

When improvements pertaining to realty are involved, machinery and equipment appraisers with the designation of Accredited Senior Member of the American Society of Appraisers will be used.

In accordance with 49 CFR Part 24.104, all appraisal reports will be reviewed by a qualified California state-licensed appraiser meeting Caltrans requirements, including a Certified General designation and at least two years' experience in performing review appraisals for eminent domain purposes. The review appraiser will develop an opinion of the quality of the appraisal and for compliance with the requirements of the Uniform Standards of Professional Appraisal Practice, the Uniform Act and the California Eminent Domain Law.

1.6 Property Acquisition

SMART will schedule the property acquisition and occupant relocations in a manner that will provide legal entry onto the required property prior to the advertising for the construction contracts for that property. SMART will coordinate with utility companies and identify replacement locations for utility relocations. Authority to acquire right-of-way for the Project will be achieved with the necessary state or federal environmental certifications as needed. Preparatory work to be done in anticipation of the environmental certifications may involve retaining real estate consultants and developing task orders and/or work directives.

While no residential properties are anticipated for acquisition at this time, properties which involve relocation of complex businesses and residential occupants will be acquired first, to allow for a longer lead time to complete the relocation.

1.7 Property Relocation

SMART will retain the services of experienced relocation specialists to provide advisory services and administer the relocation process on behalf of SMART. Relocation activities and payments will adhere to the requirements of the Uniform Act, as amended, as well as applicable state or federal relocation law. The relocation process for all displacements will consist of the following elements, to the extent applicable for a particular property:

- Relocation Planning
- Issuing informational brochures and conducting personal interviews
- Providing Relocation Advisory Assistance
- Making comparable replacement housing available
- Payment of replacement housing payments
- Payment of Moving and Related Expenses
- Assistance with filing Claims and Appeals

1.8 Utility Relocations

Chapter 13, of the Caltrans Right of Way Manual provides procedures and detailed instruction for the relocation of public utilities physically located within the footprint of the Project or public utilities that are impacted by the Project. Preliminary assessment shows that very little utility relocation will be required for the Project, given the fact that the Project is a reconstruction on an existing railroad right-of-way rather than a construction on a new one.

Public utilities are defined as those utilities whether publicly, cooperatively or privately owned that provide a product or service, either directly or indirectly, to the public for a fee.

1.9 Eminent Domain

If an agreement cannot be reached through good-faith negotiations, SMART will initiate condemnation proceedings consistent with the Eminent Domain Law.

The eminent domain process will be commenced as soon as possible after reaching a negotiation impasse to avoid future claims of pre-condemnation damage and to maintain the Project schedule. Attempts to reach negotiated settlements will continue after commencement of eminent domain.

2.0 SMART Project Overview

SMART is a passenger train and multi-use pathway project that will provide rail service along 70 miles of the Northwestern Pacific Railroad alignment. Utilizing the publicly owned railroad right of way, the Project will serve 14 stations, from Cloverdale, CA, in Sonoma County to the San Francisco-bound ferry terminal in Larkspur, CA, Marin County. The Project also includes construction of a bicycle/pedestrian pathway along the rail corridor.

The 14 stations along the corridor are being designed to accommodate feeder bus services, shuttle services, and in selected suburban locations, park and ride facilities. Commuter-oriented service will be provided by an estimated 14 round-trip trains per day, operating at 30-minute intervals in the morning and evening peak commute hours during the week, as well as midday and weekend service at longer intervals.

Construction is planned to begin in 2011 and be completed in 2014, with service anticipated to start in the fall of 2014. This schedule is dependent on funding availability.

2.1 History and Background

The Sonoma-Marin Area Rail Transit District was established on January 1, 2003, by the passage of California State Assembly Bill 2224. The District was created to provide a unified and comprehensive structure to oversee the development and implementation of passenger rail service in Sonoma and Marin Counties. The goal of SMART is to provide passenger train service along approximately 70 miles of existing, publicly owned railroad right of way, estimated to be worth more than \$1 billion.

SMART is managed by a General Manager who is appointed by and reports to a 12-member Board consisting of appointed and elected officials from Marin and Sonoma County and the Golden Gate Bridge District, as further set forth in the SMART Administrative Code.

The SMART District is responsible for planning, engineering, evaluating, and implementing passenger rail service and corridor maintenance from Cloverdale, CA, in Sonoma County to a ferry terminal in Larkspur, CA, in Marin County, that will connect to San Francisco.

2.2 Project Funding

The SMART train and pathway is projected to cost approximately \$600 million to construct, including right-of-way acquisition, rail vehicles, stations, track upgrades, bridge reconstruction and other Project costs.

In November 2008, the voters in Marin and Sonoma Counties approved Measure Q, a 20-year quarter-cent sales tax measure devoted to providing 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.

Beginning in April 2009, this measure is projected to generate a total of \$845 million. Measure Q revenues combined with other SMART revenues from leasing and joint development ventures will provide approximately 70% of the total costs of the Project over the 20 year plan. Sales tax bonds will be utilized as the vehicle to fund the sizeable construction costs that will be incurred during Project construction, with repayment through tax proceeds over the life of the tax.

Additional funding will come from fare and other SMART revenues, as well as various local, state and federal sources. Because of the financial downturn in 2008 and 2009, SMART is anticipating an unmet funding need of \$155 million. This gap in the Project financing will be resolved before construction is initiated.

2.3 SMART Project Components: Capital Improvements

The SMART Project is comprised of several Project elements. The main elements are, briefly:

A. Upgrading Trackway & Bridges

The existing single track rail line will be upgraded with passing tracks and train sidings, which will accommodate train schedule requirements. Nearly all the rail will be re-laid with new ballast, ties, signage, and drainage facilities. Bridges will be upgraded, rehabilitated and replaced as necessary. At this time, it is anticipated that three major bridges will need to be upgraded or replaced.

B. Providing New and Upgraded Stations

Fourteen train stations are proposed. Each station will have shelters, a boarding platform, ticket vending machines, passenger amenities, pick-up and drop off areas and bicycle parking. Park and ride spaces will be provided at most locations.

Most station sites are owned by SMART; however, the following additional station locations will need to be acquired:

- San Rafael Civic Center station
- Novato South station (Hamilton)
- Novato North station (Atherton)
- Corona Road
- Cotati station (additional land required abutting existing ownership)
- North Santa Rosa station

C. Providing Rail Cars

Although not subject to the acquisition processes of this RAMP, SMART will utilize modern rail cars, powered by on-board engines. The rail equipment currently anticipated is called Diesel Multiple Units or DMUs.

D. Other Required Improvements

Two tunnels will be upgraded for train service. The CalPark Tunnel will include both train and pathway improvements. The Puerto Suello Hill Tunnel will be upgraded for passenger rail service.

All public crossings will be upgraded. A new signal and dispatch system will be provided.

E. Multi-Use Bicycle Pedestrian Pathway

SMART will provide a multi-use bicycle and pedestrian pathway along the corridor linking the 14 stations. The pathway is envisioned to be mostly within the rail corridor owned by SMART, however, there will be instances where additional property will need to be acquired to accommodate the pathway.

F. Providing for Connecting Shuttle Services

Peak hour shuttle service is proposed for selected stations. Nine shuttle routes serving selected stations are proposed during peak commute periods.

G. Operations and Maintenance Facility (OMF)

An Operations and Maintenance Facility will be constructed to provide control and dispatch functions, operations and rail car maintenance and storage. The property required for the Operations and Maintenance Facility will need to be acquired for the Project.

H. Implementing Quiet Zones

SMART has committed to funding Quiet Zones in urban areas along the corridor, which would allow crossings to operate without train horns.

I. Environmental Mitigation

SMART will implement environmental compliance and mitigation measures identified in the Final Environmental Impact Report (FEIR) and the Environmental Impact Study (EIS). Specific mitigation measures include traffic synchronization improvements, habitat and wetland restoration, and implementation of Quiet Zones.

J. Engineering, Bid Documents and Staff Support

Final engineering and preparation of all construction bid documents will be provided for the Project.

As engineering plans develop, the number of acquisitions will be more clearly identified. As of the date of this Plan, five full-fee acquisitions are anticipated for station sites and the maintenance facility. A number of other fee acquisitions, both partial and full, as well as various permanent and temporary easements are anticipated. Please see Exhibit B for further information.

3.0 Management and Coordination

SMART's acquisition program is presented in this section to demonstrate its technical capacity and capability to manage the acquisition program for the SMART passenger rail and pathway project. The SMART Project is being developed with local and state financial assistance and with potential federal assistance. Local support and cooperation will be provided by Sonoma and Marin Counties as well as the cities and jurisdictions located along the Project corridor. Support will also be provided by SMART's consultant teams. For any land acquisitions required from governmental agencies, SMART will execute interagency agreements that include provisions for property use or conveyances.

3.1 SMART Organizational Structure

In seeking financial assistance from FTA for the SMART Program, SMART will coordinate with FTA Region 9 for program requirements. In addition, SMART will coordinate directly with the FTA Project Management Oversight Consultant when assigned for specific ROW requirements. If other federal agencies participate in the Project, SMART will coordinate directly with the designated representative of such agency or agencies.

As shown in **Figure 3-1** Policy and Executive Management Structure SMART is the lead agency and sponsor (grantee) for the SMART Program. If SMART becomes a federal grantee, SMART is the direct point of contact for the appropriate federal agency and is the agency ultimately responsible for the success of the Project.

Figure 3-2 SMART Staffing Organization, shows the organization structure for the SMART District staff with position and reporting relationship of the Real Estate Property Manager.

Figure 3-3 shows the Real Estate Support Organization and the functional reporting organization relationship for the Real Estate Property Manager.

**Figure 3-1 - SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
POLICY AND EXECUTIVE MANAGEMENT STRUCTURE**

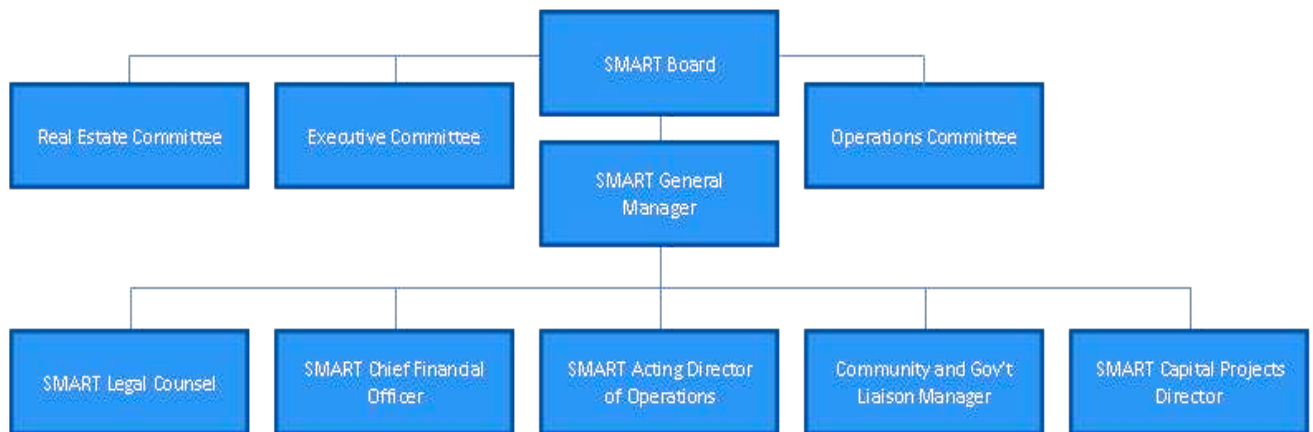
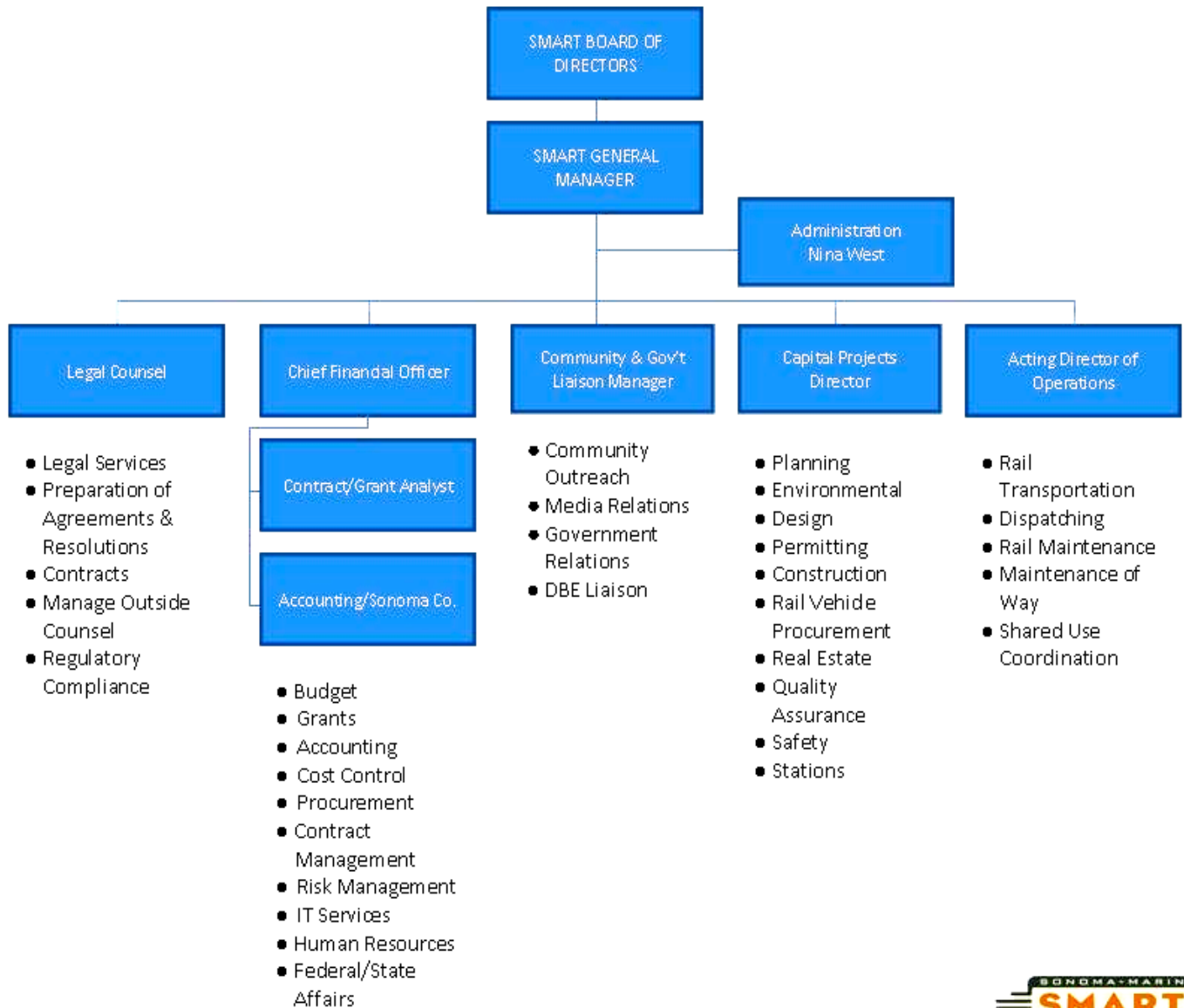
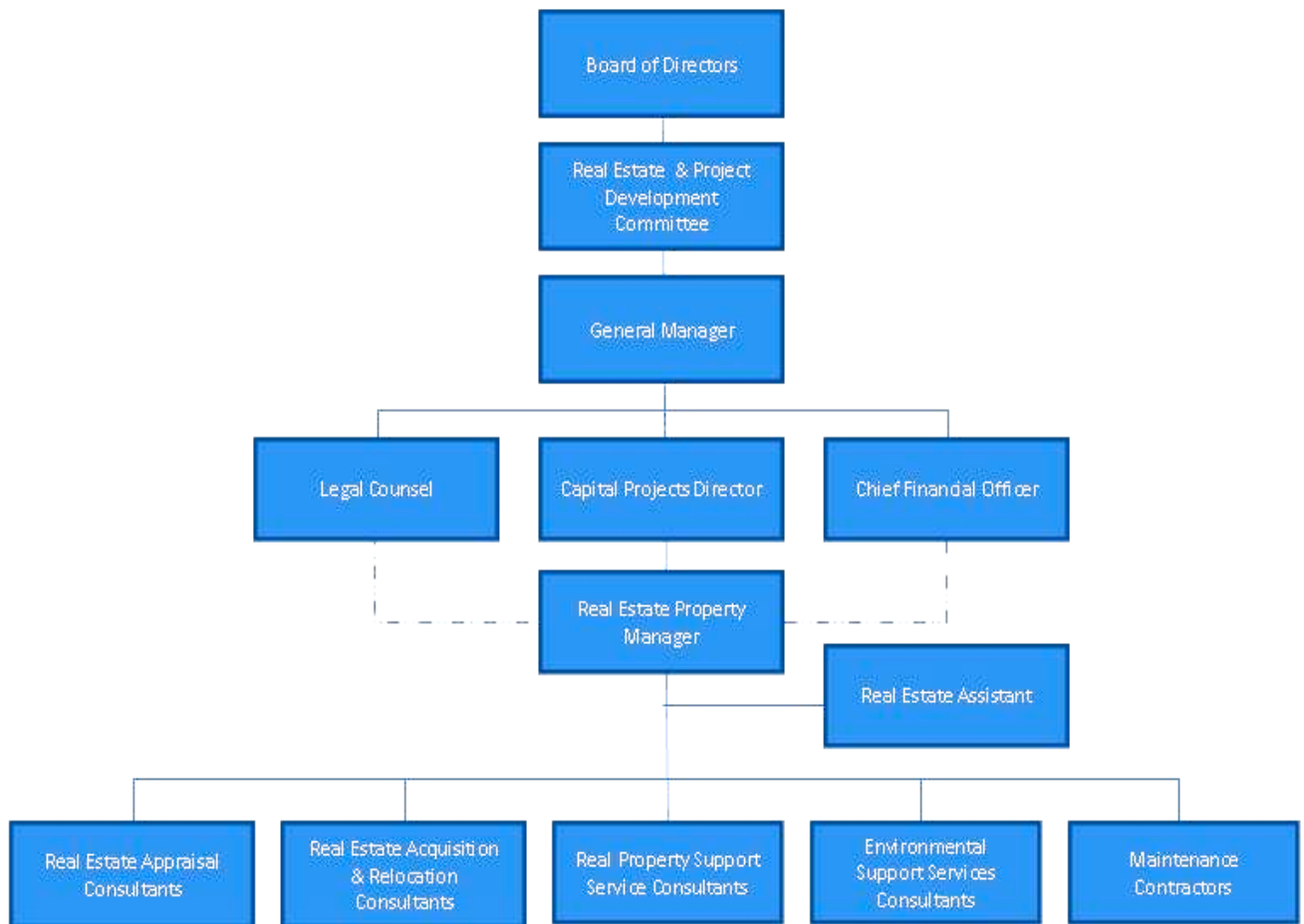


Figure 3-2 - SONOMA-MARIN AREA RAIL TRANSIT DISTRICT STAFFING ORGANIZATION



**Figure 3-3 SONOMA-MARIN AREA RAIL TRANSIT DISTRICT
REAL ESTATE AND DEVELOPMENT SUPPORT ORGANIZATION**



3.2 Policies and Procedures

The acquisition process is complex and governed by laws and regulations that are intended to ensure that property owners and tenants are treated in an equitable and uniform manner. Additionally, California state and federal laws apply that are specific to publicly funded projects which cause displacement of residents and businesses. SMART will make information available to property owners, displaced persons and other interested parties throughout the acquisition and relocation processes.

The SMART Program may be funded in part through a grant administered by federal sources. As a potential federally-assisted Program, SMART will conduct its property acquisition and relocation activities in compliance with the following applicable laws and regulations:

- The Uniform Relocation Assistance and Real Property Policies Act, as amended, and the regulations which implement the Act, 49 CFR Part 24, Final Rule
- California Relocation Assistance Law, Government Code, Sections 7260 et. seq., and the guidelines which implement the law, Code of Regulations, Title 25, Division 1, Chapter 6
- FTA Circular 5010.1D, Chapter IV – Project Management

3.3 Roles and Responsibilities

3.3.1 SMART Engineering Management Team

The function of the SMART Engineering Management team is to provide a clear description of the real property required for the Project, including updating the descriptions as design changes are made. The Engineering Managers may seek help from the Survey Manager or the Right-of-Way (ROW) Coordinator in clarifying descriptions. The deliverable is a set of ROW plans that is provided to SMART Real Estate and SMART Surveyors. The ROW plans show the location and extent of properties to be acquired in fee as well as the locations and types of proposed easements. SMART staff, as well as consultants, performs these functions.

3.3.2 Real Estate Property Manager

The Real Estate Property Manager, under direction of the Capital Projects Director, develops and monitors processes to validate implementation of design requirements applicable to ROW, and impacts on private property and the surrounding community. The manager reviews design documents and validates design assumptions in the field; identifies and documents potential logistical, constructability and environmental issues affecting real estate acquisition; identifies and documents potential design issues between design requirements and ROW constraints. The Real Estate Property Manager develops interface procedures between engineering, construction, and SMART real estate to provide coordinated and timely processing of all required steps before site possession. The manager prepares periodic progress reports and identifies and addresses potential problem areas; coordinates with responsible design, construction and environmental managers to optimize ROW requirements; and recommends and prioritizes possible solutions to identified issues. The Real Estate Property Manager aids the Engineering Management team in developing accurate ROW plans. The Real Estate Property Manager attends engineering meetings where real property requirements are discussed and maintains a list of parcels required

to fulfill the ROW needs of the Program. The Real Estate Property Manager also provides coordination and assistance to other SMART team members regarding real property issues.

The Real Estate Property Manager provides ongoing guidance and assistance to SMART management and legal counsel on technical issues related to implementation of federal and state acquisition and relocation assistance laws and regulations, including planning of relocation activities for the SMART Project. The Real Estate Property Manager establishes and monitors real estate acquisition strategies and long-range schedules. This function may be fulfilled by a qualified ROW project management consultant.

3.3.3 Senior Rail Engineer

The SMART Senior Rail Engineer plans, coordinates, and supervises the survey activities of subordinates and consultants for all SMART Projects; advises highways, facilities, rail and other consultants regarding SMART survey activities.

SMART Engineering management and staff will review the ROW line work and drawings included in the ROW plans for geometric correctness, and seek concurrence from the design managers as the legal descriptions, plat maps and appraisal maps are prepared.

3.3.4 Real Estate Staff

SMART Real Estate staff consists of the Real Estate Property Manager, a Real Estate Assistant and clerical support. The Real Estate Property Manager has the responsibility of overseeing the real estate staff for all SMART capital projects. To support the SMART Real Estate staff, the Real Estate Property Manager will retain qualified consultants. These qualified consultants will have responsibilities for the appraisal, acquisition, relocation, property survey, property management functions of assigned parcels, under the direction of the Real Estate Property Manager.

The Real Estate Property Manager manages a group of qualified ROW on-call consultants. The ROW functions included within these contracts are appraisal, appraisal review, machinery and equipment appraisals, loss of goodwill appraisals, acquisition and relocation assistance, title and escrow services, real property support functions including property engineering and surveying and environmental support service consultants and various other real estate functions. SMART staff, as well as consultants, will perform the ROW functions.

3.3.5 Legal Counsel

SMART Legal Counsel provides legal support to the SMART Project team, including review of legal documents, advice on statutory and contractual rights and obligations, and representation or direction of legal consultants in condemnation actions. The SMART Legal Counsel is also responsible for preparation of court documents for use in condemnation actions, either in-house or by directing outside counsel.

3.4 Consultant Roles and Responsibilities

3.4.1 Relocation Planning Consultant

The purpose of relocation planning is to ensure that the needs of displaced individuals, families, businesses, farms and nonprofit organizations are recognized and solutions are developed prior to initiating any right-of-way activities. The Relocation Planning Consultant provides management with information on relocation issues that affect the Program delivery schedule and an estimate of resources necessary to deliver the right of way certification.

3.4.2 Appraisal Consultant

This consultant assists the Real Estate Property Manager with the monitoring of appraisal, review appraisal and goodwill appraisal activities. This individual will interface with the various appraisers and assist with tracking the status of individual appraisals. Appraisal consultation will be conducted by consultants and real estate staff.

3.4.3 Real Estate Appraiser and Review Appraiser

The SMART Real Estate Property Manager selects and contracts with the appraiser or appraisal firm. SMART has contracted with a group of qualified real property appraisers developed through the RFQ process. SMART and the appraiser will develop and agree to a scope of work based on the complexity of the appraisal assignment, and SMART will authorize work under task orders.

The Uniform Act requires that a qualified review appraiser examine the real property appraisal to ensure that it meets the appraisal requirements established by the Uniform Act, the Uniform Standards of Professional Appraisal Practice (USPAP), and the California Eminent Domain Law.

The review appraiser may seek corrections or revisions prior to accepting the appraisal. The review appraiser delivers a report on each property to the Real Estate Property Manager and identifies each appraisal report as one of the following:

- Recommended as the basis for the establishment of the amount believed to be just compensation; Accepted (meets all of the requirements but is not selected as recommended or approved); or Not accepted.

3.4.4 Specialty Appraisers

3.4.4.1 *Goodwill Appraisers*

The California Code of Civil Procedure, Section 1263.510 provides that the owner of a business conducted on property acquired by a public agency, or on the remainder if such property is part of a larger parcel, shall be compensated for loss of goodwill if the owner proves, among other things, that the loss is caused by the taking of the property or the injury to the remainder.

If the business owner provides SMART with certain financial information, SMART will contract with a qualified goodwill appraiser to evaluate whether a “loss of goodwill” has occurred as a result of SMART’s acquisition of a property interest. The Acquisition Agent and Relocation

Agent will provide information received from the business owner to the goodwill appraiser, to assure there is no duplication of payment. The goodwill appraisal will be reviewed by a review appraiser and approved by SMART Real Estate before it is used in negotiation with the business owner.

3.4.4.2 Machinery and Equipment Appraisers

SMART will utilize qualified machinery and equipment appraisers to evaluate the contributory value of improvements pertaining to realty, if necessary, or to evaluate the replacement cost, value in place and salvage value of personal property, when required to calculate business relocation payments (such as loss of tangible personal property).

3.4.5 Acquisition Agent

The Acquisition Agent is one of SMART's consultants and is responsible for becoming familiar with the real estate appraisal, inspecting the subject property and the comparable sales, and preparing the offer package that includes but is not limited to the following: Agreement for Purchase, Deed(s), Offer Letter, Parcel Diary (record of negotiations), Appraisal Summary Statement, and a list of comparable sales. When the offer documents are complete, the Acquisition Agent will submit them to the SMART Real Estate Property Manager for review. Once approved, the Acquisition Agent will present the written offer to the property owner.

Every effort will be made to acquire the property through negotiation. If negotiations with a property owner have been unsuccessful, the Acquisition Agent may recommend institution of condemnation activities to the SMART Real Estate Property Manager.

3.4.6 Relocation Agent

The Relocation Agent is one of SMART's consultants and will provide advisory assistance to the occupants of a property to be acquired, which includes an explanation of relocation services and eligibility for relocation assistance payments, assistance in completing the claim forms for payment of benefits, and assistance in filing an appeal, if necessary. He/she will coordinate and personally meet with the occupants, conducting detailed interviews to determine relocation needs and preferences.

3.4.7 Escrow Services and Title Insurance

SMART will utilize the services of title companies to provide escrow services and policies of title insurance. Escrow will be used when SMART acquires property through negotiation and intends to purchase a policy of title insurance. SMART will obtain a policy of title insurance for all acquisitions excepting acquisitions that consist solely of small sized and short term temporary easements, including property acquired through negotiation as well as property acquired through condemnation. SMART's Real Estate Property Manager may grant exceptions to this policy.

3.4.8 Environmental Support Services Consultant

SMART has consulting contracts with firms capable of performing the environmental site assessments required for the Project. SMART has prepared an initial corridor-wide environmental assessment in support of its Certified Final EIR, which identifies specific

properties (including properties which may be acquired for the Project) having known environmental concerns. This information assists the SMART team in identifying those areas in which soil or groundwater contamination is likely to be a concern. A NEPA document will be prepared by SMART with the assistance of the Environmental Support Services Consultants if needed for the Project.

A Phase I Environmental Site Assessment (ESA) is performed on all properties proposed for acquisition in fee, after which a Phase II ESA may be performed, depending on the outcome of the Phase I assessment. The SMART Real Estate Property Manager decides whether to advance these properties to a Phase II assessment. Where easement acquisitions are proposed, the decision of whether to perform a Phase I assessment will be made on a case-by-case basis, depending on the nature of the easement and the extent of environmental concern as indicated by the corridor-wide assessment.

3.5 Authorities

3.5.1 Federal Concurrence on High-Valued Properties When Needed

In accordance with Section 2.d of Chapter IV of FTA Circular 5010.1D, in addition to appraisal reviews of required properties, FTA concurrence as to value and authorization to proceed with acquisition of properties valued at more than \$500,000 is required for properties purchased with federal participation.

3.5.2 Authority to Establish Amount of Just Compensation

Before the initiation of negotiations, SMART shall establish the amount which it believes is just compensation for the real property. The amount will not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. Promptly thereafter, SMART will make its written offer to the owner to acquire the property for the full amount believed to be just compensation.

3.5.3 Authority to Approve Property Purchase Agreement

The SMART Board of Directors (Board) must approve all property purchase agreements. The Board may by resolution delegate the authority to the General Manager to execute real property purchase agreements and possession and use agreements where the purchase price of the property interest being acquired equals the established just compensation or does not exceed \$500,000.

3.5.4 Authority to Authorize Condemnation

When negotiations with a property owner have reached an impasse, SMART may consider initiating a condemnation action. When using federal funds for an acquisition, SMART will request federal concurrence with the recommendation to initiate condemnation proceedings in cases where SMART's offer of just compensation exceeds \$500,000, or another amount agreed to by the appropriate federal agency. If the federal agency and the SMART Real Estate Property Manager concur, the Real Estate Property Manager will prepare a request for condemnation for SMART's Legal Counsel. The Legal Counsel's office, in coordination with the SMART real

estate team, will prepare a Resolution of Necessity (RON) for consideration by the SMART Board of Directors.

If the RON is adopted by the Board of Directors, the Legal Counsel's office will initiate an action in eminent domain by filing a complaint and depositing a check in the amount believed to be just compensation with the Office of the State Treasurer. Legal Counsel will follow applicable statutes of the California Eminent Domain law.

3.5.5 Authority to Approve Administrative Settlements

Administrative settlements are made for the purpose of concluding negotiations for amounts considered reasonable, prudent and in the public interest, after reasonable efforts to negotiate agreements and the approved offers have failed. When federal or State funds pay for or participate in acquisition costs, a written justification will be prepared which indicates that available information including trial risks to support such a settlement. Administrative settlements will not be used for the purpose of correcting errors or omissions in an appraisal.

3.6 Documentation of Property Acquisition Activities

The Property Acquisition Schedule will be coordinated with the Master Project Schedule developed by SMART. It will be organized into groups of properties in anticipation of construction requirements supporting an Integrated Master Schedule (IMS).

To facilitate management and coordination of acquisition activities, SMART management staff utilizes a data base for documentation of property acquisitions. As an interactive and standardized data base that is maintained by SMART Real Estate staff and the Real Estate Property Manager, it provides a means for data collection and organization, production of notices, status reporting, and tracking of activities conducted throughout the acquisition process.

SMART real estate staff and contracted consultants having contact with property owners or their representatives as part of the acquisition process are required to document their contacts in diary form. The diaries are to be retained within the parcel file for the Program's permanent record and will be available to FTA upon request, if the FTA becomes a funding source for the Project. Diary notes and recorded acquisition events will be available to support consultation and testimony during and after completion of acquisitions.

3.6.1 Multiple Governmental Agency Acquisition Process

SMART is the lead agency for the SMART Project; however, the Project affects properties in several local jurisdictions. SMART may enter into Memorandums of Understanding (MOU) with one or more of these stakeholders for certain purposes. If needed, these MOUs will be the vehicle used to define the relationship between SMART and each of the jurisdictions and the responsibilities of each party.

As indicated elsewhere in this RAMP, the acquisition procedures that will be followed for this Program are based upon the federal laws and regulations and State of California guidelines. These procedures will be adhered to in all acquisitions to the extent that they apply to SMART.

4.0 Property Acquisitions

The overall goal of the property acquisition process is to obtain possession of the property required for the SMART Project, and to provide certification. To the extent feasible, SMART will attempt to acquire the necessary property interests through a process of fair market negotiation, without resorting to the use of condemnation.

The approximately 70 mile right-of-way extends from Cloverdale in Sonoma County to Larkspur in Marin County. The right-of-way from Cloverdale to Mill Street in Healdsburg is owned by the North Coast Railroad Authority (NCRA) and SMART has a perpetual operating easement on this section of track. The right-of-way from Mill Street in Healdsburg to Larkspur is already owned by SMART, with NCRA retaining a reciprocal easement over the SMART right-of-way. The proposed SMART passenger rail and pathway project includes 14 rail stations, several passing sidings, an operations and maintenance facility, and shuttle service at seven locations. The Project also includes construction of a bicycle/pedestrian path as feasible generally within or adjacent to the corridor.

Project construction will generally occur within the existing right of way. However, right of way acquisition will be required for the maintenance facility, new stations, rail sidings, pathway segments, and station Park and Ride lots.

At the present time, SMART has identified six properties to be acquired in fee. As plans develop, it is anticipated that the Project will require a number of partial fee acquisitions, permanent and temporary easements for construction staging areas, and easements for new or relocated utilities and systems requirements.

A listing of the identified properties is included as Exhibit B, Summary of Property Acquisitions.

5.0 Property Acquisition Process and Schedule

SMART will schedule the property acquisition and occupant relocations in a manner that will provide legal entry onto the needed property prior to the advertising for the construction contracts. The Property Acquisition Schedule will be coordinated with the Relocation and Acquisition Schedule. A Preliminary Property Acquisition and Relocation Planning Schedule is included in this document as Exhibit C.

SMART will coordinate with utility companies and identify replacement locations for utility relocations. SMART will obtain easements, or other rights, such as licenses and permits, as part of the Program's ROW acquisition program. SMART will acquire these rights and subsequently transfer them to the appropriate utility company. The ROW required for utility relocation will be part of early acquisition activities. Additional properties may be required for new utility service.

Authority to acquire right-of-way for the Project will be achieved with the necessary State or Federal environmental certifications. Preparatory work to be done in anticipation of the environmental certifications may involve retaining the real estate consultants and developing task orders and/or work directives.

Properties that involve relocation of complex businesses and residential occupants will be acquired first, to allow for a longer lead time to complete the relocation.

In order to meet construction schedule demands, SMART may require multiple acquisitions being processed simultaneously with several appraisers, acquisition and relocation agents working concurrently. SMART will coordinate the acquisition efforts in the most efficient manner possible. For example, where the same landowner owns multiple adjoining parcels, SMART will attempt to make one single offer.

The process for acquisition of property is shown in Figure 5-1 on the page following, and the activities related to the acquisition of property are reflected in Table 5-1 Relocation Plan Development, Table 5-2 Property Acquisition, Table 5-3 Initiation of Condemnation Proceedings, Table 5-4 Residential and Business Relocation Process and Table 5-5 Condemnation Documentation in their approximate order of occurrence.

Figure 5-1 Property Acquisition Process

PROPERTY ACQUISITION PROCESS

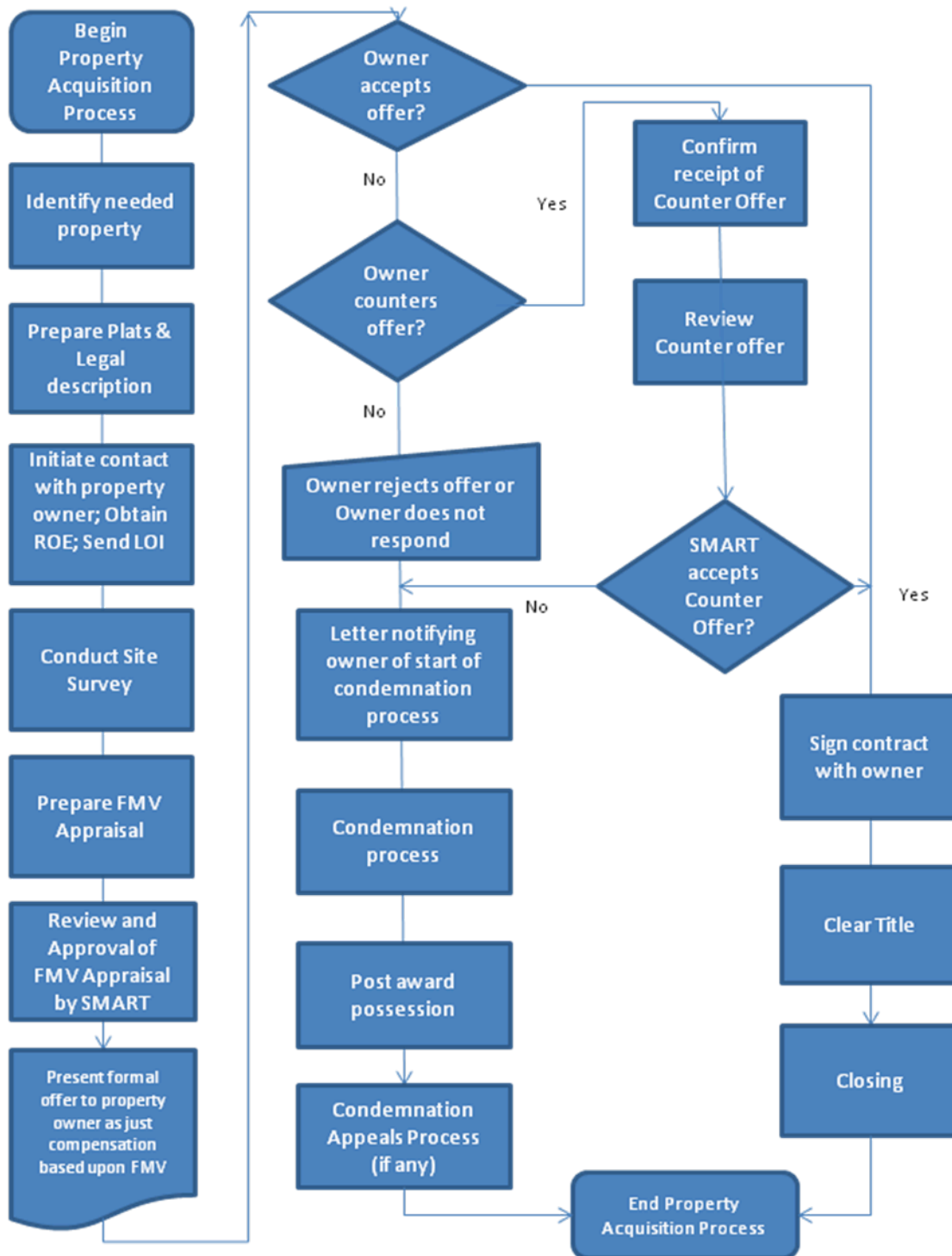


Table 5-1 Relocation Plan Development

Route Task Order for SMART Approval.
Conduct Interviews with Property Owners, Tenants, and Businesses.
Identify Resources.
Prepare 1st Draft of Relocation Plan.
SMART Review of Draft Relocation Plan.
Consultant Revise Draft Relocation Plan, as necessary.
Print and Distribute Relocation Plan to Displacees and General Public.
General Public Review of Draft Relocation Plan.
Incorporate Public Review Comments and SMART Responses.
Prepare Relocation Plan Package for Board Agenda.
Update and Print Relocation Plan.
SMART Board Adoption of Relocation Plan.

Table 5-2 Property Acquisition

Prepare Appraisal Maps, Legal Descriptions and Plats
Prepare and Send Notice of Decision to Appraise to Property Owner
Prepare Parcel Appraisal.
SMART Review and Comment on Appraisal.
Dual appraisals for complex or high valued acquisitions.
Potential Federal Review and Comment on Appraisal (as needed).
SMART Incorporate Changes and Prepare Offer to Property Owner.
SMART Schedules Appointment and Presents Offer to Owner.
Owner Receives Offer.
Property Owner Considers SMART Offer.
Property Owner and SMART Reach Agreement.
SMART Prepares Contract for Purchase.
SMART Board of Directors Approve Purchase Contract
Property Owner and SMART Sign Contract.
SMART Opens Escrow.
Property Vacated upon Close of Escrow and Payment of Settlement Amount.

Table 5-3 Initiation of Condemnation Proceedings

Prepare Request for Condemnation
Draft Resolution of Necessity (RON) for review by SMART Board of Directors.
SMART Departments (Real Estate and Legal) Review RON and Acquisition Documents.
Potential FTA Review RON and Acquisition Documents (as needed).
Mail Notice of Hearing to Interested Parties (at least 15 days advance notice of date).
SMART Project Management Meet with Property Owner to Discuss Settlement.
SMART Board of Directors Considers RON if no Settlement is reached; SMART Board considers Settlement Agreement if Settlement is reached

Table 5-4 Residential and Business Relocation Process

Relocation Planning
Site Selection
SMART sends Initial Contact Letter/General Information Notice to Occupants and Property Owner
Relocation Consultant Interviews Occupants and Property Owner for Draft Relocation Impact Study (DRIS)
Relocation Consultant Prepares DRIS
DRIS Circulated for 30-Day Review and Comment Period
Final Relocation Impact Study (FRIS) to SMART Board for Adoption. Board adopts governing laws and regulations
Relocation Assistance
Notices of Eligibility Delivered to Owners and Occupants within 60 Days of Initiation of Negotiations with Property Owner
Relocation Consultant Provides Relocation Assistance
SMART Delivers 90 Day Notice to Vacate Upon Possession of Property
Property Vacant

Table 5-5 Condemnation Documentation

Prepare Suit Documents Including Motion for Order of Possession (OP).
File Suit Documents including Motion for OP.
Prepare Paperwork, File and Deposit Funds.
Serve Suit Documents Including Motion for OP, and 90-Day Information.
Court Hearing for Order of Possession.
Obtain Order for Possession.
Serve 10-Day OP and 10-Day Specific Notice to Vacate (Assuming no relocation).
Serve 30-Day OP and 30-Day Specific Notice to Vacate (Assuming relocation).
Property Vacated (Assuming No Relocation/Displacement).
Property Vacated (Assuming Relocation/Displacement).

5.1 Right-of-Way Engineering

Right-of-way engineering identifies the required ROW for public transportation projects. The Conceptual Design alignment is initially identified and is refined as designs evolve. The ROW engineering effort starts with the identification of properties impacted and continues through the preparation of appraisal maps, legal descriptions and plats. The process of ROW engineering involves:

- Obtaining aerial surveys and associated planimetrics to assist in the EIR/EIS and conceptual engineering phase
- Requesting necessary preliminary title reports from title companies under the direction of SMART and associated encumbrance documents to assist the surveyor in identifying key property lines
- Performing field surveys to resolve key ROW boundaries and property lines in support of the design development
- Utilizing the ROW Plan information to develop appraisal maps and prepare legal descriptions and plats of the property rights to be acquired

5.2 Aerial Surveys and Planimetrics

During conceptual engineering, aerial surveys and planimetrics will be obtained along with the identification of approximate property lines based on available published property line data, such as assessor's maps. Orthorectified aerial photographs will be developed to support the design development.

5.3 Design and Acquisition Interface

The Capital Projects Director will submit the real estate needs in the form of a ROW plan. The ROW plans are updated and reissued as requirements change. The ROW plans for the permanent and temporary rights to be acquired will be reviewed by the SMART's Senior Rail Engineer. SMART's Senior Rail Engineer will also help clarify property descriptions during the development phase. Information on the ROW plans is critical to the subsequent development of the appraisal maps, legal descriptions and plats.

Appraisal maps, legal descriptions and plats are provided to SMART Real Estate staff, which is responsible for managing the appraisals, acquisition, relocation plans and relocation assistance effort.

5.4 Preliminary Title Reports

SMART will contract with title companies (or make requests through its Acquisition Agent/Consultant) to provide title services including issuing preliminary title reports and underlying vesting and encumbrance documents, issuing policies of title insurance, and providing escrow services. As parcels are identified as being impacted by the Project, title reports will be ordered by SMART Real Estate.

Preliminary reports provide ownership information, five-year sales history, legal description for the property, and information on existing encumbrances including easements. A summary of each original and updated preliminary report will be prepared by SMART Real Estate staff. If it is an updated report, the summary notes any changes since the last preliminary report was issued. A parcel file will be established for each property (ownership).

5.5 Right-of-Way Plans

The Capital Projects Director will submit ROW plans, which define ROW requirements, as a part of Engineering submittals. ROW plans will be updated and reissued as design developments change. The Engineering Department will also help to clarify property descriptions during the development phase. Information on the ROW plans is critical to the subsequent development of legal descriptions and appraisal maps.

Both before and after the ROW plans are issued, surveyors refine and resolve property boundary lines, relying upon field surveys to locate property corners and ROW record monuments. They conduct office research of record maps, deeds, preliminary reports, railroad valuation maps, etc., in order to correct historical deviations in the recorded information or provide new information not considered earlier in design development. Existing easements, which are shown schematically during conceptual design, may need a higher level of accuracy for engineering and property acquisition purposes. The existing easements are plotted on the appraisal maps. This work is performed by consultants managed by the SMART Engineering Department.

5.6 Identification of Property Interests to be Acquired

The inventory of initial property interests identified to be acquired for the SMART Project is provided in Exhibit B, Summary of Property Acquisitions and Displacements. The Property Acquisition List identifies the type of interest to be acquired, the area of this interest and details regarding ownership, use of the property and potential relocation impact. As plans are developed and refined, Exhibit B will be updated on a continual basis to reflect the current status.

5.7 Appraisal Maps

The map accompanying the appraisal illustrates the parcel metes-and-bounds, partial or whole property takes, any residual parcel, temporary or permanent easements required, and encumbering easements that exist. The appraisal map assists the Appraiser and the Acquisition Agent in discussions with the property owner at initiation of the appraisal process. Appraisal maps will also be used for documenting the acquisition, including grantor name, deed/agreement type, and County Recorder's Information. This work will be performed as needed by consultants managed by the SMART Engineering Department..

Designers will review the appraisal maps, legal descriptions and plats prior to appraisal, to ensure that the design requirements have been accurately described as shown.

5.8 Legal Descriptions and Plats

The legal descriptions describe the property interests to be acquired using the metes-and-bounds method. The plat map graphically illustrates this description. The legal descriptions and plat maps are used in the conveyance documents including purchase agreements and/or deeds. Consultants managed by the SMART Engineering Department, prepare the legal descriptions and plat maps.

5.9 Initiation of Acquisition Activities

Once authorized by SMART, all affected property owners will be provided a letter notifying them that SMART intends to proceed to appraise the property and that they will be given the opportunity to accompany the appraiser during the site inspection. In addition, each owner will be provided an informational brochure outlining the property acquisition process, which will be attached as Exhibit D.

5.10 Environmental Site Assessments

SMART retains consultants to perform Environmental Site Assessments (ESA) on property interests to be acquired in fee simple title. Easements are evaluated on a case-by-case basis as to whether an environmental characterization is required.

5.10.1 Phase I Environmental Site Assessments

Phase I ESAs are conducted to confirm a property's usage and history. Environmental Site Assessments will include entering the Property to perform site reconnaissance in accordance with the American Society of Testing Materials (ASTM), Standard Practice for Environmental Site Assessment; Phase 1 Environmental Site Assessment Process Designation 1527-05 and newly adopted federal regulations pursuant to 40 Code of Federal Regulation, Part 312 – Standards and Practices for all Appropriate Inquires. In addition to performing a physical reconnaissance of the property, SMART will inspect the property to verify and supplement information obtained through the records reviews, interview people knowledgeable about the property and evaluate potential Phase II environmental assessment sampling areas. SMART will invite the property owner to meet and discuss his/her knowledge of past contamination.

5.10.2 Phase II Environmental Site Assessments

SMART will obtain the property owner's permission to enter the property via a Permit to Enter in order to complete the Phase II ESA. Approximately one month is required to obtain the permit and an additional two months to complete the testing and estimate the cost to remediate. If the owner refuses entry, an additional month will be required for a court order. The Phase II ESA process, therefore, should start at least four months prior to the appraisal effort.

Phase II ESAs, complying with ASTM E1903-97, Standard Guide for Environmental Site Assessments, are performed to determine if existing site conditions require further environmental

action, such as monitoring or clean-up and remediation. If contamination is determined to be present on a property, the Regional Water Quality Control Board (RWQCB) may require that a remediation plan be developed. At this point, the Project team may evaluate whether there is an alternative to purchasing the property.

5.11 Property Appraisals

Notifications will be sent to advise property owners of SMART's intent to appraise and to provide the opportunity for the property owner to accompany the appraiser during the property inspection, as required by the Uniform Act. In 2007, the California Legislature passed sweeping eminent domain reform bills, one of which requires the public agency to offer to reimburse an owner the reasonable cost (not to exceed \$5,000) of an independent appraisal. As a result, it is anticipated that property owners may request to have their own independent appraisals performed, and SMART will work cooperatively to accommodate these owners.

Appraisals will be performed in compliance with the Uniform Act, California Eminent Domain Law and the Uniform Standards of Professional Appraisal Practice (USPAP).

Individuals performing appraisals will be appropriately licensed and meet the competency provision of USPAP. Review appraisers must be similarly licensed and possess a licensing status within the scope of the review appraisal assignment.

The appraisal and review appraisal will be approved at the Real Estate Property Manager level or above and used to determine just compensation for the basis of the offer amount to the property owner.

The Property Acquisition Schedule assumes multiple appraisal and negotiation teams working in parallel to complete private property acquisitions. As much as practicable, appraisal efforts will be divided into property types so that an appraiser can work with a common group of comparable properties. Groupings of appraisal assignments are anticipated for appraisers with areas of specialty in commercial, office, retail, residential and light industrial properties.

SMART may request dual real estate appraisal reports for unusually complicated parcels or parcels exceeding \$500,000 in value, in SMART's discretion. A dual appraisal will be used in such instances to ensure the owner receives a fair market value offer, and so that large or complicated appraisals are documented and conclusions supported. Dual appraisals are separate, and fully independent in calculations, analysis and conclusions. This gives a better basis for determining market value and helps ensure a sound offer.

The appraisers and the Real Estate Property Manager are responsible for maintaining the fact, spirit and appearance of this independence. Exceptions to this policy are appropriate in specific instances when the safeguards are demonstrated as unnecessary.

5.12 Negotiation with Property Owners

Negotiations will be initiated by the presentation of the offer to the owner. The following activities must precede the negotiation:

- Required State or Federal environmental certifications
- ESA Phase II studies will be completed and estimated remediation costs determined
- SMART consultants and/or staff will send the Notice of Intent to Appraise letter
- Appraisers will complete appraisals
- Review appraisers will review the appraisals
- SMART will establish the amount of just compensation
- FTA concurrence will be sought as applicable and if just compensation exceeds the threshold that may be agreed upon by FTA and SMART, if the FTA is a funding source for the acquisition.

Specific dates for initiating negotiations will vary depending upon the priorities for acquiring specific parcels in the construction schedule. The date for earliest negotiations will be initiated shortly after SMART receives the necessary federal and state environmental certifications. For parcels requiring relocation or displacement, SMART will not begin the negotiation process until adequate relocation planning has occurred.

In acquiring property, SMART will:

- Make all reasonable efforts to personally contact each property owner or the designated representative
- Explain the acquisition process and make all information on the Project available, including design details
- Present the written offer and summary statement of just compensation based on the approved appraised value
- Give the property owner a reasonable amount of time to consider the offer
- Attempt to obtain a signed disclaimer from the property owner for tenant-owned improvements
- Maintain adequate record of each negotiation session. The record will be completed within a reasonable time after each contact with the property owner or designated representative. The information recorded for each contact should include, but is not limited to, the date and place of contact, parties of interest contacted, offers made, reasons settlement could not be reached, counter offers, and any other pertinent data. This report will be signed and dated by the negotiator and kept in the property file.
- Assemble the above records (paper and electronic) into file form to be retained by SMART

In accordance with the requirements of the Uniform Act, FTA Circular 5010.D, Chapter IV, and California law and guidelines, SMART will make an offer to purchase property based on the fair market value and pay just compensation for all parcels in private ownership that need to be

acquired. SMART will make every effort to acquire property rights through a negotiated agreement with mutually acceptable terms, and avoid future litigation. If both parties cannot resolve the terms of an agreement through a negotiated settlement, SMART will complete the acquisition by eminent domain to further advance the Project toward completion.

6.0 Relocation Assistance

Based on preliminary engineering, SMART anticipates acquisition of properties may result in the displacement of a number of businesses. Please refer to the summary of SMART's potential property acquisitions reflected in Exhibit B with more detailed information regarding displacements in Exhibit C.

6.1 Staffing and Administration of the Relocation Process

In order to complete Relocation related tasks within the time required by the Project's schedule, SMART has assembled a team of SMART personnel and qualified consultants for the Relocation Planning, Relocation Assistance, and Relocation Claims processing functions.

6.2 Extent of Potential Displacements

All information presented in this section refers to potential relocations and includes options which may be eliminated in final design. No interviews have yet occurred with owners or occupants. At the completion of Preliminary Engineering and after Relocation Planning interviews have been completed, SMART will update the property acquisition database to provide a current listing of relocations for the expected property acquisitions.

SMART currently owns a former Northwestern Pacific (NWP) rail corridor, which comprises the majority of the ROW required for the Project. No displacements will be required on the railroad corridor; however, there are potential displacements as a result of required acquisitions for a maintenance facility, new rail stations, existing station expansions and rail sidings. Refer to Exhibit E for details on relocation displacements.

6.3 Availability of Replacement Housing

No residential displacements are currently anticipated; therefore, no surveys have been conducted as to the availability of replacement residential housing at the present time. This will be re-evaluated if changes in planning occur which require acquisitions resulting in additionally identified residential displacements.

6.4 Availability of Replacement Business Locations

SMART believes that there are sufficient replacement sites for general business relocations. These industrial businesses require appropriately zoned replacement sites and may require extended lead time to relocate. These issues will also be addressed in the relocation planning process.

Currently, SMART has identified a possible site for its operations and maintenance facility, located on Todd Road in Santa Rosa, which may involve as many as 11 business relocations.

Additionally, SMART is currently considering an industrial property along Corona Road in Petaluma for a rail station. This site appears to be in use by a variety of tenants such as trucking firms and a roof truss construction firm. The number or extent of the businesses operating on the site is currently unknown, but business relocations are anticipated.

6.5 Relocation Planning

In accordance with 49 CFR Section 24.205, SMART will conduct relocation surveys prior to the initiation of negotiations. The information collected during the surveys will assist in the planning of business and residential relocations. The information will also be used to verify SMART's current cost estimate for relocation activities. SMART does not anticipate any residential relocations for the SMART Project. For purposes of this document, residential relocation is mentioned in this Section 6.0 so that such is covered should SMART, at some point in the future and should the SMART Project be expanded, come across a situation wherein a property is required containing a residential dwelling(s).

SMART or a qualified consultant will prepare a Relocation Plan for each specific property where there are tenants, which will include, at a minimum, the following:

- An estimate of the number of households to be displaced, including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, elderly, large families and persons with disabilities.
- An estimate of the number, price ranges or rental rates of comparable replacement dwellings that may potentially be available upon displacement.
- An estimate of the number, type and size of the businesses and nonprofit organizations to be displaced, the potential availability of replacement sites, the time required for the business to vacate the site, the anticipated difficulty in locating a replacement property, identification of moving problems, and estimate of advance relocation payments required for the move.
- A description of relocation advisory services that will be provided.
- A statement on how relocation will occur in a manner that minimizes the hardships on the displacees, the eligibility requirements for relocation benefits, and the process for filing payment claims and appeals.

Community outreach efforts will precede any occupants being contacted for interviews. Outreach will include community-based workshops in addition to direct mailings to individuals affected. To the greatest extent possible, SMART staff and consultants will obtain required information for the Relocation Plan by personal contact with each business and household to be displaced.

6.6 Relocation Advisory Services

A Relocation Agent will provide advisory services to the businesses and residential households being displaced, pursuant to the requirements of 49 CFR Section 24.205(c) of the regulations implementing the Uniform Act, as follows:

- All occupants will be provided with an informational brochure explaining their rights and benefits as a displaced person and the Relocation Agent will personally explain the relocation program to all occupants. A Relocation Assistance Brochure is attached as Exhibit F.
- Upon a written offer and initiation of negotiations with the property owner, SMART will promptly notify all occupants in writing of their eligibility for applicable relocation assistance.
- The Relocation Agent will assist businesses and non-profit organizations by providing current listings of potential replacement properties comparable or appropriate for the displaced business or organization.
- If residential relocations are anticipated, SMART will conduct a market search for comparable replacement dwellings for each residential occupant, and shall make a housing supplement determination using up to three (3) available comparables and selecting one (1). The Relocation Agent will assure comparable replacement housing is available at the time of computation, notification of benefit, and displacement.
- SMART will inform the displaced person that he/she will not be required to move without at least 90 days advance written notice.
- The replacement dwelling will be inspected by the Relocation Agent to insure it meets decent, safe, and sanitary standards based on local housing codes. The determination will be submitted to the Senior Relocation Agent for review.
- Throughout the relocation effort, SMART will collect current information on the availability of rental units and rental costs of comparable relocation sites. It will do this through a systematic review of all advertised vacancies, direct appeals through agents, brokers, and the news media for vacancy listings.
- SMART will offer to provide transportation for displaced persons to inspect potential relocation housing or business locations if they are unable to do so on their own.
- The SMART Relocation Agent will assist in filing payment claims and other necessary assistance to help the displaced person successfully relocate.

It should be noted that for displacees, the Relocation Agent will inform the displaced person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and payments, unless it would result in exceptional and extremely unusual hardship to a qualifying spouse, parent or child, as required in 49 CFR Section 24.208.

6.7 Residential Relocation Payments

6.7.1 Moving and Related Expenses

Pursuant to the requirements of 49 CFR Section 24.301(b) of the regulations, the Relocation Agent will explain to the occupant their moving and related expenses reimbursement. Eligible

expenses for moves from a dwelling may be determined based on the cost of one, or a combination of the following methods:

- Commercial move – a move performed by a professional mover
- Self-move – a move that may be performed by the displaced person in one or a combination of the following methods:
 - Fixed Residential Moving Cost Schedule (approved by the FHWA, as applicable)
 - Actual cost move, supported by receipted bills for labor and equipment.

6.7.2 Replacement Housing Payments

A displaced owner-occupant or tenant may be eligible for replacement housing payments under 49 CFR, Sections 24.401, 24.402, 24.403, and 24.404. The Relocation Agent will collect/update the required information needed to determine eligibility and amount of payment and explain the type of payment the tenant or owner may be eligible to receive.

All relocation assistance payments will be computed in accordance with 49 CFR Subpart E. Eligible incidental expenses will be reimbursed provided they are necessary and reasonable costs actually incurred. Computation sheets and any supporting documentation (receipts) for each payment request will be forwarded to the SMART Real Estate staff for review and approval.

6.7.3 Last Resort Housing

If there is not an adequate supply of housing for sale or rent, or the benefits are not sufficient to enable a move to comparable replacement housing, the Relocation Agent will identify the owner or tenant as being eligible to receive replacement housing under the Last Resort Housing program and the Relocation Plan approved for the Program. The Relocation Agent will verify all required computations are in accordance with 49 CFR Section 24.404 and if applicable, provide recommendation to the Real Estate Property Manager for approval.

6.8 Business Relocation Payments

The Relocation Agent will explain eligible reimbursement costs to any business or non-profit organization in accordance with 49 CFR Sections 24.301, 24.303, 24.304, 24.305 and 24.306. The Relocation Agent will verify all required documentation to support reimbursement claims are eligible and provide recommendation to SMART Real Estate staff.

6.9 Payment of Claims

All residential and business relocation payments will be made in accordance with 49 CFR 24.207. Relocation claims includes the work of the Relocation Agent in reviewing the claim forms, the Real Estate Property Manager in reviewing and approving the claims, and the procedures within SMART for processing and making the payment.

The Relocation Agent will assist in preparing the claim form and will review the occupant's documentation submitted in support of the amount(s) being claimed. The Relocation Agent will inform the displaced person that he/she must file a claim for payment within 18 months (if a tenant) or the later of either the date of displacement or the date of the final payment for the acquisition of the real property (if an owner-occupant).

The Real Estate Property Manager and SMART Chief Financial Officer or designee is authorized to approve the claims after review. Claims will be processed and prompt payment and written notice of SMART's determination will be made directly by SMART.

6.10 Relocation Documentation Requirements

The Relocation Agent will maintain all forms, records and materials in the individual relocation file. The original documents will be submitted to the Real Estate Property Manager for approval and payment of claims after review by SMART's Chief Financial Officer.

For each displaced person affected, the following documents must be included in the folders:

- All notices with certified mail attachments
- Relocation Agent's Diary
- Certification of legal residence in the United States
- Written Offer Letter to the Property Owner (showing actual date of initiation of negotiations)
- Copies of notices with acknowledgment of receipt (General Information Notice, Informational Brochure, 90 Day Notice to Vacate, 30 Day Notice to Vacate if appropriate, Notice of Eligibility for Benefits)
- All relocation payment determinations
- Fully executed relocation payment claims with back up documentation
- Acknowledgment of receipt of relocation payments
- Any correspondence concerning the displaced person affected

SMART will perform and document a quality assurance review on all relocation files to assure that all documentation required to relocate each displaced person is prepared in accordance with the Uniform Act.

6.11 Relocation Appeals Process

In addition to approving and processing relocation payments, SMART staff will administer the relocation appeals process as outlined in the Uniform Relocation and Real Property Acquisition Act (42 USC 4061 et seq.) and its regulations (49 CFR Part 24).

The Uniform Act provides that a person may file a written appeal to the agency if the person believes that the agency has failed to properly determine the person's eligibility for, or the amount of a payment authorized, by the Uniform Act. If an individual is dissatisfied, he/she may call the Relocation Agent or submit to SMART a letter within 90 days of the claim being rejected, stating all of the facts in the case and the reasons he/she believes the claim should be paid or adjusted. SMART will consider a written appeal regardless of form.

SMART will permit the appellant to inspect and copy all materials pertinent to the appeal, except for materials that have been classified as confidential. In deciding the appeal, SMART will consider all pertinent justification and other material submitted by the Appellant. SMART will then make written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the Appellant a copy. The Appellant will be advised of his/her right to seek judicial review.

The Appellant will be given a prompt and full opportunity to be heard. The Appellant has the right to be represented by legal counsel or other representative in connection with the appeal, (but solely at his/her own expense). The hearing officer will consider all pertinent justification and material submitted by the Appellant and other available information needed to ensure a fair review. The hearing officer will provide a written determination resulting from the appeal with an explanation of the basis for the decision. If the Appellant is still dissatisfied with the relief granted, SMART will advise the Appellant that he/she may seek judicial review.

7.0 Management of Real Property Following Acquisition

Maintenance, management and protection of occupied property acquired by SMART will be provided under the direction of the Real Estate Property Manager utilizing a team of real estate staff with possible support from consultants and maintenance contractors. This includes property that continues to be occupied by the previous owners or tenants, as well as subsequent occupants who rent the property after SMART's acquisition. SMART Real Estate staff will maintain a listing of the properties that it manages.

SMART will arrange for the sale, demolition or disposal of any improvements or personal property acquired from displaced businesses before construction.

The Real Estate Management team will be responsible for all maintenance issues for vacant property acquired by SMART, including weed abatement, debris removal, hazardous materials remediation, security and demolition.

SMART will own all of the improvements, facilities and equipment purchased for the SMART Program.

7.1 Inventory and Utilization Plan for Excess Real Property

SMART policy is to preserve all opportunities for future extensions of passenger rail service on its property. However, after completion of the Project, SMART will follow Federal and State laws concerning disposal of property no longer required for the Project if such a determination is made by the SMART Board. If SMART determines that real property is no longer needed for the approved Project, then SMART may then approve use of the property for other purposes or otherwise plan for sale of the excess property.

7.2 Special Federal Provisions.

To the extent that FTA participation is involved, the following provisions may apply.

FTA may approve use of the property for other purposes. This may include use in other Federal grant programs or in non-Federal programs that have consistent purposes with those authorized for support by FTA. When real property is no longer needed for the originally authorized purpose, SMART will request disposition instructions from the FTA.

- Following are the allowable alternative dispositions methods:
 - Sell and Reimburse FTA. Comprehensively market and sell the real property and pay FTA its share of the fair market value of the property. This is the percentage of FTA participation in the original grant times the best obtainable price, net of reasonable sales costs.
 - Offset. Sell property and apply the net proceeds from the sale to the cost of replacement property under the same program. Return any excess proceeds to FTA [Common Rule CFR49 part 18.31].

- Sell and Use Proceeds for Capitol Projects. Sell property and use the proceeds to reduce the gross project costs of another FTA eligible capital transit project [49 U.S.C., 5334(g)(4)]. The grantee is expected to record the receipt of the proceeds in the grantee's accounting system, showing that the funds are restricted for use in a subsequent capitol project, and reduce the liability as the proceeds are applied to one or more FTA approved capital projects. The subsequent capital grant application should contain information showing FTA that the gross Project costs have been reduced with proceeds from the earlier transaction.
- Sell and Keep Proceeds in Open Project. If the grant is still open, the grantee may sell excess property and apply the proceeds to the original cost of the total real property purchased for that project.
- Transfer to Public Agency for Non-Transit Use. Follow the procedures for publication in Federal Register to transfer property (land and equipment) to public agency with no repayment to FTA. This is a competitive process and there is no guarantee that a particular public agency will be awarded the excess property [49.U.S.C., 5334(g)(1)].
- Transfer to Other Project. Transfer property to another FTA eligible project. The Federal interest continues.
- Retain Title with Buyout. Compensate FTA by computing percentage of FTA participation in the original cost. Multiply the current fair market value of the property by this percentage. The grantee must document the basis for value determination; typically this is an appraisal or market survey.

Sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return or at least payment of appraised fair market value.

In addition to Federal requirements for disposition of excess real property, for state requirements under certain circumstances, SMART may be obligated to offer the former owner a right of first refusal to purchase the property. If the owner declines to purchase the property, it may be sold or held for development projects.

SMART will prepare and keep up-to-date an excess property utilization plan for all property that is no longer needed to carry out the originally intended purpose. SMART will also notify the necessary State or Federal agencies when property is removed from the use it was intended for at grant approval and put to additional or substitute uses. SMART's plan will identify and explain the reason for excess property or substitute use.

The inventory will include property location, summary of any conditions on title, original acquisition cost, FTA grant number if applicable, appraised value and date, a brief description of improvements, current use of the property, and the anticipated disposition or action proposed.

8.0 Right of Way Cost Estimate

Current capital costs for the SMART Project were prepared in April 2009 as part of the 2009 SMART Strategic Plan. This estimate is an update of the 2008 Project Funding Plan, prepared by Jacobs, Carter Burgess, Inc. This Plan included estimated costs for ROW acquisition based on the estimates and methodology prepared as part of the Preliminary Engineering activities conducted in preparing the Final EIR for the SMART Project. The following figures are in 2008 dollars.

Table 8-1 Summary of Estimated ROW Acquisition Costs*

SMART Project Element	2008 \$	40% Contingency	TOTAL
Rail Project	\$21,605,808	\$8,642,323	\$30,248,131
Bicycle/Pedestrian Pathway	\$4,943,283	\$1,977,314	\$6,920,597

** Please note that these figures are inserted as general estimates only, pending the results of a detailed field right of way estimate.*

8.1 Update of Cost Estimate

The Project team will maintain a current forecast of Project costs, based on changes to Project scope, design, and schedule, which will be updated regularly. Project real estate costs will be updated as new Cost Reports are received, and the updated costs will be in the Cost Report.

8.2 Comparison of Actual Costs as Program Progresses

Actual costs for property or easement acquisitions will be recorded in the real property database as they are incurred, and the actual cost will be reflected as a comparison to the initial cost estimates for real property acquisitions.

Exhibit A

Cost Allocation Model

[Redacted pursuant to California Government Code Section 6254(a)]

Exhibit B

Summary of Property Acquisitions

**Exhibit B can be found on SMART's web site,
www.sonomamarintrain.org, under the heading "Right of Way**

Exhibit C

**Property Acquisition and Relocation
Planning Schedule**

[Redacted pursuant to California Government Code Section 6254(a)]

Exhibit D

**Informational Brochure for the
Acquisition of Real Property**

**Exhibit D can be found on SMART's web site,
www.sonomamarintrain.org, under the heading "Right of Way**

Exhibit E

Summary of Displacements

[Redacted pursuant to California Government Code Section 6254(a)]

Exhibit F

Relocation Assistance Brochure

**Exhibit F can be found on SMART's web site,
www.sonomamarintrain.org, under the heading "Right of Way**