



EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

AGENDA

Board of Directors Meeting
December 17, 2020 @ 9:15 AM

[Zoom Meeting](#)

Meeting ID: 841 1097 2506

Chair

Geoffrey Sears,
Wareham Development

Vice Chair

Bobby Lee, At-Large
Residential Member

Secretary

Betsy Cooley, At-Large
Residential Member

Treasurer

Andrew Allen
At-Large Business
Member

Directors

Peter Schreiber,
Pixar

Colin Osborne
At-Large Business
Member

Kassandra Kappelos
Public Market

1. Call to Order
2. Public Comment
3. Approval of the Minutes of the October 15th, 2020 Board of Directors Meeting (Attachment)
4. Executive Directors Report
 - A. Status Update on License Agreement with BioMed & CUP Extension
 - B. Status Update on Mandela Site
5. Business Items
 - A. Review and ratification of Shuttle Bus Yard Grant Agreement with City of Emeryville (Attachment)
 - B. Review of Third Quarter Financial Report (Attachment)
 - C. Review and Consider Approval of the 2021 Budget (Attachment)
 - D. Review and Consider Approval of Fueling Contract with AC Transit (Attachment)
 - E. Review and Consider Approval of Amendment 1 to the Shuttle Operations Agreement with MV Transportation to extend term 1 month, to January 31st, 2021. (Attachment)
 - F. Review and Consider Approval of Amendment 4 to Professional Services Agreement with John S Tounger, CPA, for continued bookkeeping and tax preparation services (Attachment)
 - G. Review and Consider Approval of Amendment 1 to Professional Services Agreement with Damono Design for continued website maintenance (Attachment)
 - H. Review and Consider Approval of Amendment 2 to Professional Services Agreement with Gallen Associates, Inc. for continued on-call Public Relations services (Attachment)
 - I. Review and Consider Approval of the scope and cost proposal from Gray-Bowen-Scott for continued Executive Director & Agency Management Services through December 31st, 2021, and authorize Chair to execute an Amendment to the Professional Services Agreement as prepared by legal counsel (Attachment)
 - J. Review and Consider Approval of Office Trailer Acquisition (Attachment)
6. Confirm date of Next Meeting – January 21st, 2021
7. Adjournment

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

ACTION SUMMARY MINUTES

Board of Directors Meeting

October 15, 2020

1. Call to Order

The meeting was called to order at 9:16 AM by Chair, Geoff Sears

Directors Present: Betsy Cooley, Bobby Lee, Colin Osborne, Andrew Allen, Peter Schreiber, Cassandra Kappelos

*Staff Present: Roni Hatstrup, Karen Boggs, Tiffany Gephart, Gray-Bowen-Scott
Christine Daniels, City of Emeryville; Ernest Klock, Zoon Engineering*

2. Public Comment

No public comment.

3. Approval of Minutes of the September 17th, 2020 Board of Directors Meeting

Betsy Cooley motioned for approval of the minutes. Andrew Allen seconded the motion.

This item was approved by a unanimous vote.

AYE: 6

NAY: 0

ABSTAIN: 0

4. Executive Director's Report

A. Status Update on EGR Bus Yard at Mandela Parkway (Attachments)

i. Review of Funding Request Letter to Emeryville City Council

Roni noted that she issued the funding request to the City of Emeryville for the \$1 million capital improvement project funding for the new bus yard. Roni noted that she would have the Board ratify the funding agreement at the next Board meeting.

ii. Status Update on Driver Barriers & Other Safety Measures

Karen provided an overview of the Driver Barriers and noted that they modified to reduce glare based on driver feedback, while still protecting the driver. Two barriers were installed on 10/14, and installation is expected to be completed by the second week of November.

Karen commented that staff have reviewed guidance from the American Public Transportation Association Health and Safety Commitment Program and follow the protocols including vehicle disinfecting, masking, and physical distancing. Karen is in the process of looking for hand sanitizing equipment to install on the buses.

Betsy Cooley asked if there was an increase in ridership. Karen noted that there has been an increase in ridership and is monitoring it closely. There has been an increase since AC Transit began collecting a fee. Roni noted that drivers are required to report when they

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

ACTION SUMMARY MINUTES

Board of Directors Meeting

October 15, 2020

are getting close to COVID capacity and that she and Karen were working to develop new schedules to increase service when needed.

Geoff Sears requested a written summary of the COVID safety policies. Roni commented that she would provide them and noted that the American Public Transportation Safety Association has a pledge that agencies can sign and is looking to make that pledge on behalf of ETMA. The pledge allows access to a messaging toolkit of that will be provided publicly.

Bobby Lee asked if anyone has spoken to AC Transit about glare as they recently installed driver barriers. Karen noted at the time their barriers had not yet been installed but the glare has been addressed at this point with the new barriers. Bobby further asked if the pedestrian signals have impacted delays in run time. Karen commented that one light was installed on 40th street and the OTP has been running late. Drivers commented that their lights are not coordinated, and Karen noted she is looking into that. She further noted that the GPS emitters have been installed and the program will commence at the end of the year and hopefully that will assist OTP.

5. Business Items

A. Review and ratify Amendment #9 to Fueling Agreement with AC Transit (Attachment)

Roni noted the agreement is an extension of the existing agreement through December. This will allow for time to review the new agreement and agree on the terms. Roni expects to bring the new agreement to the Board in December.

Bobby Lee asked if any pricing changes are expected. Roni noted that she did not expect pricing changes and this agreement is more about scheduling and when they can fuel. Roni noted that the location is convenient and current fuel prices are unmatched.

Bobby Lee motioned for approval; Betsy Lee seconded the motion to ratify Amendment #9 to the Fueling Agreement with AC Transit.

This item was approved by a unanimous vote.

AYE: 6

NAY: 0

ABSTAIN: 0

B. Contractor Selection and Award – EGR Bus Yard at Mandela Parkway

1. Overview of Bid Process and Results
2. Consider Committee Recommendation for Contractor Selection

Ernest Klock noted that requests for bids were sent to six companies, two additional companies expressed interest and the bid process was competitive.

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

ACTION SUMMARY MINUTES

Board of Directors Meeting

October 15, 2020

Bids were received from four companies and the bidding process was three weeks.

Ernest noted that alternate pricing requests were collected for two bid items regarding pavement and roadway excavation. Ernest noted that a smaller cross-section of pavement was added as an alternate bid item. The reason for this is to reduce risk as the Caltrans yard is known to have contamination (metal, lead and oil), and Geotech discovered concrete objects at various depths. To limit risk, the less soil that is moved the better. If soil becomes contaminated it is more expensive to move offsite.

Geoff Sears requested Ernest to clarify the recommendation. Ernest recommended the selection of the alternate base bid which meets original intent of the design and mirrors the Traffic Index number (TI) of 6 (as opposed the original TI of 9) consistent with the City of Oakland requirements. Ernest recommended setting aside as much contingency as possible along with selecting the base bid. He further recommended selecting OC Jones & Sons as the contractor. Ernest noted that OC Jones & Sons were the most engaged, asked poignant questions and had a good understanding of the project. Ernest further noted that he has worked with them extensively on other projects and they have a good reputation and working relationship.

Bobby asked Ernest to clarify the pavement thickness issue. Ernest commented that the pavement thickness will remain the same. The issue is the removal of pavement below the base layer. With the alternate base bid the contractor would be removing 6 inches below the pavement whereas the original base BID called for 12 inches which increases the risk of encountering objects and contaminated soil, and higher hauling costs. Roni noted that the Geotech firm reviewed the revised base bid recommendation with the Geotech and confirmed that it is appropriate for the anticipated usage of the lot.

Andrew Allen motioned for the selection of OC Jones & Sons for construction of the Emery Go Round Fleet Parking Facility. Geoff Sears seconded the motion.

This item was approved by a unanimous vote.

AYE: 6

NAY: 0

ABSTAIN: 0

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

ACTION SUMMARY MINUTES

Board of Directors Meeting

October 15, 2020

3. Review of Escrow Agreement and Authorize Chair to Execute the Final Agreement

Roni reviewed the escrow agreement in the packet. She noted that the OC Jones bonding company would not issue the required bonds unless an escrow account for the contract value was established. Roni noted that the escrow account would be established once the grant funding from the City was received.

Andrew Allen motioned for approval to authorize the Chair to execute all documents associated with the establishment of the escrow agreement. Bobby Lee seconded the motion.

This item was approved by a unanimous vote.

AYE: 6

NAY: 0

ABSTAIN: 0

4. Review and Authorize Chair to Award Construction Contract and Execute all Contract Documents, contingent on Emeryville City Council Approval of funding (Attachment)

Andrew Allen motioned for approval to authorize the Chair to award the construction contract with OC Jones and Sons and to execute all contract documents, contingent on Emeryville City Council approving the \$1 million grant funding. Betsy Cooley seconded the motion.

This item was approved by a unanimous vote.

AYE: 6

NAY: 0

ABSTAIN: 0

5. Next Meeting Date and Time

Roni noted that the next meeting will be held on November 19, 2020. Geoff requested that members attend the Emeryville City Council meeting scheduled for October 20th, 2020, if possible.

6. Adjourn

The meeting was adjourned at 9:58 AM.

THIRD AMENDMENT TO LICENSE AGREEMENT

THIS THIRD AMENDMENT TO LICENSE AGREEMENT (this “Amendment”) is entered into as of this ___ day of December, 2020, by and between BRE-BMR 4563 HORTON LP, a Delaware limited partnership (“Licensor,” as successor-in-interest to BRE-BMR Emeryville Center of Innovation Holdco LP, f.k.a. BRE-BMR 53rd LP, as successor-in-interest to Novartis Vaccines and Diagnostics, Inc.), and EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION, a California nonprofit corporation (“Licensee”).

RECITALS

A. WHEREAS, Licensor and Licensee are parties to that certain License Agreement dated as of April 6, 2018 as amended by that certain First Amendment to License Agreement dated as of March 30, 2020 and that certain Second Amendment to License Agreement dated as of August 31, 2020 (collectively, and as the same may have been further amended, amended and restated, supplemented or modified from time to time, the “Existing Agreement”), whereby Licensee licenses certain property (the “Space”) from Licensor at 4555 Horton Street in Emeryville, California;

B. WHEREAS, Licensor and Licensee desire to extend the term of the Existing Agreement; and

C. WHEREAS, Licensor and Licensee desire to modify and amend the Existing Agreement only in the respects and on the conditions hereinafter stated.

AGREEMENT

NOW, THEREFORE, Licensor and Licensee, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Existing Agreement unless otherwise defined herein. The Existing Agreement, as amended by this Amendment, is referred to collectively herein as the “Agreement.” From and after the date hereof, the term “Agreement,” as used in the Existing Agreement, shall mean the Existing Agreement, as amended by this Amendment.

2. Extension Term. The term of the Existing Agreement is hereby extended until January 31, 2021. Accordingly, Paragraph 3(a) of the Existing Agreement is deleted in its entirety and replaced with the following:

“3. (a) The term of this Agreement shall commence on April 6, 2018 (the “Commencement Date”) and expire on the earlier to occur of (i) the termination of this Agreement by Licensor (1) following a default by Licensee under this Agreement, and/or (2) in accordance with the provisions of Paragraph 10 of this Agreement and (ii) January 31, 2021 (the “Expiration Date”).”

The period of time commencing on December 15, 2020 and ending on the new Expiration Date shall be referred to herein as the “Extension Term.”

3. Fee and Other Payments.

3.1. Commencing on the first (1st) day of the Extension Term and continuing through the new Expiration Date, Licensee shall continue to pay to Licensor the Fee in an amount equal to Six Thousand Dollars (\$6,000) per month and in accordance with Paragraph 4(a) of the Existing Agreement. For purposes of clarity, prior to the first (1st) day of the Extension Term, Licensee shall continue to pay the Fee to Licensor in accordance with the Existing Agreement.

3.2. In addition to the Fee, commencing on the first (1st) day of the Extension Term and continuing through the new Expiration Date, Licensee shall remain responsible for (and shall timely pay to Licensor) all other payments required of Licensee under the Existing Agreement (including, without limitation, those payments set forth in Paragraphs 4(b) and 4(c) of the Existing Agreement). For purposes of clarity, prior to the first (1st) day of the Extension Term, Licensee shall continue to remain responsible for (and shall timely pay to Licensor) all other payments required of Licensee under the Existing Agreement (including, without limitation, those payments set forth in Paragraphs 4(b) and 4(c) of the Existing Agreement).

4. Condition of Space. Licensee acknowledges that (a) it is in possession of and is fully familiar with the condition of the Space and, notwithstanding anything contained in the Agreement to the contrary, agrees to take the same in its condition “as is” as of the first day of the Extension Term, and (b) Licensor shall have no obligation to alter, repair or otherwise prepare the Space for Licensee’s continued occupancy for the Extension Term or to pay for any improvements to the Space, except as may be expressly provided in the Agreement.

5. Broker. Licensee represents and warrants that it has not dealt with any broker or agent in the negotiation for or the obtaining of this Amendment and agrees to reimburse, indemnify, save, defend (at Licensor’s option and with counsel reasonably acceptable to Licensor, at Licensee’s sole cost and expense) and hold harmless Licensor and its affiliates and their respective shareholders, members, partners, directors, officers, employees, lenders, ground lessors, successors and assigns, and Licensor’s contractors and agents for, from and against any and all cost or liability for compensation claimed by any such broker or agent employed or engaged by it or claiming to have been employed or engaged by it.

6. No Default. Licensee represents, warrants and covenants that, to the best of Licensee’s knowledge, Licensor and Licensee are not in default of any of their respective obligations under the Existing Agreement and no event has occurred that, with the passage of time or the giving of notice (or both) would constitute a default by either Licensor or Licensee thereunder.

7. Notices.

7.1. Licensee confirms that, notwithstanding anything in the Agreement to the contrary, notices delivered to Licensee pursuant to the Agreement should be sent to:

Emeryville Transportation Management Association
c/o Gray Bowen Scott
1211 Newell Avenue, Suite 200
Walnut Creek, CA 94596

7.2. Licensors confirm that, notwithstanding anything in the Agreement to the contrary, notices delivered to Licensee pursuant to the Agreement should be sent to:

BRE-BMR 4563 Horton LP
4570 Executive Drive, Suite 400
San Diego, California 92121
Attn: Legal Department

8. Effect of Amendment. Except as modified by this Amendment, the Existing Agreement and all the covenants, agreements, terms, provisions and conditions thereof shall remain in full force and effect and are hereby ratified and affirmed. In the event of any conflict between the terms contained in this Amendment and the Existing Agreement, the terms herein contained shall supersede and control the obligations and liabilities of the parties.

9. Successors and Assigns. Each of the covenants, conditions and agreements contained in this Amendment shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns and sublicensees. Nothing in this Section shall in any way alter the provisions of the Agreement restricting assignment or sublicensing.

10. Miscellaneous. This Amendment becomes effective only upon execution and delivery hereof by Licensor and Licensee. The captions of the paragraphs and subparagraphs in this Amendment are inserted and included solely for convenience and shall not be considered or given any effect in construing the provisions hereof. All exhibits hereto are incorporated herein by reference. Submission of this instrument for examination or signature by Licensee does not constitute a reservation of or option for a license, and shall not be effective as a license, license amendment or otherwise until execution by and delivery to both Licensor and Licensee.

11. Authority. Licensee guarantees, warrants and represents that the individual or individuals signing this Amendment have the power, authority and legal capacity to sign this Amendment on behalf of and to bind all entities, corporations, partnerships, limited liability companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed.

12. Counterparts; Facsimile, Electronic and PDF Signatures. This Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document. A facsimile, electronic or portable document format (PDF) signature on this Amendment shall be equivalent to, and have the same force and effect as, an original signature.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Licensor and Licensee have executed this Amendment as of the date and year first above written.

LICENSOR:

BRE-BMR 4563 HORTON LP,
a Delaware limited partnership

By: _____
Name: _____
Title: _____

LICENSEE:

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION,
a California nonprofit corporation

By: _____
Name: _____
Title: _____

SHUTTLE BUS YARD GRANT AGREEMENT

This Shuttle Bus Yard Grant Agreement ("**Agreement**") is entered into as of the Effective Date by and between the City of Emeryville, a municipal corporation ("**City**") and the Emeryville Transportation Management Association, a California non-profit public benefit corporation ("**ETMA**"), each a "**Party**" and collectively the "**Parties**".

RECITALS

A. In July 2015, City formed a Property Based Business Improvement District ("**PBID**"), pursuant to Streets and Highways Code Section 36600 *et seq.* to fund the Emery Go-Round ("**EGR**") a free shuttle service connecting commercial and residential sites in the City of Emeryville and the MacArthur BART Station in Oakland. The PBID creates a city-wide assessment on properties for the purpose of funding the EGR.

B. ETMA is the PBID Owners Representative pursuant to the Streets and Highways Code and operates the EGR.

C. ETMA is seeking to develop a new parking facility for EGR shuttles and has identified a site in West Oakland on Mandela Parkway under the I-580/80 flyover connectors. The project involves construction of a new 95,000 square foot shuttle bus parking facility, including drainage work, utility work, subgrade preparation, asphalt resurfacing, minor concrete, pavement parking, fencing, lighting and electrical work, landscaping/irrigation and a mobile office unit for the EGR operations team (collectively, the "**Project**").

D. In June 2019, pursuant to Resolution No. 19-065, the Emeryville City Council approved the 2019-2024 Capital Improvement Program, which includes an appropriation of \$1 million (\$1,000,000) of Traffic Improvement Fees for Project Number CF-09, which is intended to provide assistance to ETMA to establish a long-term bus yard for the EGR shuttle, and which includes tenant improvements to, as well as possible purchase of, a bus yard in or nearby Emeryville.

E. ETMA has solicited bids for the Project and on October 15, 2020, ETMA's Board of Directors will consider award of the construction contract to the lowest bidder. The award will be contingent on receipt of City's Capital Improvement Program funds.

F. On October 2, 2020, ETMA submitted a letter to City, requesting City release the Capital Improvement Program funds. On October 20, 2020, the Emeryville City

Council considered the ETMA letter and authorized the City Manager to execute an agreement with ETMA to grant City's Capital Improvement Program funds to the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other valuable consideration, the adequacy of which is acknowledged, the Parties agree as follows:

1. Recitals Incorporated. The above Recitals are an integral part of this Agreement and fully incorporated herein.
2. Term. The Term of this Agreement shall commence upon the Effective Date and shall expire on December 31, 2021.
3. City Grant. City grants \$1,000,000 (One Million Dollars) identified in the City's 2019-2024 Capital Improvement Program, Project Number CF-09 (the "**Grant Funds**") to ETMA. City shall disburse the entirety of the Grant Funds to ETMA in one lump sum within 10 business days of execution of this Agreement.
4. Use of Grant Funds. Grant Funds shall only be used for the purposes of acquisition of the Project site, or for work done pursuant to the Project ("**Allowable Uses**"). Any other uses of the Grant Funds is disallowed, and such use shall constitute an event of Default.
5. Audit Requirement. ETMA shall provide to City by June 30, 2022 an audit of the proceeding calendar year's expenditures of Grant Funds.
6. Default; Remedies. Use of Grant Funds for any use except for Allowable Uses shall constitute a **Default**. In the event of a Default, ETMA shall, within 30 days after service of notice of Default take the following action:
 - 6.1. ETMA shall reimburse City the portion of Grant Funds spent on non-Allowable Uses.
 - 6.2. City may pursue any other remedies available in law or equity.
7. Indemnification. ETMA shall indemnify, keep and save harmless City, its councilmembers, members, officers, agents, employees (collectively, "**City Indemnitees**") against any and all suits, claims or action arising out of any injury to persons or property that may occur, or that may be alleged to have occurred, arising out of, pertaining to, or relating to, directly or indirectly, in whole or in part, the granting or use of Grant Funds. This obligation to indemnify City and City

Indemnitees shall survive termination of this Agreement. Except in the event of active negligence on the part of City Indemnities, ETMA further agrees to defend and all actions, suits or claims and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith; and if any judgement be rendered against the indemnities in any such action, ETMA shall, at its expense, satisfy and discharge the same. This obligation to defend City and City Indemnities shall survive the termination of this Agreement.

8. Notices. Any notice, report, request, instruction or other document required by this Agreement will be in writing and delivered in person to a representative of the Parties at the address below, or by mailing the same by registered or certified mail, postage prepaid, addressed as follows:

If to City: City of Emeryville
 1333 Park Avenue
 Emeryville, CA 94608-3517
 Attention: City Manager

Copy to: City of Emeryville
 1333 Park Avenue
 Emeryville, CA 94608-3517
 Attention: City Attorney

If to the TMA: Emeryville Transportation Management Association
 c/o Gray Bowen Scott
 1676 N. California Blvd, Suite 400
 Walnut Creek, CA 94596

Copy to: Hanson Bridgett LLP
 Attn: Michael Conneran
 425 Market Street, 26th Floor
 San Francisco, CA 94105

Any notice served personally shall be deemed received upon delivery; any noticed mailed via registered or certified mail as provided above shall be deemed received three (3) days after it is postmarked by the United States Postal Service. Either Party may change its address by sending notice of the change to the other Party as provided herein.

9. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter and superseded any prior or contemporaneous oral or written understandings of the Parties on the same subject. This Agreement

may only be amended in writing by both of the Parties hereto. The Parties intend this Agreement to be an integrated agreement.

10. Attorneys' Fees. In the event legal proceedings are instituted by either of the Parties to enforce any term of this Agreement or to determine the rights of the Parties hereunder, the prevailing Party in said proceedings shall recover, in addition to all court costs, reasonable attorneys' fees.
11. Relationship. Pursuant to this Agreement, City is merely a funding agency for ETMA. Nothing in this Agreement is intended for City to direct, manage or control the operations of ETMA. Nothing herein shall be deemed to create a partnership, joint venture, or employment relationship between City and ETMA.
12. Severability. The caption or headnote on sections and subsections of this Agreement are intended for convenience and reference purposes only and in no way define, limit, or describe the scope or intent thereof, or of this Agreement. Should any section(s) of this Agreement, or any part thereof, is deemed unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect to the extent possible.
13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be one Agreement.
14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California as applied to contracts made and performed entirely in California. The Parties agree the exclusive venue for any legal action arising out of or pertaining to this Agreement shall be the Superior Court of the State of California in and for the County of Alameda.
15. Successors. The obligations created under this Agreement shall be binding on, and the rights established herein shall inure to the benefit of, the successors and permitted assigns of the Parties hereto.
16. Assignment. The rights, obligations, and responsibilities of ETMA under this Agreement shall not be assigned by ETMA to any third party without the prior written consent of City, which consent may be withheld by City in its reasonable discretion.
17. Effective Date. The **Effective Date** of this Agreement is the date upon which the City Manager executes the Agreement on behalf of City.

IN WITNESS WHEREOF, the Parties have executed this Agreement with the intent to be legally bound as provided herein.

**CITY OF EMERYVILLE, a
Municipal Corporation**

DocuSigned by:
By: Christine Daniel
B023BA190D284E2...

Christine Daniel

City Manager

Date: 10/29/2020

(Effective Date)

**EMERYVILLE TRANSPORTATION
MANAGEMENT ASSOCIATION, a
California Non-Profit Public Benefit
Corporation**

DocuSigned by:
By: Roni Hatstrup
A1B9C3E0C4114DC...

Name: Roni Hatstrup

Its: Executive Director

Date: 10/27/2020

Approved As To Form:

DocuSigned by:
Michael Guina
264EB966665409...

Michael Guina

City Attorney

**ETMA 2020 - 3rd Quarter Financial Reports
(Cash Basis)**

11/13/2020

EMERY GO-ROUND

(Cash Basis)

| | 3rd Quarter Financials | | | | Notes |
|--------------------------------------|------------------------|------------------------------|------------------|-----------------------|---|
| | 2020 Budget | Actual Revenue Rec'd to Date | Variance | % of revenue received | |
| Revenue | | | | | |
| <u>PBID Revenue</u> | | | | | |
| Net PBID Revenue | 4,039,222 | 4,039,222 | 1,009,806 | 100% | |
| <u>Non-PBID Revenue</u> | | | | | |
| City - General Benefit Contribution | 560,301 | 560,301 | 140,075 | 100% | |
| City - Emery Go Round Bus Yard (CIP) | 1,000,000 | - | (750,000) | | Funds received in November 2020. |
| ETMA Billed Revenue | 106,386 | 106,392 | 26,602 | 100% | |
| BGTMA (Net balance of WBS revenue) | 40,000 | (60,517) | (90,517) | -151% | Revenue for May-September received in Q4. |
| Other Revenue | 3,000 | 1,719 | (531) | 57% | |
| Subtotal Non-PBID Revenues | 1,709,687 | 607,895 | (674,370) | 36% | |
| Total Revenue | 5,748,909 | 4,647,117 | 3,209,890 | 81% | |

| | 3rd Quarter Financials | | | | Notes |
|--|------------------------|----------------------|--------------------|----------------------|--|
| | 2020 Budget | Actual Costs to Date | Variance | % of Budget Expended | |
| Expenditures | | | | | |
| <u>Direct Costs</u> | | | | | |
| Bus Leases/Purchases | 500,000 | 321,928 | (53,072) | 64% | |
| Maintenance | 300,000 | 153,102 | (71,898) | 51% | |
| Operations Contract | 2,400,000 | 1,459,457 | (340,543) | 61% | |
| Fuel | 300,000 | 112,561 | (112,439) | 38% | |
| Communications | 75,000 | 222,918 | 166,668 | 297% | Includes payment for APC equipment and installation from 2019. |
| Miscellaneous Operating Costs | 15,000 | 54,887 | 43,637 | 366% | Transit Emitters and Installation. |
| Subtotal Direct Costs | 3,590,000 | 2,324,853 | (367,647) | 65% | |
| <u>Indirect Costs</u> | | | | | |
| Professional Services | 500,000 | 262,501 | (112,499) | 53% | |
| Occupancy (site lease, utilities, etc.) | 400,000 | 98,917 | (201,083) | 25% | |
| Bus Yard (Site Development & Relocation) | 3,000,000 | 173,758 | (2,076,242) | 6% | |
| Membership/Public Outreach Expenses | 20,000 | 9,865 | (5,135) | 49% | |
| Pilot Projects and Research | 25,000 | - | (18,750) | 0% | |
| TMA Insurance | 20,000 | 17,478 | 2,478 | 87% | |
| Meeting expenses, supplies, licenses, fees, etc. | 4,000 | 677 | (2,323) | 17% | |
| Subtotal Indirect Costs | 3,969,000 | 563,195 | (2,413,555) | 14% | |
| Total TMA Expenditures | 7,559,000 | 2,888,048 | (2,781,202) | 38% | |

2020 Revenue vs. Expenditures Balance: (1,810,091) 1,759,069

**ETMA 2020 - 3rd Quarter Financial Reports
(Cash Basis)**

11/13/2020

| WEST BERKELY SHUTTLE | | 3rd Quarter Financials | | | | |
|---|--|------------------------|-------------------------------------|------------------|------------------------------|---|
| | | 2020 Budget | Actual Revenue Rec'd to Date | Variance | <i>% of Revenue Received</i> | Notes |
| Revenue | | | | | | |
| BGTMA & Bayer | | 360,000 | 148,335 | (121,665) | 41% | Revenue for June-September services rec'd in October, not reflected in this revenue to date amount. |
| Total Revenue - West Berkeley | | 360,000 | 148,335 | (121,665) | 41% | |
| Expenditures | | | | | | |
| | | 2020 Budget | Actual Costs to Date | Variance | <i>% Expended</i> | Notes |
| Shuttle Operations | | 304,000 | 198,654 | (29,346) | 65% | Includes invoice from November 2019. |
| Professional Service Contracts | | 16,000 | 10,198 | (1,802) | 64% | |
| Total Expenditures - West Berkeley | | 320,000 | 208,852 | (31,148) | 65% | |
| <i>Balance</i> | | 40,000 | (60,517) | | | <i>Balance of revenue shown as ETMA revenue above.</i> |

| City of Emeryville - 8 to Go Paratransit | | 3rd Quarter Financials | | | | |
|---|--|------------------------|-------------------------------------|-----------------|------------------------------|-------|
| | | 2020 Budget | Actual Revenue Rec'd to Date | Variance | <i>% of Revenue Received</i> | Notes |
| Revenue | | | | | | |
| City of Emeryville - 8 to Go Paratransit | | 103,000 | 48,659 | (28,591) | 47% | |
| Total Revenue - City | | 103,000 | 48,659 | (28,591) | 47% | |
| Expenditures | | | | | | |
| | | 2020 Budget | Actual Costs to Date | Variance | <i>% Expended</i> | Notes |
| Shuttle Operations & Maintenance | | 90,500 | 49,763 | (18,112) | 55% | |
| Fuel | | 2,700 | 1,091 | (934) | 40% | |
| Communications | | 800 | 579 | (21) | 72% | |
| Professional Service Contracts | | 9,000 | 2,477 | (4,273) | 28% | |
| Total Expenditures - City | | 103,000 | 53,911 | (23,339) | 52% | |
| <i>Balance</i> | | | (5,252) | | | |

2021 Budget

| EMERY GO-ROUND | | 2021 | |
|---|--|---------------------|---|
| Revenue | | Anticipated Revenue | Notes/Assumptions |
| PBID Revenue | | | |
| PBID Revenue | | 4,178,547 | Per 2020-2021 Assesment roll provided by NBS. See note 7. |
| District Related Costs | | (95,535) | 1.7% of assessment to County Assessor + \$24,500 to City for legal and administration fees. |
| Estimated Uncollectable Assessments | | | |
| Net PBID | | 4,083,012 | |
| Non-PBID Revenue | | | |
| City of Emeryville - General Benefit Contribution | | 556,368 | 12.29% of Total Budget, excluding capital expense for bus yard construction. |
| City of Emeryville - Emery Go Round Bus Yard (CIP) | | - | \$1 Million in funding was received in 2020. Funding was used to establish the escrow account for Construction. |
| ETMA Billed Revenue | | 109,578 | |
| BGTMA Revenue | | 20,000 | |
| Misc. Revenue (Charter services, interest income, etc.) | | 3,500 | |
| Subtotal Non-PBID Revenues | | 689,446 | |
| Total Revenue | | 4,772,458 | |

| | | 2021 | |
|--|--|-----------------------|--|
| Expenditures | | Proposed Expenditures | Notes/Assumptions |
| Direct Costs | | | |
| Bus Leases/Purchases | | 500,000 | See note 1. |
| Bus Maintenance | | 315,000 | See note 2. |
| Operations Contract | | 2,400,000 | See note 6. |
| Fuel | | 300,000 | |
| Communications | | 60,000 | Annual fees for RTTS, APCs and driver radios. |
| Miscellaneous Operating Costs | | 15,000 | Bus Stop Signs, Wayfinding Signs, Route Guides, etc. |
| Subtotal Direct Costs | | 3,590,000 | |
| Indirect Costs | | | |
| Professional Services | | 515,000 | See note 3. |
| Occupancy (Bus Yard, Site Expenses) | | 350,000 | See note 4. |
| Site Development - Long Term Bus Yard | | 1,200,000 | See note 5. |
| Membership & Public Outreach Materials | | 25,000 | |
| Pilot Projects and Research | | | |
| TMA Insurance | | 22,000 | Commercial, Directors & Officers and Special Form Property Coverage. |
| Conferences, Meetings, Office Expenses | | 25,000 | Shuttle Operations workshop, office expenses and equipment. |
| Subtotal Indirect Costs | | 2,137,000 | |
| Total TMA Operating Budget/Expenses | | 5,727,000 | |
| TOTAL BUDGET/EXPENSES | | 5,727,000 | |
| Estimated Shortfall | | (954,542) | |

| Cash Balance Summary (2020-2021) | |
|--|---------------------|
| Carryover Cash Balance (as of Jan 1, 2020) | \$ 3,181,063 |
| 2020 Estimated Shortfall | \$ (1,100,000) |
| Projected Cash Balance on Dec 31, 2020 | \$ 2,081,063 |
| 2021 Projected Shortfall | \$ (954,542) |
| Total Projected Cash Balance on Dec 31, 2021 | \$ 1,126,521 |

Note: Minimum Operating Reserve is 15% of Operating Expenses (\$680k for 2021).

2021 Budget - Notes/Assumptions

1. Recommendation is for the ETMA continue to maintain an annual budget of \$500,000 to continue building reserves for future capital equipment purchases. Actual annual lease costs for 2021 will be approximately \$350,000, which includes financing and acquisition of 2 replacement vehicles in 2021. The remaining balance of \$150,000 will be applied to the ETMA cash reserve for future capital equipment purchases, or possible local funding match for ZEV grants.
2. Bus Maintenance budget is estimated using actual cost trends from Q1-Q3 in 2020, plus an increase in maintenance rates anticipated in the updated contractor pricing.
3. Assume consistent overall level of effort for Agency Management, Accounting/Bookkeeping, Website Maintenance and Legal Services. Agency Management team will continue to assign work appropriately to ensure cost effectiveness.
4. Assume current lease is extended through June 2021 and new lease rates will take effect in July 2021. Included additional budget for a secondary site lease for potential vehicle overflow.
5. The majority of construction costs will be paid into escrow account in December 2020. 2021 budget includes cost for construction oversight, project management, office trailer acquisition and the overall project contingency.
6. Assume the current level of service will continue through the winter then will increase 30-40% in the spring. Also assumes rate increases for shuttle operations in new contract pricing.
7. Assessment billed by NBS for 2020-2021 were less than anticipated. Total PBID revenue increased by only 1.08%.



CONTRACT

THIS CONTRACT (this “Contract”) is made and entered into this 1st day of December 2020 (the “Effective Date”) by and between **ALAMEDA-CONTRA COSTA TRANSIT DISTRICT**, a special transit district established pursuant to *California Public Utilities Code, Section 24501 et seq.*, having its principal place of business at 1600 Franklin Street, Oakland, California 94612 (hereinafter, “AC Transit” or the “District”) and **EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION**, a non-profit Public Benefit Corporation, organized under the California Non-Profit Public Benefit Corporation Law, having its principal place of business at 1300-67th Street, Emeryville, California 94608 (hereinafter, the “Corporation”).

WHEREAS, Corporation operates a free shuttle bus service (hereinafter, “Emery-Go-Round”) within the City of Emeryville, including service to the MacArthur BART and AMTRAK stations for the purpose of mitigating traffic congestion; and

WHEREAS, District operates a large fixed route public transit service in the East Bay, including the City of Emeryville, and maintains several maintenance facilities for the dispatch, maintenance, and servicing of its fleet of buses; and

WHEREAS, Corporation desires to enter into an agreement with District for the fueling; and

WHEREAS, District is willing to provide fueling services for the Corporation’s Emery-Go-Round fleet.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms hereinafter set forth and for other good and valuable consideration, the parties hereby agree as follows:

1. **Scope of Services / Servicing of Corporation Buses.**

- A. *Services:* District will provide diesel, unleaded fuel, diesel exhaust fluid (DEF) for up to twenty-nine (29) approved vehicles of the Corporation's Emery Go Round fleet (the “Services”).
- B. *Site:* District will provide the services at District's Division 2 Emeryville Maintenance Facility, currently located near 45th Street and San Pablo Avenue in Emeryville.
- C. *Servicing Procedures:* Emery-Go-Round bus operators shall deliver buses for servicing to the Division 2 Maintenance Facility, following all posted speed and directional signage. Once delivered to the fuel island, all further movement of buses while on District property shall be performed by designated District employees. District staff will dispense product and document the transactions accordingly.
- D. *Schedule:* It is the intention of the parties, to the extent feasible, that the Emery-Go-Round vehicles be fueled on a pre-arranged, mutually agreeable schedule during the hours of Monday-Thursday 5:30a-3p and/or Friday 5:30a-8p (excluding holidays). Any modifications to the schedule will be mutually agreed upon.
- E. *Recording:* Transactions will be documented utilizing the District’s fuel management program and a manual fuel log for (DEF).

2. **Contract Term.** Services under this Contract shall commence on/about *01 January 2021* and continue through *31 December 2023* unless this Contract is terminated sooner pursuant to Section 8-Termination or extended by the parties, as allowed for herein. Services shall be performed at the District’s direction and within the term set forth herein unless otherwise mutually agreed upon by the District and the Contractor.

At the sole discretion of the District, this Contract may be extended unilaterally by the exercise of *two (2) one (1) year* priced options. If exercised, the District shall notify Contractor, in writing, of its intent to exercise each priced option at least *thirty (30)* days prior to the exercise of said option(s). The option(s) shall be exercised in accordance with the prices proposed in the original submitted proposal.

3. **Payment.** As compensation for the Services provided to Corporation, Corporation shall pay to District the sum of \$1.50 per gallon of DEF pumped. For diesel and unleaded fuel pumped, the cost shall be based on the current fair market price. In addition, the District will charge Corporation a fuel surcharge of \$0.56 per gallon for each gallon of fuel pumped. The District and the Corporation also agree that, due to the volatility of the fuel market, AC Transit will adjust fuel and DEF pricing monthly during the contract period. The District will notify Corporation, in writing, of any proposed changes to the pricing.

The District shall submit invoices, with a payment term of net thirty (30) days, at the end of each month when Services have been provided. Invoices should be sent to Veronica Hatstrup, Executive Director, via email to [@ adminemerygoround.com](mailto:@adminemerygoround.com).

On a quarterly basis, the parties will review compensation under this Agreement and negotiate adjustments, if appropriate, to compensate the District and/or the Corporation for any significant increases or decreases in the costs of any Services provided under the Contract.

4. **Notices.** All communications relating to the day-to-day activities of the provided services shall be exchanged between the District’s representative, *Chris Durant*, and the Client representative, *Veronica Hatstrup*. All other notices, consent or other communication (“Notice”) required or permitted under this Contract shall be in writing and either delivered in person, mailed or electronically delivered as follows:

DISTRICT

Patricia Jacobson, Assistant Contracts Specialist
AC Transit
1600 Franklin Street, 6th Floor
Oakland, CA 94612
Phone (510) 891-
Email: pjacobson@actransit.org

CLIENT

Veronica Hatstrup
Emeryville Management Association
211 Newell Avenue, Suite 200
Walnut Creek, CA 94596
Phone #: (925) 937-0980, ext: 212
Email: Roni@graybowenscott.com

A Notice shall be deemed received at the time it is personally served, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express services or, if mailed, ten (10) days after the Notice is deposited in the United States mail as above provided. Any time period stated in a Notice shall be computed from the time the Notice is deemed received. Either party may change its mailing address or the person to receive Notice by notifying the other party as provided in this section. This requirement for duplicate notice is not intended to change the effective date of the Notice sent by facsimile transmission.



5. **Vendor Registration.** If Contractor is not already an AC Transit registered vendor, Online Vendor Registration is required on the District's online system: <http://www.actransit.org/purchasing/vendor-registration-and-log-in/>. To complete the process, include a W-9, Request for Taxpayer Identification Number and Certification-containing original signature. All vendors must also be registered in the federal government's System for Award Management (SAM) database (<https://www.sam.gov>).

6. **Indemnification.**

A. Corporation and its third party contractor, shall indemnify, keep, and save harmless the District, its directors, officers, agents and employees (including costs of attorney's fees) against any and all suits, claims or actions of any sort or nature, including but not limited to injuries to or death of any persons, or for loss of or damage to any property, arising from or in connection with the services provided under this Contract, except such injury, loss or damage caused by the sole negligence or willful misconduct of the District. Corporation and its third party contractor further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith; and if any judgment be rendered against District or any of the other individuals enumerated above in any such action, Corporation at its expense shall satisfy and discharge the same. The indemnity shall survive the termination of this Contract.

B. District shall indemnify, keep, and save harmless Corporation, its officers, agents and employees (including costs of attorney's fees) against any and all suits, claims or actions of any sort or nature, including but not limited to injuries to or death of any persons, or for loss of or damage to any property, arising from or in connection with the services provided under this Contract, except such injury, loss or damage caused by the sole negligence or willful misconduct of Corporation and its third party contractor. District further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith; and if any judgment be rendered against Corporation or any other the other individuals enumerated above in any such action, District at its expense shall satisfy and discharge the same. The indemnity shall survive the termination of this Contract.

C. *Workers' Compensation Employer's Liability:* Insurer shall waive all right of subrogation against the District for losses arising from work performed by Corporation and third party contractor under this Contract.

D. These insurance requirements are not intended to and shall not in any manner limit or otherwise qualify the liabilities and obligations otherwise assumed by Corporation under this Contract, including but not limited to the provisions concerning indemnification.

7. **Force Majeure.** Each party shall be excused from performance of any of its obligations under this Contract if such inability was caused by an event beyond that party's reasonable control ("Force Majeure Event"). A Force Majeure Event shall include (i) natural disasters (e.g., earthquake, hurricanes, floods, fire); (ii) major upheavals (e.g., war, riots, act of terrorism, sabotage, embargoes); (iii) epidemics or pandemics; or (iv) government intervention (e.g., government orders, court orders, confiscation, condemnation, future laws, government shutdown).

If a Force Majeure Event occurs, then Contractor shall make all commercially reasonable efforts to deliver product or services to the District or to provide the District with replacement product or service. In either case, the District shall reimburse Contractor for reasonable costs incurred by Contractor in order to provide the product, replacement product or service. If the Force Majeure Event continues exceeds thirty (30) days, the District may pause or terminate the Contract in accordance with *Section 8* of this Contract.

8. **Termination.** Either party may terminate this Contract, in whole or in part, upon thirty (30) days' written advance notice to the other party. Any termination under this provision shall be affected by delivery to the other party of a notice of termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

Upon receipt of a notice of termination from Corporation, District will immediately cease providing the terminated Services, and Corporation's and third party contractor's access to, and use of, the terminated Services will cease immediately. District will be paid for those Services performed pursuant to this Contract to the satisfaction of the Corporation and third party contractor up to the effective date of termination. After receipt of said notice, District shall submit to the Corporation and third party contractor its termination claim setting forth District's final actual, direct, and unavoidable costs incurred which cannot be canceled as a result of said termination with such information as may be required by the Corporation and third party contractor to process the claim.

Termination for Force Majeure. The performance of Services under this Contract may be terminated by the District, in its discretion, based upon unforeseen causes beyond the control and without the fault or negligence of the Corporation such as *Force Majeure Events* which render impossible the District's ability to perform under the Contract.

9. **Dispute Resolution.** The District and Corporation and third party contractor agree to attempt in good faith to resolve all disputes arising out of or under this Contract or the respective rights and liabilities of the Parties informally. The Parties agree that any dispute arising from this Contract, that is not resolved within thirty (30) days by the Parties' representatives responsible for the administration of this Contract will be set forth in writing to the attention of the District's General Manager for resolution. In case any disagreement, difference or controversy still cannot reach mutual agreement thereon, then the Parties agree to use an alternative dispute resolution process such as mediation and/or arbitration to resolve their dispute prior to initiating any formal action in court. Such disagreement, difference, or controversy shall be determined by binding arbitration, according to the rules of the American Arbitration Association with said arbitration being held in Oakland, California. The costs and expenses of any Arbitration shall be borne and paid as the Arbitrator(s) shall, by their award, direct. The submission to Arbitration is hereby made a condition precedent to the institution of any action at law or in equity with respect to the controversy involved; and such action at law or in equity shall be restricted solely to the subject matter of the challenge of such award on the grounds and only in the manner permitted by law. Unless otherwise directed by the District, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

In the event any controversy, claim or dispute between the District and third party contractor arising out of or related to this Contract, or the breach hereof, that has not been resolved by informal discussions and negotiations, either party may, by written notice to the other, invoke the formal dispute resolution procedures set forth herein. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy claim or dispute. During the thirty (30) days following said written notice, the parties shall meet, confer and negotiate in good faith to resolve the dispute. Either party may, during said thirty (30) day period, request the utilization

of the services of a professional mediator, and the other party or parties to this dispute shall cooperate with such request and share the reasonable costs of such mediator.

- A. In the event any controversy, claim or dispute between the District and third party contractor arising out of or related to this Contract, or the breach hereof, cannot be settled or resolved amicably by the parties during the thirty (30) day period of good faith negotiations provided for above, the either party or any party hereto may submit said controversy, claim or dispute for binding arbitration before a single neutral arbitrator in accordance with the provisions contained herein and in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Rules"); provided, however, that notwithstanding any provisions of such Rules, the parties to the arbitration shall have the right to take depositions and obtain discovery regarding the subject matter of the arbitration, as provided in Title III of Part 4 (commencing with Section 1985) of the California Code of Civil Procedure, as and to the extent that the arbitrator deems fair and reasonable. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator shall determine all questions of fact and law relating to any controversy, claim or dispute hereunder, including but not limited to whether or not any such controversy, claim or dispute is subject to the arbitration provisions contained herein.
 - B. Any party desiring arbitration shall serve on the other party or parties and the San Francisco Office of the American Arbitration Association, in accordance with the aforesaid Rules, its Notice of Intent to Arbitrate ("Notice"). The parties shall select a single, neutral arbitrator who is generally familiar with the factual and legal issues that relate to this Contract and the dispute to be resolved by arbitration. In the event that the parties are unable to agree on a neutral arbitrator, then one shall be selected in accordance with the Rules. The arbitration provided hereunder is hereby declared to be self-executing and it shall not be necessary to petition a court to compel arbitration.
 - C. The parties to the arbitration shall share equally all costs of the arbitration, including the fee of the neutral arbitrator, and each party shall bear its own costs. The arbitrator shall have the authority, in accordance with the provisions of this Contract, to award to the prevailing party its costs, including its share of the arbitration costs, and reasonable attorneys' and expert witness fees and expenses.
 - D. If a controversy, claim or dispute arises between the parties which is subject to the arbitration provisions hereunder, and there exists or later arises a controversy, claim or dispute between the parties, or either of them, and any third party, which controversy, claim or dispute arises out of or relates to the same transaction or series of transactions, said third party controversy, claim or dispute shall be consolidated with the arbitration proceedings hereunder; provided, however, that any such third party shall be a party to an agreement with either of the parties which provides for the arbitration of disputes thereunder in accordance with rules and procedures substantially the same in all material respects as provided for herein or, if not, shall consent to arbitration as provided for hereunder.
 - E. All arbitration proceedings shall be held in Oakland, County of Alameda, California.
 - F. The Notice of the demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.
 - G. Unless otherwise directed by the District, the Corporation and the third party contractor shall continue performance under this Contract while matters in dispute are being resolved.
10. **Contract Closeout.** At the end of the Contract period, the District shall review the Contract to ensure all required Deliverables have been met. This includes, but is not limited to: an audit of financial and operational records and an inspection of any District equipment provided to the Contractor for the execution of the Contract. Any outstanding issues shall be resolved within thirty (30) days of Contract completion, at which time a *Notice of Contract Closure* shall be sent by the District to finalize the contract closure between both parties. Contractor shall keep all records pertaining to the Contract for a minimum of five (5) years after the contract completion, expiration or termination. Upon twenty-four (24) hours notice, Contractor shall make said records available, during normal business hours, to the District or its agents for audit. In the event of litigation or claims, all records will be maintained until the litigation or claim is concluded, or five (5) years, whichever last occurs.
 11. **Attorney's Fees.** In the event that it becomes necessary for either party to bring a lawsuit to enforce any of the provisions of the Contract, the parties agree that the court having jurisdiction over such dispute shall have the authority to determine and fix reasonable attorney's fees to be paid to the prevailing party.
 12. **Waiver.** Failure of any party to exercise any right or option arising out of a breach of this Contract shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.
 13. **Governing Law and Venue.** This Contract, its interpretation and all work performed under it shall be governed by the laws of the State of California. In the event of a dispute or breach of contract, venue shall be in Alameda County, California.
 14. **Binding on Successors.** All of the terms, provisions and conditions of this Contract shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives.
 15. **Third-Party Beneficiaries.** This Contract is not for the benefit of any person or entity other than the parties.
 16. **Severability.** If any provision of this Contract shall be deemed invalid or unenforceable, that provision shall be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Contract, and in any event, the remaining provisions of this Contract shall remain in full force and effect.
 17. **Entire Contract; Modification.** This Contract, including any attachments, the solicitation and addenda, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and all such agreements entered into prior hereto are revoked and superseded by this Contract, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Contract may not be changed, modified or rescinded except in writing, signed by authorized representatives of all parties hereto, and any attempt at oral modification of this Contract shall be void and of no effect. In the event of a conflict between the terms and conditions of this Contract and the attachments, the terms of this Contract will prevail.

EXHIBIT 1
INSURANCE REQUIREMENTS

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, *Code 1* (any auto), or if Corporation has no owned autos, *Code 8* (hired) and *Code 9* (non-owned), with limit no less than \$2,000,000.00 per accident for bodily injury and property damage.
3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. (*Not required if Contractor provides written verification it has no employees*)
4. **Other Insurance Provisions:** The insurance policies are to contain, or be endorsed to contain, the following provisions:
 - a. **Additional Insured Status:** The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Corporation including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
 - b. **Primary Coverage:** For any claims related to this contract, the Corporation’s insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor’s insurance and shall not contribute with it.
 - c. **Notice of Cancellation:** Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the Entity.
 - d. **Waiver of Subrogation:** Corporation hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.
 - e. **Self-Insured Retentions:** Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Corporation to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.
 - f. **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to the Entity.
 - g. **Claims Made Policies:** If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Corporation must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
 - h. **Verification of Coverage: Corporation** shall furnish the Entity with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language affecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Entity before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Corporation’s obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
 - i. **Subcontractors:** Corporation shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Corporation shall ensure that Entity is an additional insured on insurance required from subcontractors.
 - j. **Special Risks or Circumstances:** The District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**AMENDMENT TO SHUTTLE OPERATIONS AND MAINTENANCE AGREEMENT BETWEEN
EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION AND
MV TRANSPORTATION, INC.**

THIS AMENDMENT NO. 1 (“Amendment”) is to the Shuttle Operations and Maintenance Agreement dated February 12th, 2018 between the Emeryville Transportation Management Association, a California non-profit corporation, (“ETMA”), and MV Transportation, Inc. (“Contractor”)

RECITALS

WHEREAS, ETMA retained Contractor for shuttle operation and vehicle maintenance services through December 31st, 2020; and

WHEREAS, ETMA wishes to extend the term of the agreement one (1) month, to January 31st, 2021, while services and pricing for services through December 31st, 2022 are negotiated by both parties.

NOW, THEREFORE, BE IT MUTUALLY AGREED that Section 2 of the Agreement be amended to extend the term of the agreement to January 31st, 2021. Services shall be billed at the 2020 rates established in Exhibit B of the Shuttle Operations and Maintenance Agreement.

IN WITNESS WHEREOF, the ETMA approved Amendment No. 1 to the Shuttle Operations and Maintenance Agreement on the ___ day of _____ 2020.

EMERYVILLE TRANSPORTATION
MANAGEMENT ASSOCIATION

MV, TRANSPORTATION, INC.

By: _____
Chair

By: _____

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT BETWEEN
EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION AND DAMONO DESIGN**

THIS AMENDMENT NO. 1 to agreement dated November 21st, 2019 between the Emeryville Transportation Management Association, a California non-profit corporation, herein called the "Association," and Damono Design, a sole proprietor, herein called the "Consultant."

RECITALS

WHEREAS, Association retained Consultant to provide website design and maintenance services through December 31st, 2020 for a not to exceed amount of \$10,000; and

WHEREAS, Association wishes to extend the term of the agreement 1 year through December 31st, 2021; and

NOW, THEREFORE, BE IT MUTUALLY AGREED that Section 2 of the agreement be amended to extend the term of the agreement to December 31st, 2021.

IN WITNESS WHEREOF, the Association approved Amendment No. 1 to this Agreement on the ___ of _____, 2020.

EMERYVILLE TRANSPORTATION
MANAGEMENT ASSOCIATION

CONSULTANT

Chair of the Board

**AMENDMENT TO AGREEMENT BETWEEN
EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION AND JOHN TOUNGER, CPA**

THIS AMENDMENT NO. 4 to agreement dated December 15th, 2016 between the Emeryville Transportation Management Association, a California non-profit corporation, herein called the "Association," and John S. Tounger, Jr., CPA, herein called the "Consultant."

RECITALS

WHEREAS, Association retained Consultant to provide accounting and bookkeeping services for the Associations transportation service; and

WHEREAS, Association approved Amendment 1 to the agreement to extend the term of services to December 31st, 2018 and increase the compensation limit by \$25,000 for a total not to exceed amount of \$50,000; and

WHEREAS, Association approved Amendment 2 to the agreement to extend the term of services to December 31st, 2019 and to increase the compensation limit by \$24,750 for a total not to exceed amount of \$74,750; and

WHEREAS, Association approved Amendment 3 to the agreement to extend the term of services to December 31st, 2020 and to increase the compensation limit by \$26,910 for a total not to exceed amount of \$101,660; and

WHEREAS, Association wishes to further extend the term of services one (1) additional year to December 31st, 2021 and to establish a new annual compensation limit of \$28,950 to be billed at the rates set forth in consultant's Engagement Letter, dated November 24, 2020, which is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT MUTUALLY AGREED, that Section 2 of the agreement be amended to extend the term of services to December 31st, 2021 and Section 3a of the agreement be amended to establish a new not to exceed amount of \$28,950 for the services defined in Exhibit A, attached.

IN WITNESS WHEREOF, the Association and Consultant have executed Amendment No. 4 to this Agreement on the ____ of _____, 2020.

EMERYVILLE TRANSPORTATION
MANAGEMENT ASSOCIATION

CONSULTANT

By: _____
Chair

By: _____

OFFICE OF JOHN S. TOUNGER, CPA
TAX, ACCOUNTANCY AND BUSINESS CONSULTING SERVICES

24 November 2020

Emeryville Transportation Management Association

This letter is to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the services I will provide for the calendar year 2021. Please sign and return to me.

I will provide bookkeeper and accounting services in order to prepare internal financial statements and other reports as requested. I will discuss these statements with you and any key personnel as requested.

I will prepare the trial balance and any other financial information to the outside Certified Public Account for their preparation of the Audited Financial Statements.

I will prepare checks (but not sign) and manage the on line banking payments in accordance with the internal controls of check and wire payment approval system that is in place. Currently the procedure is obtaining written or e-mail approval from Roni Hattrup.

My engagement cannot be relied upon to disclose errors, irregularities, or illegal acts, including fraud or defalcations, that may exist. However, I will inform you of any such matters that come to my attention.

Tax returns and tax advice

I will prepare the Federal and State non-profit tax returns. Your data will not be audited or otherwise verified, although I may ask you to clarify some of it or have you furnish me with additional data.

Your returns are subject to review by taxing authorities. In the event of an examination or other contact, I am available to represent you at an additional charge at my normal billing rate.

I am responsible for preparing the tax returns. I am not responsible for the disallowance of deductions due to inadequately supported documentation, nor for resulting taxes, penalties and interest. If taxes, penalties and interest are charged for a preparation error I will only be responsible for the penalties, to a maximum of my preparation fee charged for that year's returns.

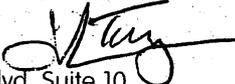
My professional judgment will be used in preparing the tax returns. Whenever I am aware that possible applicable tax law is unclear, or, that there are conflicting interpretations of the law by the courts and tax agencies, I will explain the possible positions which may be taken on your returns. I will follow whatever position you request, so long as it is consistent with the codes, regulations and interpretations, which have been promulgated. If the taxing authorities should later contest the position taken, there may be an assessment of additional taxes, interest and penalties. I assume no liability for any such assessment.

By your signature below, you agree that you have the proper records to substantiate all items of income and deductions, including travel and entertainment expenses, and that you will carefully examine and approve your completed tax returns before signing and submitting them to the tax authorities.

My fees for these services typically are based on the actual time spent at my standard hourly rate for the type of service being provided, plus out-of-pocket costs. For the bookkeeping, monthly reports, on line banking access with cash management and communication with vendors I will agree to a flat monthly rate of \$1,850. Meetings with the Board, excess time with the outside auditors and other consultants will be charged at \$250 per hour max 11 hours annual or \$2,750. The tax return preparation fee is estimated at \$4,000. Annual service contract not to exceed is \$28,950 for my services.

My services can be terminated with a 30-day notice.

Very truly yours,


585 Mandana Blvd. Suite 10
Oakland, California 94610
telephone: 510.893.0950
facsimile: 510.893.0954
email: john@tounger.com
jessica@tounger.com

Response:

This letter correctly sets forth the Understanding
of our engagement

CERTIFIED PUBLIC ACCOUNTANTS

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT BETWEEN
EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION AND GALLEN ASSOCIATES, INC.**

THIS AMENDMENT NO. 2 to agreement dated August 17th, 2017 between the Emeryville Transportation Management Association, a California non-profit corporation, herein called the "Association," and Gallen Associates, Inc., a California Corporation, herein called the "Consultant."

RECITALS

WHEREAS, Association retained Consultant to provide Public Relations services for the Association; and

WHEREAS, Association authorized Amendment 1 to extend the term of the agreement for continued Public Relations services through December 31st, 2020; and

WHEREAS, Association wishes to extend the term of the agreement once again for one (1) year for on-call public relations services through December 31st, 2021;

NOW, THEREFORE, BE IT MUTUALLY AGREED that Section 2 of the agreement be amended to extend the term to December 31st, 2021.

IN WITNESS WHEREOF, the Association approved Amendment No. 2 to this Agreement on the _____ of _____, 2020.

EMERYVILLE TRANSPORTATION
MANAGEMENT ASSOCIATION

CONSULTANT

By: _____
Chair

By: _____



December 13th, 2020

Geoffrey Sears, Chair
Emeryville Transportation Management Association
(via email: GSears@warehamdevelopment.com)

Dear Mr. Sears,

We are pleased to furnish you with our proposed scope of services and cost proposal for ETMA agency management services for calendar year 2021.

The scope of work and cost estimate attached, reflects our proposed work plan for next year for agency management and administration services. We expect our overall level of effort will remain consistent throughout the year and will continue to ensure work is being appropriately assigned to maximize cost efficiencies for the ETMA.

We are in the process of interviewing candidates for a new Executive Assistant, which we plan to bring on board in January.

We thank you for allowing us the opportunity to continue providing management and administration services to the organization. Please do not hesitate to contact me if you have any questions or comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R Hatrup', is written in a cursive style.

Veronica 'Roni' Hatrup
Program Manager

Attachments: 2021 Scope of Services
2021 Cost Proposal

EXHIBIT A

GRAY-BOWEN-SCOTT 2021 SCOPE OF WORK FOR EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION AGENCY MANAGEMENT & ADMINISTRATION SERVICES

Gray-Bowen-Scott will continue providing Agency Management & Administration services for the Emeryville Transportation Management Association (TMA), essentially serving as staff for the organization. Primary staffing positions include the Executive Director, Operations Director and Executive Assistant. A broad description of services include TMA general and financial management; administrative support for the Board of Directors; management and oversight of the operations and maintenance contractor; coordination with City of Emeryville, BART and other partnering agencies; service monitoring and change implementation, when needed; public and membership outreach; fleet management; and procurement of service and capital equipment contracts.

Our proposed scope of work for 2021 services is detailed by task below. A proposed allocation of time for each task is shown on the attached staffing and cost proposal.

I. TMA SERVICES

TASK 1. ASSOCIATION ADMINISTRATION, BOARD SUPPORT & FINANCIAL MANAGEMENT

❖ Association General Management

- Ensure compliance with governing documents, including the TMA Bylaws and Administrative Policies.
- Ensure compliance with new regulations set forth in the PBID Management Plan via the Shuttle Funding Agreement with the City of Emeryville.
- Adhere to Board-established policies and procedures and safeguard the Association's assets and reputation.
- Ensure compliance with current local, state, and federal regulations and requirements.
- Maintain insurance policies and other documents required for prudent TMA operation and compliance with laws.
- Maintain filing system for TMA documents/records and consolidate documents as needed for the annual audit and other reporting needs.
- Coordination on property or lease matters.
- Respond to general information requests from TMA Members.
- Coordinate with legal counsel on claims or various matters which warrant a legal opinion, as needed.

❖ Board of Directors Support

- Prepare, distribute, and maintain (at TMA offices) Board communications and actions: meeting notices and agendas, staff reports, official summaries/minutes, rosters, calendars, operations and financial reports, per Board policies and procedures and the Brown Act. Task includes posting appropriate material on TMA website.
- Ensure access to all TMA records by Board of Directors, Association Members, and public (as may be required by the Brown Act).
- Provide staff support at Board and Committee meetings.

- Recruit new Board Directors as needed.
- Conduct orientation sessions with new Board Directors. This includes preparation of a Director briefing materials which include, but are not limited to; governing documents, budgets, audited financial statements, and key service agreements.
- Inform the Board and/or appropriate Officers and/or Board committees of pertinent developments.
- Anticipate and inform the Board of emerging issues and trends; recommend actions to address the future viability of the Association and its services.
- Annually, support the Board in evaluating the performance of the Executive Director.
- In the event of an emergency or service disruptions, keep Board informed of actions taken. When necessary, call or convene emergency meetings of the Board or Executive Committee to authorize responsive action.
- Prepare for and facilitate the election of one (1) Employer Director at the Annual Membership Meeting.

❖ **Financial Management**

- Prepare the annual budget for Board approval, including cost assumptions and analysis of trends.
- Negotiate and recommend to the Board for approval, all contracts, equipment leases, service agreements and consulting agreements in accordance with the organizations Administrative Policies.
- Coordinate and monitor the annual PBID assessment levy process with City and consultants; liaison with the City regarding PBID fund balance held by City.
- Prepare, in conjunction with accountant, quarterly financial reports and statements for the Board, per established policies, procedures and calendars.
- Review of all invoices from vendors and contractors to ensure charges are in compliance with the service agreement and/or quote.
- Monitor cost trends to ensure compliance with the TMA approved budget.
- Ensure filing of annual tax returns and annual audit with appropriate recipients.
- Deposit all funds received per approved investment policy.
- Execute Participation Agreements with new contributors, per their conditions of approval with the City of Emeryville.
- Auditor procurement.
- Facilitation and oversight of annual audit.

TASK 2. OPERATIONS & FLEET MAINTENANCE, MANAGEMENT & OVERSIGHT

- Oversee the performance of operations and fleet maintenance contractor to ensure that the work is done in accordance with the terms and conditions set forth in the shuttle operations and maintenance agreement.
- As necessary, review cost effectiveness of the Emery Go-Round Shuttle service.
- Modify weekly and monthly operations performance reporting templates, as needed.
- Monitor contractor performance against service standards and goals adopted by the Board.
- Oversee the condition, cost and availability of the fleet through management of the fleet acquisition plan.
- Make recommendations to the Board of Directors regarding the replacement and composition of vehicle fleet. Prepare cost/benefit analysis to evaluate the best strategy for procuring the vehicles (lease, buy, finance). As needed, solicit proposals for vehicle

- purchases and/or leases and prepare newly acquired buses for service.
- Research alternative fuel vehicle options for consideration when acquiring new vehicles.
- Track, monitor and follow up on complaints, accidents and incidents, as necessary.
- Oversee facilities management and security.
- Analyze and review maintenance procedures, conformity of work and determine maintenance efficiencies.
- Conduct quarterly analyses of route performance, cost efficiencies, on-time performance, and other service performance indicators on an ongoing basis.
- Prepare quarterly ridership reports for Board review.
- Prepare rider notifications for vehicle and web posting, as needed.
- Prepare for and attend bi-annual shuttle operation workshops.
- Coordination with access gates vendors for repairs, as needed.
- Ensure best practices are implemented and maintained for health and safety on Emery Go Round, relative to COVID-19 and industry protocols.
- Develop and implement service changes, as needed.

TASK 3. EQUIPMENT & SYSTEMS MANAGEMENT

- Monitor equipment tracking to ensure serial numbers, vehicle assignments and other pertinent information is tracked and verified regularly.
- Coordinate as needed with Syncromatics to ensure GPS tracking equipment and system reporting is properly functioning.
- Coordinate with Trillium to ensure EGR routes and schedules are accurately reflected on Google Maps.
- Update Google Transit Feed Specifications, as needed.
- Coordinate update to Syncromatics data feed, as needed.
- Participate in troubleshooting technical issues with Operations Team.
- Verify Emery Go-Round signage is in good condition and ensure repairs are done in a timely manner.
- Monthly verification of equipment assignments, to ensure all Emeryville TMA equipment is accounted for and appropriately assigned.
- Regularly ensure connections to equipment are properly functioning.
- Monitor video surveillance equipment and vendor coordination.

TASK 4. PUBLIC & MEMBERSHIP OUTREACH

- Develop and facilitate distribution and collection of a 2021 Rider Survey to determine rider satisfaction.
- Coordinate with employers and property managers to develop and facilitate the distribution and collection of commuter surveys to determine transportation modes and quantify the use of such modes.
- Communicate with members to monitor their feedback on Emery Go-Round services and address concerns when needed.
- Participate in up to three community and/or employer-based outreach events, when needed.
- Manage the update of the website, written material, brochures, and other public information documents and web information at least annually to ensure that it is user friendly and promotes the mission of the TMA.
- Respond to questions or complaints per protocols established by the Board.

- Foster and maintain a positive, highly visible public image for the TMA.
- Develop and manage the distribution of the Annual Report.
- Update health and safety messaging to riders and the community, relative to COVID-19.

TASK 5. LIAISON TO PUBLIC AGENCIES & TRANSIT ORGANIZATIONS

- As needed, represent TMA at regional transportation/transit meetings (MTC, AC Transit, BART) and local government agency meetings.
- Coordination with BART to continue improvements with access and security at MacArthur BART.
- Partner and collaborate with the City of Emeryville on new TDM initiatives or infrastructure improvements to enhance shuttle access and/or reduce traffic throughout the City.
- Attend City Council meetings, as needed.

TASK 6. SPECIAL PROJECTS

❖ **Grant Opportunities**

- a. Pursue grant opportunities for alternative fuel vehicles, when applicable.

❖ **Social Media Strategy**

- a. Develop and implement a social media strategy to enhance Emery Go-Round presence in the transportation community and to keep riders informed of service-related matters.

❖ **Research of New Technologies**

- a. Continue research of options for improved technology to enhance rider experience and increase awareness of the Emery Go-Round service.

II. REIMBURSABLE SERVICES

Services provided under the “reimbursable services” category are costs to be funded by others; not the ETMA. Budget assigned to these services are segregated by service and will not be merged or reassigned to ETMA core service tasks shown above.

TASK R1. 8 TO GO PARATRANSIT SHUTTLE SERVICE (CITY OF EMERYVILLE)

- Operations oversight.
- Coordination with the City on various operational matters.
- Contract Management - facilitate renewals and/or modifications to the Paratransit Funding Agreement as needed.
- Preparation of supporting documentation for reimbursement requests.

TASK R2. WEST BERKELEY SHUTTLE (BERKELEY GATEWAY TMA)

- Operations oversight.
- Coordination with BGTMA on operational matters.
- Contract Management – facilitate renewals and modifications to the Transportation Agreement, as needed.
- Planning for service expansion and/or possible TDM enhancements (ETMA bills to BGTMA in addition to daily rate.)

**EXHIBIT B
GRAY-BOWEN-SCOTT
COST PROPOSAL FOR
EMERYVILLE TMA**

| | | 2021 | | | | | 2020 | | | | |
|---------------------------------|--|--------------------------|---------------------|-----------------|-----------------|---------------------|---------------|--------------------|--------------------------|-----------------|---------------------|
| | | Roni Hatstrup | Karen Boggs | Tiffany Gephart | Total Hours GBS | Total Cost Per Task | Roni Hatstrup | Karen Boggs | Mary Grinbergs | Total Hours GBS | Total Cost Per Task |
| Task # | Executive Director | Operations Administrator | Executive Assistant | | | | | Executive Director | Operations Administrator | | |
| | | \$260 | \$178 | \$95 | | | \$236 | \$170 | \$90 | | |
| TMA SERVICES¹ | | | | | | | | | | | |
| 1 | Association Administration, Board Support & Finance Management | 250 | 0 | 400 | 650 | \$ 103,000 | 280 | 0 | 400 | 680 | \$ 102,080 |
| 2 | Operations & Fleet Maintenance Oversight | 150 | 450 | 125 | 725 | \$ 130,975 | 220 | 500 | 80 | 800 | \$ 144,120 |
| 3 | Equipment & Systems Management | 75 | 310 | 100 | 485 | \$ 84,180 | 110 | 350 | 0 | 460 | \$ 85,460 |
| 4 | Public & Membership Outreach | 75 | 50 | 175 | 300 | \$ 45,025 | 100 | 50 | 50 | 200 | \$ 36,600 |
| 5 | Liaison to Public Agencies & Transit Organizations | 75 | 20 | 40 | 135 | \$ 26,860 | 75 | 40 | 0 | 115 | \$ 24,500 |
| 6 | Special Projects | 75 | 50 | 90 | 215 | \$ 36,950 | 75 | 50 | 90 | 215 | \$ 34,300 |
| Expenses | | | | | | \$ 964 | | | | | \$ 588 |
| | | 700 | 880 | 930 | 2510 | \$ 427,954 | 860 | 990 | 620 | 2470 | \$ 427,648 |

| | | 2021 | | | | | 2020 | | | | |
|--|--|-----------|-----------|-----------|------------|------------------|-----------|-----------|-----------|------------|------------------|
| | | | | | | | | | | | |
| REIMBURSABLE SERVICES⁴ | | | | | | | | | | | |
| R1 | 8 to Go Paratransit Shuttle (City of Emeryville/ACTC) ⁵ | 12 | 12 | 40 | 64 | \$ 9,056 | 12 | 12 | 40 | 64 | \$ 8,472 |
| R2 | West Berkeley Shuttle & Bayer Mid-Day Shuttle (BGTMA) ⁶ | 30 | 30 | 30 | 90 | \$ 15,990 | 30 | 30 | 30 | 90 | \$ 14,880 |
| Total Reimbursable Services | | 42 | 42 | 70 | 154 | \$ 25,046 | 42 | 42 | 70 | 154 | \$ 23,352 |

Grand Total: 742 922 1,000 2664 \$ 453,000 902 1,032 690 2624 \$ 451,000

Notes:

- Actual charges will be billed on a time and materials bases for services performed.
- Hours may be shifted amongst other GBS staff members as appropriate, to provide the most efficient level of service.
- Task budgets defined under the TMA Services category are transferrable to other tasks within the TMA Services category.
- Services provided under the "reimbursable services" category are cost to be funded by others; not the ETMA. Budget assigned to these services are segregated by service and will not be merged or reassigned to TMA service tasks defined above.
- West Berkeley Shuttle services are reimbursed to the TMA at a daily rate for operations oversight. Efforts involving planning of future service will be reimbursed to the TMA on a time and material basis.
- Time and materials for 8 to Go services are reimbursed by the City on a monthly basis. All management time incurred by Gray Bowen Scott will be tracked separately and is fully reimbursed by the City.



Mobile Modular Management Corporation
 5700 Las Positas Road
 Livermore, CA 94551
 Phone: (925) 606-9000
 Fax: (925) 453-3201
 www.mobilemodular.com

Sale Quotation and Agreement

Quotation Number: 351218
 Customer PO/Ref:
 Date of Quote: 11/11/2020

Sign up for the Easy Sale Option (see end of document for details)

| Customer Information | Site Information | Mobile Modular Contact |
|--|------------------------------------|---|
| Gray Bowen Scott 1211 Newell Avenue Walnut Creek, CA 94596 Roni Hattrup roni@graybowenscott.com Phone: (925) 899-4246 | Gray Bowen Scott Emeryville, CA | Questions? Contact: Matt Benas Matt.Benas@mobilemodular.com Direct Phone: (925) 453-3122 Fax: (925) 453-3201 |

| Product Information | Qty | Purchase Price | Extended Purchase Price | Taxable |
|---|-----|--------------------------------------|-------------------------|---------|
| Office, 24x60 HCD (NonStd) | 1 | \$128,312.00 | \$128,312.00 | Y |
| <i>Non-Standard Configuration. Size excludes 3' towbar.</i> | | | | |
| New Metal Ramp and Stairs | 1 | \$14,415.00 | \$14,415.00 | Y |
| Charges Upon Delivery | Qty | Charge Each | Total One Time | Taxable |
| Office, 24x60 HCD (NonStd) | | | | |
| Block and Level Building (A6) | 1 | \$2,439.00 | \$2,439.00 | N |
| Delivery Haulage 12 wide | 2 | \$546.00 | \$1,092.00 | N |
| Delivery Haulage Permit 12 wide | 2 | \$117.00 | \$234.00 | N |
| Delivery Haulage Pilot 12 wide | 2 | \$342.00 | \$684.00 | N |
| Drawings, Wet Stamped, Foundation, Standard | 1 | \$466.00 | \$466.00 | N |
| <i>Wet Stamped Engineered</i> | | | | |
| Drawings, Wet Stamped, Ramp, Standard | 1 | \$659.00 | \$659.00 | N |
| Fee, License or Registration for Sale | 1 | \$3,208.00 | \$3,208.00 | N |
| Install Foundation, Tiedown (Blvl) | 32 | \$112.00 | \$3,584.00 | Y |
| Installation, Skirting, Wood | 168 | \$19.25 | \$3,234.00 | Y |
| Piers and Pads | 1 | \$990.00 | \$990.00 | Y |
| Ramp/Stairs delivery and install | 1 | \$1,248.00 | \$1,248.00 | N |
| Transport from Factory to NorCal | 2 | \$4,810.00 | \$9,620.00 | N |
| | | | <u>\$27,458.00</u> | |
| Total Estimated Charges | | | | |
| | | Subtotal | \$170,185.00 | |
| | | Taxes | \$14,300.83 | |
| | | Total Charges (including tax) | \$184,485.83 | |

Special Notes

Purchase quote: New 24x60 modular building with vinyl tile flooring in the main areas, carpet tile flooring in the offices. The purchase is accompanied by a 12 month warranty.

Support post(s): Please note - this floor plan may have an exposed support post(s) placed on the modline.

Tie-downs: Quantity and price may vary based on seismic source factor and site conditions. Patch and repair of site after removal is not included and is the responsibility of the Customer. Alternative non-penetrating seismic system is available for an additional charge.

Metal Stairs/Ramps: Site conditions may affect ramp configuration and cost. Customer is responsible for transition from end of ramp to grade and for extended or custom rails, if needed.

Site Installation Requirements: Prior to delivery, Customer shall mark the four corners where the building is to be placed on the site/pad location, and shall also mark the locations of door(s) and ramp(s). Should special handling be required to position, install, or remove the building on Customer's site due to site conditions/constraints and/or obstructions, Customer will be responsible for additional charges. Additional rolling charges may be applicable as site conditions necessitate.

No - Prevailing Wage: Pricing does NOT include prevailing wage, certified payroll, Davis-Bacon wages, or any other labor adjustments.

Sale Quotation and Agreement

Quotation Number: 351218
Customer PO/Ref:
Date of Quote: 11/11/2020



Buildings containing a restroom(s): Restrooms are not self-contained. Manifolds are not included and should be supplied, assembled and connected by others. Water & sewer stub-out locations may vary. Paper & soap dispensers, sanitary and trash receptacles are not provided.

Fire Related Items: Unless noted, fire related items (alarms, sprinklers, smoke & heat detectors, and fire-rated walls, etc.) are not included.

General: Customer's site must be dry, compacted, level and accessible by normal truck delivery. Pricing does not include any clearing or grading of sites, obstruction removal, site or final building clean up, any asphalt transitions, dolly, crane, forklift, electrical or plumbing connections, window coverings, furniture, casework, appliances, doorstops, phone or data lines, gutters, downspouts or tie-in, temporary power, temporary fencing, traffic control, flagmen, soil and/or pull test, custom engineering, fees associated with inspections, city or county submittals and/or use permits, security screens, door bars and any item not specifically listed as being included.

Floor Plans

Additional Information

- Quote is valid for 30 days.
- Customer's site must be dry, compacted, level and accessible by normal truck delivery. Costs to dolly, crane, forklift, etc. will be paid by customer. Unless noted, prices do not include permits, stairs, foundation systems, temporary power, skirting, engineering, taxes or utility hookups.
- Subject to equipment availability. Unless noted, equipment and related furnishings, finishes, accessories and appliances provided are previously leased and materials, dimensions, and specifications vary. Detailed specifications may be available upon request.
- This transaction is subject to prior credit approval and all terms, conditions, and attachments of MMMC's standard contract.
- Down Payment required on execution.
- **Sales Tax will be calculated based on the tax rate at the time of invoicing.**
- **Unless otherwise noted, prices do not include prevailing wages, Davis-Bacon wages, or other special or certified wages.**

Thank you for contacting Mobile Modular.

Mobile Modular is a division of McGrath RentCorp.
351218, 11-11-2020 09:40 AM prod

Sale Quotation and Agreement

Quotation Number: 351218
Customer PO/Ref:
Date of Quote: 11/11/2020



Mobile Modular Easy Sale. Sign Me Up!

Getting your modular building on its way has never been easier... and faster. With Mobile Modular Easy Sale you can convert your Sale Quotation directly into a Sale Agreement by signing below. Once we receive your signed Easy Sale option, we'll finalize your building details and get your project on its way.

Review and acknowledge agreement.

This Quotation is subject to Mobile Modular Management Corporation, a California corporation, herein known as seller (the "Seller"), credit approval of Customer, herein known as buyer (the "Buyer"). Seller does not warrant that the equipment meets any local or state code not specifically listed herein. Equipment is subject to availability. By signing below, customer accepts the terms of this quotation including prices and specifications, and instructs Seller to make appropriate arrangements for the preparation and delivery of the Equipment identified herein, and agrees that such signature constitutes customer's acceptance of and agreement to the Seller's Sale Agreement. Such sale, and customer's agreement thereto, is subject to Seller's standard terms and conditions located on the Seller's web site at (www.mobilemodular.com/contractterms) which are incorporated by reference herein. Customer may request a copy of the terms and conditions from Seller. No alterations, additions, exceptions, or changes to any Quotation or Agreement made by Buyer shall be effective against Seller, whether made hereon, contained in any printed form of Sale or elsewhere, unless accepted in writing by Seller. Any customer purchase order or other customer-provided document purporting to replace, supersede or supplement the terms and conditions of the Seller's Sale Agreement shall carry no force or effect except as an instrument of billing.

Seller:
Mobile Modular Management Corporation

By: _____
Name: _____
Title: _____
Date: _____

Buyer:
Gray Bowen Scott

Signature10: _____
Print Name: _____
Title: _____
Date: _____

Date: November 9, 2020

Quote Number: PM-1178-2020

Size: 24 x 60 Description: B OFFICE 24X60 EMERYVILLE

| <u>COMPONENT</u> | <u>SUB-COMPONENT</u> | <u>DESCRIPTION</u> | <u>QUANTITY</u> |
|------------------|----------------------|--|-----------------|
| FRAME | OUTRIGGER | Chassis Basement 12' X 60' - 12" X 11.8# I-Beam OR/CM/MC | 2.00 |
| | AXLES | Quad Axle (4 Brake New Axles) | 2.00 |
| FLOOR | JOIST | 2 X 8 @ 16" O/C 50# FLOOR LOAD | |
| | DECKING | 3/4" T&G Plywood | |
| | INSULATION | R-19 Unfaced | |
| | COVERING | 16 OZ 24 X 24 Carpet Tile OFFICES ONLY | |
| | COVERING | Floor Tile VCT - 1/8" X 12" X 12" RR'S ONLY & OPEN AREA | |
| | MISC | Bottom Board Mobile-Flex | |
| EXTERIOR WALL | STUDS | 2 X 6 Ext. Wall Framing | |
| | SIDING | Smart Panel - 7/16" - 8" O/C Grooves - W/House Wrap | |
| | COVERING | 1/2" Vinyl Covered Gypsum 8' Tall (Exterior Wall) | |
| | INSULATION | R-19 Kraft (Exterior Wall) | |
| INTERIOR WALL | STUDS | 2 X 4 Wall Framing - 8' Tall | |
| | STUDS | Upgrade to Plumbing Wall | |
| | INSULATION | R-11 Unfaced Int. Wall @ 8' Tall | |
| | COVERING | 1/2" Vinyl Covered Gypsum 8' Tall | |
| | COVERING | 4' FRP Wainscot PER CODE ONLY | |
| | COLUMNS | Roof Support Column - Concealed | |

Date: November 9, 2020

Quote Number: PM-1178-2020

Size: 24 x 60 Description: B OFFICE 24X60 EMERYVILLE

| <u>COMPONENT</u> | <u>SUB-COMPONENT</u> | <u>DESCRIPTION</u> | <u>QUANTITY</u> |
|------------------|----------------------|---|-----------------|
| COVE BASE | COVE BASE | Wall Base Vinyl 4" | |
| ROOF | JOIST | 2 X 10 20# COMPLEX (1/4" IN 12" SLOPE AWAY FROM DOORS) | |
| | MATE BEAM | Wood Beam - 48" - 4-Layer (Struct 1) | |
| | MATE BEAM | Modline Strap | |
| | INSULATION | R-30 Unfaced (W/ Support Netting) | |
| | DECKING | 1/2" Wood Decking (Roof) | |
| | DECKING | 1/2" Drywall | |
| | COVERING | EPDM .045 - White | |
| | CEILING | 2 X 4 - T-Grid - Mineral Fiber #769A NOMINAL 8' | |
| WINDOW | MISC | MINI BLINDS - NONE PROVIDED | |
| | MISC | 4040 FIXED PANE INTERIOR WINDOW - TEMPERED | 2.00 |
| | WINDOW 4030 - VINYL | 4030 - H/S - Dual Glazed - Vinyl Frame - Clear Low E | 7.00 |
| EXTERIOR DOOR | DOOR | 36X80 - 18ga Door - W/ Tell Jamb | 2.00 |
| | LOCKSET | Passage - Lockset - Grade 2 (Ext) | 2.00 |
| | LOCKSET | Deadbolt - Grade 2 - Single Cylinder KEYED ALIKE | 2.00 |
| | HARDWARE | Closer - Tell 600 Series | 2.00 |
| INTERIOR DOOR | DOOR | 36X80 Legacy Oak - Hollow Core - W/ Timely Jamb | 5.00 |
| | LOCKSET | Passage - Tell Grade 3 - Lever | 3.00 |

Date: November 9, 2020

Quote Number: PM-1178-2020

Size: 24 x 60 Description: B OFFICE 24X60 EMERYVILLE

| <u>COMPONENT</u> | <u>SUB-COMPONENT</u> | <u>DESCRIPTION</u> | <u>QUANTITY</u> |
|------------------|----------------------|---|-----------------|
| INTERIOR DOOR | LOCKSET | Privacy - Tell Grade 3 - Lever RR | 2.00 |
| ELECTRICAL | PANEL | Nema 3R, External, 125 Amp Single Phase | 2.00 |
| | RACEWAY | Flex W/ Ground | |
| | LIGHT | Dome Light 11" LED RR'S | 2.00 |
| | LIGHT | Troffer 2 X 4 - LED - 4000 To 6000 Lumen | 14.00 |
| | EXTERIOR LIGHTS | Exterior 30W LED Porch Light With Photocell | 2.00 |
| | SWITCH | Switch Dimmer - 3-Way | 1.00 |
| | SWITCH | 15-Amp - 3-Way | 1.00 |
| | SWITCH | Occupancy Sensor Ceiling Mount (Single Relay) | 3.00 |
| | SWITCH | Occupancy Sensor Wall Mount (Single Relay) | 2.00 |
| | SWITCH | Switch Sensor Dimming | 3.00 |
| | RECEPTACLE | 20A - Duplex | 18.00 |
| | RECEPTACLE | Duplex Receptable w/USB Charger | 3.00 |
| | RECEPTACLE | 20A - GFCI Duplex - Dedicated REFRIGERATOR | 1.00 |
| | RECEPTACLE | 20A - WR GFCI Protected W/ While In Use Cover | 1.00 |
| | RECEPTACLE | 20A - GFCI Duplex | 5.00 |
| | PHONE/DATA | 4 X 4 J-Box W/ Mud Ring & 3/4" Conduit | 8.00 |
| PLUMBING | PIPE | Copper Plumbing Drop | |
| | WATER CLOSET | Water Closet - ADA - Low Flow - Elongated | 2.00 |

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Size: 24 x 60 Description: B OFFICE 24X60 EMERYVILLE

| <u>COMPONENT</u> | <u>SUB-COMPONENT</u> | <u>DESCRIPTION</u> | <u>QUANTITY</u> |
|------------------|----------------------|---|-----------------|
| PLUMBING | LAVATORIES | Lavatory - Wall Hung | 2.00 |
| | KITCHEN SINKS | 25" X 22" S.S. Single Bowl Sink | 1.00 |
| | WATER HEATERS | 6-Gallon - Electric Water Heater | 1.00 |
| | ACCESSORIES | Grab-Bar Set | 2.00 |
| | ACCESSORIES | Mirror - 24" X 36" - W/Clips | 2.00 |
| | ACCESSORIES | Toilet Paper Dispenser | 2.00 |
| | MISC | In-Line Strainer | 1.00 |
| | MISC | Restroom Sign | 2.00 |
| | MISC | Ice Maker Valve Box | 1.00 |
| HVAC | H/P - WALL MOUNT | 3.0-Ton - 5-KW Heat Strip - 1P - Bard, Eubank or Equal w/pgm t-stat | 2.00 |
| | DUCT | Fiberglass / Flex Return Air Duct | |
| | DUCT | Fiberglass / Flex - Supply Air Duct | |
| | EXHAUST FANS | 70 CFM - Ceiling Mount | 2.00 |
| | MISC | Smoke Duct Detector | 2.00 |
| | MISC | Plenum Wall | |
| FURNISHINGS | CABINETS | Prefinished - Wall Cabinet | 10.00 |
| | CABINETS | Standard Laminate Countertop | 10.00 |
| | CABINETS | Prefinished - Base Cabinet | 10.00 |
| MISC | MISC | Close-Up | |
| | MISC | Shipping Wall | |

SPEC SHEET

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| <u>COMPONENT</u> | <u>SUB-COMPONENT</u> | <u>DESCRIPTION</u> | <u>QUANTITY</u> |
|------------------|----------------------|--------------------|-----------------|
| STATES | STATE APP | CA Approvals | |