



## EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

### AGENDA

Board of Directors Meeting  
Bay Street Conference Room  
5616 Bay Street

Emeryville, CA 94608

December 15<sup>th</sup>, 2016 at 9:00AM

#### Chair

Geoff Sears, Wareham  
Development

#### Vice Chair

Tim Bacon,  
City Center Realty Partners

#### Secretary

Betsy Cooley,  
At-Large Residential

#### Treasurer

Andrew Allen  
At-Large Business

#### Directors

Nathaniel Centeno,  
Bay Street

Peter Schreiber,  
Pixar

Patrick Choa,  
IKEA

Rich Higdon,  
Hyatt Place

Melinda Baker,  
At-Large Employer  
Member

Ron Silberman,  
At-Large Business Member

Bobby Lee,  
At-Large Residential  
Member

1. Call to Order
2. Public Comment
3. Approval of the Minutes of the September 15<sup>th</sup>, 2016 Board of Directors Meeting (Attachment)
4. Approval of the Minutes of the September 20<sup>th</sup>, 2016 Special Meeting of the Board of Directors (Attachment)
5. Executive Directors Report
  - A. Status update on Service Implementation
  - B. Review of City's Response to Traffic Mitigation for Holiday Season (Attachment)
  - C. Status update on Bus Yard
6. Business Items
  - A. Review and Consider Approval of the Shuttle Funding Agreement with the City of Emeryville for continued funding for the Emery Go-Round Shuttle (Attachment)
  - B. Review and Consider Approval of the 2017 Budget (Attachment)
  - C. Review and Consider Approval of the Fourth Ground Lease Modification with LBA Realty for the Emery Go-Round Bus Yard (Attachment)
  - D. Vehicle Acquisition (Attachment)
    1. Review and Consider Approval of the Acquisition of five (5) 40' Starcraft AllStar Cutaway Shuttles
    2. Authorize Executive Director to execute lease agreements for a 60 month term at a rate of 5.3%
  - E. Review and Consider Approval of Professional Services Agreement with John S. Tounger, CPA for continued accounting and bookkeeping services through December 31<sup>st</sup>, 2017 (Attachment)
  - F. Review and Consider Approval of Amendment 2 to Professional Services Agreement with Damono Design for continued website maintenance services for both the Emery Go-Round and West Berkeley Shuttle through December 31<sup>st</sup>, 2018 (Attachment)

A complete copy of the agenda is available for public viewing in the Emeryville City Clerk's Office at 1333 Park Avenue at least 72 hours prior to the meeting. All writings that are public records and relate to an agenda item above will be made available at the meeting. The TMA will mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. If requested, these materials will be made available in appropriate formats to persons with disabilities. Written requests should be mailed to Emeryville TMA, 1300 67<sup>th</sup> Street, Emeryville, CA 94608.

To download a copy of the agenda packet, please visit our website at [www.emerygoround.com](http://www.emerygoround.com). If you have comments or questions about this agenda, please email us at [transit-info@emerygoround.com](mailto:transit-info@emerygoround.com), or call the Executive Director, Gray Bowen Scott at (925) 937-0980.



## EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

- G. Review and Consider Approval of Professional Services Agreement with Gray-Bowen-Scott for continued Executive Director and Agency Administration services through December 31<sup>st</sup>, 2017 (*Attachment*)
  - H. Review of Third Quarter Financial Reports (*Attachment*)
  - I. Review of Third Quarter Ridership Reports (*Attachment*)
- 7. Suggestions/Requests from Board Members
  - 8. Confirm date of Next Meeting
  - 9. Adjournment

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EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

**ACTION SUMMARY MINUTES**

Meeting of the Board of Directors

September 15<sup>th</sup>, 2016

1. Call to Order

*The meeting was called to order at 9:00AM by Chair, Geoff Sears*

*Directors Present: Geoff Sears, Rich Higdon, Ron Silberman, Tim Bacon, Betsy Cooley, Bobby Lee*

*Staff present: Roni Hatstrup, Mary Grinbergs (Gray-Bowen-Scott)*

2. Public Comments

*None.*

3. Approval of the Minutes of the August 18<sup>th</sup>, 2016 Board of Directors Meeting

*The item was approved by a unanimous vote.*

*AYE: 6*

*Geoff Sears, Rich Higdon, Ron Silberman, Tim Bacon, Betsy Cooley, Bobby Lee*

*NAY: 0*

*ABSTAIN: 0*

4. Business Items

A. Review and approval of Final Bust Stop Signage

*Roni provided an overview of the revised bus stop signage, noting that the BART symbol was added to the signage but that approval by BART of the use of the logo is pending.*

*Suggestions from the Board included:*

- *Replace the work "to with "return" to MacArthur Bart station*
- *Replace verbiage, "Standard Service" with something more clearly indicated the service period.*

*A bus stop signage committee was formed to finalize signage details.*

*Roni agreed to work with committee to finalize the signage details, however requested Board approval, contingent upon final approval from the committee.*

*The Board voted unanimously to approve the bus stop signage production, contingent upon final modifications by the bus signage committee.*

*AYE: 6*

*Geoff Sears, Rich Higdon, Ron Silberman, Tim Bacon, Betsy Cooley, Bobby Lee*

*NAY: 0*

*ABSTAIN: 0*

B. Review and Approval of Final Route Guide

*Roni presented a proof of the proposed final EGR Route Guide.*

*The following revisions were requested by the Board:*

- *Add "Effective" prior to the month and year on the cover.*
- *Widen height of "Standard Schedule" text in black strip.*
- *Under "How to get There", subheading "Offices", add "Offices of Public Market".*
- *List most efficient bust stop # next to "Destination", under "How to get there".*

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

**ACTION SUMMARY MINUTES**

Meeting of the Board of Directors

September 15<sup>th</sup>, 2016

*Geoff moved to adopt and approve the final EGR Route Guide.*

*The item was approved by a unanimous vote, contingent upon the changes requested.*

AYE: 6

*Geoff Sears, Rich Higdon, Ron Silberman, Tim Bacon, Betsy Cooley, Bobby Lee*

NAY: 0

ABSTAIN: 0

C. Status Update on Shuttle Operator Performance & readiness of Service Implementation

*Roni reported that the Emery Go-Round shuttle service is 2 drivers short for the existing service and we will be 5 drivers short for the new service. MV is currently recruiting drivers. Roni met with MV to identify options for adjusting wages for Emery Go Round Shuttle Operators. The Shuttle Operations Subcommittee will meet following the Board of Directors meeting to review and discuss the proposed options.*

*No action required.*

D. Review and Approval of Amendment #3 to Shuttle Operations & Maintenance Agreement with MV Transportation, Inc.,

*This item was deferred to a future meeting.*

E. Review and Approval of Amendment #6 to Bus Fueling Agreement with AC Transit

*Roni presented Amendment 6 to the AC Transit agreement for bus fueling.*

*The item was approved by a unanimous vote.*

AYE: 6

*Geoff Sears, Rich Higdon, Ron Silberman, Tim Bacon, Betsy Cooley, Bobby Lee*

NAY: 0

ABSTAIN: 0

F. Review of Second Quarter Financial Reports (Attachment)

*Roni presented the second quarter financials, noting the costs were trending significantly below budget. Roni also noted that the excess revenue received from BGTMA is for 2015 service reimbursements.*

*Tim requested a modification to the report to show the cumulative variance.*

*This item required no action.*

G. Review of Second Ridership Reports

*Roni presented an overview of the Second Quarter Ridership report.*

*This item required no action.*

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

**ACTION SUMMARY MINUTES**

Meeting of the Board of Directors

September 15<sup>th</sup>, 2016

5. Suggestions/Requests from Board Members

*Geoff Sears provided a status update on the bus yard.*

6. Confirm Date of Next Meeting

*The meeting date of October 20, 2016 at 9:00AM, was confirmed.*

7. Adjournment

*The meeting was adjourned at 10:45AM.*

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

**ACTION SUMMARY MINUTES**

Special Meeting of the Board

September 23<sup>th</sup>, 2016

1. Call to Order

*The meeting was called to order at 11:03AM by Chair, Geoff Sears*

*Directors Present: Geoff Sears, Rich Higdon, Ron Silberman, Tim Bacon, Betsy Cooley, Patrick Choa*

*Staff present: Roni Hatstrup, Mary Grinbergs (Gray-Bowen-Scott)*

2. Public Comments

*None.*

3. Approval of the Minutes of the August 18<sup>th</sup>, 2016 Board of Directors Meeting

*The item was approved by a unanimous vote.*

*AYE: 6*

*Geoff Sears, Rich Higdon, Ron Silberman, Tim Bacon, Betsy Cooley, Patrick Choa*

*NAY: 0*

*ABSTAIN: 0*

4. Business Items

A. Review and Approval of Amendment #3 to Shuttle Operations & Maintenance Agreement with MV Transportation, Inc.

*Roni noted that the subcommittee met on September 15<sup>th</sup> and concurred with staff's recommendation for a \$4.00/hour premium wage increase for a total of \$5.20/hour to cover benefits, with no added profit to MV. Roni also recommended that all penalties' incurred to date be held and no additional penalties be incurred to allow MV time to implement the driver wage increase and to conduct their driver bid and recruitment. If MV continues to demonstrate performance issues after the new wage is in effect, the ETMA will pursue penalties incurred and will initiate the process for contract termination. Roni further noted the annual cost of the wage increase would be approximately \$240,000/year and that the additional cost would be covered by the ETMA cash reserve initially. Future year costs would likely be covered by the anticipated 3% increase in the PBID assessment levy.*

*This item was approved by a unanimous vote.*

*AYE: 6*

*Geoff Sears, Rich Higdon, Ron Silberman, Tim Bacon, Betsy Cooley, Patrick Choa NAY: 0*

*ABSTAIN: 0*

5. Suggestions/Requests from Board Members

*The Board directed staff to issue a formal request to the City for a traffic mitigation plan for the upcoming holiday season.*

6. Confirm Date of Next Meeting

*The meeting date of October 20, 2016 at 9:00AM, was confirmed.*

7. Adjournment

*The meeting was adjourned at 11:45AM.*

Emeryville Holiday Traffic Mitigation Evaluation (Shellmound Ave/ 40th St)  
10/7/16 - DRAFT

Potential Solution	Impacts of Potential Solution (Qualitative Assessment)	Constraints to Implementation	Steps for study/ implementation (Time?)
<b>Signal Timing Adjustments</b> Provide additional green time for signal phase(s) along Shellmound Ave and 40th Street.	<ul style="list-style-type: none"><li>- Reduce transit and vehicle delays for through movements, improve transit schedul reliability.</li><li>- Improve transit time reliability</li></ul> TRADE-OFF(S) <ul style="list-style-type: none"><li>- likely increase delays and queue for side-street movements (including pedestrians)</li></ul>	<ul style="list-style-type: none"><li>-No holiday traffic vehicle counts available.</li><li>-May not be possible to develop adequate timing plan(s) as holiday traffic is highly variable</li><li>- San Pablo Ave/40th St is Caltrans jurisdiction and coordinated along San Pablo Ave</li></ul>	<ol style="list-style-type: none"><li>1. Collect traffic data (holiday, regular weekday and weekend)</li><li>2. Traffic Analysis and develop signal timing changes</li><li>3. Buy-off from City (and public and merchants?)</li><li>3. Implement Signal Timing Changes</li></ol>
<b>Bus-only lane</b> Convert existing through traffic lane along Shellmond Ave and/or 40th into a bus-only lane. (Emergency vehicles would be allowed to access bus-only lane.)	<ul style="list-style-type: none"><li>- Reduce transit delays, improved transit transit schedule reliability</li></ul> TRADE-OFF(S) <ul style="list-style-type: none"><li>- Reduced capacity for regular vehicles will result in increase delays and queuing for vehicles in mixed-flow lanes. These delays and queuing are likely to be substantial, requiring reevaluating signal timing along the corridor.</li></ul>	<ul style="list-style-type: none"><li>- No holiday traffic vehicle counts available.</li><li>- May not be feasible as it would impact operations and roadway capacity during all times, not just during holiday season.</li><li>- Access and Egrees to bus-only lanes needs to be adequately striped, enforced.</li></ul>	<ol style="list-style-type: none"><li>1. Collect traffic data (holiday, regular weekday and weekend)</li><li>2. Traffic Analysis, examine bus-only lane feasibility, develop recommendations</li><li>3. Buy-off from City (and public and merchants?)</li><li>4. Design physical changes, develop signal phasing</li><li>5. Implementation</li></ol>
<b>Bus Queue Jump</b> Utilize existing turn lanes or striped median islands as bus queue-jump lane and implement leading bus interval or transit signal priority (TSP) at existing signalized intersection to allow buses to enter traffic flow in a priority position.	<ul style="list-style-type: none"><li>- Reduced transit delays at intersection, improve transit schedule reliability</li></ul> TRADE-OFF(S) <ul style="list-style-type: none"><li>- Increased intersection delays at all other approaches with the addition of a new dedicated signal phase.</li></ul>	<ul style="list-style-type: none"><li>- No holiday traffic vehicle counts available.</li><li>- Would require traffic signal modifications to install transit signal indications - this could include new poles/ mastarms. TSP receivers may need to be installed.</li><li>- Emery-Go-Round buses may need to be equipped with TSP emitters.</li><li>- NB Shellmound at Ohlone intersection is only candidate for new bus queue lane. Other locations are existing turn lanes.</li><li>- Although existing right-turn pockets may be utilized for implementation of bus queue jump, right-turn vehicular volumes will need to be low enough such that queues can be contained within the available storage pocket.</li><li>- TSP effectiveness is reduced under congested conditions where buses are not able to regularly access right-turn lanes and bypass long waiting queues in through lanes</li></ul>	<ol style="list-style-type: none"><li>1. Collect traffic data (holiday, regular weekday and weekend)</li><li>2. Traffic Analysis, examine bus queue-jump lane feasibility, develop recommendations</li><li>3. Buy-off from City (and public and merchants?)</li><li>4. Design physical changes, develop signal phasing</li><li>5. Implementation</li></ol>
<b>Intersection/ Driveway adjustments (striping only, existing curb to remain)</b> Modify existing signing and pavement markings to improve traffic circulation by removing/ reducing queue blockage onto mainline or access to through lanes and turn pockets. These could include extension of striped turn pocket, lane assignment modifications, lane width reduction.	<ul style="list-style-type: none"><li>-Reduce transit and vehicle delays for through movements,</li><li>-Improve traffic operations on Shellmound and 40thi</li><li>-Improve transit schedule reliability</li></ul> TRADE-OFF(S) -TBD	<ul style="list-style-type: none"><li>- No holiday traffic vehicle counts available.</li><li>- May not be feasible as it would impact operations and roadway capacity during all times, not just during holiday season.</li><li>- Need to collect traffic counts during weekday peak periods and perform analysis</li></ul>	<ol style="list-style-type: none"><li>1. Collect traffic data (holiday, regular weekday and weekend)</li><li>2. Traffic Analysis, develop recommendations</li><li>3. Buy-off from City (and public and merchants?)</li><li>4. Design physical changes, develop signal phasing</li><li>5. Implementation</li></ol>
<b>Bay Street Shopping Center Circulation adjustments.</b> The purpose of these adjustments is to prevent spillback on to Shellmound Street from vehicular traffic entering Bay Street area. Possible adjustments include converting Bay Street to northbound one-way (to minimize conflicting vehicular movements at Bay Street/ Ohlone), installation of a pedestrian signal, and parking garage access improvements.	<ul style="list-style-type: none"><li>- Reduced transit and vehicle delays along Shellmound Ave</li><li>- Reduced queue blockage of upstream intersections</li><li>- Improved transit schedule reliability.</li></ul> TRADE-OFF(S) - TBD	<ul style="list-style-type: none"><li>- No holiday traffic vehicle counts available</li><li>- Adjustments to traffic circulation need approval of Bay Street. Implementation would need to be done by Bay Street</li><li>- Need to collect traffic counts during weekday peak periods and perform traffic analysis of all potential alternatives.</li><li>- Modifications must result in improved intersection operations during normal commute peak periods in addition to peak holiday season</li></ul>	<ol style="list-style-type: none"><li>1. Collect traffic data (holiday, regular weekday and weekend)</li><li>2. Traffic Analysis, develop recommendations</li><li>3. Buy-off from City and Bay Street</li><li>4. Design physical changes, develop signal phasing</li><li>5. Implementation</li></ol>

## SHUTTLE BUS FUNDING AGREEMENT

This Shuttle Bus Funding Agreement ("Agreement") is entered into effective the \_\_\_\_ day of \_\_\_\_\_, 2017 ("Date of Agreement") by and between the City of Emeryville, a municipal corporation ("CITY") and the Emeryville Transportation Management Association, a California non-profit public benefit corporation ("TMA").

### RECITALS

- A. TMA operates a shuttle bus service, known as the "Emery Go-Round" ("Shuttle") which provides shuttle services between commercial and residential sites in the City of Emeryville and the MacArthur BART Station in Oakland.
- B. The TMA has successfully operated the shuttle since 1997. Funding for the shuttle was initially provided by various members of the TMA some of whose participation in the TMA is as a result of obligations undertaken in the separate agreements with CITY or the Emeryville Redevelopment Agency related to the development of their properties.
- C. In July 2001, CITY formed a Property Based Business Improvement District ("PBID"), pursuant to Street and Highway Code Section 36600 *et seq.* to fund the Shuttle and other transportation services. The PBID created a city-wide assessment on certain business properties in Emeryville found to receive a special benefit from the service for the purpose of funding the Shuttle and other transportation services, following the approval of the assessment by a majority vote of the affected property owners.
- D. In July, 2006, following the submittal of a petition to renew the PBID by business owners and a successful vote to extend it, the City renewed the PBID for a ten-year period.
- E. In 2015, the City Council added Title 3, Chapter 9, Article 1 to the City of Emeryville's Municipal Code (Ordinance No. 15-003), which allowed an assessment on residential properties under a PBID.
- F. On August 4, 2015, the City Council called for and duly held an assessment ballot proceeding for the new PBID pursuant to the applicable provisions of state law and the California Constitution. The tabulation of ballots returned indicated that no majority protest was made and accordingly the City Council adopted a resolution (Resolution No. 15-103) establishing the PBID for the next fifteen years, for a term effective FY 2015-2016 (EGR Service Year 2016) and ending in FY 2029-2030 (EGR Service Year 2030), which resolution includes a Management District Plan as required



by the Property and Business Improvement District Law of 1994, Part 7 of Division 18 of the California Streets and Highways Code.

G. The Parties wish to enter into this Agreement so that CITY can continue to provide the funding for the Shuttle in return for TMA operating the Shuttle as contemplated in the PBID Management District Plan and as further provided in this agreement.

H. The TMA shall operate the Shuttle either by its own forces or through an independent contractor.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the forgoing, the parties agree as follows:

1. **Shuttle Service.** The TMA will operate the Shuttle based on an annual operating plan and budget established by the TMA Board of Directors ("Board"), in accordance with the "Service Parameters" attached as Exhibit A, and pursuant to a budget approved by Board and City Council. The annual levy shall be set based on the level of service desired by the PBID participants, acting through the TMA Board of Directors.
2. **Term.** The term of this agreement shall be for fourteen (14) years, commencing on January 1, 2017 and ending on December 31, 2030 or the effective date of the disestablishment of the PBID, whichever is earlier. This agreement shall become effective upon execution, and shall supersede the January 1, 2007 agreement of the same title with regard to PBID Funds collected during the 2006-2007 fiscal year and shall pertain to operation of and funding for the Shuttle service beginning on January 1, 2017.
3. **Payment.** CITY receives from Alameda County funds collected as a result of the PBID assessment, as well as direct funds from certain PBID members. The funds actually delivered by Alameda County to CITY as well as fund from the CITY, PBID assessments collected directly by CITY and the City of Emeryville General Benefit contribution shall be designated herein as the "PBID Funds". Other funds collected by the City or TMA shall not be considered "PBID Funds". The CITY and the TMA agree to expend PBID Funds in accordance with the Management District Plan.

The CITY may access PBID Funds to cover reasonable costs specifically associated with the administration of the Management District Plan and this Agreement. In no event, shall the CITY's costs exceed 1% of the annual PBID Funds.

TMA will prepare an annual budget (January 1-December 31) for the administration and the operation of the Shuttle, which shall be adopted by the TMA Board of Directors and shall be presented in November of each year to the City Council for approval. In conjunction with its annual approval of each year's budget, the City Council shall appropriate the funds for the following calendar year. CITY payments to the TMA of PBID Funds shall be based upon the annually approved budget and shall be paid in semi-annual installments as follows: first installment no later than January 15 of each year commencing in 2017, and the second installment no later than May 15 of each year commencing in 2017. The CITY shall retain the difference between the PBID Funds and the approved annual budget in a designated special account reserved for PBID-related costs. The TMA may request that the CITY provide additional funds from the designated special account for shuttle related annual operating and/or capital purchases either through the annual budget approval process or a funding allocation request.

The CITY agrees that the annual budget and appropriation for the TMA shall be no less than the annual property and equipment lease payments, provided that the TMA provide the CITY with copies of all property and equipment leases and that at least this amount is collected in PBID Funds for the duration of the lease obligation. It is understood and agreed that the TMA may receive income from other sources, including payments for non-PBID services it may perform for TMA members or third parties and that this agreement does not affect the manner in which the TMA may expend funds from other sources.

In the event the actual PBID Funds are less than the amount provided for in the approved budget, TMA will/may institute service reductions in a manner consistent with the PBID Management District Plan and subject to approval of the TMA Board.

4. **TMA Governance.** The TMA will be governed by a Board of Directors comprised of members who equitably represent both residential and commercial property owners of various sizes and land uses and the City's largest employers.
5. **Route Changes.** City Council must ratify any changes to PBID-funded shuttle routes or stops that would extend service to parcels outside the PBID boundaries to ensure the proposed changes are not in violation with the requirements described in Section 7.3 of the Management District Plan.

6. **Customer Service.** The TMA shall be responsible for prompt and courteous attention to all customer complaints. The TMA shall save all email complaints and response to complaints for a period of one year and shall be made available to representatives of the CITY upon request. TMA shall not be held responsible for collecting information that is not provided by complainants.
7. **Audit Requirement.** For the duration of this Agreement, the TMA shall promptly provide to the CITY by June 30 of each year an audit of the proceeding calendar year's PBID receipts and expenditures in conformity with generally accepted accounting principles from an independent auditor acceptable to CITY. In addition, the TMA shall provide to the CITY all records relating to the PBID and the TMA's operation of the Shuttle including, but not limited to all records of receipts and expenditures. TMA shall have the right to audit CITY's records regarding the PBID Funds.
8. **Reporting.** On June 30 of each calendar year of this Agreement, TMA shall submit to the CITY an annual financial and operations report for the preceding calendar year. By June 30 of each calendar year TMA shall submit a mid-year financial report with a preliminary budget and proposed levy amount for the following year. Not later than November 30 of each year the TMA shall submit a final budget for the following year.

By September 30 of each year, CITY shall provide to TMA an annual accounting of all PBID Funds budgeted, actual PBID Funds received and any late fees/penalties related to PBID Funds received by the CITY, any mitigation and/or developer fees or grants received by the CITY for the specific purpose of funding the Shuttle, including any PBID assessments that are retained by Alameda County or any amounts expended by CITY during the previous year. This accounting shall include any adjustments made by Alameda County on the basis of actual collection of PBID assessments. In addition, CITY shall provide the current balance of any PBID Funds held by the CITY, any interest credited relative to these funds and any expenditure of those funds.

9. **Marketing and Joint Planning Program.** The TMA shall conduct a marketing program regarding the Shuttle to PBID property owners, which shall include, at a minimum, one annual summary report to be posted on the Emery Go-Round website no later than June 30<sup>th</sup> of each year and one annual membership meeting, notice of which shall be given to all PBID property owners. TMA will also provide schedules and notices on the Emery Go-Round website at [www.emerygoround.com](http://www.emerygoround.com) and/or on buses, as well as providing liaison to other transit-related agencies.

TMA and City liaisons shall meet at least on a semi-annual basis to jointly collaborate on the City's planning efforts to improve Emery Go-Round mobility access throughout the City, enhanced connectivity with other transit services and other transportation enhancements, such as technology based applications to enhance the user experience.

10. **CITY PBID Obligations.** CITY shall utilize reasonable efforts to collect all PBID assessments (including those not collected by the County-PG and E, AC Transit, Emeryville Unified School District) and is responsible for reasonably determining the appropriate assessments of the various parcels based on each parcel's use and the terms of the Management District Plan. CITY shall notify TMA of any changes in the identity of property owners or amount of assessments on PBID properties in May of each year. During the periods in which CITY collects PBID assessments, the obligations of any TMA members to contribute to the TMA that arise pursuant to a development agreement, owner participation agreement, disposition and development agreement, settlement agreement or as a result of any conditions of development approval, shall be satisfied by the payment of the PBID assessment relating to a particular property involved. CITY shall consult with TMA and shall provide TMA with notice prior to any public hearing it may hold pursuant to Street and Highway Code 36636 relative to a change in PBID Management District Plan.
11. **Termination.** This agreement shall be terminated by either party only for cause by giving one hundred eighty (180) days prior written notice to the other in the manner provided below. Cause for termination would include, but not limited to: failure of CITY to deliver the PBID Funds in accordance with section 3 herein, TMA's substantial failure to operate the Shuttle, the disestablishment of the PBID pursuant to Street and Highways Code 36670, misappropriation of funds, malfeasance or a violation of law in connection with the management or expenditure of the PBID Funds. In the event the PBID is disestablished or PBID funds are not received in accordance with Section 3, the TMA may alter Shuttle services until funding commitments are secured.
12. **Indemnification.** TMA shall indemnify, keep and save harmless the CITY, its officers, agents while acting in that capacity and 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, in the course of the operation of the Shuttle caused by a negligent act omission or the intentional misconduct of TMA or its employees, contractors, subcontractors, representatives or agents. Except in the event of active negligence on the part of

CITY Indemnities, TMA further agrees to defend and all actions, suits or claims and pay all charges of attorney 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, TMA shall, at its expense, satisfy and discharge the same. This indemnity shall survive the termination of this agreement.

CITY shall indemnify, keep and save harmless TMA, its officers, agents while acting in that capacity and employees (collectively, TMA indemnitees) against any and all suits, claims or action arising out of the administration of the PBID or the collection of the PBID Funds. Except in the event of active negligence on the part of TMA Indemnities, CITY further agrees to defend and all actions, suits or claims and pay all charges of attorney 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, CITY shall, at its expense, satisfy and discharge the same. This indemnity shall survive the termination of this agreement.

**13. Insurance.**

(a) Insurance. TMA shall ensure that its contractor shall procure and maintain the following types of insurance:

- (1) Workers' Compensation and TMA Liability Insurance. TMA's contractor(s) shall procure and maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California. Employer's Liability Insurance shall have coverage for a minimum of two (2) million dollars covering its employees engaged in the work. TMA shall insure the procurement and maintenance of such insurance by all contractors engaged in provision of Shuttle.
- (2) Liability Insurance. TMA's contractor(s) shall procure and maintain the following kinds of liability insurance, which shall include as additional insured the City of Emeryville, it's council members, officers, employees and agents while acting in such capacity, and their successors or assignees, as they now or as they may hereafter be constituted, singly, jointly and severally:
  - (A) Commercial General Liability insurance providing both injury and property damage coverage with a combined single limit of at least ten (10) million dollars each occurrence or claim and a general aggregate limit of at least ten (10) million dollars. This insurance coverage shall include, but not limited to, premises

and operations; contractual liability; produces and completed operations; broad form property damage.

- (B) Automobile Liability insurance providing bodily injury and property damage with a combined single limit of at least ten (10) million dollars each occurrence or claim. This insurance shall provide contractual liability covering all motor vehicles including owned, non-owned and hired vehicles and mobile equipment to the extent it may be excluded from general liability insurance.

In the event TMA operates the shuttle directly (without utilizing a contractor) it shall provide insurance equivalent to that stated above.

(b) During the term of this agreement, the TMA shall maintain the following types of insurance:

(1) Workers Compensation and Employer's Liability Insurance. If it has any employees, TMA shall procure and maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California. Employer's Liability Insurance shall have coverage for a minimum liability of one (1) million dollars covering TMA's employees engaged in work. TMA shall insure the procurement and maintenance of such insurance by all subcontractors engaged in provision of Shuttle.

(2) Liability Insurance. TMA shall procure and maintain the following kinds of liability insurance, which shall include as additional insured the City of Emeryville, its council members, officers, employees and agents while acting in such capacity, and their successors or assignees, as they now or as they may hereafter be constituted, singly, jointly and severally:

(A) Commercial General Liability insurance providing both injury and property damage coverage with a combined single limit of at least one (1) million dollars each occurrence or claim and a general aggregate limit of at least two (2) million dollars. This insurance coverage shall include, but not limited to, premises and operations; contractual liability; produces and completed operations; broad form property damage.

(B) If the TMA owns or operates any vehicles, it shall maintain Automobile Liability insurance providing bodily injury and property damage with a combine single limit of at least one (1) million dollars each occurrence or claim. This insurance shall provide contractual

liability covering all motor vehicles including owned, non-owned and hired vehicles and mobile equipment to the extent it may be excluded from general liability insurance.

(c) Prior to commencing Shuttle service, TMA shall file a Certification(s) of Insurance with the City Risk Manager evidencing the required coverages and endorsement(s) and, upon request, a certified duplicate original of any of those policies. Said certificate(s) shall stipulate:

(1) The insurance company(s) issuing such policy(ies) shall give written notice to the City Risk Manager of any of the materials alteration, or reduction in aggregate limits, if such limits apply, and provide at least thirty (30) days' notice of cancellation or modification.

(2) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which the TMA (or contractor) is liable up to and including the total limit of liability, without right of contribution from any other insurance which is in effect for the benefit of the CITY.

(3) The policy shall also stipulate: inclusion of the CITY shall not in any way affect the rights of such individual insured ad respect to any claim, demand. Suit or judgement made, brought or recovered against the TMA, and shall protect them in the same manner as though a separate policy has been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

(d) The insurance policy(ies) shall be written by an insurance company(ies) acceptable to the CITY. Such insurance company(ies) shall be authorized to transact business in the State of California.

(e) TMA shall also assure that any third party contractor engaged by TMA to operate the Shuttle shall, at its own cost expense, procure and maintain during the term of this Agreement, comprehensive public liability (including bodily injury, property damage, and automobile liability) insurance coverage for its operation of the Shuttle in an amount equaling or exceeding the minimum amounts required as a condition to each transportation provider's authority to operate by the Public Utility Commission or other city, municipality, agency or governing body conferring said authority, shall further assure that each CITY Indemnities specified in Section 10 above are named as additionally insureds on such policy(ies) Prior to the operation of the Shuttle by such a contractor, TMA shall obtain from said contractor a Certificate of Insurance

evidencing the above-specified coverage. The Certificate shall further provide the contractor's policy is primary over any insurance carried by any CITY Indemnitee specified in Section 10 and that the policy will not be cancelled or the coverage reduced without thirty (30) days prior notice in writing being given to TMA. TMA will furnish the CITY with a copy of the Certificate of Insurance of each contractor prior to that contractor's operation of the Shuttle.

12. **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 the 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.

13. **Liaison.** CITY and TMA shall each designate one or more persons to act as a contact or liaison with the other party with regard to the day to day activities of the program. TMA's liaison shall be responsible, among other things, for complying with the reporting requirements specified in Section 5 above, and coordinating the marketing program required by Section 6 above. Each party's liaison is as follows:



CITY Liaison: Assistant City Manager (Currently Cindy Montero)  
PBID Administration  
1333 Park Ave.  
Emeryville, CA 94608

TMA Liaison: TMA Director (currently Veronica Hattrup)  
Gray-Bowen-Scott  
1676 N. California Blvd., Suite 400  
Walnut Creek, CA 94596

14. **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.
15. **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.
16. **Relationship.** Pursuant to this Agreement, the CITY is merely a funding agency for transportation provided by TMA, which is acting as an independent contractor under the Shuttle Program. CITY shall not direct, manage or control the operations of TMA, but, in its fiduciary role and the distributor of PBID Funds, shall review the financial management of the TMA to ensure that funds are properly expended pursuant to the terms of the PBID Management District Plan. Nothing herein shall be deemed to create a partnership, joint venture, or employment relationship between the CITY and TMA.
17. **Compliance with Law.** Each party to this Agreement shall comply with any and all laws, statutes, ordinances, rules, regulations or requirements of federal, state or local government, or any agency thereof, which relate to or in any manner affect the performance of this Agreement. As the TMA acts as the Owner's Association of the PBID, and pursuant to Street and Highways Code 36614.5, the TMA must comply with the Ralph M. Brown Act and Public Records Act. In addition, TMA shall submit a copy of each regular and special meeting agenda of the TMA Board which includes discussion and/or action items relating to the PBID to the City Clerk's Office via facsimile and e-mail at least three (3) days in advance of the regular meeting and at least one (1) day in advance for special meetings. The City Clerk shall then post said agendas at three (3) public posting places in the City of Emeryville.

18. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be but one Agreement.
19. **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.
20. **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.
21. **Assignment.** The rights, obligations, and responsibilities of the TMA under this Agreement shall not be assigned by the TMA to any third party without the prior written consent of the CITY, which consent may be withheld by the City in its reasonable discretion.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first written above with the intent to be legally bound.

**CITY OF EMERYVILLE, a Municipal Corporation**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: City Manager

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

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Guina  
City Attorney

## EXHIBIT A

### **Service Parameters**

Days of Service: Monday through Sunday (except the following holidays: New Year's Day, Presidents' Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.)

Routes: Service shall be provided along such routes as may be determined by the TMA Board of Directors.

Schedule: Service times may vary by route, though the standard operating hours are from 5:45 a.m. to 10:30 p.m. on weekdays, 8:30 a.m. to 10:30 p.m. on Saturdays and 9:00 a.m. to 7:30 p.m. on Sundays. The TMA Board may determine an alternative schedule to meet revised service demands and or budget constraints.



**2017 Budget**  
**EMERY GO-ROUND**

	2017	
<b>Revenue</b>	<b>Budgeted Revenue</b>	<b>Notes</b>
<b>PBID Revenue</b>		
PBID Revenue	3,457,563	Final assessment/billing per NBS.
District Related Costs	(158,882)	
<b>Net PBID</b>	<b>3,298,681</b>	
<b>Non-PBID Revenue</b>		
City of Emeryville - General Benefit Contribution	522,632	Assumed 12.29% of Total Budget.
ETMA Billed Revenue	95,504	Adjusted to reflect new PBID rates and elimination of residential parcels within the PBID Boundary.
BGTMA Revenue	35,000	Revenue for EGR service to Berkeley Bowl for West Berkeley Shuttle Connection.
Misc. Revenue (Charter services, interest income, etc.)	3,000	In 2016 received \$54k for property tax refund and \$6k for sale of salvage buses. 2017 estimate if for interest income and charter services.
<b>Subtotal Non-PBID Revenues</b>	<b>656,136</b>	
<b>Total Revenue</b>	<b>3,954,817</b>	

	2017	
<b>Expenditures</b>	<b>Estimated Expenditures</b>	<b>ASSUMPTIONS</b>
<b>Direct Costs</b>		
Bus Leases/Purchases	500,000	Includes acquisition of 7 vehicles with 60 Mo. Finance Term.
Bus Maintenance	350,000	
Operations Contract	1,915,000	No change in service after implementation of the new service plan in summer 2016. Includes contract increase for new premium wage.
Fuel	325,000	Real-time tracking system and driver radios.
Communications	40,000	
Miscellaneous Operating Costs	20,000	Route guides, bus stop sign replacements, rider alert postings, etc.
<b>Subtotal Direct Costs</b>	<b>3,150,000</b>	
<b>Indirect Costs</b>		
Professional Services	475,000	Includes all management, accounting and legal service contracts.
Occupancy (Bus Yard, Site Expenses)	500,000	
Membership & Public Outreach Materials	13,500	Allowance for relocation expense & lease of new bus yard.
Pilot Projects and Research	25,000	Commercial Liability, Directors & Officers and Office Trailer policies.
TMA Insurance	10,000	
Conferences, Conventions, Meetings	4,000	
<b>Subtotal Indirect Costs</b>	<b>1,027,500</b>	Bi-Annual Shuttle Operations Workshop.
<b>Total TMA Operating Budget/Expenses</b>	<b>4,177,500</b>	
<b>Replenishment of ETMA Cash Reserve</b>		
Estimated Revenue Shortfall	75,000	
Deposit to Cash Reserve		
<b>Total Cash Reserve</b>	<b>75,000</b>	
<b>TOTAL BUDGET/EXPENSES</b>	<b>4,252,500</b>	
<b>2016 Balance</b>	<b>(297,683)</b>	

<b>Cash Balance Summary (2016-2017)</b>	<b>2016/2017</b>
Carryover Cash Balance (as of Jan 1, 2016)	608,664
2016 Estimated Balance to be Applied to ETMA Cash Reserve	300,000
Projected Cash Balance on Dec 31, 2016	908,664
<b>2017 Shortfall</b>	<b>(297,683)</b>
Total Projected Cash Balance on Dec 31, 2017	610,980

**EMERY GO-ROUND**
**3-Year Budget Forecast**

	2017	2018	2019
<b>Revenue</b>	Est. Revenue	Est. Revenue <sup>1</sup>	Est. Revenue <sup>1</sup>
<b><u>PBID Revenue</u></b>	(3% Increase)	(3% Increase)	(3% Increase)
PBID Revenue	3,457,563	3,561,290	3,668,129
City/County Fees (Administration and Legal Costs)	(158,882)	(158,882)	(158,882)
<b>Net PBID Revenue</b>	<b>3,298,681</b>	<b>3,402,408</b>	<b>3,509,247</b>
<b><u>Non-PBID Revenue</u></b>			
City of Emeryville - General Benefit Contribution	522,632	521,151	527,038
ETMA Billed Revenue	95,504	98,369	101,320
BGTMA (Net balance of West Berkeley Shuttle revenue)	35,000	50,000	50,000
Other revenue	3,000	3,000	3,000
<b>Subtotal Non-PBID Revenues</b>	<b>656,136</b>	<b>672,520</b>	<b>681,358</b>
<b>Total Revenue</b>	<b>3,954,817</b>	<b>4,074,928</b>	<b>4,190,605</b>
<b>Expenditures</b>	2017	2018	2019
	Estimated Budget	Estimated Budget	Estimated Budget
<b><u>Direct Costs</u></b>			
Bus Leases/Purchases	500,000	500,000	400,000
Maintenance	350,000	360,000	370,000
Operations Contract <sup>3</sup>	1,915,000	2,100,000	2,200,000
Fuel	325,000	335,000	345,000
Communications	40,000	42,000	44,000
Miscellaneous Operating Costs	20,000	15,000	15,000
<b>Subtotal Direct Costs</b>	<b>3,150,000</b>	<b>3,352,000</b>	<b>3,374,000</b>
<b><u>Indirect (Support) Costs</u></b>			
Professional Services	475,000	485,000	495,000
Occupancy	500,000	225,000	240,000
Marketing	13,500	14,000	14,500
Pilot Projects, Planning & Research	25,000	25,000	25,000
TMA Insurance	10,000	10,300	10,600
Conferences, Conventions, Meetings	4,000	4,150	4,250
Bus Yard - Site Development & Project Management	-	-	-
<b>Subtotal Indirect Costs</b>	<b>1,027,500</b>	<b>763,450</b>	<b>789,350</b>
<b>Replenishment of ETMA Cash Reserve</b>			
<i>Estimated Revenue Shortfall<sup>4</sup></i>	<i>75,000</i>	<i>125,000</i>	<i>125,000</i>
<b>Total Revenue Shortfall/Cash Reserve Replenishment</b>	<b>75,000</b>	<b>125,000</b>	<b>125,000</b>
<b>Total TMA Expenditures</b>	<b>4,252,500</b>	<b>4,240,450</b>	<b>4,288,350</b>
<b>Annual Revenue vs. Expenditure Balance</b>	<b>(297,683)</b>	<b>(165,522)</b>	<b>(97,745)</b>

	<b>As of 12/2017</b>	<b>As of 12/2018</b>	<b>As of 12/2019</b>
<b>Estimated TMA Cash Balance</b>	610,980	445,458	347,713

**Assumptions:**

1. Assumes a 3% annual increase in the PBID levy.
2. 12.29% of Total Operating Budget, per PBID Management Plan.
3. Included a 10% increase in operations cost for contract rebid.
4. Estimated revenue shortfall of \$125k for 2018 and 2019 to account for PBID corrections.

**FOURTH GROUND LEASE MODIFICATION**

**BETWEEN**

**LBA RIV-COMPANY XII, LLC**

**AND**

**EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION**

This FOURTH GROUND LEASE MODIFICATION (“**Amendment**”) is made and entered into as of the \_\_\_\_ day of October, 2016 (“**Effective Date**”), by and between **LBA RIV-COMPANY XII, LLC**, a Delaware limited liability company (“**Landlord**”) and **EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION**, a California non-profit public benefit corporation (“**Tenant**”).

**WITNESSETH:**

**WHEREAS**, 6701 San Pablo, LLC, a Michigan limited liability company (“**Prior Landlord**”), and Tenant entered into that certain Ground Lease dated June 6, 2008 (“**Initial Lease**”), as amended by (i) that certain First Ground Lease Modification dated June 6, 2008 by and between Prior Landlord and Tenant, (ii) that certain Reaffirmation and Second Ground Lease Modification dated July 15, 2011 by and between Landlord and Tenant; that certain Third Amendment to Ground Lease Modification dated March 18, 2013, by Landlord and Tenant; and that certain termination letter dated June 1, 2016, by and between Landlord and Tenant (the “**Termination Letter**”) (the Initial Lease, as amended, shall collectively hereinafter be referred to as the “**Lease**”), pursuant to which Prior Landlord leased to Tenant certain premises comprising approximately 37,638 square feet of land which is improved with a modular building (“**Premises**”), as more particularly described in the Lease, located at 6701 San Pablo Avenue, Berkeley, California (the “**Building**”), upon the terms and conditions contained in the Lease.

**WHEREAS**, all right, title and interest in the Building was conveyed to Landlord pursuant to that certain Trustee’s Deed Upon Sale dated July 15, 2011 and recorded with the Alameda County Registrar Recorder on July 21, 2011 as document number 2011-203716.

**WHEREAS**, notwithstanding anything in the Termination Letter to the contrary, Landlord and Tenant desire to (a) extend the Term of the Lease and (b) amend the Lease in certain respects as set forth herein.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Defined Terms**. Capitalized terms used and not otherwise defined herein shall have the same meanings ascribed to them in the Lease.

2. **Termination Letter.** Notwithstanding anything in the Lease to the contrary, Landlord and Tenant hereby agree and acknowledge that the Termination Letter which provided for the termination of the Lease is hereby rescinded in its entirety and the Lease shall continue in full force and effect in accordance with the terms of the Lease as amended hereby.

3. **Term of the Lease.** The Term of the Lease is hereby extended (the “**Third Extended Term**”) such that the Term shall expire, unless terminated sooner pursuant to the terms of the Lease, on July 14, 2018 (“**Third Revised Lease Expiration Date**”). All references to “**Lease Term**” in the Lease and this Amendment shall be deemed references to the Term as extended by this Amendment, and all references to the “**Expiration Date**” shall be deemed references to the Third Revised Lease Expiration Date. Accordingly, Tenant hereby acknowledges and agrees that Tenant shall no longer have any further right to extend the Third Extended Term.

4. **Option to Terminate.** Landlord and Tenant shall each have the right to terminate the Lease (“**Option to Terminate**”) at any time during the Third Extended Term upon not less than one hundred eighty (180) days prior written notice to the other party (“**Termination Notice**”) without any obligation by the party exercising the Option to Terminate (“**Exercising Party**”) to pay any fee or penalty in connection therewith. Subject to the terms hereof, if Landlord or Tenant properly exercises such Option to Terminate the Lease hereunder, such termination shall be effective as of the date which shall be one hundred eighty (180) days following the date Landlord or Tenant shall receive the Termination Notice (“**Early Termination Date**”) from the Exercising Party. The Exercising Party shall have no right to exercise the Option to Terminate if, at the time the Exercising Party shall send the Termination Notice or at any time prior to the Early Termination Date, a default by the Exercising Party has occurred under any of the provisions of the Lease (as amended by this Amendment).

5. **Condition of the Premises.** Landlord shall have no obligation whatsoever to construct leasehold improvements for Tenant or to repair or refurbish the Premises. The taking of possession of the Premises by Tenant shall be conclusive evidence that Tenant accepts the same “**AS IS**” and that the Premises is suited for the use intended by Tenant and was in good and satisfactory condition at the time such possession was taken. Tenant acknowledges that neither Landlord nor Landlord’s agents has made any representation or warranty as to the condition of the Premises or the Building or its suitability for Tenant’s purposes. Tenant represents and warrants to Landlord that (a) its sole intended use of the Premises is for uses set forth in Section 5.01 of the Lease, (b) it does not intend to use the Premises for any other purpose, and (c) prior to executing this Amendment it has made such investigations as it deems appropriate with respect to the suitability of the Premises for its intended use and has determined that the Premises is suitable for such intended use.

6. **Monthly Base Net Rent.** Commencing on the Effective Date of this Amendment and continuing through the Third Extended Term, Tenant shall pay monthly installments of the Monthly Base Net Rent for the Premises in the amount equal to Eight Thousand and No/100 Dollars (\$8,000.00) per month.

7. **Additional Rent.** During the Third Extended Term and in addition to the Monthly Base Net Rent set forth in Section 6 of this Amendment, Tenant shall pay Additional



Rent and all other rent to be paid by Tenant to Landlord under the terms and provisions of the Lease.

**8. Acknowledgment by Tenant.** As of the Effective Date, Tenant hereby acknowledges and agrees as to the following:

(a) All work required to be performed by Landlord under the Lease has been satisfactorily completed.

(b) As of the Effective Date, Tenant has not delivered to Landlord any notice to the effect that Landlord is in default of its obligations under the Lease and no event has occurred and no condition exists that with the giving of notice or the passage of time without cure thereof would constitute a default by Landlord under the Lease.

**9. Brokers.** Tenant represents and warrants to Landlord that it has not engaged any broker, finder or other person who would be entitled to any commission or fees in respect of the negotiation, execution or delivery of this Amendment and shall indemnify, defend and hold harmless Landlord against any loss, cost, liability or expense incurred by Landlord as a result of any claim asserted by any such broker, finder or other person on the basis of any arrangements or agreements made or alleged to have been made by or on behalf of Tenant.

**10. Entire Agreement; Amendment.** The Lease, as amended by this Amendment, constitutes the full and complete agreement and understanding between the parties hereto and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter contained in the Lease, as so amended, and no provision of the Lease, as so amended, may be modified, amended, waived or discharged, in whole or in part, except by a written instrument executed by all of the parties hereto.

**11. Authority.** Each person executing this Amendment represents and warrants that he or she is duly authorized and empowered to execute it, and does so as the act of and on behalf of the party indicated below.

**12. Conflicting Terms.** Except as clarified and modified herein, the Lease shall remain in full force and effect. In the event a conflict exists between the terms and conditions of this Amendment and the terms and conditions of the Lease, the terms and conditions of this Amendment shall control. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same Amendment.

**(SIGNATURES ON NEXT PAGE)**

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first written above.

TENANT

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION,  
a California non-profit public benefit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

[SIGNATURE CONTINUED ON FOLLOWING PAGE]

LANDLORD

LBA RIV-COMPANY XII, LLC,  
a Delaware limited liability company,

By: LBA REIT IV, LLC  
a Delaware limited liability company  
its Sole Member and Manager

By: LBA Realty Fund IV, L.P.,  
a Delaware limited partnership  
its Sole Manager

By: LBA Management Company IV, LLC  
a Delaware limited liability company  
its General Partner

By: LBA Realty LLC  
a Delaware limited liability company  
its Manager

By: LBA Inc.  
a California corporation  
its Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

For LBA Office Use Only: Prepared & Reviewed by: \_\_\_\_\_



Creative Bus Sales

Creative Bus Sales  
29220 Pacific Street  
Hayward, CA 94544Phone: 510.728.1500  
Fax: 510.728.7800  
[www.creativebussales.com](http://www.creativebussales.com)**Buyer's Order Contract**

<b>Date:</b>	November 10, 2016	<b>Unit #(s):</b>	Factory Built
<b>Customer Name:</b>	Emeryville Transportation Management Association		
<b>Contact:</b>	Verionica "Roni" Hattrup	<b>Phone:</b>	925-937-0980 x 212
<b>Address:</b>	1676 North California Blvd. Suite 400	<b>Fax:</b>	925-947-3177
<b>City, State, Zip:</b>	Walnut Creek, CA 94596	<b>E-Mail:</b>	<a href="mailto:roni@bowenscott.com">roni@bowenscott.com</a>
<b>Sys 2K Entity #:</b>		<b>Salesperson:</b>	Ray Mahaffay
<b>Ship To Address:</b>	1676 North California Blvd. Suite 400 Walnut Creek, CA 94596		
<b>Ship To Address Cont'd:</b>			
<b>Ship To Phone:</b>		<b>Ship To Email:</b>	
<b>Finance Source:</b>	Creative Fleet Leasing	<b>Contact:</b>	Mike Stoller
<b>Address:</b>	14740 Ramona Ave	<b>Phone:</b>	909-465-5528
<b>City, State, Zip:</b>	Chino, CA 91710	<b>Fax:</b>	909-465-5529
<b>Description of Vehicle:</b>	2017 IC Starcraft XL 40, 42 Seated Passengers or up to 36 Seated Passengers with 2 Wheel Chairs both plus Driver, Please See Quotation For Details		
<b>Engine Type:</b>	Diesel		
<b>VIN #:</b>		<b>FOB Terms:</b>	Shipping
<b>Number of Passengers:</b>	42	<b>Wheelchair Positions:</b>	2
<b>Estimated Delivery Date:</b>	90 Days After Receipt Of Order	<b>Payment Terms:</b>	
		Unit Price	\$137,635.00
		Delivery	\$250.00
<b>Possession State:</b>	CA	Incentive (Non-Taxable)	\$0.00
		Rebates (Taxable)	\$0.00
		Doc Prep Fee (Taxable)	\$80.00
		<b>Base Selling Price</b>	<b>\$137,965.00</b>
		ADA Amount (Non Taxable)	\$6,500.00
		Total Taxable Amount	\$131,465.00
		<b>Sales Tax Total</b>	<b>\$11,174.53</b>
<b>8.500%</b>	<b>CA - Walnut Creek</b>		\$0.00
			\$0.00
<b>Notes:</b>		DMV Estimated Fees	\$1,692.00
Sales tax is calculated based on the state or country in which customer takes possession of vehicle. Sales tax will be charged to customers taking possession in AZ, CA, CO, FL, IN, NM, NV, OK, OR, SC, TX, WA, Canada, and Mexico.		DMV Electronic Filing Fee	\$29.00
All rebates and incentives will be signed over to Creative Bus Sales		Tire Fee	\$10.50
California State Tire Fee of \$1.75 per tire applies to all new vehicle purchase or leases.		<b>Fees Sub-Total</b>	<b>\$1,731.50</b>
		<b>Total Price Per Unit</b>	<b>\$150,871.03</b>
		Quantity	3
		<b>Contract Total</b>	<b>\$452,613.08</b>
		<b>Credits</b>	
		Customer Trade-In	\$0.00
		Customer Deposit	(\$50,000.00)
		<b>Balance Due</b>	<b>\$402,613.08</b>

**Remit To:** Creative Bus Sales, Inc. 14740 Ramona Ave, Chino CA 91710

**Terms:** The deposit if indicated above is due with this signed contract. The balance due indicated above is due before vehicle(s) will be released to the Customer. If the vehicle(s) is not accepted by the Customer, the vehicle will be available for sale to other customers. The vehicle(s) will not be titled to the Customer until the contract total indicated above plus any interest charges indicated herein are paid in full. There is no "cooling off" or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract without the agreement of the Dealership, or for legal cause. The tax and fees reflected on this agreement are based on the regulations applicable at the time of drafting this contract. The actual amounts due will be based on the regulations applicable at the time title for each vehicle transfer.

**Buyer's Signature:****Creative Bus Sales:**

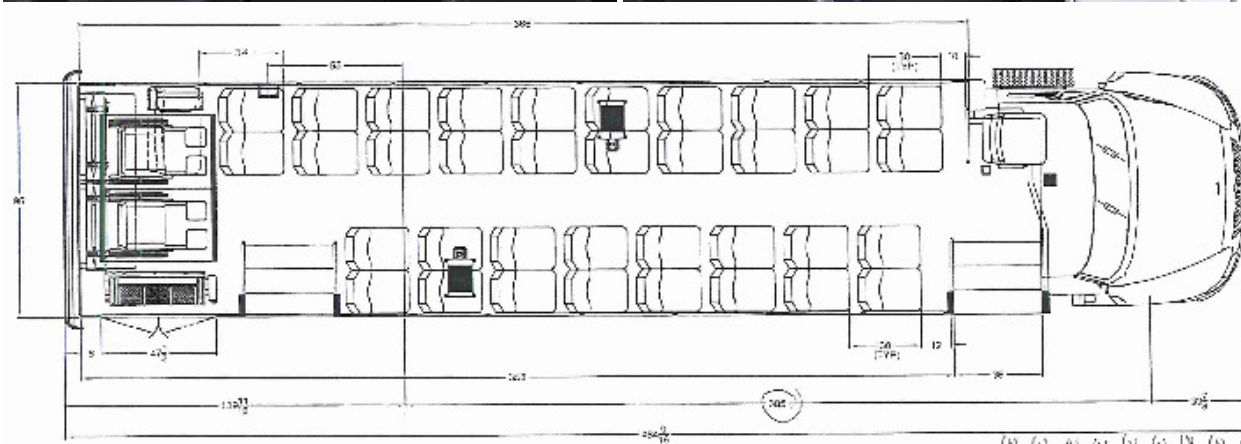
Ray Mahaffay

**CBS Signature:****11/10/2016**



Creative Bus Sales

11/10/2016



NEW 2017 ALLSTAR XL IC TC 40' ADA SHUTTLE BUS

- 42 SEATED PASSENGERS OR
- 40 SEATED PASSENGERS AND 1 WHEELCHAIR OR
- 36 SEATED PASSENGERS AND 2 WHEELCHAIRS

INTERNATIONAL TC CHASSIS WITH 305" WB  
CUMMINS ISB 240 HORSEPOWER DIESEL ENGINE  
ALLISON 5 SPEED AUTOMATIC TRANSMISSION

AIR BRAKES

REAR AIR SUSPENSION WITH DASH MOUNTED DUMP SWITCH

ALTRO META W/YELLOW STEP NOSING

- FLOOR COLOR: STORM

TA77033 SUPER 13 120K BTU-TWIN TA77 EVAPS, TWIN SMC3L COND, TWIN 13 CID COMP

(2) HOT WATER HEATER, 65K BTU

FRONT DESTINATION SIGN PREP

SIDE DESTINATION SIGN PREP

PRIORITY SEATING SIGN \*\*REQUIRED FOR ADA COMPLIANCE\*\*

STARCRAFT CIRCUIT BOARD LIFT INTERLOCK

BACK-UP ALARM SAE TYPE C 97 DBA

CEILING GRAB RAIL (2)

1 1/4" GRAB RAIL PARALLEL TO ENTRANCE STEPS (BOTH SIDES)

MID HIGH DOUBLE SEAT (18)

ANTI-VANDAL GRAB HANDLE, BLACK (18)

- AISLE SIDE ONLY

SEAT BELT, NON-RETRACTABLE (42)

SEAT BELT LOOP – (42)

DELUXE AM/FM / CD /WITH MIC INPUT & CLOCK, 4 SPEAKERS

PA MODULE ADDED TO STEREO SYSTEM

ADDITIONAL SPEAKER (4)

- MOUNT TWO OF THE SPEAKERS IN FRONT BULKHEAD

PADDED VINYL INTERIOR (WALLS AND CEILING)

SEAT COVER - LEVEL 1 NEWPORT VINYL; OXEN VINYL; OLEFIN

FLIP SEAT, DOUBLE FREEDMAN FEATHERWEIGHT MID HIGH (2)

BRAUN CENTURY NCL919-2 WHEELCHAIR LIFT (34"X51") LIMIT SWITCHES

WHEELCHAIR DECAL (INTERNATIONAL SYMBOL OF ACCESSIBILITY)

Q-8301-L MAX RETRACTOR TIE DOWN, Q8-6326-A1 COMB LAP/SHLDR, L TRK (2)

DOUBLE WHEELCHAIR DOORS W/ WINDOWS, INTERIOR LIGHT, LEAF SPRING

BIKE RACK FOR (2) BICYCLES

FRONT, SIDE, AND REAR HANOVER DIGITAL DESTINATION SIGNS

STOP REQUEST SYSTEM

**PRICING**

Unit Price FOB Your Location

\$137,635.00\*

\*Price Good For 45 Days. Allow 30 days for delivery of stock buses with options added.

\*Prices do not include tax, license, or DMV fees.

**EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION  
PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the Emeryville Transportation Management Association, herein called the "Association," and John S. Younger, CPA, herein called the "Consultant."

**RECITALS**

WHEREAS, Association wishes to retain the assistance of an accountant to provide accounting and bookkeeping services for the Association's transportation service; and

WHEREAS, Association has reviewed the qualifications of the Consultant and determined that the Consultant possesses the skill, experience and certifications required to provide the services required by the Association; and

WHEREAS, Association desires to retain Consultant to provide professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions identified herein, the parties mutually agree as follow:

1. **Scope of Services:** Subject to such policy direction and approvals as the Association through its Board of Directors or Executive Committee may determine from time to time, Consultant shall perform the services set out in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference.
2. **Time for Performance:** The services of Consultant are to commence upon the date this agreement was entered into and shall continue until December 31<sup>st</sup>, 2017. The parties may extend this term by mutual agreement.
3. **Compensation and Method of Payment:**
  - A. **Compensation:** The compensation to be paid to Consultant shall be at the rates set forth in Exhibit A, which is attached hereto and incorporated herein. However, in no event shall Consultant's compensation exceed Twenty Five Thousand Dollars (\$25,000.00). Compensation is intended to include payment for all of consultant's expenses, including office space and equipment, telephones, insurance coverage, personal automobile use and other such expenses. The only expenses being reimbursed by Association are for postage and photocopying or printing costs.
  - B. **Method of Payment:**
    1. Monthly flat rate for services as described in Exhibit A Scope of Services. Any additional fees, in accordance with Exhibit A Scope of Services, shall be submitted on a separate invoice for approval by the Association.

2. **Timing of Payment:** Prepayment of the monthly flat rate by the Association to Consultant shall be made on the first of each month. Payment for any additional fees approved by the Association shall be made within 30 days of receiving an acceptable invoice from Consultant.

4. **Hold Harmless:** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless the Association, its respective officers, employees and agents (collectively the "Indemnified Parties") from and against all claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising from or related to the negligent acts, errors or omissions of Consultant, its employees or agents in the performance of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant.

Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any claim arising from the active negligence or willful misconduct of the Indemnified Parties.

5. **Relationship between the Parties:** Consultant is, and at all times shall remain, an independent contractor, not an agent or employee of the Association. Consultant shall be solely responsible for all acts of its employees, agents or subconsultants, including any negligent acts or omissions. Consultant shall have no authority to act on behalf of the Association or to bind the Association to any obligation whatsoever, unless the Association provides prior written authorization to Consultant. As an independent contractor, Consultant shall not be entitled to any benefit, right or compensation from the Association other than those provided for in this Agreement. As an independent contractor, Consultant may have tax obligations, including self-employment taxes, which are his sole responsibility. Upon request of Association, Consultant shall cooperate with Association by providing information and documents relating to its independent contractor status.

6. **Ownership of Work:** All documents furnished to Consultant by Association and all reports and supportive data prepared by Consultant by this Agreement are Association's property and shall be given to Association at the completion of Consultant services. Association acknowledges that documents and supportive data prepared by Consultant have been prepared exclusively for and are fit exclusively for the purposes contemplated under this Agreement. If the Association reuses such documents prepared by Consultant for purposes other than those contemplated under this agreement without the written consent of Consultant, the Association will hold harmless, indemnify and defend the Consultant, its agents, subconsultants and employees from any and all claims arising out of such reuse.

7. **Compliance with Laws:** Consultant shall use due professional care to comply with all applicable federal, state and local laws, codes, ordinances and regulations. Consultant represents to Association that it has, and will maintain through the term of the Agreement, all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Business License.

8. **Insurance:**

A. **Minimum Scope of Insurance:** Prior to commencing work and during the entire term of the Agreement, Consultant shall procure and maintain the following insurance policies in these minimum amounts:



1. Commercial General Liability Coverage One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement, or the general aggregate limit shall be at least twice the required occurrence limit.

2. For any employers, Workers' Compensation as required by the State of California, and Employers' Liability Insurance, One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

B. Endorsements: Each general liability insurance policy shall be endorsed with the following specific language:

1. The Association, its members, officers, employees and agents ("Insured Parties") are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant.

2. For any claims related to this Agreement, Consultant's insurance coverage shall be considered primary insurance as respects the Insured Parties. Any insurance or self-insurance maintained by the Insured Parties shall be excess of the Consultant's insurance and shall not contribute with it.

3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company.

4. The insurer waives all rights of subrogation against Association, its elected and appointed officers, employees and agents.

5. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Association, its elected and appointed officers, employees and agents.

6. Each insurance policy required by this Agreement shall provide that coverage shall not be canceled, except after 30 days prior written notice has been given to the Association.

C. Verification of Coverage: Consultant shall provide to the Association all certificates of insurance with original endorsements affecting coverage required by this paragraph. Certificates of such insurance shall be filed with the Association on or before commencement of performance of this Agreement. The Association reserves the right to require complete, certified copies of all required insurance policies at any time.

D. Acceptability of Insurers: All insurance companies providing coverage to Consultant for purposes of this Agreement shall be authorized by the Insurance Commissioner of the State of California to transact business within the State of California and shall an A.M.

Best's rating of no less than "A:VII".

- E. **Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retention's must be declared to and approved by the Association. At the Association's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

9. **Assignment and Subcontracting:** The parties recognize that a substantial inducement to Association for entering into this Agreement is the professional reputation, experience and competence of Consultant. Therefore, Consultant may not assign any right or obligation pursuant to this Agreement without the prior written permission of Association. Furthermore, Consultant shall not subcontract any portion of the work to be performed under this Agreement without the prior written consent of Association. Any assignment of any right or obligation or subcontracting of any work without Association consent shall be void and of no effect.

10. **Nondiscrimination:** Consultant shall not discriminate against any person related to the performance under this Agreement (including any employee or applicant) on the basis of race, color, religious creed, national origin, gender, physical or mental disability, marital status, or sexual orientation.

11. **Termination of Agreement:** Either party may terminate this Agreement without cause upon giving sixty days written notice to the other party. In addition, Association may suspend Consultant's performance of the agreement upon 24 hours' notice, provided that such suspension shall not affect Consultant's compensation. In the event of such a termination, Consultant shall be entitled to any compensation owed for services rendered up to the effective date of termination.

12. **Amendment:** This Agreement constitutes the complete and exclusive statement of the Agreement to Association and Consultant. It may be amended or extended from time-to-time by written agreement of the parties hereto.

13. **Litigation Costs:** In the event either party commences legal action to enforce this Agreement, the prevailing party shall be entitled to reasonable costs and expenses, including attorneys' fees.

14. **Written Notification:** Any notice, demand, request, consent, approval, or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to Association: Emeryville Transportation Management Association  
C/o Gray-Bowen  
1676 N. California Blvd., Suite 400  
Walnut Creek, CA 94596

If to Consultant: John Tounger, CPA  
585 Mandana Blvd., Suite 10  
Oakland, CA 94610

15. **Waiver:** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of the Agreement.

16. **Execution:** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement it shall not be necessary to produce or account for more than one such counterpart.

17. **Venue:** In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of Alameda, California.

18. **Use of Proprietary Material:** Consultant shall not use Association's name, logo or other proprietary material in any advertising, solicitation, written communication, or other media without the prior written consent of the Association. Consultant may direct any requests for such consent to Emeryville TMA, in care of the Executive Director.

IN WITNESS WHEREOF, the Association and Consultant have executed this Agreement as of the date first above written.

EMERYVILLE TRANSPORTATION  
MANAGEMENT ASSOCIATION

CONSULTANT

By: \_\_\_\_\_  
Geoffrey Sears, Chair

By: \_\_\_\_\_

# JOHN S. TOUNGER, JR.

TAX, ACCOUNTANCY AND  
BUSINESS CONSULTING SERVICES

30 November 2016

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. Please sign and return to me.

## Bookkeeping, consulting services, Tax preparation

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 Hatstrup.

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 \$1,625. Meetings with the Board and other consultants will be charged at \$200 per hour max 10 hours annual or \$2,000. The tax return preparation fee is estimated at \$3,500. Annual service contract not to exceed is \$25,000 for my services.

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

Very truly yours,

585 MANDANA BLVD., SUITE 10  
OAKLAND, CA 94610  
TELEPHONE: (510) 893-0950  
FAX: (510) 893-0954  
JOHN@TOUNGER.COM

Response:

This letter correctly sets forth the Understanding  
of our engagement

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

**THIS AMENDMENT NO. 1** to agreement dated August 21<sup>st</sup>, 2014 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; and

WHEREAS, Association approved Amendment 1 to extend the term of the agreement to December 31<sup>st</sup>, 2016 and to increase the not-to-exceed limit by \$5,000 to \$14,000; and

WHEREAS, Association wishes to further extend the term of the agreement by two (2) years to December 31<sup>st</sup>, 2018 and to increase the authorized amount by \$15,000 for continued website maintenance services for both the Emery Go-Round and West Berkeley Shuttle websites, at the rates and limits defined in Exhibit A, attached.

NOW, THEREFORE, BE IT MUTUALLY AGREED that Sections 2 and 3.A of the agreement be amended to extend the term to December 31<sup>st</sup>, 2018 and to increase the not to exceed compensation limit by \$15,000 for a total not to exceed limit of \$29,000;

IN WITNESS WHEREOF, the Association approved Amendment No. 2 to this Agreement on the \_\_\_\_ of \_\_\_\_\_, 2016.

EMERYVILLE TRANSPORTATION  
MANAGEMENT ASSOCIATION

CONSULTANT

By: \_\_\_\_\_  
**Chair**

By: \_\_\_\_\_

**Damon O'Donnell**

26 Coso Avenue  
San Francisco, CA  
94110

W. 415 821.7570 M. 415 531.1731

damono@mindspring.com

[www.damono.net](http://www.damono.net)

**Emery Go-Round**

**West Berkeley Shuttle**

**C/O Gray-Bowen-Scott**

Veronica "Roni" Hatstrup  
1676 N. California Blvd., Suite 400  
Walnut Creek, CA 94596

W (925)937-0980 ext. 212 C: (925) 899-4246

Roni@graybowenscott.com

[www.graybowenscott.com](http://www.graybowenscott.com)

**Emery Go-Round Web and Mobile Site Updates and Maintenance**

This proposal covers standard updates and site maintenance to be performed throughout 2017 and 2018 at a rate of \$75.00 per hour.

**Total Projected Cost for 2017 and 2018 \$10,000.00 or Less.**

Cost exceeding this amount must be approved by GBS staff prior to start of work.

**West Berkeley Web and Mobile Site Updates and Maintenance**

This proposal covers standard updates and site maintenance to be performed throughout 2017 and 2018 at a rate of \$75.00 per hour.

**Total Projected Cost for 2017 and 2018 \$5000.00 or Less.**

Cost exceeding this amount must be approved by GBS staff prior to start of work.

Sincerely,

A handwritten signature in black ink that reads "Damon O'Donnell". The signature is written in a cursive, flowing style.

Damon O'Donnell

7/28/2014

## PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT** is entered into as of the 1<sup>st</sup> day of January, 2016 ("Effective Date"), by and between the Emeryville Transportation Management Association, a California non-profit corporation, herein called the "Association," and William R. Gray and Company, a California corporation doing business as Gray-Bowen-Scott, herein called the "Consultant."

### RECITALS

WHEREAS, Association is planning to retain the assistance of a transportation consulting firm to provide agency management and administration services for the Association's transportation service; and

WHEREAS, Association has reviewed the qualifications of the Consultant and determined that the Consultant possesses the skill, experience and certifications required to provide the services required by the Association; and

WHEREAS, Association and Client entered into a prior Professional Services Agreement, dated January 1, 2015, which is superseded by this Agreement as of the Effective Date; and

WHEREAS, Association desires to retain Consultant to provide professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions identified herein, the parties mutually agree as follow:

1. **Scope of Services:** Subject to such policy direction and approvals as the Association through its Board of Directors or Executive Committee may determine from time to time, Consultant shall perform the services set out in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference.
2. **Time for Performance:** The services of Consultant are to commence on January 1, 2016 and shall continue through \_\_\_\_\_. The parties may extend this term by mutual agreement for two additional one-year terms.
3. **Compensation and Method of Payment:**
  - A. **Compensation:** The compensation to be paid to Consultant shall be at the rates and in the manner set forth in Exhibit B, Cost Proposal, which is attached hereto and incorporated herein. However, in no event shall Consultant's compensation exceed \_\_\_\_\_ (\$\_\_\_\_\_). Compensation for any additional terms shall be negotiated by the parties.
  - B. From time to time the Association enters into contracts with other entities (currently two contracts exist: one with the City of Emeryville to provide paratransit service, 8 to Go; and another with the Berkeley Gateway Transportation Management Association to provide Shuttle service in West Berkeley). Such services are not part of the core budget and the costs to the Association are fully reimbursed by others. Future contract services may be added as approved by the Association. It is agreed that the services provided by the Consultant to carry out the obligations

of the Association in these cost-neutral services shall be fully paid to the Consultant as per paragraph 3.A.

C. Method of Payment:

1. Monthly Statements: As a condition precedent to any payment to Consultant under this Agreement, Consultant shall submit monthly to the Association a statement of account which clearly sets forth the designated items of work for which the billing is submitted, the hours worked and the hourly rate for each person performing work. Each statement of account shall also include a detailed record of the month's actual revenue reimbursable expenditures.

2. Timing of Payment: Association shall review Consultant's monthly statement and pay Consultant for services rendered hereunder at the rates if acceptable and in the amounts provided hereunder on a monthly basis in accordance with the approved monthly statements.

4. Hold Harmless: Consultant shall indemnify, defend and hold harmless the Association, its officers, employees and agents (collectively the "Indemnified Parties") from and against all claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising from or related to the intentional or willful misconduct, negligent acts, errors or omissions of Consultant, its employees or agents in the performance of this Agreement.

Notwithstanding the foregoing, with regard to claims where the law establishes a standard of care for Consultant's professional services, and to the extent the Consultant breaches or fails to meet such established standard of care, or is alleged to have breached or failed to meet such standard of care, Consultant shall indemnify and hold harmless the Association and its officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action or demands whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors. Consultant shall not be obligated under this Agreement to indemnify Association to the extent that the damage is caused by the negligence or willful misconduct of Association, its agents or employees. Irrespective of any language to the contrary in this Agreement or under applicable law, Consultant shall have no duty to provide or fund up-front defense costs of Association against unproven claims or allegations, but shall reimburse those reasonable attorneys' fees, expert fees and all other costs and fees of litigation incurred by Association that are caused by the negligence, recklessness or willful misconduct of Consultant, its employees, agents and sub-consultants.

5. Relationship between the Parties: Consultant is, and at all times shall remain, an independent contractor, not an agent or employee of the Association. Consultant shall be solely responsible for all acts of its employees, agents or subconsultants, including any negligent acts or omissions. Consultant shall have no authority to act on behalf of the Association or to bind the Association to any obligation whatsoever, unless the Association provides prior written authorization to Consultant. As an independent contractor, Consultant



shall not be entitled to any benefit, right or compensation from the Association other than those provided for in this Agreement. As an independent contractor, Consultant may have tax obligations, including self-employment taxes, which are his sole responsibility. Upon request of Association, Consultant shall cooperate with Association by providing information and documents relating to its independent contractor status.

6. **Key Personnel:** It is understood and agreed by the parties that at all times during the term of the Agreement that Roni Hattrup, Karen Boggs and Mary Grinbergs shall serve as the key personnel of Consultant to undertake, render and oversee all of the services under the Agreement.

7. **Ownership of Work:** All documents furnished to Consultant by Association and all reports and supportive data prepared by Consultant by this Agreement are Association's property and shall be given to Association at the completion of Consultant services. Association acknowledges that documents and supportive data prepared by Consultant have been prepared exclusively for and are fit exclusively for the purposes contemplated under this Agreement. If the Association reuses such documents prepared by Consultant for purposes other than those contemplated under this agreement without the written consent of Consultant, the Association will hold harmless, indemnify and defend the Consultant, its agents, subconsultants and employees from any and all claims arising out of such reuse.

8. **Compliance with Laws:** Consultant shall use due professional care to comply with all applicable federal, state and local laws, codes, ordinances and regulations. Consultant represents to Association that it has, and will maintain through the term of the Agreement, all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Business License for the City of Emeryville.

9. **Insurance:**

A. **Minimum Scope of Insurance:** Prior to commencing work and during the entire term of the Agreement, Consultant shall procure and maintain the following insurance policies in these minimum amounts:

1. Commercial General Liability Coverage, in the amount of Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement, or the general aggregate limit shall be at least twice the required occurrence limit.

2. Automobile Liability coverage in the amount of Two Million Dollars (\$2,000,000) per accident for bodily injury and property damage.

3. For any employees, Workers' Compensation as required by the State of California, and Employers' Liability Insurance, One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

B. **Endorsements:** Each general liability and automobile liability insurance

policy shall be endorsed with the following specific language:

1. The Association, its members, officers, employees and agents ("Insured Parties") are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant.
  2. For any claims related to this Agreement, Consultant's insurance coverage shall be considered primary insurance as respects the Insured Parties. Any insurance or self-insurance maintained by the Insured Parties shall be excess of the Consultant's insurance and shall not contribute with it.
  3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company.
  4. The insurer waives all rights of subrogation against Association, its elected and appointed officers, employees and agents.
  5. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Association, its elected and appointed officers, employees and agents.
  6. Each insurance policy required by this Agreement shall provide that coverage shall not be canceled, except after 30 days prior written notice has been given to the Association.
- C. Verification of Coverage: Consultant shall provide to the Association all certificates of insurance with original endorsements affecting coverage required by this paragraph. Certificates of such insurance shall be filed with the Association on or before commencement of performance of this Agreement. The Association reserves the right to require complete, certified copies of all required insurance policies at any time.
- D. Acceptability of Insurers: All insurance companies providing coverage to Consultant for purposes of this Agreement shall be authorized by the Insurance Commissioner of the State of California to transact business within the State of California and shall an A.M. Best's rating of no less than "A:VII".
- E. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retention's must be declared to and approved by the Association. At the Association's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured receptions.
10. Assignment and Subcontracting: The parties recognize that a substantial inducement to Association for entering into this Agreement is the professional reputation, experience and competence of Consultant. Therefore, Consultant may not assign any right or obligation pursuant to this Agreement without the prior written permission of Association. Furthermore, Consultant shall not subcontract any portion of the work to be performed under this Agreement without the prior written consent of Association. Any assignment of any right

or obligation or subcontracting of any work without Association consent shall be void and of no effect.

11. **Nondiscrimination**: Consultant shall not discriminate against any person related to the performance under this Agreement (including any employee or applicant) on the basis of race, color, religious creed, national origin, gender, physical or mental disability, marital status, or sexual orientation.

12. **Termination of Agreement**: Either party may terminate this Agreement without cause upon giving sixty days written notice to the other party. In addition, Association may suspend Consultant's performance of the agreement upon 24 hours' notice, provided that such suspension shall not affect Consultant's compensation. In the event of such a termination, Consultant shall be entitled to any compensation owed for services rendered up to the effective date of termination.

13. **Amendment**: This Agreement constitutes the complete and exclusive statement of the Agreement to Association and Consultant. It may be amended or extended from time-to-time by written agreement of the parties hereto.

14. **Litigation Costs**: In the event either party commences legal action to enforce this Agreement, the prevailing party shall be entitled to reasonable costs and expenses, including attorneys' fees.

15. **Written Notification**: Any notice, demand, request, consent, approval, or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to Association: Emeryville TMA  
1300 67<sup>th</sup> Street  
Emeryville, CA 94608

And: Geoff Sears  
Chair of the Board  
1120 Nye Street, Suite 400  
San Rafael, CA 94901

If to Consultant: Gray-Bowen-Scott  
1676 N. California Boulevard, Suite 400  
Walnut Creek, CA 94596

16. **Waiver**: Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of the Agreement.

17. **Execution**: This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when

at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement it shall not be necessary to produce or account for more than one such counterpart.

18. **Venue**: In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of Alameda, California.

IN WITNESS WHEREOF, the Association and Consultant have executed this Agreement as of the date first above written.

EMERYVILLE TRANSPORTATION  
MANAGEMENT ASSOCIATION

CONSULTANT

By: \_\_\_\_\_  
**Chair**

By: \_\_\_\_\_

APPROVED AS TO FORM

By: \_\_\_\_\_  
Legal Counsel



December 6, 2016

Geoffrey Sears, Chair  
Emeryville Transportation Management Association  
1300 67<sup>th</sup> Street  
Emeryville, CA 94608

Dear Mr. Sears,

We are pleased to furnish you with our proposed scope of services and cost proposal for ETMA Agency Management services for 2017.

The scope of work and cost estimate attached reflects our proposed work plan for next year. We expect our services to level out in early 2017 as the implementation of the service plan will be completed in December. Our goal for 2017 is to restore Emery Go-Round service reliability by implementing new practices for performance monitoring and reporting in collaboration with our shuttle operator. We'll also be looking to improve Emery Go-Round's presence throughout the City with new wayfinding signage at the BART Station and various locations throughout the City.

Additionally, we'd like to strengthen our partnership with the City of Emeryville by improving collaboration with City's designated liaison and Transportation Committee in an effort to identify new concepts to improve mobility throughout the City.

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 Hattrup', is positioned above the printed name.

Veronica 'Roni' Hattrup  
Program Manager

Cc: ETMA Executive Committee

Attachments: 2017 Scope of Services  
2017 Cost Proposal

## **EXHIBIT A**

### **GRAY-BOWEN-SCOTT 2017 SCOPE OF WORK FOR EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION AGENCY MANAGEMENT & ADMINISTRATION SERVICES**

Gray-Bowen-Scott will provide Agency Management & Administration services for the Emeryville Transportation Management Association (TMA), essentially providing staff for the organization. Primary staffing positions include Executive Director, Operations Administrator 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; 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 2017 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, disseminate, 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 session with new Board Directors. This includes preparation of a Director Handbook which includes, but not limited to; governing documents, budgets, audited financial statements, and key service contracts.
- 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 emergency situation 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 Directors at the Annual Membership Meeting.

❖ **Financial Management**

- Prepare 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, periodic 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.

**TASK 2. OPERATIONS & FLEET MAINTENANCE, MANAGEMENT & OVERSIGHT**

❖ **Emery Go-Round**

- 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.

- 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.

**TASK 3. REAL-TIME TRACKING & GOOGLE TRANSIT FEED MANAGEMENT**

- 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.
- Coordination update to Syncromatics data feed, as needed.

**TASK 4. PLANNING & NEEDS ASSESSMENT**

- Identify service enhancements to improve shuttle accessibility.
- Evaluate partnerships with vendors and suppliers to explore new technology, funding opportunities and other ways to continue/improve delivery of services.
- Liaison with City and others to address roadway, sidewalk and other infrastructure issues for the delivery of high quality transit service.

**TASK 5. PUBLIC & MEMBERSHIP OUTREACH**

- Develop and facilitate distribution and collection of a 2017 Rider Survey to determine rider satisfaction, particularly with any service changes.
- Communicate with members to monitor their opinion of Emery Go-Round service and address concerns as needed.
- Participate in up to three community and/or employer based outreach events.
- 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.

**TASK 6. 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 to MacArthur BART.
- Partner and collaborate with the City of Emeryville on new TDM initiatives or infrastructure improvements to enhance shuttle access throughout the City.
- Attend City Council meetings, as needed.



## **TASK 7. SPECIAL PROJECTS**

### **❖ Emery Go-Round Signage Project – Phase 2**

Oversight of signage contractor for manufacturing and installation of new Emery Go-Round wayfinding signage at the MacArthur BART Station and throughout the City, including;

- i. Development of wayfinding sign content & layout.
- ii. Oversight of sign design.
- iii. Coordination with the City of Emeryville and TMA Members to identify locations for wayfinding signage (BART station, bus shelters, retail centers, etc.)
- iv. Ensure proper permitting is obtained for signage installation.
- v. Development of scope of work for sign manufacturing & installation.
- vi. Contract oversight.

### **❖ 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.
- b. Evaluate options for improved passenger counting technologies.

## **II. REIMBURSABLE SERVICES**

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 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**  
*Services from January 1, 2016 through*  
*December 31, 2016*

GRAY-BOWEN					
Name	Roni Hatstrup	Karen Boggs	Mary Grinbergs	Total Hours GBS	Total Cost Per Task
Job Title	Executive Director	Operations Administrator	Executive Assistant		
Task #	Rate	\$195	\$155	\$83	

**Assumptions**

**TMA SERVICES**

1	Association Administration, Board Support & Finance Management	300	98	400	798	\$ 106,890	18 hours per week split primarily between Roni & Mary.
2	Operations & Fleet Maintenance Oversight	280	390	150	820	\$ 127,500	15 hours per week split between Roni, Karen & Mary.
3	Real Time Tracking & Google Maps Systems Management	80	160	40	280	\$ 43,720	Allowance of hours based on scope of work.
3	Planning & Needs Assessment	20	20	20	60	\$ 8,660	Allowance of hours based on scope of work.
4	Public & Membership Outreach	100	85	100	285	\$ 40,975	Allowance of hours based on scope of work.
5	Liaison to Public Agencies & Transit Organizations	120	70	40	230	\$ 37,570	Allowance of hours based on scope of work.
6	Special Projects	80	80	70	230	\$ 33,810	Allowance of hours based on scope of work.
Expenses						\$ 875	
<b>Total Estimate for TMA Services</b>		<b>980</b>	<b>903</b>	<b>820</b>	<b>2703</b>	<b>\$ 400,000</b>	

**REIMBURSABLE SERVICES <sup>4</sup>**

**Assumptions**

R1	8 to Go Paratransit Shuttle (City of Emeryville/ACTC) <sup>6</sup>	12	22	14	48	\$ 6,912	4 hrs/ month for operations oversight & preparation of monthly reimbursement requests.
R2	West Berkeley Shuttle (BG TMA) <sup>5</sup>	27	60	9	96	\$ 15,312	8 hrs/month for operations oversight & research of service enhancements.
<b>Total Estimate for Reimbursable Services</b>		<b>39</b>	<b>82</b>	<b>23</b>	<b>144</b>	<b>\$ 22,224</b>	

**Grand Total:**                    1,019            985            843            2847            \$    422,224

**Notes:**

- Actual charges will be billed on a time and materials bases for services performed.
- Hours may be shifted amongst other 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 is tracked separately and are fully reimbursed by the City.

**Gray Bowen Scott Historical Contract Budget and Cost Summary**

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017 (proposed)</b>
<b>GBS Authorized Contract Amount</b>				
ETMA Services	290,290	309,604	400,000	400,000
Reimbursable Services	22,550	27,396	15,000	22,224
<b>Total Contract Amount</b>	<b>312,840</b>	<b>337,000</b>	<b>415,000</b>	<b>422,224</b>
<b>GBS Actual Cost</b>				
ETMA Services	225,973	250,647	380,000	
Reimbursable Services	23,599	15,099	20,000	
<b>Total Expended</b>	<b>249,572</b>	<b>265,745</b>	<b>400,000</b>	

*\*2016 Actual cost include estimated costs for November and Dcember.*

**ETMA 2016 - 3rd Quarter Financial Reports  
(Cash Basis)**

11/10/2016

EMERY GO-ROUND		3rd Quarter Financials			Notes
<u>Revenue</u>	2016 Budget	Actual Revenue Rec'd to Date	Variance (Actual vs. Budget)	% of revenue received	
<b>PBID Revenue</b>					
<b>Net PBID Revenue</b>	3,250,988	3,250,988	-	100%	
<b>Non-PBID Revenue</b>					
City - General Benefit Contribution	455,531	455,531	-	100%	
ETMA Billed Revenue	100,000	92,722	(7,278)	93%	
BGTMA (Net balance of West Berkeley Shu	30,000	60,671	30,671	202%	Actual revenue includes payments for 2015 services.
Misc. Revenue (charter service, interest in	10,000	5,265	(4,735)	53%	
Other Revenue	-	59,663	59,663	#DIV/0!	Sale of vehicle and property tax refund.
<b>Subtotal Non-PBID Revenues</b>	<b>595,531</b>	<b>673,851</b>	<b>78,320</b>	<b>113%</b>	
<b>Total Revenue</b>	<b>3,846,519</b>	<b>3,924,839</b>	<b>78,320</b>	<b>102%</b>	
<u>Expenditures</u>	2016 Budget	Actual Costs to Date	Variance (Actual vs. Budget)	% of Budget Expended	Notes
<b>Direct Costs</b>					
Bus Leases/Purchases	478,000	362,244	3,744	76%	
Maintenance	375,000	245,204	(36,046)	65%	
Operations Contract	1,610,000	834,830	(372,670)	52%	
Fuel	375,000	139,581	(141,669)	37%	
Communications	60,000	9,461	(35,539)	16%	Final NextBus payment & Syncromatics payments scheduled for Q4.
Miscellaneous Operating Costs	30,000	2,869	(19,631)	10%	Payment for Bus Stop Signage Design & Installation & Route Guides anticipated in Q4.
<b>Subtotal Direct Costs</b>	<b>2,928,000</b>	<b>1,594,188</b>	<b>(601,811)</b>	<b>54%</b>	
<b>Indirect (Support) Costs</b>					
Professional Services	465,000	264,625	(84,125)	57%	
Office Expenses	5,000	1,552	(2,198)	31%	
Occupancy	145,000	92,166	(16,584)	64%	
Marketing	17,000	2,372	(10,378)	14%	
Pilot Projects and Research	25,000	-	(25,000)	0%	
TMA Insurance	10,000	4,268	(3,232)	43%	Insurance premiums paid in Q3 & Q4.
Conferences, Conventions, Meetings, Dues	1,000	-	(1,000)	0%	
Bus Yard Relocation	-	-	-	N/A	
<b>Subtotal Indirect Costs</b>	<b>668,000</b>	<b>364,983</b>	<b>(142,517)</b>	<b>55%</b>	
Contingency	-	-	-	N/A	
<b>Subtotal Other Costs</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>N/A</b>	
<b>Total TMA Expenditures</b>	<b>3,596,000</b>	<b>1,959,172</b>	<b>(744,328)</b>	<b>54%</b>	

2016 Revenue vs. Expenditures Balance: 250,519 1,965,668 822,649

**ETMA 2016 - 3rd Quarter Financial Reports  
(Cash Basis)**

11/10/2016

**WEST BERKELY SHUTTLE**

3rd Quarter Financials					
	2016 Budget	Actual Revenue Rec'd to Date	Variance (Actual vs. Budget)	% of Revenue Received	Notes
<b>Revenue</b>					
BGTMA & Bayer	172,720	188,475	58,935	109%	Revenue includes payments for 2015 services.
<b>Total Revenue - West Berkeley</b>	<b>172,720</b>	<b>188,475</b>	<b>58,935</b>	<b>109%</b>	
	2016 Budget	Actual Costs to Date	Variance (Actual vs. Budget)	% Expended	Notes
<b>Expenditures</b>					
Shuttle Operations	133,840	117,098	16,718	87%	Operations doubled in May 2016.
Professional Service Contracts	8,880	10,706	4,046	121%	May Service Implementation, not budgeted.
<b>Total Expenditures - West Berkeley</b>	<b>142,720</b>	<b>127,804</b>	<b>20,764</b>	<b>90%</b>	

Balance

30,000

60,671

38,171

Balance of revenue shown as ETMA revenue above.

**City of Emeryville - 8 to Go Paratransit**

3rd Quarter Financials					
	2016 Budget	Actual Revenue Rec'd to Date	Variance (Actual vs. Budget)	% of Revenue Received	Notes
<b>Revenue</b>					
City of Emeryville - 8 to Go Paratransit	88,600	61,187	(5,263)	69%	Actual revenue includes payments for 2015 services.
<b>Total Revenue - City</b>	<b>88,600</b>	<b>61,187</b>	<b>(5,263)</b>	<b>69%</b>	
	2016 Budget	Actual Costs to Date	Variance (Actual vs. Budget)	% Expended	Notes
<b>Expenditures</b>					
Shuttle Operations & Maintenance	77,500	44,138	(13,987)	57%	
Fuel	4,000	2,122	(879)	53%	
Communications	600	357	(93)	60%	
Professional Service Contracts	6,500	4,781	(95)	74%	
<b>Total Expenditures - City</b>	<b>88,600</b>	<b>51,397</b>	<b>(15,053)</b>	<b>58%</b>	

Balance

0

9,790

9,790

Total Passenger Boardings per Year/Quarter					
	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
<b>2016 Ridership</b>	371,644	398,192	388,902	-	<b>1,158,738</b>
<b>2015 Ridership</b>	387,583	403,515	448,244	421,174	<b>1,660,516</b>
<b>2014 Ridership</b>	381,216	425,010	457,239	416,392	<b>1,679,857</b>

