



EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

AGENDA

Board of Directors Meeting
September 15, 2022 @ 9:15 AM

[Zoom](#)

Meeting ID: 854 3638 6941

Chair

Bobby Lee, At-Large

Residential Member

Vice Chair

Andrew Allen

At-Large Business

Member

Secretary

Betsy Cooley, At-Large

Residential Member

Treasurer

Geoffrey Sears,

Wareham Development

Directors

Peter Schreiber,

Pixar

Colin Osborne

At-Large Business

Member

Kassandra Kappelos

Public Market

1. Call to Order
2. Public Comment
3. Approval of the Minutes of the August 18, 2022, Board of Directors Meeting (Attachment)
4. Executive Directors Report
 - A. Status Update on Bus Yard Repair
 - B. Calendar of Actions Overview (Attachment)
5. Business Items
 - A. Review and Consider Approval of Resolution 22-09 Declaring Board Meetings will be held via Teleconference (Attachment)
 - B. Review and Consider Approval of Professional Services Agreement with John S. Tounger, CPA (Attachment)
 - C. Appoint Executive Director Transition Committee
 - D. Discuss Extension of Shuttle Operations Agreement
6. Confirm date of Next Meeting – October 20th, 2022
7. Adjournment

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

ACTION SUMMARY MINUTES

Board of Directors Meeting

August 18th, 2022

LOCATION: VIDEO CONFERENCE

Directors Present: Bobby Lee, Chair
Andrew Allen, Vice Chair
Betsy Cooley, Secretary
Geoffrey Sears, Treasurer
Peter Schreiber, Director

Others Present: Roni Hatstrup, Executive Director
Karen Boggs, Operations Director
Debi Lawrence, Executive Assistant
Brad Farmer, City of Emeryville
Pedro Jimenez, City of Emeryville
Leo Scott, Gray-Bowen-Scott

1. Call to Order

Bobby Lee called the Board of Director's meeting to order at 9:19 AM.

2. Public Comment

There were no comments from the public.

3. Approval of the Minutes of the July 13th, 2022 Board of Directors Meeting

Geoffrey Sears motioned for approval of the meeting minutes of the July 13th, 2022 Board of Directors Meeting. Betsy Cooley seconded the motion.

This item was approved by a unanimous vote.

Yes: 5

No: 0

Abstain: 0

4. Executive Director's Report

A. Status Update on Bus Yard Repair

Roni provided an update on the status of the Bus Yard Repair – BFK Engineers has gone out to the Bus Yard to start on the survey work and are developing their grading plan. Leo Scott with Gray-Bowen-Scott has a meeting with them later on today for more information and updates.

B. Calendar of Actions Overview

Roni reviewed the current Calendar of Action. The Board would like to hold a planning session for 2023 goals sometime in October. Roni will add this item to the October agenda.

C. Shuttle Operations Performance Report

i. Ridership

Karen Boggs reviewed the Shuttle Operations Performance Reports. Karen stated that overall, the services are running about 29% of pre-COVID levels.

ii. On-Time Performance

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

ACTION SUMMARY MINUTES

Board of Directors Meeting

August 18th, 2022

Karen reviewed the On-time Performance Reports for June, stating that overall, the services are running at about of 90% OTP.

5. Business Items

- A. Review and Consider Approval of Resolution 22-08 Declaring Board Meetings Will be Held Via Teleconference

Geoffrey Sears motioned for approval of Resolution 22-08. Andrew Allen seconded the motion.

This item was approved by a unanimous vote.

Yes: 5

No: 0

Abstain: 0

- B. Review of Proposals and Consultant Selection for Accounting & Bookkeeping Services
Geoffrey Sears motioned for support of moving forward with the services of John Tounger for Accounting & Bookkeeping, with the formal Professional Services Agreement and Scope of Work to follow. Betsy Cooley seconded the motion.

This item was approved by a unanimous vote.

Yes: 5

No: 0

Abstain: 0

- C. Second Quarter Financial Reports

Roni reviewed the financial reports for the second quarter. Roni informed the Board that the TMA has received about 52% of the revenue, anticipating that the balance of the funds should be received shortly, if not already received. Roni added that the expenditures are trending on target with Operations, while we are trending below with Shuttles and Busses (since no new vehicles have been acquired yet); Maintenance is trending below budget; Fuel and Communications are trending below budget as well; Professional Services are below budget; Occupancy – including the security services – is trending slightly above budget; TMA insurance has increased and is above budget with a total cost of 48% of the budget.

No formal action was required.

- D. Ad-hoc Committee Appointments

- i. Finance Committee

The Finance Committee would serve to review the financials of the organization and develop the budget for 2023.

Geoffrey Sears and Peter Schreiber have volunteered to participate in the Finance Committee.

- ii. Shuttle Procurement Committee

The Shuttle Procurement Committee would serve to review the RFPs prepared and participate in review of received proposals and make recommendations to the Board.

Betsy Cooley and Bobby Lee have volunteered to participate in the Shuttle Procurement Committee.

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

ACTION SUMMARY MINUTES

Board of Directors Meeting

August 18th, 2022

Roni will also reach out to Cassandra Kappelos and Colin Osborne for additional interest in joining the committees.

6. Confirm Date of Next Meeting –
The meeting date was confirmed for September 15th, 2022 at 9:15am.
7. Adjournment
The meeting adjourned at approx. 10:10 AM.

**Emeryville TMA
2022 Calendar of Activities**

Month/Date	Description
Jan 18th	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. 4th Quarter Financial Report 2. Transportation Agreement w/ BGTMA – Amend to extend through December 31st, 2022. <p><u>Other</u></p> <ol style="list-style-type: none"> 1. City to provide the ETMA with the 1st installment of the PBID Funds by January 15th. 2. Draft 2023 Preliminary Budget.
Feb 17th	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. No Scheduled Actions. <p><u>Other</u></p> <ol style="list-style-type: none"> 1. City Budget & Financing Meeting – date to be confirmed. <ol style="list-style-type: none"> a. ETMA Budget Forecasting Review with Chair & Treasurer
Mar 17th	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Adopt Resolution to set Annual Membership Meeting – (May 19th) 2. Review of Request for Proposals for Accounting & Bookkeeping Services. 3. Appoint audit committee – 3 Directors (Treasurer exempt) 4. Authorize Audit Services Engagement. 5. Discuss Shuttle Service Partnership with Lennar <p><u>Other</u></p>
Apr 21st	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Appoint Consultant Selection Committee – Bookkeeping & Tax Prep Services 2. Authorized RFP Distribution – Bookkeeping & Tax Prep Services 3. Appoint Procurement Committee – Shuttle Operations & Maintenance Services. <p><u>Other</u></p> <ol style="list-style-type: none"> 1. Prepare 2021 Annual Report. 2. Distribute Nominations Forms to Employer & Business Members – NLT April 15th 3. Post Annual Membership Meeting Invite – NLT April 15th 4. Provide City with Annual Financial and Operations Report (Annual Report) by the 30th 5. Conduct Annual Audit Review Committee (prior to Board May meeting). 6. Develop Social Media Strategy. 7. Prepare RFP for Shuttle Operations & Maintenance Services.
May 19th	<p><u>Annual Membership Meeting</u></p> <ol style="list-style-type: none"> 1. Election of Employer Member. 2. Election of Business Members. 3. Appointment of Corporate Members. 4. City Appointment of Residential Members. <p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Election of Officers 2. Bylaws – Director Meeting Attendance 3. Accept the Independent Auditor’s Report on the financial statements. 4. Authorize signing and the filing of the TMA’s Federal Tax Return and State Annual Information Return. 5. ETMA Bus Yard Repair Proposal. 6. 1st Quarter Financial & Performance Reports. <p><u>Other</u></p> <ol style="list-style-type: none"> 1. Proposals for Accounting & Bookkeeping Services Due NLT May 31st. 2. Tax Filings - due May 15th.

**Emeryville TMA
2022 Calendar of Activities**

	<ol style="list-style-type: none"> 3. City to provide the ETMA with the 2nd installment of the PBID Funds by the 15th. 4. City to notify TMA of any changes the identity of property owners or amounts of assessments on PBID properties in May.
<p>Jun 16th</p>	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Review of 2023 Preliminary Budget for recommendation to City for 2022-2023 PBID Levy. 2. Review & Consider Approval of 8 to Go Agreement Extension. 3. Amendment to Professional Services Agreement with John Tounger to extend services through September 30th, 2022. 4. Lennar Shuttle Partnership Agreement – Pilot Program 5. Service Agreement Amendments – Lennar Shuttle <ol style="list-style-type: none"> a. MV Transportation b. Gray Bowen Scott 6. Consider engagement with East Bay Community Energy for EV Fleet Charging Infrastructure and Transition. 7. Review of proposed workplan for Funding Strategy White Paper. <p><u>Other</u></p> <ol style="list-style-type: none"> 1. Committee selection of top ranked accounting firm (prior to Board meeting). 2. Provide City with prior year audit, receipts and expenditures by the 30th. 3. Provide City with prior year annual financial and operations report. 4. Provide City with the preliminary budget and proposed PBID levy for the following year by the 30th 5. Conduct a marketing program regarding the Shuttle to PBID property owners including, one annual summary report to be posted the EGR website by the 30th. 6. City and TMA liaisons to meet on a semi-annual basis to collaborate on City’s planning efforts to improve Emery Go-Round mobility access throughout the City.
<p>July 21st</p>	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. No Scheduled Actions. <p><u>Other</u></p> <ol style="list-style-type: none"> 1. City Council Meeting to adopt Assessment Levy.
<p>Aug 18th</p>	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Review of Proposals for Accounting & Bookkeeping Services – Consultant Selection. 2. Second Quarter Financial & Performance Reports. 3. Appoint Finance Committee. 4. Appoint Shuttle Procurement Committee <p><u>Other</u></p> <ol style="list-style-type: none"> 1. Finance Committee – In Depth review of Financials & PBID Assessment scenarios and Evaluate Cost/Funding Risks. Develop Draft 2023 Budget. 2. Develop draft RFP for Shuttle Operations. 3. Launch of The Emery Shuttle service for Lennar (target date is September 12, 2022).
<p>Sept 15th</p>	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Review & Consider Approval of Professional Services Agreement for Accounting & Bookkeeping Services. 2. Discuss Shuttle Operations Agreement Extension 3. Appoint ED Transition Committee <p><u>Other</u></p> <ol style="list-style-type: none"> 1. Committee Review of first draft RFP for Shuttle Operations. 2. Develop Agreement Boilerplate for Reimbursable Shuttle Services.

**Emeryville TMA
2022 Calendar of Activities**

	<ol style="list-style-type: none"> 3. Conduct ED Performance Review Committee, if applicable. — Prior to BoD Meeting. 4. Kick-off Executive Director Transition Activities with Committee. 5. Committee Review of Financials and 2023 Preliminary Budget. 6. Request Contract Extension for Shuttle Operations. 7. City to provide an annual accounting of actual PBID funds received, any PBID late fees/penalties received, any mitigation and/or developer fees or grant funds received to the TMA by the 30th. 8. File California Statement of Information Form (Form SI – 100) https://businessfilings.sos.ca.gov
Oct 20th	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Review and Discuss 2023 Draft Annual Budget & Forecasting. 2. Review & Discuss Draft Boilerplate Agreement for Reimbursable Shuttle Services (final action scheduled for Nov Board Meeting). 3. Board Review of Draft RFP for Shuttle Operations. <p><u>Other</u></p> <ol style="list-style-type: none"> 1. Finalize & Distribute RFP for Shuttle Operations. 2. Transition of Accounting Services, if applicable. 3. Develop Social Media Strategy for Public Communications and Promotion of EGR. 4. Evaluate Lennar Shuttle Pilot Program & Determine Course of Action. 5. Continue Executive Director Transition Activities with Committee.
Nov 17th	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Approval of Resolution to Adopt 2023 Annual Budget. 2. Consider Approval of Boilerplate Agreement for Reimbursable Shuttle Services. 3. 3rd Quarter Financial & Performance Reports. 4. Review of draft Professional Service Agreement renewals (final action scheduled for December) 5. Consider Approval of Amendment to extend Shuttle Operations & Maintenance Agreement through March 30th, 2023. 6. Determine Course of Action – Lennar Shuttle Pilot Program <p><u>Other</u></p> <ol style="list-style-type: none"> 7. Committee Review of Operator Bids & Interviews (if necessary). Committee Selection of top ranked Operator for recommendation to Board. 8. Provide City with a final budget for the follow year by the 30th. 9. Committee Review of Operations Pricing for Contract Extension. 10. Executive Direction Transition Activities with Committee & new Executive Director.
Dec 15th	<p><u>Board Actions/Information Items</u></p> <ol style="list-style-type: none"> 1. Operator Selection & Contract Approval by Board of Directors. 2. Consider Approval of Contract Extension & Modified Pricing for Shuttle Operations 3. Consider Approval of Professional Service Agreement Renewals. <ol style="list-style-type: none"> a. Gallen Associates, Inc. 4. Consider Approval of Services Agreement with West Berkeley Shuttle, LLC. 5. Consider Approval of Services Agreement or Extension with Lennar. 6. Review & Discuss Social Media Strategy. 7. Renewal of AC Transit Fuel Agreement. (Expires December 31, 2023) <p><u>Other</u></p> <ol style="list-style-type: none"> 1. Finalize Executive Director Transition.

RESOLUTION NO. 2022-09

BOARD OF DIRECTORS

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

* * *

**DECLARING THAT BOARD MEETINGS WILL BE HELD VIA TELECONFERENCE
PURSUANT TO BROWN ACT EMERGENCY PROVISIONS**

WHEREAS, on March 4, 2020, pursuant to Government Code section 8550, et seq., Governor Newsom proclaimed a state of emergency related to the COVID-19 novel coronavirus; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions in the California Open Meeting law, Government Code section 54950, et seq. (the “Brown Act”), related to teleconferencing by local agency legislative bodies, provided certain requirements were met and followed; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended provisions of Executive Order N-29-20 that waive otherwise-applicable Brown Act requirements related to remote/teleconference meetings by local agency legislative bodies through September 30, 2021; and

WHEREAS, on September 16, 2021, the Governor signed Assembly Bill 361 into law as urgency legislation that went into effect on October 1, 2021, amending Government Code Section 54953 of the Brown Act to allow legislative bodies to continue to meet remotely during a proclaimed state of emergency where state or local officials have recommended measures to promote social distancing; and

WHEREAS, the Governor's proclaimed State of Emergency remains in effect, and State and local officials, including the California Department of Public Health and the Department of Industrial Relations, have imposed or recommended measures to promote social distancing.

NOW, THEREFORE, BE IT RESOLVED that, in order to ensure the health and safety of the public, meetings of the Board of Directors of the Emeryville Transportation Management Association will be held via teleconference in accordance with Assembly Bill 361 and provisions of Government Code Section 54953(e); and

BE IT FURTHER RESOLVED that that this Resolution will be in effect for the maximum period of time permitted under AB 361 (30 days), and the Board will consider the findings in this Resolution each month and may, by motion, reaffirm these findings.

Regularly passed and adopted this 15th day of September, 2022.

AYES:

NOES:

ABSENT:

Chair, Emeryville Transportation Management Association

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

STAFF REPORT MEMORANDUM

DATE: September 12, 2022

FROM: Roni Hatstrup, Executive Director

SUBJECT: Professional Services Agreement – Bookkeeping & Accounting Services

RECOMMENDATION

Staff recommends approval of Professional Services Agreement with John S. Tounger, CPA for bookkeeping and tax preparation services through September 30th, 2025.

BACKGROUND

Since 1997 John S. Tounger Jr., CPA, has been providing bookkeeping & accounting services for the Association. These services have included processing of all invoices and payment, management of Association financials through Quickbooks, preparation of financial reports, including but not limited to, Cost/Revenue to Date Reports for Quarterly Board Reporting, Profit and Loss Statements, General Ledger Reports and the Associations annual Financial Statements. Additionally, Mr. Tounger has prepared the annual Federal and State Tax Filings required to maintain the Association's 501(c)4 non-profit tax-exempt status.

In 2021, the Board directed staff to conduct a competitive bid process for Bookkeeping & Accounting services, given the Associations policy for consultant procurement and length of time for which Accounting & Bookkeeping services have been performed by Mr. Tounger.

On June 6th, staff released the RFP to the following accounting firms:

- John S Tounger, CPA
- Jitasa
- Harmon Burstyn
- Healy & Associates
- Applied Financial Services
- Mighty Non-Profits

On June 30th, staff received proposals from two accounting firms. Jitasa and John S. Tounger, CPA. Upon evaluation of the proposals received from the selection committee, the committee recommended selection of John S Tounger, for continued services. On August 18th, 2022, the Board of Directors approved the recommendation by the committee for selection of John S. Tounger.

DISCUSSION

John S Tounger is a California certified public accountant, located in Oakland. John has been providing bookkeeping and accounting services for the Association since 1997, including processing of payables and receivables, preparation of costs/revenue to date reports for quarterly financials, preparation of annual state and federal tax filings and preparation of annual financial statements. John is also responsible for providing monthly bank account reconciliations as well as other on-going financial support to the Executive Director. John serves as lead support to the Association through the annual audit of the Association's financial statements. John primarily works independently, however has one employee who provides bookkeeping support services. The Association's accounts are currently managed using Quickbooks, with revenue/costs to date and quarterly financial reports being generated in Excel worksheets.

The attached scope of work outlines the services provided by John, including the establishment of Bill Pay through Bank of America, to improve workflow efficiencies and to decrease timing for issuance of payment as requested by the selection committee. Additionally, John is committed to working with the Executive Director to develop new financial reports, as requested.

The initial term of the agreement is three (3) years through September 30, 2025, with an option to renew for additional years as mutually agreed to by both parties.

FINANCIAL CONSIDERATIONS

John's proposed rates are outlined in Exhibit B, Engagement Letter, dated June 30th, 2022, and are subject to annual increases effective January 1, 2024. Annual increases shall not exceed 10%. The initial annual not to compensation limit exceed limit is \$37,500.

**EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is entered into as of the ____ day of _____, 2022, by and between the Emeryville Transportation Management Association, herein called the "Association," and John S. Tounger, 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 through September 30th, 2025. 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 B, which is attached hereto and incorporated herein. However, in no event shall Consultant's compensation exceed Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) annually. Compensation may be increased annually, as mutually agreed to by both parties, however such increase shall not exceed 10%. 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 reimbursable by Association are for direct expenses such as postage, check orders and printing costs.
 - B. **Method of Payment:**
 1. Monthly flat rate for services as described in Exhibit B, Engagement Letter dated June 30, 2022. 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.
3. Professional Liability Insurance (Errors and Omissions) in the amount of One Million Dollars (\$1,000,000) per claim.

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

1. The Association, its members, officers, directors 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.

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-Scott

1211 Newell Ave., Suite 200
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: _____
Bobby Lee, Chair

By: _____

Exhibit A – Scope of Work
Professional Services Agreement
John S. Tounger, Jr., CPA

Consultant shall provide bookkeeping and tax preparations services for the organization, including the services outlined below:

1. Bookkeeping Services
 - a. Review general ledger accounting system and current accounting software to ensure that both items support the regulatory and financial reporting needs of the organization.
 - b. Identify and implement necessary changes to the invoice review and approval process to maximize efficiency.
 - c. Establish new bill pay process through Bank of America.
 - d. Review system of internal controls to ensure that appropriate controls exist to safeguard the assets of the organization.
 - e. Perform monthly reconciliation of bank account as well as reconciliation of all balance sheet accounts.
 - f. Receive and record all revenue and reimbursement payments.
 - g. Record and issue payment to all consultants, contractors, and vendors.
 - h. Monitor the release of restricted funds.
 - i. Support Executive Director with the development of the annual budget.
 - j. Ensure all financial transactions are completed and verified in accordance with the ETMA's policies and procedures and general accounting principles.
2. Financial Reporting
 - a. Prepare quarterly financial statements of revenue and expenditures.
 - b. Support the Executive Director with development of new financial reports, when needed.
 - c. Prepare monthly check register.
 - d. Prepare monthly cashflow reports.
3. Audit Support
 - a. Prepare year-end balance sheet, revenue and expenditure reports and other financial records that may be requested by the ETMA's Independent Auditor.
 - b. Assist with preparation of the annual financial statements in conformance with standard non-profit financial reporting practices.
 - c. Develop and update recordkeeping, transactions, cash management, procurement and other administrative policies and procedures in collaboration with the Executive Director.
4. Tax Preparation & Non-Profit Status
 - a. Prepare federal and state tax returns as required for nonprofits including additional schedules necessary for preparation of the federal form 990 tax return.
 - b. Ensure compliance with all state and federal tax regulations and filing deadlines.
 - c. Represent the ETMA in the event of a tax form examination or other tax related matters.
 - d. Ensure all regulatory documentation and reporting required to maintain the organizations non-profit status are filed on-time.
5. Other miscellaneous financial services, as needed.

OFFICE OF JOHN S. TOUNGER, CPA

TAX, ACCOUNTANCY AND BUSINESS CONSULTING SERVICES

June 30, 2022

Emeryville Transportation Management Association
1211 Newell Ave #200
Walnut Creek, CA 94596

Dear Roni,

Please consider this my proposal for my continued engagement providing accounting and tax services, as detailed in your June 6, 2022 Request for Proposals for Bookkeeping and Accounting Service.

My qualifications, approach, work sample.

I have provided the accounting and tax services to the TMA since 1997. Over these last 25 years I worked successfully with the three different directors. My services will continue with the same level of profession and scope as I have been providing.

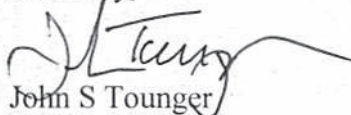
My current contract with the TMA ends September 30, 2022. The current term includes, \$2,035 flat monthly rate, \$275 per hour for excess time, and \$4,400 annual fee for the tax return preparation.

My proposal for work starting October 1st would be \$2,500 flat monthly rate, \$275 per hour, and \$4,750 for the tax return preparation, with an annual fee increase starting January 1, 2024. The increase will be negotiated with the TMA Director and will not exceed 10% unless the scope of the engagement differs.

I have enjoyed the past 25 year relationship and hope it continues.

Any questions, please contact me.

Sincerely,



John S Tounger
Certified Public Accountant
California certificate # 48127

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

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