



# EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

## AGENDA

Board of Directors Meeting

AgeSong, 1440 40<sup>th</sup> Street, Emeryville, CA

February 17, 2011, 9:00AM

### Chair

Denise Pinkston,  
TMG Partners

### Vice Chair

Bob Canter,  
Emeryville Chamber  
of Commerce

### Secretary/Treasury

Geoffrey Sears,  
Wareham  
Development

### Directors

Sandy Brownstone,  
Hines

Al DeGroot,  
Novartis

Lisa Finnin-Ciccoli,  
IKEA

Ron Weller,  
Bay Street

Andrew Allen,  
At-Large

Paula Hertel,  
AgeSong

1. Closed Session:
  - A. Executive Director Performance Review Committee Presentation to the Board.
  - B. Real Property Negotiations.
2. Call to Order
3. Public Comments
4. Approval of Minutes of January 20, 2011 Board Meeting
5. Business Items
  - A. Recommendation to Lease Termination Bus Purchase.
  - B. Recommendation for approval of two agreements to implement the West Berkeley Shuttle:
    - i. Agreement with Berkeley Gateway TMA to operate the West Berkeley Shuttle.
    - ii. Addendum No. 1 with SFO Shuttle Bus Company for operating the West Berkeley Shuttle.
  - Committee Report
  - C. Executive Director Review Committee summary of performance review. Approval of a new contract or augmentation of existing contract with Gray-Bowen.  
Committee Report
6. Executive Director's Report
  - A. Monthly list of Disbursements for January 2011.
7. Suggestions/Requests from Board Members
8. Confirm date of Next Meeting – March 17, 2011 @ 9:00
9. Adjournment

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 alternative 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 [info@emerygoround.com](mailto:info@emerygoround.com), or call the Executive Director, Peter Oswald at (925) 937-0980.

# EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

## **ACTION SUMMARY MINUTES** Board Meeting of January 20, 2011

### 1. Call to Order

*The meeting was called to order at 9:05 AM by Chair, Denise Pinkston*

*Members Present: Denise Pinkston, Bob Canter, Geoff Sears, Diana Chambers, Ron Weller, Lisa Finnin-Ciccoli, Sandy Brownstone, Andrew Allen*

*Staff: Peter Oswald (Executive Director), Roni Hatstrup (Executive Assistant)*

*City Liaison: Karen Hemphill*

*Guests: Jun Cruzat (Pixar)*

### 2. Public Comments

*There were no public comments.*

### 3. Approval of Minutes of October 21, 2010 Board Meeting and November 2010 vote by fax

*The minutes were approved unanimously.*

### 4. Business Items

#### A. Appoint committee to review the Executive Director's performance including:

- Review of Performance
- Negotiation of potential amendment to existing contract.
- Negotiation of new Executive Director Contract with Gray-Bowen for 2011/2012.

Director Pinkston suggested that budget not be assigned for preparation of grant applications for a fixed guideway and recommended budget for Executive Director be assigned for work necessary to improve the core business of the TMA as detailed in the Work Plan.

Andrew Allen was appointed Chair of the committee with Geoff Sears and Lisa Finnin-Ciccoli as committee members.

#### B. Appoint committee to review the 2010 Annual Audit.

Ron Weller was appointed Chair of the committee with Sandy Brownstone as committee member.

#### C. Bus Acquisition Committee

Bob Canter was appointed Chair of the committee with Denise Pinkston and Geoff Sears as committee members.

#### D. Discussion on Annual Report Format

Peter Oswald presented a few samples of past annual reports and requested feedback from the Board on what format they would like to see for the 2010 Annual Report. The Board made some suggestions, including the idea of incorporating some photos of the Emery Go-Round bus in front of some of the PBID businesses and to keep it simple with headlines and bullet points to summarize the accomplishments of the past year.

5. Executive Director's Report

Peter Oswald reported on the recent complaints received in result of the recent changes to the route schedules and informed the Board of the research he had done to determine the issues, specifically in regards to the Hollis route. Peter made the suggestion to add an express bus to the Hollis route during the peak hours to improve frequency and alleviate the issue of overcrowded buses.

Director Pinkston agreed with Peter's suggestion and further directed him to monitor the effectiveness of the additional service and take aggressive action to resolve any issues if necessary.

6. Suggestions/Requests from the Board Members

No additional comments or suggestions were made by the Board.

7. Confirm date of Next Meeting

The next meeting was scheduled for 9:00am on February 17<sup>th</sup> at AgeSong.

8. Closed Session – Real Property Negotiation

9. Adjournment.

*The meeting was adjourned at 10:59am.*

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

**STAFF REPORT MEMORANDUM**

DATE: February 9, 2011  
FROM: Peter Oswald, Executive Director  
SUBJECT: Bus Purchase

RECOMMENDATION

It is recommended that the Board authorize purchase of bus 111 for the residual lease value of \$44,547, or less, as negotiated.

BACKGROUND

In January 2007, ETMA leased bus 111 from Penske Truck Leasing (this bus is an IHC/Champion bus, VIN 4DRASAAN18H637437), for a lease term of 48 months. After a \$55,000 prepayment was made, an agreed original value of \$117,987 was specified. Subtracting the 48 monthly lease payment total of \$73,440 leaves a lease residual payment of \$44,587. Under the terms of the lease, the lease is now ended and either ETMA returns the vehicle to Penske or purchases the bus for its residual value.

DISCUSSION

The bus is only four years old, is in good condition and has another four years of useful life. Its value to ETMA is worth more than the \$44,547, or less, as negotiated.

FINANCIAL CONSIDERATIONS

Sufficient monies were programmed in the 2011 budget to allow for this lease residual purchase.

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

**STAFF REPORT MEMORANDUM**

DATE: February 10, 2011  
FROM: Peter Oswald, Executive Director  
SUBJECT: West Berkeley Shuttle

RECOMMENDATION

It is recommended that the Board authorize the execution of the following two contracts to implement the West Berkeley Shuttle service:

- 1) Agreement between ETMA and the Berkeley Gateway TMA; and
- 2) Addendum to our base Agreement between ETMA and SFO Shuttle to provide West Berkeley shuttle service out of Ashby BART.

BACKGROUND

Some months ago the ETMA Board received a letter from the Berkeley Gateway Transportation Management Association inquiring whether ETMA would be interested in managing and operating the West Berkeley Shuttle. It was put forth that perhaps some economy of scale and enhancement of service could be achieved by having ETMA operate both systems. It was also felt that if both systems linked at Berkeley Bowl it would be an enhancement for riders of both systems and link employers within the cities of Berkeley and Emeryville.

DISCUSSION

The ETMA Board appointed a subcommittee to meet with representatives of Berkeley Gateway TMA. After several meetings the members of both TMAs thought that such an effort would be fruitful and directed staff to develop route, schedule, contracts, and other budgetary matters that would be needed. Attached are the two contracts necessary to carry out this service as approved by subcommittees of both TMAs.

FINANCIAL CONSIDERATIONS

As outlined in the Agreement, costs of operating and managing the West Berkeley Shuttle will be fully covered by BGTMA.

## **TRANSPORTATION AGREEMENT**

Emeryville Transportation Management Association, a California non-profit public benefit corporation (“TMA”) hereby enters into a formal Transportation Agreement (“Agreement”) with the Berkeley Gateway Transportation Management Association, a California non-profit public benefit corporation (“BGTMA”), to operate a shuttle van service between Sixth Street and Dwight Avenue in Berkeley, California, the Berkeley Amtrak station, located at University Avenue and Sixth Street in Berkeley, and the Ashby BART Station, located at 3100 Adeline in Berkeley (collectively, the “Services”).

### **1. Term/Termination:**

The term of this Agreement shall be for two years, effective beginning April 1, 2011 through December 31, 2012.

BGTMA may terminate this Agreement without cause by giving not less than 30 days’ prior written notice to the other party. BGTMA shall also have the right to suspend this Agreement immediately upon notice given to TMA if, in the reasonable opinion of BGTMA, the property of BGTMA’s members or the safety of its passengers or the general public has or may be threatened, or if any administrative or judicial body has suspended or revoked any license required for TMA or its contractor to provide the Services under this Agreement.

In the event of any suspension or termination of this Agreement, TMA shall immediately cease incurring any additional costs in connection with this Agreement. In such event, BGTMA’s sole obligation to TMA shall be limited to payment of fees for services already rendered by TMA up to the effective date of termination or suspension. TMA shall have the right to terminate this Agreement, without cause, by giving BGTMA 120 days’ notice.

## 2. Service:

TMA, through its own forces or by means of the third-party contractor, will provide the Services every business day, five (5) days per week Monday through Friday, excluding only those holidays designated on the attached schedule. The Services will operate the hours of 5:40 a.m. to 9:07 a.m. and 3:00 p.m. to 6:17 p.m. each business day. The shuttle will make continuous loops as per the attached schedule. The shuttle vehicle will be minimum 28 passengers, ADA compliant and include a bike rack.

## 3. Fees and Expenses:

During the term of this Agreement, TMA will provide shuttle service at a cost of \$78.75 per hour based on an eight (8) hour minimum charge per day. Any increase in the hours of shuttle service provided per day will result in a corresponding increase in the daily rate charged by \$78.75 per hour.

The daily minimum charge will be \$630.00 per day. Although the above-stated costs shall apply throughout the term of this Agreement, in the event that the operator of TMA's service increases the hourly rates it charges for both the TMA's own operations and its provision of service under this Agreement, the rates stated above shall increase by the same percentage as the rate the TMA is charged by its operator.

All payments due to TMA hereunder are to be paid in U.S. dollars. BGTMA shall remit payment within thirty days of receipt of the invoice for services rendered. No payment, partial or final, by BGTMA shall: (i) be evidence of performance in whole or in part by TMA, or (ii) be regarded as acceptance of defective Services or relieve TMA from liability under this Agreement, or (iii) constitute a waiver of any claims arising from unsettled liens, faulty or defective Services.

## 4. Insurance

A. If TMA provides the services by means of the third-party contractor, TMA shall ensure that its contractor shall procure and maintain the following types of insurance:

- (1) Workers' Compensation and Employer's Liability Insurance. TMA's contractor(s) shall procure and maintain Workers' Compensation Insurance in accordance with the laws of the State of California. TMA's contractor(s) shall

also procure and maintain Employer's Liability Insurance coverage for a minimum liability of \$2 million covering its employees engaged in the Services. TMA shall insure the procurement and maintenance of such insurance by all contractors engaged in provision of the Services.

- (2) Liability Insurance. TMA shall require their contractor(s) to procure and maintain the following kinds of liability insurance, which shall include as additional insureds BGTMA, its members, officers, directors, employees and agents while acting in such capacity, and their successors or assigns, as they now or as they may hereafter be constituted, singly, jointly or severally:
  - (a) Commercial General Liability insurance providing bodily injury and property damage coverage with a combined single limit of at least \$10 million each occurrence or claim and a general aggregate limit of at least \$10 million. This insurance coverage shall include, but not be limited to, premises and operations; contractual liability; products 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 \$10 million 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.

B. In the event TMA operates the Services directly (without utilizing a contractor) it shall provide insurance equivalent to that stated above. During any period in which TMA utilizes a contractor to operate the Services it 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 \$1 Million Dollars covering TMA's employees engaged

in the work. TMA shall insure the procurement and maintenance of such insurance by all subcontractors engaged in provision of the Services.

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

(a) Commercial General Liability insurance providing bodily injury and property damage coverage (with a combined single limit) of at least \$1 million each occurrence or claim and a general aggregate limit of at least \$2 million. This insurance coverage shall include, but not be limited to, premises and operations; contractual liability; products 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 combined single limit of at least \$1 million 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 the Services, TMA shall file a Certificate(s) of Insurance with BGTMA 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(ies) issuing such policy(ies) shall give written notice to the BGTMA of any material 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 BGTMA.

- (3) The policy shall also stipulate: Inclusion of the BGTMA shall not in any way affect the rights of such additional insureds as respects to any claim, demand, suit or judgment made, brought or recovered against the TMA, and shall protect them in the same manner as though a separate policy had 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 or companies acceptable to BGTMA. Such insurance company 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 Services shall, at its own cost and 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 Services 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, agency or governing body conferring said authority. TMA will furnish the BGTMA with a copy of the Certificate of Insurance of each contractor prior to that contractor's operation of the Services.

## **5. Indemnification/Limitation on Liability:**

A. TMA will indemnify and hold BGTMA, its members, officers, directors, employees and agents while acting in such capacity, and their successors or assigns, harmless from any loss, expense (including counsel fees), cost liability, damage, or claim (collectively "Loss") resulting from third party claims, advertising injury or personal injury, including death, or for damage to property arising from TMA's negligence in performing the Services, except to the extent such Loss is due to BGTMA's negligence (a "Claim").

- B. TMA shall indemnify and hold BGTMA, its members, officers, directors, employees and agents while acting in such capacity, and their successors or assigns, harmless with respect to any Loss related or arising out of any assertion that they should be deemed the “employer” or “joint employer” of any individual performing Services under this Agreement. In any and all claims for any Loss against any of BGTMA by any employee of TMA or its contractor, or by anyone directly or indirectly employed by TMA, or anyone for whose acts TMA may be liable, TMA’s indemnity obligations of this Section b) shall not be limited in any way by any limitation on the amount or type of damages under workers’ compensation, disability benefits, or any other employee benefits.
- C. TMA agrees to provide indemnification as set forth of this Section (a) for a Claim; provided that (1) BGTMA promptly notifies TMA in writing of such Claim, (2) TMA has sole control of the defense of and all settlement negotiations relating to such Claim, and (3) BGTMA cooperates fully in the defense of the Claim.

**6. Maintenance:**

TMA will provide maintenance, cleaning and fuel to the operated vehicle(s).

**7. Vehicle:**

TMA will be responsible for providing any vehicle to operate this shuttle service.

**8. Permits and Licensing:**

TMA or its contractor shall at all times maintain all operating permits and insurance necessary or appropriate for its operating of the shuttle service in accordance with this Agreement. Without limiting the foregoing, TMA vehicles shall at all times maintain valid operating permits from the Californian Public Utilities Commission.

**9. Drivers:**

All drivers providing the Services shall at all times hold Class B Commercial Drivers Licenses with a passenger endorsement, and shall otherwise meet the minimum operating

standards promulgated by the Californian Public Utilities Commission for commercial drivers carrying passengers. Additionally, BGTMA shall have the right to request the replacement of any driver, with or without reason, upon written notice to TMA, whereupon TMA will no longer permit such driver to service BGTMA.

#### **10. Inspection and Audit:**

BGTMA shall have the right to all reasonable times to examine all books, records and accounting data, vehicle facilities, including without limitation all permits and licenses, personnel relating to the provision of services by TMA under this Agreement, to determine whether the same are in conformity with the requirements of this Agreement. All such books, records and documents shall be made available to BGTMA promptly upon written demand, and BGTMA shall be permitted to make and retain copies thereof or extracts thereof for all proper purposes. BGTMA shall have the right to audit under this provision for up to three (3) years after the expiration or termination of this Agreement.

BGTMA is under no obligation to supervise or inspect TMA, or to report to TMA any results of BGTMA's examinations. Any review or inspection by BGTMA is entirely for its own purpose to determine whether TMA is properly conducting itself in accordance with the terms of this Agreement or otherwise to preserve BGTMA's rights hereunder. Under no circumstances shall any such review or inspection be construed in any way as a representation that TMA has complied with the terms of this Agreement or has met the requirements hereof with respect to the quality of drivers and services furnished, for which TMA shall remain solely responsible.

#### **11. Safety and Site Access:**

TMA shall provide for the safety of their employees, all passengers and the general public in performing services under this Agreement and shall keep all vehicles in operation free from safety hazards and the accumulation of waste material or rubbish.

**12. Additional Services:**

TMA will perform all tasks necessary to manage, staff and operate the Services on an uninterrupted basis throughout the term of this Agreement. TMA will be exclusively responsible for providing drivers to perform all services required under this Agreement. TMA will provide trained, English-speaking drivers to operate the daily shuttle. Back-up drivers and will be provided by TMA should there be any problems with the designated drivers.

**13. Notices:**

BGTMA: BGTMA  
**c/o Bayer HealthCare**  
800 Dwight Way  
Berkeley, CA 94710  
Attention: Manager Community Relations

Copy to: Bayer HealthCare, LLC  
800 Dwight Way  
Berkeley, CA 94710  
Attention: Senior Counsel, Law and Patents

Wareham Development  
1120 Nye Street, Suite 400  
San Rafael, CA 94901  
Attention: President

TMA: TMA  
**c/o Gray-Bowen and Company, Inc.**  
1676 N. California Blvd., Suite 400  
Walnut Creek, CA 94596  
Attn: Peter Oswald, Executive Director

All notices will be deemed received on receipt if personally delivered, the next day if sent by overnight courier or three (3) days following the date of mailing, if mailed. Either party may change its address for the purposes of this Agreement by giving thirty (30) days' advance written notice of such change to the other party.

**14. Independent Contractor:**

The relationship between TMA and BGTMA is, and shall at all times remain, solely that of customer (BGTMA) and independent contractor (TMA) and not one of employer/employee or principal and agent or representative. Neither party shall be authorized to enter into any contracts or agreement nor otherwise bind or represent the other. The personnel performing services under this Agreement shall at all times be under the exclusive direction and control of TMA and shall not be employees of BGTMA. TMA shall be solely responsible for paying all wages, salaries and other amounts due its employees, and paying and withholding all federal, state and local taxes on labor, materials and equipment supplied under or used in connection with the service provided by it under this Agreement.

**15. Entire Agreement:**

This Agreement contains the entire agreement between the parties relating thereto and all prior offers, negotiation and agreements are superseded hereby, provided that this Agreement may be altered or amended in the future by written agreement of the parties. The terms of this Agreement shall be binding upon and inure to the benefit of each party and their respective successors and assigns, provided however, that this Agreement is personal to TMA and may not be assigned by it to any other person or entity without BGTMA's prior written consent.

**16. Governing Law:**

This Agreement shall be governed by the laws of the State of California. Any dispute under this Agreement shall be decided in the federal or state courts of the State of California.

**17. Compliance with Laws:**

TMA shall at all times operate its business and the shuttle service in compliance with all applicable federal, state and local laws, statutes, codes, rules, permits, licenses, approvals and governmental requirements now or hereafter in effect.

IN WITNESS WHEREOF, authorized officers of the parties have executed this Agreement as of the date set forth below.

Date: \_\_\_\_\_, 2011

\_\_\_\_\_

For Berkeley Gateway Transportation Management Association

Date: \_\_\_\_\_, 2011

\_\_\_\_\_

For Emeryville Transportation Management Association

## Attachment A: West Berkeley Shuttle Schedule

### AM Schedule

Ashby BART	9 <sup>th</sup> & Carleton	6 <sup>th</sup> & Dwight	7 <sup>th</sup> & Parker	7 <sup>th</sup> & Heinz	Bldg #700	APC 2&4	7 <sup>th</sup> & Potter	Ashby BART
5:40	6:00	6:01	6:02	6:04	6:05	6:06	6:07	6:13
6:20	6:30	6:31	6:32	6:34	6:35	6:36	6:37	6:43
6:50	7:00	7:01	7:02	7:04	7:05	7:06	7:07	7:13
7:20	7:30	7:31	7:32	7:34	7:35	7:36	7:37	7:43
7:50	8:00	8:01	8:02	8:04	8:05	8:06	8:07	8:13
8:20	8:30	8:31	8:32	8:34	8:35	8:36	8:37	8:43
8:50	9:00	9:01	9:02	9:04	9:05	9:06	9:07	

### PM Schedule

6 <sup>th</sup> & Dwight	7 <sup>th</sup> & Parker	9 <sup>th</sup> & Carleton	7 <sup>th</sup> & Heinz	Bldg #700	APC 2&4	7 <sup>th</sup> & Potter	Ashby BART
3:00	3:02	3:03	3:05	3:06	3:07	3:10	3:17
3:30	3:32	3:33	3:35	3:36	4:07	4:10	4:17
4:30	4:32	4:33	4:35	4:36	4:37	4:40	4:47
5:00	5:02	5:03	5:05	5:06	5:07	5:10	5:17
5:30	5:32	5:33	5:35	5:36	5:37	5:40	5:47
6:00	6:02	6:03	6:05	6:06	6:07	6:10	6:17

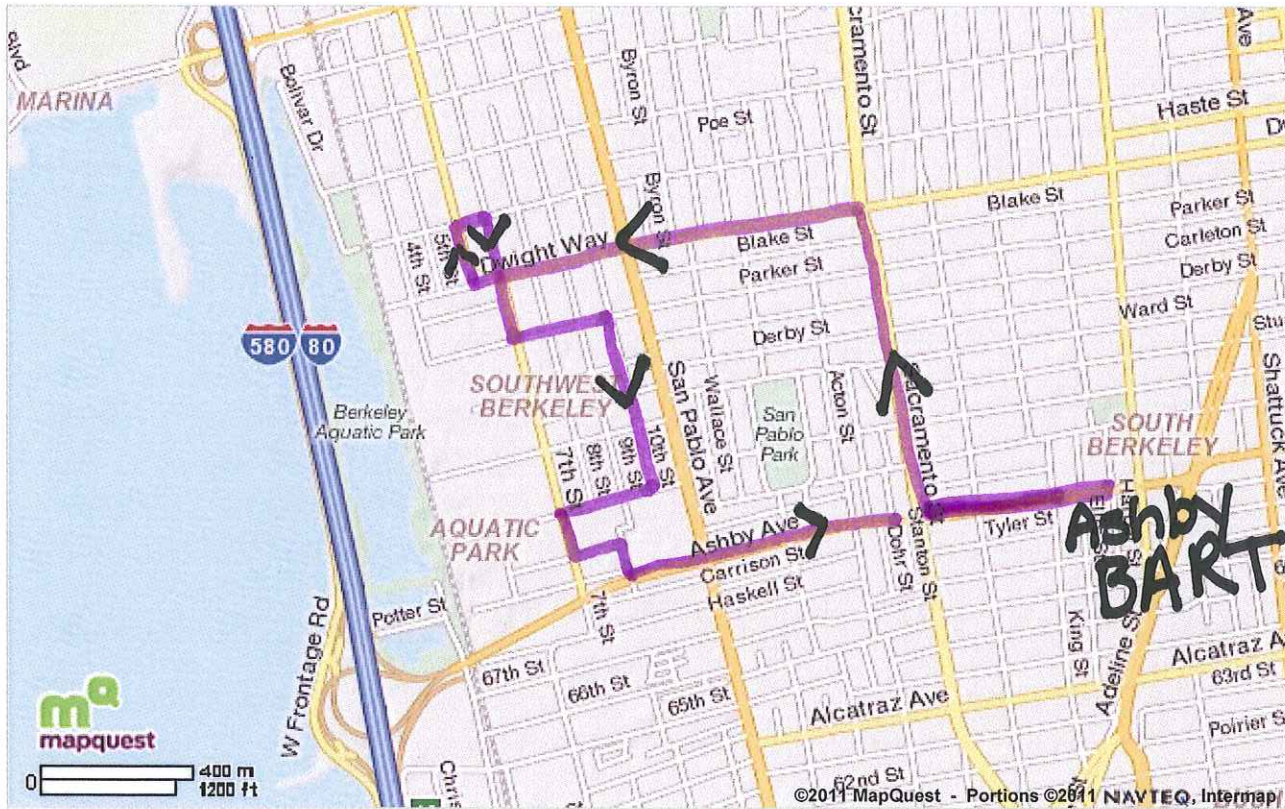
**Days of Service:** Monday through Friday, Weekdays (except the following holidays: New Year's Day, Independence Day, Thanksgiving, day after Thanksgiving, and Christmas Day)



Notes

Empty rectangular box for notes.

Map of:  
Berkeley, CA



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**ADDENDUM NO. 1 TO AGREEMENT BETWEEN EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION AND SFO SHUTTLEBUS COMPANY DATED JANUARY 1, 2007**

SFO shall provide the service commonly known as the West Berkeley Shuttle on behalf of the ETMA.

Such service shall commence April 1, 2011 and end December 31, 2012 under the same terms, conditions, and provisions of the existing contract between the two parties except as modified by this addendum agreement.

SFO shall provide a minimum 28 passenger, ADA compliant, with bike rack bus to carry out the service. Bus is to be parked during non-service hours at the Emeryville TMA yard.

SFO shall provide service every business day, five (5) days per week, in a continuous route loop as per the attached schedule and route diagram. The following are excluded as Holiday service days: New Year's, Independence Day, Thanksgiving Day, the day after Thanksgiving, and Christmas.

SFO shall provide all maintenance, fueling, repair, and cleanliness of vehicle.

SFO shall provide the driver, and any replacement driver as needed, under the terms of the existing ETMA/SFO Agreement.

SFO shall provide the insurance and indemnification, as needed to provide this service, under the existing ETMA/SFO Agreement.

ETMA shall pay SFO a daily amount of \$526 for the service and route outlined in the attachments. If additional service is requested of SFO by ETMA, ETMA shall pay to SFO the hourly rate of \$61.20 for additional shuttle services for the West Berkeley Shuttle.

SFO agrees to allow the ETMA to place decals on the shuttle bus to identify it as the West Berkeley Shuttle, and related information.

In witness whereof, authorized officers of the parties have executed this Addendum Agreement as of the date set forth below.

Date: \_\_\_\_\_, 2011

\_\_\_\_\_  
For Emeryville Transportation Management Association  
Peter R Oswald  
Executive Director

Date: \_\_\_\_\_, 2011

\_\_\_\_\_  
For SFO Shuttle  
Jeff Leonoudakis  
President

EMERYVILLE TRANSPORTATION MANAGEMENT ASSOCIATION

**STAFF REPORT MEMORANDUM**

DATE: February 10, 2011

FROM: Peter Oswald, Executive Director

SUBJECT: Executive Director Performance Review and Approval of 2011 Executive Director Contract with Gray-Bowen.

RECOMMENDATION

It is recommended that the Executive Director Review Committee summarize the results of their 2010 performance review to the Board and make a recommendation for approval of a new contract with Gray Bowen for Executive Director Services effective January 1, 2011 to conform with ETMA's fiscal year, or augment Gray Bowen's existing contract to provide sufficient contract capacity to continue services through the end of April 2011.

BACKGROUND

Policies adopted by the ETMA Board call for an annual performance review of the Executive Director in September. The Board postponed the September 2010 performance review because the Executive Director had only been retained 5 months earlier.

At the Board's January 20, 2011 meeting, the Board appointed a committee to evaluate the performance of the Executive Director and negotiate an augmentation of Gray-Bowen's existing contract and begin negotiations for a 2011 contract between ETMA and Gray Bowen. The Board appointed Andrew Allen as Chair, and Directors Geoff Sears and Lisa Finnin-Ciccoli as members of this committee.

On January 31, 2011, staff furnished the Executive Director Review Committee with Gray Bowen's contract Scope of Work, a progress report outlining accomplishments of the Executive Director through 2010, a budget status for services through December 31<sup>st</sup>, 2010 and a performance evaluation form.

On February 9, 2011, staff furnished the Committee with a proposed Scope of Work for Gray Bowen and a cost proposal. Gray Bowen's current Scope of Work is a "cafeteria" list of tasks with budget allowances. Based on the Work Plan adopted by the Board, Gray Bowen developed a proposed Scope of Services defined around Core Services based on a Work Plan adopted by the Board. Gray Bowen's proposal for their Scope of Work and Cost Proposal are structured with a separate budget for Special Projects.

Staff also recommended to the Committee that the Gray-Bowen contract be modified to conform with ETMA's 2011 fiscal year. Under this scenario, Gray-Bowen's existing contract would be closed out effective December 31, 2010 and the new contract would run January 1, 2011 through December 31, 2011

## DISCUSSION

Presentation by Committee Chair summarizing the performance review of the Executive Director.

## FINANCIAL CONSIDERATIONS

The performance review of the Executive Director is a matter of timing and does not have a fiscal impact.

The core services estimate in Gray Bowen's cost proposal is within the ETMA's 2011 Budget for Management and Other Consultants. Included in the budget for core service estimate are two tasks for management of 8-to-Go and the West Berkeley Shuttle. ETMA is reimbursed by third parties for managing and operating these two shuttle services. Gray Bowen's estimated costs for these two tasks are within the existing contracts with the City for 8-to-Go and Berkeley Gateway TMA.

Gray Bowen's existing "cafeteria" style Scope of Services has a task for conducting an annual survey of customers and another for preparing a 5 year Long Range Plan. It appears the two referenced tasks are not required by the City/TMA Agreement, PBID Management Plan nor the TMA Bylaws. It appears ETMA has been conducting these tasks as best practices. If the Board determines there are more pressing priorities, the Board may elect to eliminate these tasks from Gray Bowen's Scope and Budget.

## Emeryville Transportation Mgt. Assoc. Check register

Type	Date	Num	Name	Memo	Deposits	Checks	Balance
<b>8 to Go</b>							<b>2,044.33</b>
Payment	01/11/2011		CITY OF EMVERYVILLE		15,087.45		17,131.78
Payment	01/13/2011	20033466	CITY OF EMVERYVILLE		3,913.52		21,045.30
Check	01/19/2011		Harland Clark	Deposits slips		43.97	21,001.33
Transfer	01/25/2011			Funds Transfer		15,000.00	6,001.33
Total 8 to Go					19,000.97	15,043.97	6,001.33
<b>Money Market 48000108</b>							
Transfer	01/01/2011			Funds Transfer		50,000.00	682,383.31
Deposit	01/13/2011			Deposit	32,314.83		714,698.14
Transfer	01/19/2011			Funds Transfer		100,000.00	614,698.14
Check	01/19/2011	11	Harland Clark	Deposit slips		43.97	614,654.17
Transfer	01/20/2011			Funds Transfer		50,000.00	564,654.17
Deposit	01/31/2011			Interest	436.83		565,091.00
Total Money Market 48000108					32,751.66	200,043.97	565,091.00
<b>Operating acct 4500054</b>							
Check	01/01/2011	efile	6701 San Pablo, LLC	Rent		5,815.08	-2,436.85
Check	01/01/2011	efile	John Tounger, CPA	Accounting		1,400.00	-3,836.85
Check	01/01/2011		LMI.net	Web fee		22.16	-3,859.01
Transfer	01/01/2011			Funds Transfer	50,000.00		46,140.99
Check	01/01/2011		Penske Truck Leasing	Dec lease pmts 109, 110, 111		13,401.18	32,739.81
Check	01/03/2011	5983	Bryce Nesbitt	Service January 2011		800.00	31,939.81
Check	01/13/2011	5972	Anchor Auto Body & Detailing	Bus cleaning January 2011 Inv# 86049		2,100.00	29,839.81
Bill Pmt -Check	01/13/2011	5973	AC Transit	Dec Fuel		16,733.30	13,106.51
Bill Pmt -Check	01/13/2011	5974	SFO Shuttle Bus Co.	December		103,027.80	-89,921.29
Check	01/15/2011	EFILE	BIT Ideal Lease	Bus L2101 Lease payment		4,182.89	-94,104.18
Check	01/15/2011	efile	TCF Equipment Finance #100	2102 2103 payment		7,889.17	-101,993.35
Transfer	01/19/2011			Funds Transfer	100,000.00		-1,993.35
Transfer	01/20/2011			Funds Transfer	50,000.00		48,006.65
Bill Pmt -Check	01/20/2011	5975	BIT Ideal Lease	Bus M112 2006 Int 3200 Lease payment		433.95	47,572.70
Bill Pmt -Check	01/20/2011	5976	BIT Leasing Inc	Repairs		1,519.93	46,052.77
Bill Pmt -Check	01/20/2011	5977	Penske Truck Leasing	Bus lease and maintenance		4,974.82	41,077.95
Check	01/20/2011	5979	BIT Ideal Lease	Bus M112 lease payment		433.95	40,644.00
Check	01/20/2011	5980	Penske Truck Leasing	Maintenance		338.33	40,305.67
Bill Pmt -Check	01/20/2011	5981	Starline Supply Company	Cust# 2339		121.14	40,184.53
Bill Pmt -Check	01/20/2011	5982	Hub International	Liability insurance additional premium 9-1-2009 to 9/01/2010		3,448.75	36,735.78
Check	01/21/2011	5983	AT&T-3761	652 3761		96.41	36,639.37
Check	01/21/2011	5984	EBMUD	11/01 to 1/10/11 water service		96.44	36,542.93

**Emeryville Transportation Mgt. Assoc.  
Check register**

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Deposits</u>	<u>Checks</u>	<u>Balance</u>
Check	01/21/2011	5985	Tech Source, LLC	Web Site redesign # 5986		1,000.00	35,542.93
Check	01/21/2011	5986	Alhambra and Sierra Springs	4888401 091710 Water Service		110.05	35,432.88
Check	01/21/2011	5987	City Emeryville	Admin Exp Business Lic Bus#3260		79.33	35,353.55
Bill Pmt -Check	01/21/2011	5988	Penske Truck Leasing	Lease payment		16,963.42	18,390.13
Bill Pmt -Check	01/21/2011	5989	Transit Information Products	ETM-03		4,204.41	14,185.72
Bill Pmt -Check	01/25/2011	5991	Gray-Bowen	December fees		15,432.41	-1,246.69
Transfer	01/25/2011			Funds Transfer	15,000.00		13,753.31
Check	01/31/2011	efile	TCF Equipment Finance, Inc.	Bus 2107		4,406.34	9,346.97
Total Operating acct 4500054					215,000.00	209,031.26	9,346.97