



City of Santa Barbara

City Clerk's Office

www.SantaBarbaraCA.gov

735 Anacapa Street
P.O. Box 1990
Santa Barbara, CA
93102-1990
Tel.: 805.564.5309
Fax: 805.897.2623

DATE: June 27, 2006

TO: Santa Barbara Metropolitan Transit District (MTD)
550 Olive Street
Santa Barbara, CA 93101

ATTN: Sherrie Fisher, General Manager

FROM: Starla Russell, Records Technician *SR*

Enclosed for your records is a fully executed duplicate original of the following agreement between the City of Santa Barbara and the addressee listed above.

Agreement Number: 22,097

An agreement with the Santa Barbara Metropolitan Transit District (MTD) for the Wharf Woody Shuttle service for Fiscal Year 2007, in an amount not to exceed \$28,443.52.

Enclosures

c: Scott Riedman, Waterfront Business Manager

WHARF WOODY SHUTTLE SERVICE

City of Santa Barbara &
Santa Barbara Metropolitan Transit District
July 1, 2006 – June 30, 2007

THIS AGREEMENT, entered into this _____, by and between the

City of Santa Barbara (hereinafter referred to as
the "City")

and

Santa Barbara Metropolitan Transit District
(hereinafter referred to as the "District"),

for the support and subsidy of transit services and capital within the City of Santa Barbara, California,

WHEREAS, the District is established and existing under Part 9, Division 10, of the California Public Utilities Code, codified at Sections 95000-97100, and empowered to provide public transportation service in the South Coast of Santa Barbara County; and,

WHEREAS, the City is willing to dedicate portions of such funds to subsidize the District from the funds identified for such use in order to maintain District shuttle services provided in the manner and at the level of service enjoyed during the previous fiscal years less weekday service,

WHEREAS, the City recognizes that the District is the agency empowered by state statute to provide public transportation service in the South Coast of Santa Barbara County, including the City of Santa Barbara. The City also recognizes that the District has the equipment, vehicles, experience, and expertise necessary to provide or cause to be provided high-quality shuttle bus service, which meet the objectives of the City's TMP.

WHEREAS, pursuant to the provisions of this Agreement, the City provides funding to enable discounted and/or free fares for shuttle bus service along the State Street and Waterfront routes.

NOW, THEREFORE it is mutually agreed between the Parties that:

1. Wharf Woody

The District shall provide a 22-foot electric shuttle for service on Stearns Wharf to be designated as the "Wharf Woody Shuttle" to provide shuttle service. The District will provide approximately 392 hours of service, which will provide shuttle service on weekends and holidays (Memorial Day, 4th of July and Labor Day) beginning with Memorial Day weekend and running through October each year.

The City shall provide the District a fare buy-down subsidy as follows:

- a.) For the period of July 1, 2006 to June 30, 2007 a total annual subsidy of \$28,443.52. Requests by the City for additional service will be billed at a rate of \$72.56 per hour.
- b.) Said payments to the District shall be made by the City monthly.
- c.) No rider fare will be collected for the ride on this service.
- d.) The District has "branded" the shuttle in a manner that distinguishes it from other District services and is consistent with the character of the City. The brand was developed by the District and approved by the City.

The City reserves the right to terminate the "Wharf Woody" for any reason; however, the City shall provide at least 90 days written notice to District of any such decision. District reserves the right to suspend and/or terminate the "Wharf Woody" at any time for valid business reasons; however, District shall provide at least 60 days written notice to the City of any such decision.

General Provisions

1. If the District determines to perform the services, the City shall make the subsidy described herein available to the District according to the provisions of this Agreement. The District is not required to perform any service for which a subsidy is specified under the terms, conditions, and limitations provided herein.
2. The District shall be responsible for developing routes, hours of operation, days of operation, and headways appropriate to maintain such service. The District shall retain sole responsibility and full discretion for the planning, management, administration, maintenance, and operation of such service: including hours, location, headways, equipment, personnel, advertising, and service. Prior to any significant change of route and/or schedule, District shall work cooperatively with City staff. The District may provide such service with District personnel and resources, through third party contracts for all or part of such service, or by other agreements, at the sole discretion of the District. The District shall each year conduct any and all necessary public hearings to develop the routes, days, hours and methods of operation, and headways appropriate for such service.
3. The District shall provide an annual report to the City by August 15th of each year, stating total ridership, scheduled revenue hours, and actual revenue hours. This report shall also include historical annual ridership. The district shall provide monthly reports on the Wharf Woody service, to the City that detail the operation of the service provided. Such report shall be in the current format or a format, mutually agreed upon by both parties, and include at least the following:
 - a.) Actual revenue hours.
 - b.) Ridership per revenue hour.
 - c.) Total ridership.
 - d.) Historical comparison of ridership detailed on a monthly basis.
 - e.) Summary of marketing and promotional activities exclusively specific for the Wharf Woody Shuttle service.

- f.) Summary of marketing and promotional activities that mention the Wharf Woody Shuttle as part of general District marketing activities.
- g.) Summary of comments received from customers regarding shuttle service including complaints, commendations, and suggestions for change.

Said monthly and annual reports shall be submitted to the City by the 15th of each month for the preceding month and/or year.

4. The District shall place on all electric shuttle vehicles regularly operated on City supported routes the City Seal, which shall be displayed in a prominent location. The District shall use the City seal wherever appropriate and reference the City as providing operating assistance in all written marketing material solely related to the aforementioned services distributed to the public, which shall include but not be limited to schedules, annual reports, and District budget.
5. The City shall be able to advertise City programs using exterior space on the shuttles at no cost, utilizing the ad space that is not able to be sold by the District to other paying customers. It is understood that the City ads may be displaced if the ad space is sold. Such ads will follow the District's general advertising policy. The City shall pay the actual cost for the preparation and installation of the artwork.
6. Any air emissions credits (under the Clean Air Act, under any California regulations, and under any regulations of the Santa Barbara County Air Pollution Control District), which are generated or available by reason of the use of electric vehicles, shall be credited to the District. The District shall assess the reasonable value of such air emissions credits, record their development and value, keep account of the value of such credits on a generally recognized accounting basis.
7. The City shall pay operating subsidy payments monthly to the District in response to invoices in the usual City format, approved by the City Waterfront Department. The District shall keep and maintain financial records of all services that receive such subsidy on a generally recognized accounting basis. The District shall maintain such records for at least five years following the date such services were provided. All such financial records shall be made available to City agents and employees for review and audit during regular business hours. The District shall provide the City with a written annual report describing and quantifying the services that have received a subsidy for the preceding year, with a detailed report of all the costs of the services provided.
8. Any changes, adjustments, increases, reductions or losses of service by reason of new or lost funding sources shall be on the basis of the hourly rate described in the appropriate section of this agreement of qualifying shuttle service or other service subsidized by the City. Any increase in the number of service hours provided will be based upon costs approved in writing by the District General Manager and the Waterfront Director. Changes in service, operational provisions, specifications, schedules, fares and location of services, required to meet unforeseen changes in demand, unforeseen funding restrictions, or the availability of additional funds for enhanced service shall be made on 90 days advance written notice.
9. The obligation of the City to provide funds hereunder shall be subject to the condition precedent that funds for said services are approved in applicable budgets, and appropriated to the City for such service, and subject, further, to the receipt of such funds for use as provided

herein. The City shall not be required to provide funds from any other source for the contributions provided for herein other than the sources identified above. The District shall place in a location of its choice, City provided signage, in each vehicle in which the City is providing operating assistance the following "Operating assistance provided by the City of Santa Barbara". However, the design and size of the signage must be agreed to by both parties.

10. Neither the District nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the City under or in connection with any work, authority or jurisdiction delegated to the City herein. It is also agreed that, pursuant to California Government Code Section 895.4, the City shall fully indemnify and hold the District harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by City under or in connection with any work, authority or jurisdiction delegated to the City hereunder. Neither the City nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the District under or in connection with any work, authority or jurisdiction delegated to the District herein. It is also agreed that, pursuant to California Government Code Section 895.4, the District shall fully indemnify and hold the City harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by the District under or in connection with any work, authority or jurisdiction delegated to the District hereunder.
11. The District, to qualify for any subsidy herein shall purchase and maintain the following insurance at its sole cost and expense, with an insurer or insurers satisfactory to the City:
 - a) Combined single limits of not less than one million (\$1,000,000) dollars of Comprehensive General Liability Insurance, including Bodily Injury and Property Damage and five million (\$5,000,000) dollars of Comprehensive Automobile Liability Insurance, including Bodily Injury and Property Damage. This insurance shall include:
 - i. Extension of coverage to the City, its officers, agents and employees, as additional insured's, with respect to the District's liabilities hereunder;
 - ii. A provision that coverage will not be canceled or subject to reduction until at least thirty (30) days' prior written notice has been given to the City Clerk, addressed to P.O. Box 1990, Santa Barbara, California 93102-1990;
 - iii. A provision that the District's insurance shall apply as primary, and not excess of, or contributing with, the City;
 - iv. Contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the District in the indemnity and hold harmless provisions herein;
 - v. A cross liability clause, or equivalent wording, stating that coverage will apply to each named or additional insured as if separate policies had been issued to each;
 - vi. A broad form property damage endorsement; and,
 - vii. A provision that the policies be provided on an "occurrence" basis.

- b) Statutory Workers' Compensation and Employer's Liability Insurance that shall cover all employees while performing any work incidental to the performance of duties hereunder.
- c) Approval of insurance by the City or acceptance of the certificate of insurance by the City shall not relieve or decrease the extent to which the District may be held responsible for payment of damages resulting from the District's services or operation pursuant to these conditions, nor shall it be deemed a waiver of the City's rights to insurance coverage hereunder.
- d) Current Certificates of Insurance on forms supplied by the City and evidencing the above coverage, shall be completed by the District's insurer or its agent and submitted to the City prior to execution of this document by the City. The District shall exercise due diligence to require any and all third party contractors to provide General and Automobile Liability, and Workers' Compensation and Employer's Liability Insurance with minimum limits of coverage and upon terms and provisions required above.
- e) The City understands that the District is self insured with regard to Worker's Compensation Insurance with a Self Insured Retention (SIR) of \$1,500,000. Further, the District has a self-retention of up to \$250,000 which it must pay before its comprehensive general liability policy comes into effect. The City accepts such circumstance so long as the limits on comprehensive general liability insurance are not less than one million (\$1,000,000) dollars and the limits on automobile liability insurance, including bodily injury and property damage, are not less than five million (\$5,000,000) dollars.

12. All notices, approvals, acceptances, demands and other communications required or permitted hereunder, to be effective shall be in writing and shall be delivered either in person or by mailing the same by United States mail (postage prepaid, registered or certified, return receipt requested) or by Federal Express or other similar overnight delivery service to the party to whom the notice is directed at the address of such party as follows:

The District General Manager
 Santa Barbara Metropolitan
 Transit District
 550 Olive Street
 Santa Barbara, California 93101

The City of Santa Barbara
 Waterfront Director
 132-A Harbor Way
 Santa Barbara, California
 93109

Any written communication given by mail shall be deemed delivered two (2) business days after such mailing date and any written communication given by overnight delivery service shall be deemed delivered one (1) business day after the dispatch date. Either party may change its address by giving the other party written notice of its new address as herein provided.

13. Nothing herein is intended to confer any rights or remedies, express or implied, under or by reason of this document on any persons other than the parties hereto and their respective successors and assigns, nor is anything in this document intended to relieve or discharge the

obligations or liability of any third persons to any party hereto, nor shall any provision give any third persons any right or subrogation or action over or against any party.

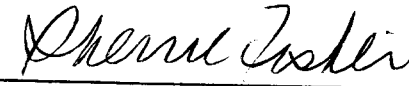
14. The term of this agreement shall be July 1, 2006 through June 30, 2007.

IN WITNESS WHEREOF, the parties hereto have executed this "Traffic Mitigation and Transit Assistance Master Agreement" as of the day and year first above written.

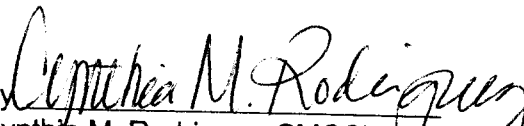
CITY OF SANTA BARBARA
a Municipal Corporation

SANTA BARBARA METROPOLITAN TRANSIT
DISTRICT

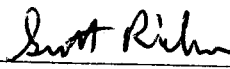
By 
John N. Bridley
Waterfront Director

By 
Sherrie Fisher
General Manager

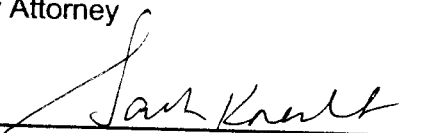
ATTEST:

By 
Cynthia M. Rodriguez, CMCCity Clerk Services Manager

APPROVED AS TO CONTENT:

By 
Scott Riedman
Waterfront Business Manager

APPROVED AS TO FORM:
Stephen P. Wiley
City Attorney

By 
Sarah J. Knecht
Assistant City Attorney