

File No. 201279

Committee Item No. 8

Board Item No. 3

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight  
Board of Supervisors Meeting:

Date: Dec. 3, 2020

Date: January 5, 2021

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

- |                          |                          |       |
|--------------------------|--------------------------|-------|
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: John Carroll

Date: Nov. 25, 2020

Prepared by: John Carroll

Date: Dec. 11, 2020

1 [Settlement of Lawsuit - Bay Area Motivate, LLC - \$330,000]

2  
3 **Ordinance authorizing settlement of the lawsuit filed by Bay Area Motivate, LLC against**  
4 **the City and County of San Francisco for \$330,000 and other mutually beneficial terms;**  
5 **the lawsuit was filed on June 7, 2019, in San Francisco Superior Court, Case No.**  
6 **CGC-19-576554; entitled Bay Area Motivate, LLC v. City and County of San Francisco,**  
7 **San Francisco Municipal Transportation Agency, and Does 1-50; the lawsuit involves**  
8 **claims for breach of contract and declaratory relief; other material terms of the**  
9 **settlement involve the San Francisco Municipal Transportation Agency’s agreement to**  
10 **acknowledge Bay Area Motivate, LLC’s contractual exclusivity while retaining the**  
11 **ability to utilize a second bike share operator in certain enumerated circumstances,**  
12 **and other programmatic and operational terms regarding the Bay Area Bike Share**  
13 **Program in San Francisco.**

14  
15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby  
17 authorizes the City Attorney to settle the action entitled Bay Area Motivate, LLC v. City and  
18 County of San Francisco, San Francisco Municipal Transportation Agency, and Does 1-50,  
19 San Francisco Superior Court, Case No. CGC-19-576554, by the payment of \$280,000 and  
20 an agreement by the San Francisco Municipal Transportation Agency (“SFMTA”) to waive  
21 \$50,000 in fees owed by Bay Area Motivate, LLC (“Motivate”), along with the SFMTA’s  
22 agreement to acknowledge Motivate’s contractual exclusivity while retaining the ability to  
23 utilize a second bike share operator in certain enumerated circumstances, and other  
24 programmatic and operational terms regarding the Bay Area Bike Share Program in San  
25 Francisco. The lawsuit involves the interpretation of a grant of exclusive rights to Motivate in

1 the 2015 Coordination Agreement entered into by San Francisco and Motivate (and other  
2 parties) regarding the regional Bay Area Bike Share Program, and includes claims for breach  
3 of contract, specific performance, and declaratory relief.

4 Section 2. The above-named action was filed in San Francisco Superior Court on  
5 June 7, 2019, and the following parties were named in the lawsuit: Plaintiff: Bay Area  
6 Motivate, LLC; and Defendants: the City and County of San Francisco, the San Francisco  
7 Municipal Transportation Agency, and Does 1-50.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPROVED AS TO FORM AND  
RECOMMENDED:

DENNIS J. HERRERA  
City Attorney

/s/ YVONNE MERÉ  
YVONNE MERE  
Chief of Complex and Affirmative Litigation

FUNDS AVAILABLE:

/s/  
BEN ROSENFELD  
Controller

RECOMMENDED:

SAN FRANCISCO MUNICIPAL  
TRANSPORTATION AGENCY

/s/ JEFFREY TUMLIN  
JEFFREY TUMLIN  
Director of Transportation

n:\cxlit\li2020\191378\01492106.docx