

**STAFF REPORT FOR CALENDAR ITEM NO.: 16
FOR THE MEETING OF: September 10, 2015**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the Executive Director to execute Amendment No. 3 to the Professional Services Agreement (“Agreement”) between the Transbay Joint Powers Authority (“TJPA”) and Turner Construction Company (“Turner”) to provide construction management oversight services by increasing the maximum compensation from \$45,980,000 to \$57,180,000.

EXPLANATION:

On June 10, 2010, following a competitive Request for Proposals procurement process and contract negotiations, the TJPA Board of Directors authorized the Executive Director to execute the Agreement with Turner to provide Construction Management Oversight (“CMO”) services for the Project. Under the Agreement, Turner is responsible for providing construction management of the demolition of the former Transbay Terminal and roadway ramps (complete), the relocation of utilities, and the construction of the new Transbay Transit Center and Bus Ramps. Specifically, Turner’s CMO services include: preconstruction surveys, project communications, meetings/meeting minutes, recordkeeping, progress reporting on a daily basis as needed and on a monthly basis as required, quality assurance/quality control, document control, cost control support, schedule support, inspection and testing, technical support, environmental monitoring, coordination with other agencies and affected entities, and project closeout.

The Agreement has a term of six years, currently ending on June 27, 2016, with the option to extend for an additional three one-year periods. Note that this contract was entered into prior to the official incorporation of the train box in the Phase 1 schedule. The fixed fee amount of the Agreement is \$45,980,000 per Amendment No. 2, which was approved by the TJPA Board on July 9, 2015 and brought the contract amount up to the amount budgeted for CMO services in the July 2013 budget. It is anticipated that the current fixed fee amount will be expended approximately by the end of September 2015.

The TJPA will propose a revised budget to the Board at a later time, which will include funding to increase Turner’s fixed fee to a total of \$72,700,000. As reported to the Board in May, an increase in Turner’s fixed fee amount is necessary primarily because of the substantial additional off-site special inspection services that Turner has been required to perform. The additional off-site special inspection services have been necessitated by increased productivity, multiple production locations and gathering of test data and quality records associated with the structural steel trade package (TG 7.1R). In addition of the additional off-site inspection services, the increase in the fixed fee amount is warranted due to the added CMO support such as the ongoing second and third shifts of work, waterproofing, inspection, claims resolution and partnering. Additional background has been provided previously in the TJPA Board staff reports of May 2013 (Item 14) and July 2015 (Item 15).

Amendment No. 3 to the Agreement is now required to ensure that the Agreement can be funded until the revised budget is presented to the Board of Directors for review and approval.

Amendment No. 3 will be funded from soft cost savings from other elements of the Project. This action is necessary in September to avoid any impact to essential quality assurance and contract oversight function until the revised budget is approved.

Accordingly, TJPA staff will present a revised budget as soon as possible that proposes to increase Turner's fixed fee to a total of \$72,700,000. Upon approval of the revised budget inclusive of the increase in Turner's fixed fee, TJPA staff will seek Board approval for a fourth amendment to the Agreement, to (1) increase Turner's fixed fee to a total of \$72,700,000 and (2) extend the term of the Agreement by two years.

RECOMMENDATION:

TJPA staff recommends that the TJPA Board authorize the Executive Director to execute Amendment No. 3 to the Professional Services Agreement between Turner and the TJPA. Amendment No. 3 increases the fixed fee by the amount of \$11,200,000 to a maximum compensation of \$57,180,000 as an interim step so that Turner will be able to provide uninterrupted construction management oversight services for the rest of the fiscal year until such time that a revised budget is approved.

ENCLOSURES:

1. Resolution
2. Amendment

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, On June 10, 2010, the Transbay Joint Powers Authority (TJPA) Board of Directors authorized the Executive Director to execute a Professional Services Agreement (Agreement) with Turner Construction Company (Turner) for Construction Management Oversight services for a six year term and a maximum compensation of \$38,500,000, with options to extend the Agreement for three additional one-year periods; and

WHEREAS, On July 1, 2014, the Agreement was amended by Amendment No. 1 mutually agreed upon by the TJPA and by Turner to revise Appendix B, Calculation of Charges, in order to update the Base Hourly Rate for construction management oversight staff; and

WHEREAS, Turner has been providing satisfactory construction management oversight services for the construction of the Transbay Transit Center and Related Structures, which includes independently monitoring and documenting progress by the Construction Manager/General Contractor and its subcontractors performing the construction work; and

WHEREAS, The July 2013 Budget approved by the TJPA Board of Directors included an additional \$7,480,000 for Construction Management Oversight services from Turner; and

WHEREAS, On July 9, 2015, the Agreement was amended by Amendment No. 2 mutually agreed upon by the TJPA and by Turner to revise Article 5, Compensation, in order to revise the fixed fee by \$7,480,000, for a total fixed fee of \$45,980,000, consistent with the previously approved July 2013 Budget; and

WHEREAS, Amendment No. 3 to the Agreement specifies an increase in the fixed fee by \$11,200,000, for a total fixed fee of \$57,180,000; and

WHEREAS, Such change to the compensation amount requires an amendment to the Agreement, but does not change the scope or deliverables under the Agreement; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to execute Amendment No. 3 to the Agreement between the TJPA and Turner to increase the fixed fee by \$11,200,000, for a total fixed fee of \$57,180,000.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of September 10, 2015.

Secretary, Transbay Joint Powers Authority

**Amendment No. 03 to
Professional Services Agreement between
The Transbay Joint Powers Authority and Turner Construction Company**

THIS Amendment No. 3 to the Professional Services Agreement to provide Construction Management Oversight Services dated June 10, 2010 (“Agreement”) is entered into as of the 10th day of September, 2015 in San Francisco, California, by and between Turner Construction Company (“Contractor”), and the Transbay Joint Powers Authority (“TJPA”)

Recitals

A. On January 15, 2010, the TJPA issued a Request for Proposals (“RFP”) No. 09-08 for Construction Management Oversight (“CMO”) Services from firms or individuals with expertise in construction management of similar facilities.

B. On February 19, 2010, Contractor submitted a proposal in response to TJPA’s RFP, which was reviewed and evaluated by the TJPA’s Selection Committee, which determined the proposal to be the highest-ranked proposal, and TJPA subsequently negotiated a professional services agreement with the Contractor.

C. On June 10, 2010, the TJPA Board of Directors adopted Resolution No. 10-017, which authorized the Executive Director to execute the Agreement with the Contractor for the CMO Services for a term not to exceed six years, with the option to extend for an additional three one-year periods, and for a fixed fee amount of \$38,500,000.

D. On July 1, 2014, the TJPA Executive Director executed Amendment No. 1 to the Agreement with the Contractor to revise Appendix B, Calculation of Charges.

E. On July 9, 2015, the TJPA Board authorized the Executive Director to execute Amendment No. 2 to the Agreement with the Contractor to revise Article 5, Compensation, increasing the not-to-exceed amount to \$45,980,000.

F. The TJPA and Contractor now desire to amend the Agreement. The section of the Agreement that is to be amended by this Amendment No. 3 is Article 5, Compensation.

G. The TJPA and Contractor intend that this Amendment No. 3 to the Agreement complies with the regulations of the United States Department of Transportation (“USDOT”).

Terms and Conditions

Now, therefore, the TJPA and the Contractor agree to amend the following section of the Agreement to read as follows (*changes are in strikethrough and italics*):

Article 5. Compensation, paragraph 1

The Contractor shall perform all services for the Construction Management Oversight of the Project for a Fixed Fee of ~~Forty five million, nine hundred, eighty thousand dollars and zero cents. (\$45,980,000)~~ *Fifty seven million, one hundred, eighty thousand dollars and zero cents (\$57,180,000.00).*

All other provisions of the Agreement shall remain in full force and effect.

TRANSBAY JOINT POWERS AUTHORITY

TURNER CONSTRUCTION COMPANY

By: Maria Ayerdi-Kaplan
Title: Executive Director

By: Lisa A. Ballantyne
Title: Vice President, General Manager
Turner Construction Company
300 Frank H. Ogawa Plaza, Suite 510
Oakland, CA 94612

Transbay Joint Powers Authority
Board of Directors
Resolution No. _____
Adopted: _____
Attest:

Secretary, TJPA Board

Approved as to Form by:

TJPA Legal Counsel