

**STAFF REPORT FOR CALENDAR ITEM NO.: 10
FOR THE MEETING OF: November 10, 2022**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorizing the Executive Director to transfer \$9.5 million from Program Reserve to replenish the construction contingency to allow for continued close-out efforts under the Construction Manager/General Contractor (CM/GC) contract with Webcor/Obayashi JV, with no change to the Phase 1 construction estimate-at-completion, which would remain \$2.159 billion.

EXPLANATION:

In furtherance of the effort to close-out Phase 1 construction, staff is requesting approval to transfer \$9.5 million from the Phase 1 Program Reserve to the construction contingency. The table below shows the current balance of Phase 1 contingencies and Program Reserve, and the balances after the proposed transfer.

	Construction Contingency	CM/GC Contingency	Program Reserve	Total Contingency & Reserve
	in \$ millions			
Current Balance	\$0.43	\$5.87	\$13.5	\$19.8
Proposed Transfer	\$9.5	--	(\$9.5)	--
Balance After Transfer	\$9.93	\$5.87	\$4	\$19.8

As has been previously discussed in detail with the Board, there are a number of outstanding pending claims related to the CM/GC contract with Webcor/Obayashi JV for Phase 1 construction. The parties are continuing to meet in an attempt to resolve outstanding claims. The ultimate goal is to completely close-out the CM/GC contract.

To pursue this goal, the TJPA has engaged in diligent and good faith claim review and resolution proceedings. Most recently, the TJPA participated in a series of mediations that resulted in settlement of all claims related to three Trade Subcontractors.

The parties are scheduled to continue their mediation efforts throughout the Fall of 2022. Merited construction claims are paid out of the construction contingency. As described in the table above, the current construction contingency balance is \$0.43 million (after payment of the recent claims close-out noted above). Accordingly, the team recommends transfer of \$9.5 million from Program Reserve to construction contingency to allow the close-out effort to continue. The transfer does not affect the estimate-at-completion for Phase 1, which remains \$2.159 billion.

All transfers from Program Reserve greater than \$1 million require TJPA Board approval.

RECOMMENDATION:

Authorizing the Executive Director to transfer \$9.5 million from Program Reserve to replenish the construction contingency to allow for continued close-out efforts under the CM/GC contract, with no change to the Phase 1 construction estimate-at-completion, which would remain \$2.159 billion.

ENCLOSURES:

1. Resolution

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The Transbay Joint Powers Authority (TJPA) is a joint powers agency organized and existing under the laws of the State of California; and

WHEREAS, The TJPA is engaged in diligent and good faith claim review and resolution proceedings for claims related to the Construction Manager/General Contractor (CM/GC) contract with Webcor/Obayashi JV for Phase 1 construction; and

WHEREAS, Merited construction claims for Phase 1 construction are paid out of the Phase 1 construction contingency and after accounting for the most recent claims resolution, the construction contingency requires replenishment to enable the construction team to resolve disputes in a timely and efficient manner to close-out Phase 1; and

WHEREAS, TJPA staff recommend the transfer of \$9.5 million from Program Reserve to replenish the construction contingency; and

WHEREAS, The recommended transfer from Program Reserve will not change the Phase 1 construction estimate-at-completion, which would remain \$2.159 billion; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to transfer \$9.5 million from the Program Reserve to the construction contingency.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of November 10, 2022.

Secretary, Transbay Joint Powers Authority