

**STAFF REPORT FOR CALENDAR ITEM NO.: 9
FOR THE MEETING OF: September 12, 2024**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorizing the Executive Director to execute Amendment No. 2 to the Professional Services Agreement for legal services, related to construction law for The Portal, with Meyers Nave Riback Silver & Wilson, increasing the maximum compensation from \$1,100,000 to \$1,933,000.

EXPLANATION:

On August 18, 2020, the TJPA Board of Directors adopted Resolution No. 20-027, authorizing the Executive Director to execute a professional services agreement for legal services with Meyers Nave Riback Silver & Wilson for a not to exceed (NTE) amount of \$1,000,000. The term of the contract is five years, with the option to extend for two additional two-year terms. The firm provides legal services related to construction law for The Portal.

At that time, the TJPA Board approved a total of six agreements with a bench of law firms for distinct legal practice areas, and a total expenditure not to exceed \$11,000,000 for all services to be performed by all the firms over the term. Staff explained the exact amount and type of legal work that may arise over the period was not known. Accordingly, staff explained that for purposes of convenience only, each firm was assigned an NTE amount. Staff explained that as the need for specific services arose over the term, the services under any one of the agreements could be substantially more or less than the initially specified NTE amount.

Effective July 1, 2024, in accordance with Board Policy No.1 (Procurement Policy), the TJPA administratively amended the agreement for a 10% increase in the total amount of the contract, for a revised NTE amount of \$1,100,000.

TJPA staff recommends increasing the maximum compensation in the agreement by \$833,000 to an amended NTE total of \$1,933,000, in the form of Amendment No. 2 attached. Funding authority for this recommendation is included in the Board adopted FY24-25 Budget.

RECOMMENDATION:

TJPA staff recommends that the TJPA Board authorize the Executive Director to execute Amendment No. 2 to the Professional Services Agreement for legal services with Meyers Nave Riback Silver & Wilson, increasing the maximum compensation to \$1,933,000.

ENCLOSURES:

1. Resolution
2. Amendment No. 2

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The Transbay Joint Powers Authority (TJPA) requires legal services in support of the Transbay Program, including Phase 2 – Downtown Rail Extension, also known as The Portal; and

WHEREAS, On August 18, 2020, the TJPA Board authorized the Executive Director to enter into a contract for legal services with a bench of law firms to provide services in their respective practice areas on an as-needed basis; and

WHEREAS, A professional services agreement was executed with Meyers Nave Riback Silver & Wilson for legal services related to construction law for Phase 2 as part of a bench of law firms; and

WHEREAS, Effective July 1, 2024, in accordance with Board Policy No.1 (Procurement Policy), the TJPA administratively amended the agreement in the amount of \$100,000 for a revised not to exceed amount of \$1,100,000; and

WHEREAS, Staff recommends increasing the not to exceed compensation by \$833,000 to an amended total amount of \$1,933,000; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to execute Amendment No. 2 to the professional services agreement with Meyers Nave Riback Silver & Wilson, increasing the authorized compensation to \$1,933,000.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of September 12, 2024.

Secretary, Transbay Joint Powers Authority

Amendment No. 02
Professional Services Agreement between
the Transbay Joint Powers Authority and
Meyers Nave Riback Silver & Wilson

THIS Amendment No. 2 to the Professional Services Agreement to provide legal services dated August 18, 2020, as first amended July 1, 2024 (as amended, “Agreement”), is entered into effective as of the 12th day of September 2024 in San Francisco, California, by and between **Meyers Nave Riback Silver & Wilson** (“Attorney”), and the **Transbay Joint Powers Authority** (“TJPA”).

Recitals

- A. The TJPA and Attorney desire to increase the maximum compensation under this Agreement without changing the scope or term of the Agreement.
- B. On August 18, 2020, the TJPA Board of Directors adopted Resolution No. 20-027, authorizing the Executive Director to execute a professional services agreement for legal services with Meyers Nave Riback Silver & Wilson for a not to exceed (NTE) amount of \$1,000,000.
- C. Effective July 1, 2024, Amendment No. 1 was executed in accordance with Board Policy No.1 (Procurement Policy), the TJPA and Attorney amended the agreement for a 10% increase in the total NTE amount for a revised total NTE of \$1,100,000.
- D. On September 12, 2024, the TJPA Board of Directors adopted Resolution No. _____, authorizing the Executive Director to execute this Amendment, increasing the NTE amount by \$833,000 for a revised total NTE of \$1,933,000.

Terms and Conditions

Now, therefore, the TJPA and Attorney agree to amend the following sections of the Agreement in their entirety to read as follows:

Section 5. Compensation, subsections a. and b. of the Agreement are hereby modified as follows:

- a. The Attorney shall perform all services on an as-needed basis, based on a Request for Service (RFS) that may be issued by the TJPA from time to time. At the time of execution of this agreement, it is unknown as to the amount and type of legal work that may arise. Accordingly, for purposes of convenience only, the total compensation under this Agreement is set at an amount not to exceed One Million Nine Hundred Thirty-Three Thousand Dollars (\$1,933,000). As the need for services arises, the services under this Agreement could end up being substantially more or substantially less than the One Million Nine Hundred Thirty-Three Thousand Dollars (\$1,933,000) stated herein, with no guarantee of a minimum amount.

b. All work under this Agreement shall be compensated on an hourly fee basis, subject to any maximum NTE set forth in a particular RFS. In no event shall the total compensation under this Agreement exceed One Million Nine Hundred Thirty-Three Thousand Dollars (\$1,933,000). The breakdown of the Attorney's fees appears in Appendix B, Fees.

The Agreement is amended only to the extent expressly provided herein; all other provisions of the Agreement shall remain in full force and effect.

The individuals executing this Amendment No. 2 to the Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 effective as of the day first mentioned above.

**TRANSBAY JOINT POWERS
AUTHORITY**

**ATTORNEY
Meyers Nave Riback Silver & Wilson**

Adam Van de Water
Executive Director

Eric Firstman
Principal
Meyers Nave Riback Silver & Wilson
1999 Harrison St., 9th Floor
Oakland, CA 94612

Tax Identification Number: 94-3050358

Approved as to Form by:

TJPA Legal Counsel

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

Secretary, TJPA Board