

**STAFF REPORT FOR CALENDAR ITEM NO.: 7  
FOR THE MEETING OF: April 14, 2011**

**TRANSBAY JOINT POWERS AUTHORITY**

**BRIEF DESCRIPTION:**

Authorize the Executive Director to execute Contract Modification No. 3 to Agreement No. 08-08-DM-000 (the "Agreement") between the Transbay Joint Powers Authority and Evans Brothers Inc. (EBI) for additional construction services required as part of the Existing Terminal Building & Ramps Demolition, increasing the Contract Sum by \$228,800, for a total Contract Sum of \$13,922,140.

**SUMMARY:**

**Award of Contract:**

On September 24, 2009, in response to a public advertisement, the TJPA received and publicly opened seven bid proposals for the Agreement, which is part of the Transbay Transit Center Program. The TJPA determined that EBI, of Livermore, California, was the responsible bidder submitting the lowest responsive bid, with a total bid amount of \$10,502,400. On October 8, 2009, the TJPA Board of Directors awarded a contract to EBI in the amount of \$10,502,400. The awarded amount was 1.5% under the Engineer's Estimate.

**Change Orders To Date:**

To date, the TJPA has issued fourteen contract change orders (CCOs) under the Agreement, increasing the Contract Sum by \$3,190,940 and the Contract Duration by thirty six days. These CCOs addressed the following necessary additional construction services: hazardous material abatement (differing site conditions), salvage of historical and operational items requested by outside agencies such as Caltrans and AC Transit, removal of underground obstructions and debris, performance of out-of-sequence work for closing of the existing terminal, relocation of public street lights, and below-grade demolition to facilitate work at the Temporary Terminal. CCOs 1 through 9 were approved by the Executive Director. CCOs 10 through 14 were authorized following the Board's approval of Contract Modification No. 1 on December 9, 2010, and Contract Modification No. 2 on March 10, 2011.

**Contract Modification No. 3:**

Contract Modification No. 3 increases the Contract Sum by \$228,800. These changes are incorporated into CCO 15, as follows:

**CCO 15 – Shoring Wall/Foundation Wall Conflict, Removal and Disposal of Class II Fill, Removal of Existing Fencing, Paving of Pedestrian Pathway, Sidewalk Replacement**

- During installation of the new shoring wall along Fremont Street, the contractor encountered two unforeseen foundation walls in conflict with the new shoring wall. The contractor performed exploratory excavation, additional engineering, and removal of one foundation wall before completing installation of the new shoring wall.

Subtotal: \$81,000

- The contractor removed and disposed of unforeseen diesel-soaked asphalt planks encountered during demolition of the hump. While demolishing asphalt in the hump area, the contractor encountered a strong diesel odor and stopped work in the area while the TJPA’s environmental consultant classified the material, which was identified as a Class II hazardous waste material. Subsequently, the contractor resumed demolition and disposed of the material at an appropriate landfill.

Subtotal: \$80,000

- During installation of fencing required to secure TJPA properties, the contractor encountered preexisting chain link fencing not identified in the Contract Documents for removal. The contractor attempted to incorporate the existing fence in to the security fencing, but could not because the existing fence did not meet the security requirements specified in the contract documents. Subsequently, the contractor was directed to remove the preexisting chain link fencing.

Subtotal: \$13,000

- Under the Contract Documents, the contractor was to demolish the Beale Street Bar and Grill (Property) and leave the area unpaved. The TJPA property line bisects the area leaving a public right of way. The public right of way half remained unpaved along with the TJPA half. The San Francisco Department of Public Works (DPW) required the public right of way half be paved for public safety. The TJPA therefore directed the contractor to pave the public right of way.

Subtotal: \$18,000

- Contract documents require the demolition of various sidewalks around the perimeter of the former Transbay Terminal buildings, including the west Fremont Street and east and west First Street sidewalks, and DPW assesses street space and additional street space permit fees on a monthly basis until the sidewalks are replaced. The fees would continue to accumulate after completion of the demolition contract until the sidewalks are replaced by the Buttress, Shoring and Excavation contractor. To mitigate the cost of these permit fees, the TJPA directed the contractor to replace sidewalks at the west Fremont and east and west First Street locations after demolition.

Subtotal: \$36,800

**CCO 15 Total: \$228,800**

**Contract Modification 3 Total: \$228,800**

**RECOMMENDATION:**

Staff recommends that the TJPA Board of Directors authorize the Executive Director to execute Contract Modification No. 3 to the Agreement with Evans Brothers Inc. for the Existing Terminal & Ramps Demolition to incorporate construction revisions required as part of the demolition work and to increase the contract amount by \$228,800, for a total Contract Sum of \$13,922,140.

**ENCLOSURES:**

1. Resolution
2. Contract Modification No. 3

**TRANSBAY JOINT POWERS AUTHORITY  
BOARD OF DIRECTORS**

**Resolution No. \_\_\_\_\_**

WHEREAS, On October 8, 2009, the Transbay Joint Powers Authority Board of Directors unanimously resolved to award a public work contract to Evans Brothers Inc. for the Existing Terminal & Ramps Demolition; and

WHEREAS, On December 10, 2009, the Executive Director executed Agreement No. 08-08-DM-000 with Evans Brothers Inc. for the Existing Terminal & Ramps Demolition (the "Contract"); and

WHEREAS, On December 9, 2010, the TJPA Board of Directors approved Contract Modification No. 1 to the Contract, increasing the Contract Sum to \$12,747,640; and

WHEREAS, On March 10, 2011, the TJPA Board of Directors approved Contract Modification No. 2 to the Contract, increasing the Contract Sum to \$13,693,340; and

WHEREAS, The TJPA has determined that the successful completion of the Program requires additional demolition services to remove the shoring wall conflicts, remove and dispose of hazardous Class II fill material, remove and dispose of existing fencing, pave pedestrian pathways, and replace sidewalks; and

WHEREAS, Such additional construction services require a modification to the Contract, and do change the price and deliverables under the Contract; now, therefore, be it

RESOLVED, That the TJPA Board of Directors approves Contract Modification No. 3 to the Contract to increase the Contract Sum by \$228,800, for a total Contract Sum of \$13,922,140.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of April 14, 2011.

\_\_\_\_\_  
Secretary, Transbay Joint Powers Authority

**Contract Modification No. 03**  
**Between**  
**The Transbay Joint Powers Authority**  
**and**  
**Evans Brothers Inc.**  
**To Furnish**  
**Construction Services**  
**For**  
**The Existing Terminal & Ramps Demolition**  
**(Agreement No. 08-08-DM-000)**

THIS CONTRACT MODIFICATION to the AGREEMENT is entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2011 by and between the TRANSBAY JOINT POWERS AUTHORITY (“TJPA”) and Evans Brothers Inc. (the “Contractor”).

**Recitals**

A. On October 8, 2009, the TJPA Board of Directors authorized the Executive Director to execute the original Agreement with Evans Brothers Inc. for demolition services in an amount not to exceed \$10,502,400.

B. On January 4, 2010, the TJPA issued Notice To Proceed (“NTP”) for pre-demolition services. On August 9, 2010, the TJPA issued NTP for demolition. Prior to this Contract Modification, the TJPA authorized Change Orders 1 through 11 to the Contract Documents. Contract Modification No. 1 was approved on December 9, 2010, increasing the Contract Sum to \$12,747,640 for Change Orders 10 and 11. Contract Modification No. 2 was approved on March 10, 2011, increasing the Contract Sum to \$13,693,340 for Change Orders 12 through 14.

C. Additional Change Orders will increase the Contract Sum by more than ten percent of the original Contract Sum, requiring TJPA Board approval under the TJPA Procurement Policy.

Now, THEREFORE, the parties agree as follows:

**Terms and Conditions**

The Contract between the TJPA and the Contractor, executed by the parties on December 10, 2009, is modified as follows. For convenience of the parties, the modified Contract provisions are below, indicated with ~~strike through~~ for deleted words and double underline for added words:

**ARTICLE 3 – CONTRACT SUM**

3.01 Contract Sum.

- A. Contractor and the TJPA agree that, upon performance and fulfillment of the mutual covenants set forth herein, the TJPA will, in the manner provided by law and as set forth in the Contract Documents, pay or cause to be paid to Contractor the following price(s),

as indicated in the Schedule of Bid Prices (Section 00 04 10). Such price(s) shall include all Contractor direct and indirect costs and markup which include, but are not limited to

- 1. Lump sums for specified portions of the Work, including Change Orders.  

\$12,838,340 ~~13,067,140~~
- 2. The total of all Unit Price Items bid, whether cost/lineal feet or cost/each. \$0
- 3. The allowance specified. \$325,000
- 4. Selected additive Alternate Bid Items \$530,000

Total awarded Contract amount, including Change Orders: ~~\$13,693,340~~ \$13,922,140.

The price(s) and amount set forth above shall be adjusted during performance or upon final completion of the Work in accordance with the Contract Documents.

The individuals executing this Contract Modification No. 3 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 Contract Modification No. 3 on the day first mentioned above.

**TRANSBAY JOINT POWERS  
AUTHORITY**

**EVANS BROTHERS INC.**

\_\_\_\_\_  
Maria Ayerdi-Kaplan  
Executive Director

\_\_\_\_\_  
Authorized Signature

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Secretary, TJPA Board

Evans Brothers Inc.  
Company Name

7589 Nations Drive  
Address

Approved as to Form:

Livermore, CA 94550-8803  
Authority, State, ZIP

Dennis J. Herrera, City Attorney

(925) 443-0225  
Phone Number

By \_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
Federal Employer ID Number