

**STAFF REPORT FOR CALENDAR ITEM NO.: 15
FOR THE MEETING OF: July 9, 2015**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the Executive Director to execute Amendment No. 2 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 \$38,500,000 to \$45,980,000.

EXPLANATION:

On January 15, 2010, the TJPA issued a Request for Proposals (“RFP”) for Construction Management Oversight (“CMO”) Services for the Transbay Transit Center and Related Structures (the “Project”). The RFP set forth the services to be performed by the CMO contractor, which involved essentially serving as the TJPA’s “eyes and ears” on the jobsite during construction by monitoring and documenting the progress of the CM/GC (who is responsible for coordinating and managing the actual construction). In its role, the CMO contractor is also responsible for providing Project communication, documentation, record keeping, cost and schedule management, technical support, environmental monitoring oversight, coordination with other agencies, administration of the CM/GC and demolition contracts, progress reporting, and quality assurance services (testing and inspection). These services are necessary for any construction project. On a federally funded project, these services must be performed by a contractor that is independent of the contractor performing the construction work.

On February 19, 2010, the TJPA received six proposals in response to the RFP. A selection committee evaluated the written proposals for technical merit. Based on the selection committee’s evaluation scores, the TJPA invited four firms for interviews. Following the interviews, the selection committee ranked Turner the highest, determining that it was the best qualified to perform the required services.

On June 10, 2010, following the aforementioned competitive procurement process and contract negotiations, the TJPA Board of Directors authorized the Executive Director to execute the Agreement with Turner to provide 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 \$38,500,000. Amendment No. 1 to the Agreement was executed on July 1, 2014 to revise Appendix B, Calculation of Charges, in order to update the Base Hourly Rate for Turner staff. Of the \$38,500,000 fixed fee amount, \$37,695,786.72 has been expended through May 28, 2015.

The previously approved July 2013 budget includes a total of \$45,980,000 for Turner CMO services. This budget increase of \$7,480,000 was approved largely to cover the continued performance of CMO services through the anticipated extension of the Agreement for an additional two years so that the term of the Agreement would coincide with the completion date of the Phase 1 construction of the Project. Accordingly, TJPA staff now seeks authorization from the Board to execute Amendment No. 2 to the Agreement so that the fixed fee amount under the Agreement may be increased to a total fixed fee of \$45,980,000 to be consistent with the previously approved July 2013 budget. Amendment No. 2 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 in September 2015. This action is also necessary in July to avoid any impact to essential quality assurance and contract oversight function until the revised budget is approved.

The TJPA will propose a revised budget to the Board in September 2015, which will include a proposal to increase Turner's fixed fee from \$45,980,000 to \$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).

The steel superstructure for the building is comprised of steel columns and frames located in the lower concourse to the roof levels. The design team has specified the International Building Code (IBC) and American Welding Society (AWS) Code as the minimum code requirements for level 1 (visual) welding inspection. The design team has also specified the American Institute of Steel Construction (AISC), AISC 341, to cover minimum Non Destructive Testing (NDT) requirements. The PMPC's risk, vulnerability, and assessment team members and security subject matter experts have validated the design team's design and specified requirements for steel superstructure components. Therefore, per the Contract Documents, all steel fabrication requires inspection at all times and at all locations by a qualified special inspector, familiar and trained in welding and steel fabrication requirements (Quality Assurance representative). The quality and inspection requirements are appropriate based on project specific design criteria and safety and security criteria.

Special inspection for welding and steel fabrication is performed by technicians at prevailing wages. The amount of inspection hours and coverage is determined and closely linked to the contractor's production schedule, location and size of facility and complexity of steel elements.

Based on the then-available construction scheduling information and before the steel superstructure package was awarded, Turner originally assumed that off-site special inspections would require 8-hour daily shifts, steel fabrication would occur Mondays through Fridays (five days per week), two shifts per day and inspections at two fabrication shops with limited extended hours. Based on the aforementioned assumptions, steel fabrication shop inspections were estimated as 1,460 hours per month. However, actual steel fabrication shop inspections have surpassed the originally estimated assumptions. For example, work shifts for steel fabrication have been ten hours rather than eight hours. Work weeks for steel fabrication have been seven days rather than five days. Work shifts overlapped and have not necessarily been in the same areas or locations within a single facility. Furthermore, there are seven fabrication shops rather than two locations; steel fabrication is taking place at Oregon Iron Works (Portland, OR; Vancouver, WA), XKT Engineering (Vallejo, CA), Thompson Metal Fabrication (Vancouver, WA), Star Seismic (Salt Lake City, UT) and Herrick Steel (San Bernardino, CA; Stockton, CA). Based on the actual working conditions of the fabrication shops, off-site special inspection services have averaged 3,396 hours per month rather than the previously estimated 1,460 hours per month.

Moreover, the complexity and rigor of the steel design has also contributed to extending fabrication durations and production times. All of the structural steel members and connections for the new Transbay Transit Center are heavier and thicker than used in comparable conventional building design for steel due to the enhanced seismic as well as risk and vulnerability criteria. The increased steel member sizes and thickness require more welding passes (time) to join members and produce steel fabrication components. Therefore, the built up steel sections require additional inspections than originally assumed during the construction planning and additional inspections than were contemplated by the Agreement.

In addition, fabrication and production time of the steel were exacerbated by the fact that some steel sections had to be redesigned post-bid to comply with the requirements of Buy America. Certain steel sections were no longer available in the United States and were redesigned to accommodate the domestic fabrication shops.

The number of fabrication locations has also contributed to significantly increasing the number of inspection hours required. Each of the seven fabrication locations have divided specific work into differing areas and shift times. Each location and shift requires dedicated inspection staff. The locations are geographically spread apart and therefore special inspection staff cannot monitor two or more locations within the same work shift or area. For example, Oregon Iron Works split fabrication of girders and basket columns into two separate fabrication locations. XKT Engineering is fabricating cruciform Seismic load resisting system (SLRS) vertical members and light columns in separate locations. The Herrick Corporation is fabricating wide flange shaped interior steel members and SLRS members in separate locations and shifts. Transfer girders were fabricated at the Thomas Metal Fabrication site, and Star Seismic, located in Salt Lake City, Utah, fabricated seismic braced frames.

Lastly, construction schedules for production of off-site steel lagged along with invoicing for the inspection, and testing services lagged and prevented accurate cost analysis in a timely manner.

In addition to the additional off-site inspection services, the increase in the fixed fee amount is necessary due to the added CMO support for the ongoing second and third shifts of work, waterproofing inspection, claims resolution and partnering. These items were not part of the original Scope of Services under the Agreement. However, these items have been necessary for moving the Project forward. Additional CMO support for the ongoing second and third shifts provides an extra set of eyes onsite during the later shifts to ensure that there are no issues with the neighborhood regarding noise and safety. Enhanced waterproofing inspection has also been included due to the importance of the product to the Project. Turner has had a vital role in claims resolution over the last two years which was not part of their original contract scope. Finally, partnering was added to assist the delivery of this very complex Project with multiple stakeholders and interests. Partnering assists in the process of all the parties working for the best interest of the Project.

Accordingly, TJPA staff will present a revised budget in September 2015 that proposes to increase Turner's fixed fee to \$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 third amendment to the Agreement, to (1) increase Turner's fixed fee to \$72,700,000 and (2) extend the term of the Agreement by two years.

The CMO RFP had an SBE utilization goal of 35%. Turner exceeded this goal in its proposal by including multiple certified SBE subcontractors at a level of 39%. Through March 31, 2015, Turner has achieved SBE utilization of 40%.

RECOMMENDATION:

TJPA staff recommends that the TJPA Board authorize the Executive Director to execute Amendment No. 2 to the Professional Services Agreement between Turner and the TJPA. Amendment No. 2 increases the fixed fee by the budgeted amount of \$7,480,000 to a maximum compensation of \$45,980,000 as an interim step so that Turner will be able to provide uninterrupted construction management oversight services for the next two to three months until such time that the 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, for the continued performance of the services through the anticipated extension of the Agreement for an additional two years so that the term of the Agreement would coincide with the completion date of the Phase I construction of the Project.

WHEREAS, Amendment No. 2 to the Agreement specifies an increase in 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, 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. 2 to the Agreement between the TJPA and Turner to increase the fixed fee by \$7,480,000, for a total fixed fee of \$45,980,000.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of July 9, 2015.

Secretary, Transbay Joint Powers Authority

**Amendment No. 02 to
Professional Services Agreement between
The Transbay Joint Powers Authority and Turner Construction Company**

THIS Amendment No. 2 to the Professional Services Agreement to provide Construction Management Oversight Services dated June 10, 2010 (“Agreement”) is entered into as of the 9th day of July, 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. The TJPA and Contractor now desire to amend the Agreement. The section of the Agreement that is to be amended by this Amendment No. 2 is Article 5, Compensation.

F. The TJPA and Contractor intend that this Amendment No. 2 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

Article 5, Compensation, paragraph 1, to read as follows:

The Contractor shall perform all services for the Construction Management Oversight of the Project for a Fixed Fee of ~~Thirty Eight Million Five Hundred Thousand Dollars and No Cents (\$38,500,000)~~ *Forty five million, nine hundred, eighty thousand dollars and zero cents. (\$45,980,000.00)*

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