

**STAFF REPORT FOR CALENDAR ITEM NO.: 9
FOR THE MEETING OF: September 8, 2011**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the Executive Director to execute Contract Modification No. 5 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 Terminal Building & Ramps Demolition contract, increasing the Contract Sum by \$360,408, for a total Contract Sum of \$15,602,608.

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 eighteen contract change orders (CCOs) under the Agreement, increasing the Contract Sum by \$4,739,800 and the Contract Time by ninety-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 former Transbay Terminal, relocation of public street lights, below-grade demolition to facilitate work at the Temporary Terminal, removal of existing fencing, paving of pedestrian pathway and sidewalk replacement, removal and disposal of unforeseen contaminated soil encountered during demolition, demolition of buildings acquired through eminent domain action, and other miscellaneous additional demolition work to support new Transit Center construction work. CCOs 1 through 9 were approved by the Executive Director. CCOs 10 through 15 were authorized following the Board's approval of Contract Modification No. 1 on December 9, 2010, Contract Modification No. 2 on March 10, 2011, and Contract Modification No. 3 on April 14, 2011. CCOs 16 through 18 were authorized following the Board's approval of Contract Modification No. 4 on May 12, 2011.

Contract Modification No. 5:

Contract Modification No. 5 increases the Contract Sum by \$360,408, in order for two additional CCOs to be executed. These changes are incorporated into CCO 19 and CCO 20, respectively, as follows:

CCO 19 – Various Negotiated Lump Sum Changes

- **Crescent Area Expedited Work and Revisions to New Overhead Contact System (OCS) Pole Foundations:** The contractor expedited the out-of-sequence work of removing the OCS lines at the crescent area for the groundbreaking ceremony on August 11, 2010. During the removal of the poles, unforeseen underground obstructions from miscellaneous foundations not uncovered by utility relocation or not shown in existing site plans were discovered, and necessitated the foundations for replacement poles to be re-engineered, resulting in the need for additional work to complete the task within the allowed time frame.

Subtotal: \$22,200
- **Asphalt Paving on Natoma Street after Slab Removal:** Due to public safety considerations and site improvement recommendations from Program staff, the alignment of barricades as originally planned on Natoma Street after the demolition of the bus ramp required relocation. The reconfiguration resulted in an increase to the paved asphalt area in order to accommodate enhanced public safety in the street and pedestrian areas after demolition.

Subtotal: \$10,363
- **Harrison Street Survey of Fire Hydrants & Valves:** In response to the San Francisco Water Department's field requests and requirements, the location of fire hydrants and valves at the Harrison Street area was surveyed prior to the demolition of the Harrison Street overpass.

Subtotal: \$1,300
- **Hazardous Waste Debris Removal on Harrison Street:** Hazardous materials were found at an existing homeless encampment at the Harrison Street overpass. The area was cleared for demolition; removal and disposal of the hazardous debris was unforeseen and outside of the contractor's original scope.

Subtotal: \$10,290
- **Additional Rough Shaping of Hawkinson Statue:** An allowance of \$34,000 for rough shaping of concrete salvaged from the demolition for the Tim Hawkinson art piece was established by CCO 13. In June, the artist was on site to direct EBI workers on the rough shaping of the salvaged pieces. The shaping activities required the use of both hand chipping tools and heavy equipment tools. The cost of the labor required to shape the pieces to the artist's satisfaction exceeded the allowance by the amount included in this change order.

Subtotal: \$6,310
- **Overtime Cost for Natoma Slab Weekend Work:** Due to the nature of the work required to remove the slab under Natoma street (the work requires heavy equipment jack hammering which produces high noise and vibratory levels), premium time for weekend work was necessary in order to mitigate disruption to local businesses.

Subtotal: \$2,400

- Foundation Pole Unforeseen Conditions:** Differing site conditions were discovered during the demolition of Muni OCS poles prior to the installation of replacement poles. The site conditions consisted of old street light and pole foundations not shown by current drawings and required revised details for placement of multiple foundations for the new OCS poles along Beale Street.

Subtotal: \$11,000
 - Installation of Two Additional Howard Street Light Poles:** The original demolition plan did not call for light pole installation on Howard Street after the demolition of the overhead ramp, however, the City Bureau of Heat, Light, and Power (BLHP) determined that lighting the area was a code and safety necessity and requested the TJPA to direct the contractor to install two new light poles in locations on Howard Street.

Subtotal: \$13,400
 - Installation of Additional Light Poles based on BLHP revisions to Lighting Plan:** BHLHP conducted a site walk with the contractor and determined that revisions to the original lighting plan were necessary. The revisions resulted in the need for additional light poles in the vicinity of the project area north of Harrison Street.

Subtotal: \$11,145
- CCO 19 Total: \$88,408**
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CCO 20 – Changes due to Added Building Demolition

- Asbestos Abatement for Demolition of Additional Buildings:** The contractor was directed to demolish four (4) additional buildings not included in the original contract. The price negotiated for this additional work did not include a price for asbestos abatement, removal and disposal pricing. All of the four (4) additional buildings contained asbestos containing materials in roofing materials and tile mastics that could not be quantified until demolition of building structures and complete removal of materials.

Subtotal: \$85,000
- Additional Cost for 85 Natoma Demolition Based on Unforeseen Conditions:** The drawings provided to the contractor for the pricing of the 85 Natoma demolition work identified the structure as steel frame with concrete flooring. However, once the contractor obtained control of the property they discovered that the structure was actually concrete flooring over wooden/plywood framing. This condition required that the contractor dispose of the wooden elements instead of salvaging and recycling steel elements. The wood frame construction in comparison to steel frame construction in terms of demolition sequencing and material sorting requires significantly more time and effort.

Subtotal: \$110,000

- Appliance and Trash Removal from 85 Natoma and Graffiti Removal from 90 Natoma:** Appliances and trash were left behind by tenants of 85 Natoma. The contractor was directed to remove and relocate appliances to 90 Natoma in order that they may be salvaged. Additionally, the contractor was directed to remove debris from 85 Natoma and to remove graffiti on 90 Natoma. The cost for these activities was tracked on a time and materials basis.

Subtotal: \$2,000
 - Additional Demolition and Trash Removal at 568 Howard:** An additional structure, not shown on the building plans, was found on the roof of 568 Howard Street. Additional demolition work was necessary to remove this structure. Excessive trash debris in the basement as well as in this roof structure was discovered and the contractor was directed to remove it.

Subtotal: \$14,000
 - Off-haul of Concrete to Recycling Facility In Lieu of On-site Processing:** The original scope for the demolition of additional eminent domain buildings included the processing/recycling of concrete debris materials on-site for backfill. Prior to demolishing the buildings, the contractor and TJPA staff re-evaluated the need for processed concrete for backfill to remain on-site and found a surplus of concrete debris materials. Hence, a portion of the demolished concrete materials for the added buildings required transport, process, and recycling off-site.

Subtotal: \$61,000
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|--|---------------|---------------|------------------|
| | CCO 20 | Total: | \$272,000 |
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Contract Modification No. 5 | | Total: | \$360,408 |

RECOMMENDATION:

Staff recommends that the TJPA Board of Directors authorize the Executive Director to execute Contract Modification No. 5 to the Agreement with EBI for Terminal & Ramps Demolition to incorporate construction revisions required as part of the demolition work and to increase the Contract Sum by \$360,408, for a total Contract Sum of \$15,602,608.

ENCLOSURES:

1. Resolution
2. Contract Modification No. 5

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, On October 8, 2009, the Transbay Joint Powers Authority (TJPA) 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, On April 14, 2011, the TJPA Board of Directors approved Contract Modification No. 3 to the Contract, increasing the Contract Sum to \$13,992,140; and

WHEREAS, On May 12, 2011, the TJPA Board of Directors approved Contract Modification No. 4 to the Contract, increasing the Contract Sum to \$15,242,200; and

WHEREAS, The TJPA has determined that the successful completion of the Program required additional demolition services to revise and expedite Overhead Contact System (OCS) work at the crescent area, additional asphalt paving to Natoma Street, an additional survey to meet San Francisco Water Department requirements, the removal of additional hazardous debris, additional labor to complete rough shaping of concrete pieces for Hawkinson sculpture, additional light poles within the project area, additional demolition work associated with eminent domain buildings, the removal of additional debris and graffiti from eminent domain buildings, off-hauling of concrete to recycling facilities instead of on-site crushing, and overtime work associated with weekend shifts taken to mitigate environmental impacts; 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. 5 to the Contract with Evans Brothers Inc. to increase the Contract Sum by \$360,408, for a total Contract Sum of \$15,602,608.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of September 8, 2011.

Secretary, Transbay Joint Powers Authority

Contract Modification No. 05
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 8th day of September 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 18 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. Contract Modification No. 3 was approved on April 14, 2011, increasing the Contract Sum to \$13,922,140 for Change Order 15. Contract Modification No. 4 was approved on May 12, 2011, increasing the Contract Sum to \$15,242,200 for Change Orders 16 through 18.

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.

1. Lump sums for specified portions of the Work, including Change Orders.
\$13,067,140 ~~14,747,608~~
 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: \$13,922,140 ~~\$15,602,608.~~

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. 5 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. 5 on the day first mentioned above.

TRANSBAY JOINT POWERS AUTHORITY

Maria Ayerdi-Kaplan
Executive Director

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

Nila Gonzales
Secretary, TJPA Board

Approved as to Form:

By _____
TJPA Legal Counsel

EVANS BROTHERS INC.

Authorized Signature

Printed Name

Title

Evans Brothers Inc.

Company Name

7589 National Drive

Address

Livermore, CA 94550-8803

Authority, State, ZIP

(925) 443-0225

Phone Number

Federal Employer

ID Number