

**THIS STAFF REPORT COVERS CALENDAR ITEM NO.: 7.4
FOR THE MEETING OF: September 20, 2007**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the Executive Director to execute Amendment #4 to the Request for Services #1 to Shute, Mihaly & Weinberger LLP to increase the budgeted amount by \$280,000 for a total of \$1,705,000.

SUMMARY:

In April 2005, the Transbay Joint Powers Authority (TJPA) Board of Directors authorized the Executive Director to execute a Legal Services Agreement (“Agreement”) with Moscone, Emblidge & Quadra LLP and its team of law firms, including Shute, Mihaly & Weinberger LLP (SMW). The Agreement provides that the law firms will furnish legal advice and litigation services to the TJPA for a term of three years at a cost not to exceed \$3,000,000.

Based on the Agreement, the TJPA issued Request for Services #1 to SMW in the amount of \$425,000. Request for Services #1 identifies those legal services that SMW will provide to the TJPA, including services relating to land acquisition and land use matters, and CEQA compliance.

On July 21, 2005, the Board approved Amendment #1 to Request for Services #1, increasing the budgeted amount of the Request for Services #1 to \$725,000. On March 16, 2006, the Board approved Amendment #2 to Request for Services #1, increasing the budget amount of the Request for Services #1 to \$1,425,000. On February 15, 2007, the Board approved Amendment #3 to Request for Services #1, adding as needed provision of day to day legal advice and attendance at TJPA Board meetings to SMW’s scope of services.

As of August 20, 2007, \$125,891 remains in the budget for Request for Services #1 (billings through June 2007). It is anticipated that billings for July, August and September will average \$35,000 per month, and billings for October 2007 through March 2008 will average \$45,000 per month.

Staff recommends the approval of an amendment to increase the maximum approved amount of the Request for Services to SMW by \$280,000 for work through March 2008. Of that amount, \$230,000 would be allocated for land acquisition and land use matters, and \$50,000 would be allocated for day to day legal advice. The attached Resolution authorizes the TJPA Executive Director to execute Amendment #4 to Request for Services #1, increasing the maximum amount by \$280,000 to \$1,705,000.

ENCLOSURES:

1. Resolution
2. Amendment #4 to Request for Services #1

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, In Resolution No. 05-007 the Transbay Joint Powers Authority (TJPA) Board of Directors: (1) authorized the Executive Director to execute a Legal Services Agreement with Moscone, Emblidge & Quadra LLP and its team of law firms for advice and litigation services for a term of three years at a cost not to exceed \$3,000,000; (2) required the Executive Director to present to the TJPA Board of Directors any Request for Services in excess of \$150,000; and (3) approved the Legal Services Agreement dated as of April 1, 2005, containing Request for Services #1 to Shute, Mihaly & Weinberger LLP (SMW) in the amount of \$425,000; and

WHEREAS, On July 21, 2005 in Resolution 05-011 the TJPA Board of Directors approved Amendment #1 to Request for Services #1 to SMW, increasing the budgeted amount of Request for Services #1 to \$725,000; and

WHEREAS, On March 16, 2006 in Resolution 06-004 the TJPA Board of Directors approved Amendment #2 to Request for Services #1 to SMW, increasing the budgeted amount of Request for Services #1 to \$1,425,000; and

WHEREAS, On February 15, 2007 in Resolution 07-006 the TJPA Board of Directors approved Amendment #3 to Request for Services #1 to SMW, to furnish day to day legal advice as needed and attend TJPA Board of Directors meetings without any change to the budgeted amount; and

WHEREAS, An increase of \$280,000 in the Request for Services #1 to SMW for October 2007 through March 2008 for work related to land acquisitions and other land use matters (\$230,000 of the total increase) and as needed day to day legal advice and attendance at TJPA Board meetings (\$50,000 of the total increase) would be within the maximum contract amount of the Legal Services Agreement, and would allow the firm to continue working on the matters set forth therein; now, therefore, be it

RESOLVED, That the TJPA Board authorizes the Executive Director to execute Amendment #4 to Request for Services #1 to SMW to increase the maximum approved amount under Request for Services #1 from \$1,425,000 to \$1,705,000.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of September 20, 2007.

Secretary, Transbay Joint Powers Authority

**Transbay Joint Powers Authority
Amendment #4 to Request for Services #1
Shute, Mihaly & Weinberger LLP**

The scope of services in Request for Services #1 to Shute, Mihaly & Weinberger LLP, approved by the TJPA Board of Directors on July 21, 2005 in Resolution No. 05-011, is hereby increased to the amounts shown below. All other provisions of the Request for Services #1, and the Legal Services Agreement and Master Description of Services dated as of April 1, 2005, shall remain in full force and effect.

Transbay Transit Center Program land acquisition and land use matters

Increase in approved contract amount – \$230,000
Maximum approved contract amount – \$780,000

Day to day legal advice and attendance at TJPA Board meetings and other meetings as required

Maximum approved contract amount – \$50,000

AUTHORIZED:

DATE: _____

Maria Ayerdi, Executive Director
Transbay Joint Powers Authority

ACCEPTED:

DATE: _____

Ellen J. Garber
Shute, Mihaly & Weinberger LLP