

**THIS STAFF REPORT COVERS CALENDAR ITEM NO.: 11
FOR THE MEETING OF: December 9, 2010**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the Executive Director to execute Contract Modification No. 1 to Agreement No. 08-08-DM-000 (the "Agreement") between the Transbay Joint Powers Authority and Evans Brothers Inc. for additional construction services required as part of the Existing Terminal Building & Ramps Demolition for an additional compensation of \$1,195,000 and for a total Contact Sum of \$12,747,640.

SUMMARY:

On September 24, 2009, in response to a public advertisement, the TJPA received and publicly opened seven bid proposals for Contract No. 08-08-DM-000, Existing Terminal Building & Ramps Demolition, which is part of the Transbay Transit Center Program. TJPA determined that Evans Brothers Inc. ("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 awarded a contract to EBI, in the amount of \$10,502,400.

Change Orders To Date:

To date, TJPA has issued nine change orders under the Contract, for a total change order amount of \$1,050,240. These change orders have been necessary for 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 scope necessary to facilitate work at the Temporary Terminal. The current total contract amount with change orders is \$11,552,640. Under TJPA Procurement Policy, the Executive Director has the authority to execute change orders that do not cumulatively increase the contract total by more than 10 percent. Change Orders 1 – 9 have increased the contract amount by 10 percent.

Contract Modification Number 1

Contract Modification No. 1 increases the Contract Sum by \$1,195,000 total, in order for additional change orders to be executed. These change orders include the following items:

- Pile Cap Demolition and Shoring at Fremont Street (C.O. #10) \$880,000
 - Background: The base demolition scope for the existing terminal includes demolition and site preparation to basement level such that a level site would be made available for the start of the new Transit Center construction. During the design phase of the Buttress and Shoring systems, TJPA staff determined that removal of below grade obstructions at a particular location--approximately 1,411

cubic yards of concrete pile caps adjacent to Fremont Street--prior to the planned mobilization of the Buttress, Shoring, and Excavation ("BSE") contractor would save considerable time for the overall Program. The proposed Buttress system requires placement of drilled shafts approximately 200 feet below the basement level of the existing terminal between Fremont and Beale Streets. EBI can incorporate removal of below-grade obstructions in this area as a non-critical path item within its baseline schedule. With such incorporation, the Program would realize a schedule savings of eight weeks. TJPA staff and Program consultants also determined that the additional demolition scope naturally falls under EBI's Contract Work because EBI already possesses the type of equipment and expertise on site to remove below-grade concrete obstructions; this is a more practical, efficient, and cost effective approach to performing this relatively small portion of below-grade demolition. TJPA staff recommends that the existing demolition contractor, Evans Brothers Inc., remove concrete pile caps and provide site preparation below the East Terminal basement east of Fremont Street.

- Removal of Asbestos Containing Material (ACM) (C.O. #11) \$315,000
 - Background: During the abatement and demolition of the bus level of the existing Terminal, TJPA environmental consultant staff observed that the passenger loading areas were coated with a pedestrian traffic topping in lieu of traditional lamp black coloring for concrete walk ways. Further investigation and subsequent testing revealed that the traffic topping contained asbestos material set in mastic. The topping material was integrated as part of the bus waiting area flooring; it was not originally suspected to contain hazardous materials and could not be disturbed during bus operations. Due to the differing site condition, the contractor shall be directed to abate approximately 31,785 square feet of asbestos material in the original passenger loading areas of the bus deck level of the existing Terminal. Handling, transport and disposal shall be negotiated under a future change order.

Total: \$1,195,000

RECOMMENDATION:

Staff recommends that the Board of Directors authorize the Executive Director to execute Contract Modification No. 1 to the Agreement with Evans Brothers Inc. for the Existing Terminal Building & Ramps Demolition to incorporate construction revisions required as part of the demolition work for an additional compensation of \$1,195,000 and for a total Contract Sum of \$12,747,640.

ENCLOSURES:

1. Resolution
2. Amendment

**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 Demolition of the Existing Terminal & Ramps; and

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

WHEREAS, The TJPA has determined that the successful completion of the Program requires additional demolition services to demolish pile caps located beneath the East Terminal basement east of Fremont Street; and

WHEREAS, The TJPA, working with the oversight construction manager, Turner Construction Company, and Evans Brothers Inc., has determined that the successful completion of the Contract requires additional demolition services to abate asbestos containing materials in the topping slab of passenger waiting areas of the existing terminal; 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. 1 to the Contract with Evans Brothers Inc. for the Existing Terminal & Ramps Demolition, to modify the Contract to increase the Contract Sum by \$1,195,000, for a total Contract Sum of \$12,747,640.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of December 9, 2010.

Secretary, Transbay Joint Powers Authority

Contract Modification No. 01
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 _____ 2010 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 Amendment, the TJPA has authorized Change Orders 1 through 9 to the Contract Documents, increasing the Contract Sum by \$1,050,240, to \$11,552,640.

C. Additional Change Orders, considered in the aggregate with prior 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 amended as follows. For convenience of the parties, the modified Contract provisions are below, indicated with ~~strickethrough~~ 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.

~~\$10,697,640~~ 11,892,640
 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: ~~\$11,552,640~~ \$12,747,640.

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 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. 1 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