

STAFF REPORT FOR CALENDAR ITEM NO.: 7.2
FOR THE MEETING OF: September 8, 2011

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the Executive Director to amend the Professional Services Agreement with Associated Right of Way Services, Inc. to provide relocation assistance services for an additional two years, and to increase the budgeted amount by \$100,000 for a total of \$600,000.

EXPLANATION:

Under federal and state law, the TJPA is required to provide relocation assistance services to individuals and businesses displaced from property acquired for the Transbay Transit Center Program.

In September 2008, the TJPA Board authorized the Executive Director to execute a Relocation Assistance Services Agreement with Associated Right of Way Services, Inc. (ARWS) to assist the TJPA in providing relocation assistance services at a cost not to exceed \$500,000, and a contract term of three years, with the option to extend the term for up to two additional years. ARWS was the highest-ranked proposer following a competitive request for proposals process.

Over the last three years, ARWS has assisted the TJPA in meeting its federal and state law obligations by, among other things, preparing businesses and residents for their move, providing assistance through the moving process, helping businesses and residents prepare and submit claims for reimbursement to the TJPA, and handling payment after approved claims are processed.

As of June 2011, the TJPA has successfully acquired title to or rights of possession in all of the properties required for Phase 1 of the Program, and all businesses and residents have moved from the properties. Federal and state law require businesses and residents to submit claims for reimbursement within 18 months after moving from the properties; the most recently vacated businesses and residents have a deadline of November 2012 to file claims. The TJPA may exercise its discretion to extend this deadline on a case-by-case basis should circumstances warrant. After a claim is submitted, ARWS typically works with TJPA staff over the course of several weeks to confirm the eligibility of the claimed expenses and make payment of approved claims. In anticipation that claims may be filed right up to the deadline and/or extensions may be requested, and that claims processing time is required, TJPA staff recommends exercising the option under the agreement for two additional years of relocation services, extending the contract through September 2013.

Compensation to ARWS under the agreement is based upon actual hours worked at rates described in the agreement. The actual hours required to complete the TJPA's relocation assistance obligations will depend on the number of businesses and tenants requesting assistance

and the complexity of the claims. TJPA staff estimates that the remaining effort by ARWS required to complete the TJPA's relocation assistance obligations will not exceed \$100,000.

The TJPA's credibility and reputation for fairness in providing relocation assistance to residents and businesses continues to be paramount. The relocating businesses and tenants have worked with ARWS relocation advisors for the past three years, in many cases meeting with ARWS advisors one or more times and establishing relationships with the advisors. Staff concludes that continuity in the service provider will benefit not just the TJPA, but also the relocating tenants and owners.

RECOMMENDATION:

Staff recommends that the Board of Directors authorize the Executive Director to execute Amendment No. 1 to the Agreement with Associated Right of Way Services, Inc. to provide relocation assistance services for an additional two years, and to increase the budgeted amount by \$100,000 for a total of \$600,000.

ENCLOSURES:

1. Resolution
2. Amendment No. 1

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, Under federal and state law, the Transbay Joint Powers Authority (TJPA) is required to provide relocation assistance services to certain individuals and businesses displaced by the Transbay Transit Center Program; and

WHEREAS, On September 29, 2008 in Resolution No. 08-034, the TJPA Board of Directors resolved to authorize the Executive Director to execute a Relocation Assistance Services Agreement (Agreement) with Associated Right of Way Services, Inc. for a three-year term and a maximum compensation of \$500,000; and

WHEREAS, The Agreement has options to extend the term for up to two additional years; and

WHEREAS, The TJPA will continue to require the services after the Agreement term is scheduled to expire in September 2011, as certain businesses and residents are eligible to submit claims for reimbursement as late as November 2012, the TJPA has the discretion to extend this deadline should individual circumstances warrant, and claims processing time is required after claims are submitted; and

WHEREAS, TJPA staff has estimated a maximum budget of \$100,000 to provide relocation advisory services for the remaining relocates and meet the TJPA's obligations under federal and state law; and

WHEREAS, Continuity in the persons serving as relocation advisors will benefit the relocated businesses and residents, as well as the TJPA; and

WHEREAS, Changes to the term and maximum compensation under the Agreement 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. 1 to the Agreement with Associated Right of Way Services, Inc., to modify the Agreement to extend the term of the Agreement for two additional years, and increase the maximum compensation to an amount not to exceed \$600,000.

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

Secretary, Transbay Joint Powers Authority

Amendment No. 01
Professional Services Agreement between
the Transbay Joint Powers Authority and
Associated Right of Way Services, Inc.

THIS Amendment No. 1 to the Professional Services Agreement to furnish Relocation Assistance Services dated September 29, 2008 (“Agreement”) is entered into as of the _____ day of _____, 2011 in San Francisco, California, by and between **Associated Right of Way Services, Inc.** (“Contractor”), and the **Transbay Joint Powers Authority** (“TJPA”).

The TJPA and Contractor desire to extend the term and increase the maximum compensation of the Agreement without changing the scope or deliverables under the Agreement. The TJPA and Contractor agree to amend Sections 2 and 5 of the Agreement.

The TJPA and Contractor agree to amend Section 2 in its entirety to read as follows:

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be for five years from the Effective Date of the Agreement, as described in Section 3 below.

The TJPA and Contractor further agree to amend Section 5 in its entirety to read as follows:

5. Compensation

All work under this Agreement shall be compensated on an hourly basis, subject to any maximum price set forth in a particular NTP. In no event shall the total compensation under this Agreement exceed Six Hundred Thousand (\$600,000). The breakdown of the Contractor’s fees appears in Appendix B, “Fees”.

Hourly rates for services are to remain fixed during the entire contract period, including any option periods, except for reasonable cost of living increases.

No charges shall be incurred under this Agreement nor shall any payments become due to the Contractor until the Services required under this Agreement are received from Contractor and approved by the Executive Director as being in accordance with this Agreement. The TJPA may withhold payment to the Contractor in any instance in which the Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall the TJPA be liable for interest or late charges for any late payments.

All other provisions of the Agreement shall remain in full force and effect.

**TRANSBAY JOINT POWERS
AUTHORITY**

Maria Ayerdi-Kaplan
Executive Director

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

Secretary, TJPA Board

CONTRACTOR

Associated Right of Way Services, Inc.

Signature

Printed Name

Date

Tax Identification Number