

STAFF REPORT FOR CALENDAR ITEM NO.: 10
FOR THE MEETING OF: February 14, 2013

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize payment of current and future eligible and approved relocation assistance claims over \$100,000 in the aggregate for Wooden Spoon & Fork d/b/a Zebulon Cafe in accordance with the TJPA Relocation Assistance Program and TJPA Board Policy No. 013 – Real Estate.

EXPLANATION:

Under federal and state law, and the regulations of the Federal Transit Administration, Federal Highway Administration, and California Department of Transportation, the TJPA is required to provide relocation assistance services to individuals and businesses displaced by the Transbay Transit Center Program. Such services include assistance in searching for a replacement site and payment of actual, reasonable costs to relocate the occupant.

The kinds of expenses that may be eligible for reimbursement under the Relocation Assistance Program include transportation of personal property (including packing and unpacking); storage of personal property; dismantling, disconnecting, and reassembly/reinstallation of items; utility and service line reconnections; licenses, permits and fees for business operation; professional move planning services; reprinting of stationery stock; and re-establishment expenses including advertisement of the replacement location. Only actual expenses are reimbursable under the program.

All claims from eligible occupants are submitted to Associated Right of Way Services, Inc. (ARWS), TJPA's relocation assistance consultants. Claims are reviewed by ARWS for eligibility under the Uniform Relocation Assistance and Real Property Acquisition (Uniform Act) law (49 CFR Part 24) and to ensure appropriate documentation. Approved claims are then submitted to TJPA staff for review and final approval. Claims are paid with Proposition K funds from the San Francisco County Transportation Authority. Although the TJPA cannot know with certainty in advance of relocation an eligible occupant's actual relocation expenses, TJPA staff and the relocation assistance consultant have developed estimates of expected eligible expenses and budgeted accordingly. Since 2009 TJPA has processed relocation claims for thirty businesses that have successfully relocated and four residential occupants. Of the more than seventy owners and occupants originally eligible for relocation assistance, only nine remain entitled to file claims. The deadline for filing claims has passed for all the others.

In 2008, the TJPA acquired 81-83 Natoma Street (the "Property") for the Transbay Program. The TJPA's predecessor in interest, William Beck, leased the Property to Wooden Spoon & Fork d/b/a Zebulon Cafe ("Zebulon"). The TJPA assumed the lease when it acquired the Property. Zebulon operated a restaurant of about 2,700 square feet with about 100 seats. The restaurant was open Monday through Friday for limited-service lunch and full-service dinner.

The TJPA allowed Zebulon to continue operating on the Property for as long as possible before the start of demolition and construction for the Program. In September 2010, Zebulon was

required to relocate from the Property for the Program. Zebulon moved its personal property into storage; although it has been in negotiations for several different spaces since its move, it has not yet identified a permanent replacement site for the restaurant.

A relocation advisor from ARWS has been working closely with Zebulon for more than four years to prepare for and assist with the business's relocation. Through the relocation advisor, Zebulon has submitted relocation assistance claims totaling \$126,550, mainly for property storage, site searching, and professional services related to move planning such as floor plans of potential new sites. Of these claims, \$16,099 has been determined to be ineligible while \$102,583 has been approved and paid. Neither the outstanding balance of approved existing claims nor any future claims may be processed without Board approval under TJPA Board Policy No. 013. The business is currently investigating a potential site and has indicated that it plans to submit further claims; the relocation advisor from ARWS is currently reviewing two bids submitted by Zebulon for build out of the new space in order to advise Zebulon of the estimated eligible costs. The claims processed thus far are well within the relocation estimate prepared by ARWS for this occupant.

RECOMMENDATION:

Staff recommends that the Board authorize payment of current and future eligible and approved relocation assistance claims over \$100,000 in the aggregate for Zebulon Cafe.

ENCLOSURES:

1. Resolution

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, To qualify for federal financial assistance, the Transbay Transit Center Program must comply with federal and state laws and regulations for acquisition of real property; and

WHEREAS, Under federal and state law and the regulations of the Federal Transit Administration, Federal Highway Administration and California Department of Transportation, 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 March 20, 2008, the TJPA Board approved Board Policy No. 013 – Real Estate, authorizing the Executive Director to exercise certain administrative authorities relating to real property to facilitate the efficient operation of the Program and relieve the Board of responsibility for administrative tasks relating to real property, including the authority to pay relocation assistance claims up to a certain amount; and

WHEREAS, In 2008 the TJPA acquired 81-83 Natoma Street, San Francisco (“Property”) for the Program; and

WHEREAS, The TJPA’s predecessor in interest leased the Property to Wooden Spoon & Fork d/b/a Zebulon Cafe (“Business”) to operate a restaurant on the site. The TJPA assumed the lease when it acquired the Property; and

WHEREAS, The TJPA was required to demolish the existing improvements on the Property in order to prepare for construction of the new Transit Center and Bus Ramps; and

WHEREAS, The Business was required to relocate from Property for the Program; and

WHEREAS, The Business has submitted eligible relocation assistance claims that exceed \$100,000 in the aggregate and these claims have been reviewed and approved by TJPA relocation assistance consultants and TJPA staff; now, therefore, be it

RESOLVED, That the Board authorizes payment of current and future eligible and approved relocation assistance claims over \$100,000 in the aggregate for the Business, Zebulon Cafe.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of February 14, 2013.

Secretary, Transbay Joint Powers Authority