

**STAFF REPORT FOR CALENDAR ITEM NO.: 11
FOR THE MEETING OF: November 10, 2016**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the Executive Director to execute an amendment to extend the Agreement for Federal Advocacy Services with Carpi and Clay for one year and additional compensation of \$155,500.

EXPLANATION:

The TJPA desires to continue to have effective relationships with Federal authorities, agencies, and officials to be proactive in developing Federal funding opportunities for the Transbay Transit Center Program. In order to do so, the TJPA recognizes the need for continuous representation of its interests via qualified firms in Washington, D.C. who provide such professional services. The TJPA currently has agreements with Carpi and Clay (novated from Manatt, Phelps & Phillips) and Chambers, Conlon & Hartwell that expired on September 30, 2016. The visibility of the project, the intense federal activity associated with seeking and obtaining a Full Funding Grant Agreement under the federal New Starts program, accessing federal loans for Phase 2 under the Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation and Improvement Financing (RRIF) programs, and the significant amount of work associated with pursuing and maximizing all other potential federal loan and grant funding available for Phase 2 calls for continuing a robust federal advocacy program.

The TJPA issued a Request for Proposals (RFP) for Federal Advocacy Services in June 2010 and received nine proposals in response. Following evaluations, a selection committee determined the firms of Holland & Knight and Chambers, Conlon & Hartwell to be ranked highest, based on the individuals on their respective teams. On September 9, 2010 the TJPA Board approved awarding a three year contract to each firm, with the right to extend each contract for an additional two 2-year options. On September 12, 2013, the TJPA Board approved the first 2-year extension of each contract. On September 10, 2015, the TJPA Board approved an additional one year extension of each contract. Today's amendment to extend one of the contracts for one additional year is the third and final such extension available.

In October 2011 Holland & Knight informed TJPA that Julie Minerva, Project Manager on the contract, would be leaving the firm to work with the firm of Manatt, Phelps & Phillips. As Ms. Minerva was the key project contact, the Holland & Knight agreement was assigned and novated in November 2011 to Manatt, Phelps & Phillips to perform the services and obligations under the original Agreement. In January 2016, Manatt, Phelps & Phillips informed TJPA that Ms. Minerva would be leaving the firm effective January 29, 2016 to work with the firm of Carpi and Clay. Ms. Minerva's services continue to be of great importance to the continued success of the project; thus the Manatt, Phelps & Phillips agreement was assigned and novated in February 2016 to Carpi and Clay to perform the services and obligations under the original Agreement.

Staff recommends reducing Federal Advocacy Services from two contracts to one contract in order to reduce expenses while still maintaining the ability to meet the significant on-going need for representation in Washington, D.C. Carpi and Clay has the capacity to cover a broad range

of expertise and has access to both political and administrative offices in Washington. Based on input from the August 2016 Transbay Transit Center Cost Review Committee meeting, TJPA staff contacted Andrew Dayton in the San Francisco Mayor's office and described the proposed approach. It was agreed that the TJPA should proceed and that coordination of federal advocacy with the city's representatives should increase going forward to maximize efficiency and opportunities for success.

Contract compensation is paid via monthly retainer, a common practice for advocacy firms that will benefit the TJPA as provision of services will not be limited by high hourly rates. TJPA has adequate budget for the proposed amendment. The compensation for the option period was negotiated at the time of the original agreements and is \$12,750 per month. This agreement also includes expense reimbursements of up to \$2,500 per year. The TJPA will save up to \$155,500 by reducing Federal Advocacy Services from two contracts to one contract.

RECOMMENDATION:

Staff recommends that the Board of Directors authorize the Executive Director to execute an amendment to extend the Agreement for Federal Advocacy Services with Carpi and Clay for one year and additional compensation of \$155,500.

ATTACHMENTS:

1. Resolution
2. Amendment

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, On June 28, 2010, the Transbay Joint Powers Authority (TJPA) issued a Request for Proposals (RFP) for a consultant or consultants to provide Federal Advocacy Services; and

WHEREAS, On July 27, 2010, the TJPA received nine proposals in response to the RFP, and a Selection Committee evaluated these proposals for technical merit; and

WHEREAS, The Selection Committee found the proposals submitted by Holland & Knight and Chambers, Conlon & Hartwell to be the most responsive to the RFP and that the proposers were well qualified to perform the scope of services in a cost-effective manner; and

WHEREAS, On September 9, 2010, the TJPA Board authorized the Executive Director to execute Agreements with each firm for terms of three years each and an amount not to exceed \$403,500 each, with the option of extending each agreement for two 2-year terms; and

WHEREAS, Due to staffing changes, on November 9, 2011 the contract with Holland & Knight was assigned and novated to the firm of Manatt, Phelps & Phillips LLP to perform the services and obligations under the original Agreement; and

WHEREAS, On September 12, 2013, the term of the Agreements were extended for the first 2-year option, without changing the scope or deliverables under the Agreements; and

WHEREAS, On September 10, 2015, the term of the Agreements were extended for an additional one year each, without changing the scope or deliverables under the Agreements; and

WHEREAS, Due to staffing changes, on February 1, 2016 the contract with Manatt, Phelps & Phillips LLP was assigned and novated to the firm of Carpi and Clay to perform the services and obligations under the original Agreement; and

WHEREAS, Although both firms have been providing satisfactory services and both agreements include an option to extend the terms, with pre-negotiated prices for the option years, staff recommends reducing Federal Advocacy Services from two contracts to one contract in order to reduce expenses while still maintaining the ability to meet the significant on-going need for representation in Washington, D.C.; and

WHEREAS, TJPA staff recommends that Carpi and Clay be retained for an additional year at the negotiated annual price of \$155,500; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to execute the amendment to extend the Agreement for Federal Advocacy Services with Carpi and Clay for one year and additional compensation of \$155,500.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of November 10, 2016.

Secretary, Transbay Joint Powers Authority

Amendment No. 03
Professional Services Agreement between
the Transbay Joint Powers Authority and
Carpi and Clay

THIS Amendment No. 3 to the Professional Services Agreement to furnish federal advocacy services dated September 9, 2010 (“Agreement”) is entered into as of the 1st day of November 2016 in San Francisco, California, by and between **Carpi and Clay** (“Contractor”), and the **Transbay Joint Powers Authority** (“TJPA”).

Recitals

A. On September 9, 2010, the TJPA awarded a Professional Services Agreement to Holland & Knight for the provision of federal advocacy services, for a 3-year period with two 2-year options.

B. On November 9, 2011, the Professional Services Agreement with Holland & Knight was assigned and novated to the firm of Manatt, Phelps & Phillips LLP to perform the services and obligations under the original Agreement due to staffing changes between the firms.

C. On September 12, 2013, the term of the Agreement was extended for the first 2-year option, without changing the scope or deliverables under the Agreement.

D. On September 10, 2015, the term of the Agreement was extended for an additional one year option, without changing the scope or deliverables under the Agreement.

E. On February 1, 2016, the Professional Services Agreement with Manatt, Phelps & Phillips LLP was assigned and novated to the firm of Carpi and Clay to perform the services and obligations under the original Agreement due to staffing changes between the firms.

F. The TJPA and Contractor desire to extend the term of the Agreement, exercising the option to extend for one additional year, without changing the scope or deliverables under the Agreement.

G. On November 10, 2016, the TJPA Board of Directors adopted Resolution No. _____, authorizing the extension of the Agreement for one year at the option price of \$153,000 plus reimbursement of up to \$2,500 in expenses.

Terms and Conditions

Now, therefore, the TJPA and Contractor agree to amend the following sections of the Agreement in their entirety to read as follows:

2. Term of the Agreement.

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

5. Compensation

All work under this Agreement shall be compensated on a retainer basis, subject to any maximum price set forth in a particular NTP. In no event shall the total compensation under this Agreement exceed Nine Hundred Ninety-Eight Thousand Five Hundred Dollars (\$998,500). The breakdown of the Contractor’s fees appears in Appendix B, “Fees”.

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**

CONTRACTOR
Carpi and Clay

Mark Zabaneh
Interim Executive Director

Signature

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

Printed Name

Tax Identification Number

Secretary, TJPA Board
Approved as to Form:

By _____
TJPA Legal Counsel

PROFESSIONAL SERVICES AGREEMENT

APPENDIX B

COMPENSATION FOR SERVICES

Contract Year	Monthly Retainer	Year Retainer Total
1	\$10,000	\$120,000
2	\$10,750	\$129,000
3	\$12,000	\$144,000
4 (Option Year 1)	\$12,500	\$150,000
5 (Option Year 2)	\$12,500	\$150,000
6 (Option Year 3)	\$12,500	\$150,000
	Subtotal	\$843,000
Final Option (Contract Year 7)	\$12,750 monthly + \$2500 allowance	\$155,500
Contract Total with Options		\$998,500

The above amount shall include the following expenses of the Contractor: charges for sending facsimiles, secretarial services, computer, internet, in-house photocopying, overhead, and administration. The costs of toll telephone calls, document binding, filing fees, express mail, delivery charges, courier service, out-of-house photocopying, transportation, automobile rental, taxicab fares, parking, meals, printing, photographs, renderings, maps, and travel may be billed as Other Direct Costs for an amount not to exceed \$2,500 per year. All travel must be authorized in advance by the TJPA Executive Director.