

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

**RESOLUTION NO.9-2015
Adopted February 17, 2015**

AUTHORIZING, PURSUANT TO THE TRANSBAY IMPLEMENTATION AGREEMENT, AMENDMENT NO. 1 TO THE MEMORANDUM OF AGREEMENT WITH THE SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY FOR AN ADDITIONAL AMOUNT NOT TO EXCEED \$66,841 FOR DESIGN SERVICES AND \$528,800 FOR CONSTRUCTION EXPENDITURES FOR A TOTAL OF \$595,641 FOR A COMBINED AGGREGATE OF \$3,479,541 IN ASSOCIATION WITH THE CONSTRUCTION OF THE REALIGNMENT OF THE FOLSOM STREET OFF-RAMP; TRANSBAY REDEVELOPMENT PROJECT AREA

WHEREAS, The Transbay Redevelopment Project Area ("Project Area") was adopted in 2005 with the purpose of redeveloping 10 acres of property owned by the State of California (the "State-owned parcels") in order to generate funding for the Transbay Joint Powers Authority ("TJPA") to construct the new Transbay Transit Center ("TTC"). The Transbay Redevelopment Project Area Implementation Agreement ("Implementation Agreement") is an enforceable obligation that requires the OCII to, among other things, "execute all activities related to the implementation of the Transbay Redevelopment Plan, including but not limited to, activities related to major infrastructure improvements"; and,

WHEREAS, One of the key infrastructure improvements needed in the Project Area is the realignment of the Folsom Street Off-Ramp. Realigning this off-ramp is a major component of the infrastructure work called for in the Implementation Agreement and will create a better pedestrian environment and allow OCII to work with the selected development team to develop Block 8 to its full potential. Construction of the residential development on Block 8 is scheduled to begin in 2015, after the realignment of the off-ramp has been completed; and,

WHEREAS, On April 30, 2013, the Commission authorized a personal services contract with the San Francisco County Transportation Authority ("SFCTA") in an amount not to exceed \$365,585 to complete design phase documentation for the realignment of the Folsom Street Off-Ramp. On November 19, 2013, the Commission authorized a Memorandum of Agreement ("MOA") with SFCTA for the construction phase services required to deliver the completed realignment of the off-ramp in the amount of \$2,883,900. The costs in the MOA were set based on the best available information at the time; and,

WHEREAS, Additional design phase cost over-runs in the amount of \$66,841 were incurred under the scope of work for the construction documentation phase of the project. Since these additional design costs were identified after the expiration of the Personal Services Contract in April 2014, the funds will be provided through this amendment to the MOA. Staff has reviewed these additional costs and has determined they are a reasonable project cost over-run because they were not originally budgeted for, but required to be performed in order to secure a permit for the work; and,

WHEREAS, Since the MOA for construction services began, and as of February 1, 2015, costs have increased in four other main project categories. In addition to the design phase over-run, the other four categories together account for a project increase projected at \$528,800, with the majority of the cost needed to dispose of soil containing hazardous materials discovered during construction. The project reserves are projected to be depleted by the end of February 2015, and will need to be replenished so that project changes now known can be managed as well as having contingency funds to accommodate future project changes expediently and without delay to the project; and,

WHEREAS, The SFCTA and OCII desire to amend the MOA so that project cost over-runs can be reimbursed for: 1) design phase cost over-runs in the amount of \$66,841, 2) pre-construction services cost over-runs in the amount of \$77,787, 3) construction contract over-run in the amount of \$180,468, 4) construction phase staffing and fee over-runs in the amount of \$33,698, and 5) construction phase cost over-runs in the amount of \$236,847 for a total amendment amount of \$595,641; and,

WHEREAS, Amendment No. 1 to the MOA, including the five categories of cost over-runs above in the amount of \$595,641 does not include funding to dispose of additional soil containing hazardous levels of lead. The disposition and funding of these soils is currently under discussions with the California Department of Transportation. When these additional soils containing hazardous materials has its disposition and its costs known, a funding request will be brought back to the Commission for future consideration; and,

WHEREAS, Amendment No. 1 to the MOA, includes a provision for a pre-payment to the SFCTA for an amount equal to the difference between \$3,350,000 authorized in Recognized Obligation Payment Schedule 14-15A, line 106 for the Project, and that amount invoiced under the MOA through February 4, 2015. Such pre-payment is to be used for reimbursement of bona fide Project expenses paid by the SFCTA from January 2015 through the completion of the Project. The Transportation Authority shall draw down from the pre-payment funds provided by OCII before any further reimbursements are made by OCII. The Transportation Authority shall "true-up" Project expenses prior to submitting its last invoice to OCII. All pre-payment amounts not expended at the time of the Project completion shall be returned to OCII by September 30, 2015.

WHEREAS, Expenditures for the reconfiguration of the Folsom Street Off-Ramp are included in OCII's approved Recognized Obligation Payment Schedule for both the July to December 2014 and January to June 2015 periods ("ROPS 14-15A" and "ROPS 14-15B" respectively) as Item #106.; now therefore, be it

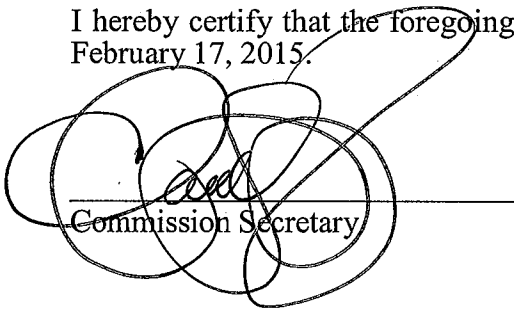
RESOLVED, That the Commission hereby approves Amendment No. 1 to the MOA with the SFCTA for the Realignment of the Folsom Street off-ramp including funding of the MOA project reserves needed to pay for project cost over-runs and to pay for design phase cost over-runs to the personal services contract.

RESOLVED, Authorization of the proposed contract amendment is exempt from the California Environmental Quality Act ("CEQA") on the following grounds: (1) under Section 15378(b)(5) of the State CEQA Guidelines, approval of the proposed contract amendment is exempt therefrom because it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; (2) under Section 15061 (b) (3) of the CEQA Guidelines, it can be seen with certainty that there is no possibility that approval of the proposed

contract amendment may have a significant effect on the environment because mere contract amendment, in and of itself, does not authorize the development of land or permit any new use of land which will result in a significant effect on the environment; and (3) the proposed amendment is exempt under CEQA Guideline 15301 Class 1, which provides exemption for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public structures and facilities, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The contract amendment is within the Class 1 exemption because it involves amendment of an existing contract. The agreement amendment is not anticipated to have a significant effect on the environment due to unusual circumstances, nor cause a substantial adverse change in the significance of a historical resource; and,

RESOLVED, That the Commission hereby authorizes the Executive Director to enter into any and all ancillary documents or take any additional actions necessary to enter into the Contract.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of February 17, 2015.



Commission Secretary