

**STAFF REPORT FOR CALENDAR ITEM NO.: 8  
FOR THE MEETING OF: July 10, 2014**

**TRANSBAY JOINT POWERS AUTHORITY**

**BRIEF DESCRIPTION:**

Amending Contract No. 08-04-CMGC-000, authorizing Webcor/Obayashi Joint Venture (the CM/GC) to award a Trade Work subcontract to Anvil Builders, Inc. for TG05.10: Temporary Facilities in an amount not to exceed \$15,009,690 over a term of four years, with the option to extend the term, by mutual agreement of the parties, for three additional one-year periods. Authorized Direct Costs are thereby increased by \$15,009,690, and the authorized Construction Services Fixed Fee is increased by \$1,140,736, under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B (the CM/GC Agreement).

**EXPLANATION:**

On January 7, 2014, the CM/GC issued a Request for Proposals (RFP) for TG05.10: Temporary Facilities. On February 20, 2014, only one firm, Anvil Builders, Inc., responded to the RFP. This can be attributed to the 100% SBE goal assigned to this package, the competition from the onsite hoist operator (Anvil), or especially the workload in the current development and building market that has strained competitiveness for this scope of work. On February 28, 2014, a selection committee consisting of representatives from the TJPA, CM/GC, Construction Management Oversight (CMO) consultant and Program Management/Program Controls (PMPC) consultant reviewed and scored Anvil Builders Inc.'s proposal for technical merit and cost. Based on its evaluation, the selection committee recommended that an agreement be negotiated with Anvil Builders, Inc.

Under the CM/GC Agreement, temporary facility services were originally to be provided by the Trade Subcontractors as part of their general conditions, but were subsequently removed from Trade Work packages in order to reduce bid prices and the possibility of duplication of services and costs.

The scope of work under this package includes the following:

1. Temporary Toilets and Sanitary Facilities: Furnish, install, maintain and remove all required temporary toilets and sanitary facilities as directed by the CM/GC, including but not limited to standard chemical toilets, hand wash stations, and eye wash stations.
2. Temporary Elevator Operators: Furnish all labor for operation of temporary elevators during construction.
3. Miscellaneous Labor: Furnish all labor as directed by the CM/GC, including but not limited to site clean-up, temporary protection and general maintenance.

The scope of work also includes all labor, materials, equipment, tools, transportation, disposal fees, incidentals and any other costs/fees necessary to complete work in accordance with the Contract Documents. The trade package was set aside exclusively for Small Business Enterprises (SBEs).

On March 7, 2014, the CM/GC and TJPA entered into negotiations with Anvil Builders, Inc., which were completed on June 25, 2014. The Trade Work subcontract for TG05.10 is for an amount not to exceed \$15,009,690 over a term of four years, with the option to extend the term, by mutual agreement of the parties, for three additional one-year periods. Specific work will be authorized as needed and shall be compensated based upon negotiated labor and equipment rates.

As a certified Disabled Veteran Business Enterprise, Anvil Builders meets the 100% SBE goal on the package. Additionally Anvil's bid includes one SBE firm: Legacy Sanitation, certified by the State of California Department of General Services. Anvil has been successfully providing personnel and material hoisting services under TG05.3 since January 2013.

TJPA's budget for TG05.10 is \$12,307,558 (which includes \$805,167 in escalation), and the CM/GC's estimate is \$16,043,456. Consistent with the construction cost update mitigation plan presented to the Board at the May 8, 2014 Board meeting, the \$2,702,132 balance between the awarded amount and the current TG05.10 budget will be funded by using Program Reserve. The current available Program Reserve funding is \$55,396,200. After the award of TG5.10, the remaining funding balance in the Program Reserves will be \$52,694,068 after TG05.10 is awarded. The maximum compensation amount of \$15,009,690 is \$1,033,766 or 6.4% under the CM/GC's estimate. The initial Notice to Proceed for this Trade Work subcontract is anticipated to be funded by land sales.

#### **RECOMMENDATION:**

TJPA staff recommends that the TJPA Board authorize amending Contract No. 08-04-CMGC-000, authorizing the Webcor/Obayashi Joint Venture (CM/GC) to award a Trade Work subcontract to Anvil Builders, Inc. for TG05.10: Temporary Facilities in an amount not to exceed \$15,009,690 over a term of four years, with the option to extend the term, by mutual agreement of the parties, for three additional one-year periods. Authorized Direct Costs are thereby increased by \$15,009,690 and the authorized Construction Services Fixed Fee is increased by \$1,140,736, under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B.

#### **ENCLOSURES:**

1. Resolution
2. Contract Modification

**TRANSBAY JOINT POWERS AUTHORITY  
BOARD OF DIRECTORS**

**Resolution No. \_\_\_\_\_**

WHEREAS, On March 12, 2009, the Transbay Joint Powers Authority (TJPA) awarded a contract to Webcor/Obayashi Joint Venture as Construction Manager/General Contractor (the CM/GC) for the Transbay Transit Center Building and Related Structures (Contract No. 08-04-CMGC-000 or the Contract). Under the Contract, the CM/GC must competitively procure Trade Subcontractors. The Contract provides for the incorporation of Trade Packages by amendment to (a) authorize award of a Trade Work subcontract; (b) authorize the associated increase in allowable Direct Costs under the Contract; and (c) authorize the CM/GC to charge a Construction Services Fixed Fee on Direct Costs (Contract, Section 00 05 20, ¶5.01); and

WHEREAS, On January 7, 2014, the CM/GC issued an Request for Proposals (RFP) for TG05.10: Temporary Facilities (TG05.10) for the entire Transbay Transit Center Program to furnish, install, maintain, and remove all required temporary toilets and sanitary facilities, furnish all labor for operation of temporary elevators during construction, and furnish all labor as directed by the CM/GC, including but not limited to site clean-up, temporary protection, and general maintenance; and

WHEREAS, Under TG05.10, the Trade Subcontractor will perform all temporary facilities services, provide temporary elevator operators, and miscellaneous labor activities for the entire Transbay Transit Center Program; and

WHEREAS, On February 20, 2014, one proposal was received by the CM/GC. A selection committee convened to evaluate the proposal for technical merit and cost and determined that Anvil Builders, Inc. met all the minimum qualifications and is well qualified to perform the scope of services under TG05.10; and

WHEREAS, Based on the selection committee's recommendation, the CM/GC and TJPA have negotiated a Trade Work subcontract with Anvil Builders, Inc., for temporary facilities services as required under TG05.10. The Trade Work subcontract will have a not to exceed amount of \$15,009,690 over a term of four years, with the option to extend the term, by mutual agreement of the parties, for three additional one-year periods; and

WHEREAS, Funds for this Trade Work Subcontract are available from land sales proceeds; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the CM/GC to execute a Trade Work subcontract with Anvil Builders, Inc. for temporary facilities services, as set forth in TG05.10, in an amount not to exceed \$15,009,690 over a term of four years, with the option to extend the term, by mutual agreement of the parties, for three additional one-year periods; and be it

FURTHER RESOLVED, That upon award of the Trade Work subcontract to Anvil Builders, Inc., the Trade Work subcontract shall be deemed part of the Contract Documents under Contract No. 08-04-CMGC-000; and be it

FURTHER RESOLVED, That Contract No. 08-04-CMGC-000 is hereby modified to incorporate the authorized amount of the Trade Work subcontract awarded to Anvil Builders, Inc. for temporary facilities services by increasing authorized Direct Costs by \$15,009,690 and increasing the authorized Construction Services Fixed Fee by \$1,140,736 (7.6% of Direct Costs of \$15,009,690), under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of July 10, 2014.

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Secretary, Transbay Joint Powers Authority

**AGREEMENT**  
**AMENDMENT NO. 33**  
**BETWEEN**  
**TRANSBAY JOINT POWERS AUTHORITY**  
**AND**  
**WEBCOR/OBAYASHI JOINT VENTURE**

THIS AMENDMENT for AGREEMENT is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between the TRANSBAY JOINT POWERS AUTHORITY (TJPA) and Webcor/Obayashi Joint Venture (the CM/GC). By this Amendment No. 33 the TJPA and the CM/GC hereby modify the Agreement dated March 17, 2009 (the Agreement), only to the extent expressly provided in this Amendment No. 33. All other terms and conditions of the Agreement shall remain in full force and effect.

**Recitals**

- A.** On March 12, 2009, the TJPA Board awarded the Agreement to the CM/GC to perform pre-construction and construction services for the Transbay Transit Center Building and Related Structures Project (the Project).
- B.** As detailed in the Agreement, CM/GC is required to procure construction services through the award of Trade Packages, at which time the TJPA shall adjust the value of the Contract Sum to reflect the amount of the awarded Trade Work Subcontract plus the proportionate CM/GC's Construction Services Fixed Fee in accordance with Article 5.01 of the Agreement.
- C.** The CM/GC issued a Request for Proposals (RFP) for TG05.10 for Temporary Facilities Services on January 7, 2014, and received one responsive proposal on February 20, 2014.
- D.** A selection committee reviewed the proposal for technical merit and determined Anvil Builders, Inc. to be responsive and qualified.
- E.** Based on the selection committee's recommendation, the CM/GC negotiated a Trade Work subcontract with Anvil Builders, Inc. for temporary facilities services, as set forth under TG05.10, for an amount not to exceed \$15,009,690 over a term of four years, with the option to extend the term, by mutual agreement of the parties, for three additional one-year periods.

**Terms and Conditions**

- 1.** By this Amendment, the TJPA authorizes an increase in the CM/GC scope of work and the value of the Contract Sum by \$16,150,426 (Trade Package Direct Costs of \$15,009,690 and CM/GC Fixed Fee, calculated at 7.6 percent of Direct Costs, of \$1,140,736) and the award of Trade Work subcontract No. TG05.10 to Anvil Builders, Inc. for performance of Temporary Facilities Services.

2. The detailed scope of work and schedule incorporated by this Amendment is provided in the Contract Bid Documents dated January 7, 2014, and all associated Addenda.

IN WITNESS WHEREOF, the parties hereto have executed this contract Amendment No. 33 on the day first mentioned above.

TRANSBAY JOINT POWERS AUTHORITY

\_\_\_\_\_  
Maria Ayerdi-Kaplan  
Executive Director

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

\_\_\_\_\_  
Secretary, TJPA Board

Approved as to Form:

By: \_\_\_\_\_  
TJPA Legal Counsel

WEBCOR/OBAYASHI, JOINT VENTURE

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title