

**STAFF REPORT FOR CALENDAR ITEM NO.: 12**  
**FOR THE MEETING OF: November 13, 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 Crown Corr, Inc., for TG08.2R: Exterior Awning (TG08.2R) in an amount of \$1,750,000, thereby increasing authorized Direct Costs by \$1,750,000 and increasing the authorized Construction Services Fixed Fee by \$133,000, under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B. The award amount is for the design services portion of a design-build contract for the Exterior Awning of the Transbay Transit Center. Following completion of the design and the development, negotiation, and agreement on a fair and reasonable total cost for construction services (Total Construction Cost), staff will request authorization by the Board of Directors to execute a change order to incorporate construction services for the Exterior Awning into the Trade Work Subcontract. If a fair and reasonable Total Construction Cost cannot be agreed upon, the Trade Subcontractor's design will become the property of the TJPA, the Trade Work Subcontract will be terminated, and the fabrication and installation of the Exterior Awning system will be competitively bid based on the final design prepared by the Trade Subcontractor.

**EXPLANATION:**

In January 2013, the Exterior Awning system was redesigned from glass to aluminum in accordance with Risk and Vulnerability Assessment recommendations and as a cost savings measure. To expedite the procurement process, the CM/GC removed the Exterior Awning system from the TG08.1 package and scheduled it for bid as a separate package, TG08.2: Exterior Awning.

TG08.2 was originally issued for bid on November 7, 2013. Although four firms were prequalified, no bids were received on the January 30, 2014, bid due date. After a significant outreach effort to potential bidders, including those previously qualified, the CM/GC determined, in conjunction with the TJPA, our CMO and counsel, that a collaborative design-build procurement methodology would provide the best opportunity to procure the Exterior Awning system with the most competition and at the best price.

Under the collaborative design-build procurement methodology (sometimes referred to in the construction industry as a design-assist procurement), bidders are required to submit a technical qualifications proposal and a price proposal for evaluation by the TJPA's Selection Committee (consisting of representatives from the TJPA, CM/GC, design team, Construction Management Oversight consultant, and Program Management/Program Controls (PMPC) consultant). The price proposal consists of the sum of (1) a fixed lump sum amount for design services; (2) a Construction Fee percentage multiplied by estimated construction costs; and (3) a Construction Overhead percentage multiplied by estimated construction costs. The solicitation identified those costs that should be included in the Construction Fee percentage and in the Construction Overhead percentage. Following evaluation, a Trade Work Subcontract for design services only

is awarded to the bidder offering the best value to the TJPA. Upon award, the selected Trade Subcontractor is responsible for working collaboratively with the entire TJPA team, including the TJPA's design professionals, the CM/GC, and other Trade Subcontractors, to provide approaches and alternatives for the design of the Exterior Awning system consistent with the original design intent, certain performance specifications, and the TJPA's budget.

Throughout the design process, the Trade Subcontractor is required to provide cost estimates and schedule information to the TJPA. Anticipated construction costs are reviewed and evaluated by the TJPA team on an "open book" basis, requiring the Trade Subcontractor to submit cost estimates and proposals from its vendors and material suppliers to the TJPA for review. Ultimately, a Total Construction Cost is negotiated with the Trade Subcontractor in conformance with the detailed design schedule set forth in the solicitation. The Total Construction Cost includes all direct construction costs for the fabrication and installation of the Exterior Awning system plus the Construction Fee and Construction Overhead costs based on the percentages submitted in the Trade Subcontractor's proposal. If a Total Construction Cost is agreed upon, a change order for the fabrication and installation of the Exterior Awning system will be submitted to the Board for approval. If a Total Construction Cost cannot be agreed upon, the Trade Subcontractor's design will become the property of the TJPA, the Trade Work Subcontract will be terminated, and the fabrication and installation of the Exterior Awning system will be competitively bid based on the final design prepared by the Trade Subcontractor.

The TJPA received concurrence from the FTA that this collaborative design-build approach is an acceptable procurement methodology under applicable FTA procurement principles.

Consistent with the above methodology, on July 30, 2014, the CM/GC reissued the Exterior Awning package (TG08.2R) as a Request for Proposals (RFP), seeking proposals from qualified firms to provide design services as the design-builder of the Exterior Awning system. Proposers were directed to propose a lump sum for design services, a Construction Fee percentage, and a Construction Overhead percentage. For the purposes of determining the total proposed price, the Construction Fee percentage and Construction Overhead percentage were multiplied by an estimated construction value of \$30 million.

On September 30, 2014, three firms responded to the RFP. On October 3, 2014, the Selection Committee reviewed and scored each firm's proposal for technical merit and cost. Each proposal was evaluated for essential qualification requirements regarding contractor licensing, bonding and insurance, suspension/revocation of license, defaults, bankruptcy, and civil/criminal action. All proposals met the essential qualification requirements and were further scored based on experience and price. Based on its evaluation, the Selection Committee determined all of the firms to be qualified and free of conflicts of interest. The three firms were then interviewed by the Selection Committee on October 16, 2014. The three firms interviewed were:

- Cobra Building Envelope Contractors (BEC), Inc.
- Crown Corr, Inc.
- Shimmick Construction Company, Inc.

The RFP assigned sixty percent (60%) of the available points to cost, and forty percent (40%) to qualifications and experience-related criteria. The possible total score was 500 points, summarized as follows:

- Qualifications/experience, proposed staffing, and references – maximum **150** points
- Licensing, surety, insurance, environmental matters, disputes, claims, financial, safety and prevailing wage compliance – maximum **50** points
- Total proposal price – maximum **300** points

The proposer with the lowest total proposal price was awarded the full 300 points, and the other proposers were awarded a percentage of the 300 points equivalent to the difference between their total proposal price and that of the lowest proposer. The scores are as follows:

<b>Proposer</b>	<b>Qualifications Proposal (200 max)</b>	<b>Price Proposal (300 max)</b>	<b>Total (500 max)</b>
Crown Corr, Inc.	190	300	<b>490</b>
Shimmick Construction	183	240	<b>423</b>
Cobra BEC, Inc.	150	171	<b>321</b>

The price proposals, based on the proposed percentages from each proposer, are shown below:

<b>Cost Element</b>	<b>Cobra BEC, Inc.</b>	<b>Crown Corr, Inc.</b>	<b>Shimmick Construction</b>
<b>Design Services of W-1</b>	\$1,260,000	\$1,750,000	\$3,611,367
<b>Construction Fee</b> (% x estimated construction costs of \$30 million)	\$4,350,000 (14.5%)	\$5,400,000 (18%)	\$4,672,152 (15.57%)
<b>Construction Overhead</b> (% x estimated construction costs of \$30 million)	\$9,750,000 (32.5%)	\$3,600,000 (12%)	\$4,610,000 (15.37%)
<b>Total Proposal Price</b>	<b>\$15,360,000</b>	<b>\$10,750,000</b>	<b>\$12,893,519</b>

Based upon the criteria outlined in the RFP, Crown Corr, Inc., was determined by the Selection Committee to provide the best value to the TJPA.

The scope of work under this package includes designing and potentially constructing the Exterior Awning system to meet the specified performance requirements and design criteria and intent for a construction cost of approximately \$30 million. At the completion of the design services, the Trade Subcontractor will submit a final design and a Final Construction Cost for the fabrication and installation of the Exterior Awning system. The Final Construction Cost will be based on the cost of the agreed-upon labor and materials required to fabricate and install the Exterior Awning system. The Trade Subcontractor's Construction Fee percentage and Construction Overhead percentage from its proposal will be applied to the Final Construction Cost. The sum of the Final Construction Cost, Construction Fee, and Construction Overhead will determine the Total Construction Cost for the Exterior Awning system. The TJPA and the Trade Subcontractor will share the savings evenly if the Final Construction Cost is less than \$30 million.

The scope of work recommended for award today is only for design services related to the Exterior Awning system, including all labor, materials, overhead and equipment to complete the design and comprehensive cost estimate as outlined in the RFP. Provided a Total Construction Cost is agreed upon, the Total Construction Cost is expected to be presented to the Board at its May 2015 meeting for incorporation into the Trade Work Subcontract. At that time, the scope of work will be amended to include all labor, materials, equipment, tools, transportation, disposal fees, incidentals and any other costs/fees necessary to complete the fabrication and installation of the Exterior Awning system in accordance with the Contract Documents. All necessary work from mobilization to handover to the next Trade Subcontractor will be included in this scope of work.

The TG08.2R trade package has a Small Business Enterprise (SBE) utilization goal of 5 percent, which applies to the construction services portion of the package. The Trade Subcontractor will need to demonstrate SBE participation that meets the 5 percent goal at the time the contract is modified to incorporate construction services.

This Trade Work Subcontract is anticipated to be funded by land sales proceeds.

**RECOMMENDATION:**

TJPA staff recommends that the TJPA Board authorize amending Contract No. 08-04-CMGC-000, authorizing the CM/GC to execute a Trade Work Subcontract with Crown Corr, Inc., in the amount of \$1,750,000 for the design services for TG08.2R: Exterior Awning, thereby increasing the authorized Direct Costs by \$1,750,000 and increasing the authorized Construction Services Fixed Fee by \$133,000, 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 invoiced at a rate of 7.6% of Direct Costs (Contract, Section 00 05 20, ¶5.01); and

WHEREAS, On July 30, 2014, the CM/GC issued a Request for Proposals (RFP) for TG08.2R: Exterior Awning (TG08.2R) for the Transbay Transit Center Program to design and potentially construct the complete Exterior Awning system (the W-1 system) in accordance with the Contract Documents; and

WHEREAS, Under TG08.2R, the Trade Subcontractor will perform all Exterior Awning system design and potentially construction-related activities for the Transbay Transit Center Program; and

WHEREAS, On September 30, 2014, three proposals were received by the CM/GC. A Selection Committee convened and evaluated the proposals for technical merit and cost and determined that Crown Corr, Inc., offered the best value to the TJPA for the design scope of services under TG08.2R; and

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

RESOLVED, That the TJPA Board of Directors authorizes the CM/GC to execute a Trade Work Subcontract with Crown Corr, Inc., for design-build services for the Exterior Awning system (the W-1 system) as set forth in TG08.2R in an initial amount of \$1,750,000 for design services only; and be it

FURTHER RESOLVED, That upon award of the Trade Work Subcontract to Crown Corr, 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 Crown Corr, Inc., for TG08.2R by increasing the authorized Direct Costs by \$1,750,000, and increasing the authorized Construction Services Fixed Fee by \$133,000 (Direct Costs of \$1,750,000 multiplied by the Construction Services Fee of 7.6%) under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B; and be it

FURTHER RESOLVED, That upon completion of the design and agreement on the Total Construction Cost for the Exterior Awning system, staff will return to the Board to request a change order to include the construction of the Exterior Awning system in this Trade Work Subcontract. In the absence of an agreement, staff may request authorization to issue an IFB for the work.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of November 13, 2014.

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Secretary, Transbay Joint Powers Authority

**AGREEMENT**  
**AMENDMENT NO. 41**  
**BETWEEN**  
**TRANSBAY JOINT POWERS AUTHORITY**  
**AND**  
**WEBCOR/OBAYASHI JOINT VENTURE**

THIS AMENDMENT for AGREEMENT is entered into as of the 13<sup>th</sup> day of November, 2014, by and between the TRANSBAY JOINT POWERS AUTHORITY (TJPA) and Webcor/Obayashi Joint Venture (the CM/GC). By this Amendment No. 41 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. 41. 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, the CM/GC is required to procure construction services through the award of Trade Packages, at which time 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 TG08.2R, Exterior Awning, on July 30, 2014, and received three responsive proposals on September 30, 2014.

**D.** A selection committee reviewed the proposals for technical merit and determined Crown Corr, Inc. to be responsive and qualified.

**E.** Based on the selection committee's recommendation, the CM/GC shall issue a Trade Work subcontract with Crown Corr, Inc. for exterior awning design services, as set forth under TG08.2R, for an amount of \$1,750,000.

**Terms and Conditions**

**1.** By this Amendment, the TJPA authorizes an increase in the CM/GC's scope of work and the value of the Contract Sum by \$1,883,000 (Trade Package Direct Costs of \$1,750,000 and CM/GC Fixed Fee, calculated at 7.6 percent of Direct Costs, of \$133,000), and the award of Trade Work subcontract No. TG08.2R to Crown Corr, Inc. for performance of Exterior Awning design services.

**2.** The detailed scope of work and schedule incorporated by this Amendment is provided in the Contract Bid Documents dated June 16, 2014, and all associated Addenda.

IN WITNESS WHEREOF, the parties hereto have executed this contract Amendment No. 41 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