

STAFF REPORT FOR CALENDAR ITEM NO.: 13
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 Shimmick Construction Company, Inc. (Shimmick) as the responsible bidder submitting the lowest responsive bid in the amount of \$481,785 for TG15.2: Façade Access Equipment (TG15.2), thereby increasing authorized Direct Costs by \$481,785, and increasing the authorized Construction Services Fixed Fee by \$36,616, under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B.

EXPLANATION:

On January 7, 2014, the CM/GC issued a Request for Qualifications (RFQ) for TG15.2. On February 3, 2014, four firms responded to the RFQ. On February 11, 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 each firm's qualifications for technical merit. Based on its evaluation, the selection committee determined the following bidders to be qualified and free of conflicts of interest:

- Shimmick Construction Company, Inc.
- Sky Rider Equipment Co., Inc.
- Skymaster, Inc.
- Tractel, Inc.

On August 7, 2014, the TG15.2 package was issued for bid. A pre-bid conference was held on August 28, 2014. Four addenda to TG15.2 were issued during the bid period to provide clarifications, respond to bidders' questions, and provide updated specifications, drawings, and sketches. Only Addendum #4 was specific to the TG15.2 package. The addenda, with a brief description, are listed below:

- Addendum #1 incorporated one Architect's Supplemental Instructions (ASI) into the IFC set as follows: ASI 123 (Civil/Utility drawings and responses to bidders' questions).
- Addendum #2 incorporated two ASIs and revised Division 00 and 01 specification sections into the IFC set. The two ASIs were ASI 124 (incorporation of secondary mitigation value engineering items) and ASI 125 (moving of the Emergency Communication System/Mass Notification System from one bid package to another).
- Addendum #3 incorporated two ASIs and three Field Orders (FO) into the IFC set as follows: ASI 126 (incorporation of glazing package TG08.10 plans and specifications), ASI 127 (bidding clarifications and responses to bidders' questions), FO 29 (SFPUC IFB drawings), FO 29R1 (revised SFPUC IFB drawings), and FO 33 (SFMTA OCS plans and specifications).

- Addendum #4 was an administrative addendum to officially incorporate into the Contract Documents all responses to TG15.2 bidders' questions during the bid period.

The scope of work under this package includes providing Façade Access Equipment (a window washing hoisting system) located at the west end Stair Tower (Stair 201) and Fall Arrest Protection on various elevator/stair penthouse roofs at the Roof Park level. The major items of work for this package consist of designing, fabricating, and installing:

- 1) window washing equipment hoisting system, including anchorage to structure, eight davits (cranes used to hoist the window washing equipment), and fixed sockets to anchor the davits to structural steel, and
- 2) continuous horizontal lifeline fall protection systems with fixed anchors on penthouse roofs.

The scope of work 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. All necessary work from mobilization to hand over to the next trade subcontractor is included in the scope of work.

Bidders had the option of submitting value engineering (VE) proposals prior to the bid date. No VE proposals were submitted. No deductive or additive alternates were included in the bid documents.

On October 15, 2014, two bids were received, opened, and evaluated. Below is a summary of the bid results:

Bidder Name	Shimmick	Tractel, Inc.
Base Bid Amount	\$481,785	\$313,000

Tractel's bid included several material qualifications contrary to the terms of the bid documents, such as: (1) basing its bid on only some of the drawings and specifications included in the Contract Documents; (2) conditioning the required two-year warranty for its work on the award of a future two-year maintenance contract (no such maintenance contract was included in the scope of work under the Contract Documents); (3) excluding responsibility for liquidated damages; (4) potentially excluding responsibility for consequential damages; and (5) refusing to agree to the scheduled completion date for its scope of work. Consistent with the Instructions to Bidders and applicable law, these qualifications result in a determination of non-responsiveness. Tractel also failed to properly complete, execute, and submit seventeen (17) required bid forms, including the Highest Prevailing Wage Rate Certification, Buy America Certification, and SBE Participation Good Faith Efforts Form. Tractel, Inc.'s failure to properly complete, execute, and submit these bid forms also results in a determination of non-responsiveness. As a result, Tractel's bid was rejected as non-responsive.

As a result of the above determination, Shimmick submitted the lowest responsive bid based on its Base Bid Amount of \$481,785. Shimmick's bid also included 6.86% SBE participation, exceeding the 5% SBE goal on the package. Shimmick's bid includes one SBE firm.

TJPA's budget for TG15.2 is \$334,458 (which includes \$3,000 in design contingency and \$30,979 in escalation), and the CM/GC's estimate is \$387,220. Consistent with the construction cost update mitigation plan presented to the Board at the May 9, 2014, Board meeting, the \$147,327 balance between the awarded amount and the current TG15.2 budget will be covered by using Program Reserve. The current available Program Reserve is \$42,414,627. After the award of TG15.2, the remaining balance in the Program Reserve will be \$42,267,300.

No bid protests were received during the bid protest period, which ended on October 22, 2014. 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 CM/GC to execute a Trade Work Subcontract with Shimmick as the responsible bidder submitting the lowest responsive bid in the amount of \$481,785 for TG15.2: Façade Access Equipment, thereby increasing the authorized Direct Costs by \$481,785 and increasing the authorized Construction Services Fixed Fee by \$36,616, 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 August 7, 2014, the CM/GC issued an Invitation for Bids for TG15.2: Façade Access Equipment (TG15.2) for the entire Transbay Transit Center Program to construct the Façade Access Equipment in accordance with the Contract Documents; and

WHEREAS, Under TG15.2, the Trade Subcontractor will perform all Façade Access Equipment construction-related activities for the entire Transbay Transit Center Program; and

WHEREAS, On October 15, 2014, two bids were received and opened publicly; and

WHEREAS, CM/GC and TJPA have determined that Shimmick Construction Co., Inc. (Shimmick) is the responsible bidder submitting the lowest responsive bid, with a Base Bid Amount of \$481,785; 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 for TG15.2 with Shimmick as the responsible bidder submitting the lowest responsive bid in the contract amount of \$481,785; and be it

FURTHER RESOLVED, That upon award of the Trade Work Subcontract to Shimmick, 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 Shimmick for TG15.2 by increasing authorized Direct Costs by \$481,785, and increasing the authorized Construction Services Fixed Fee by \$36,616 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 November 13, 2014.

Secretary, Transbay Joint Powers Authority

AGREEMENT
AMENDMENT NO. 42
BETWEEN
TRANSBAY JOINT POWERS AUTHORITY
AND
WEBCOR/OBAYASHI JOINT VENTURE

THIS AMENDMENT for AGREEMENT is entered into as of the 13th day of November, 2014, by and between the TRANSBAY JOINT POWERS AUTHORITY (TJPA) and Webcor/Obayashi Joint Venture (CM/GC). By this Amendment No. 42, the TJPA and the CM/GC hereby modify the Agreement dated March 17, 2009 (Agreement), only to the extent expressly provided in this Amendment No. 42. 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 (Project).

B. As detailed in the Agreement, 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 an Invitation for Bids for TG15.2: Façade Access Equipment package on August 7, 2014, and received and publicly opened two bids on October 15, 2014.

D. Shimmick Construction Company Inc. was the responsible bidder submitting the lowest responsive bid in the amount of \$481,785.

Terms and Conditions

1. By this Amendment, TJPA authorizes an increase in the CM/GC scope of work and the value of the Contract Sum by \$518,401 (Trade Package Direct Costs of \$481,785 and CM/GC Fixed Fee, calculated at 7.6 percent of Direct Costs, of \$36,616) and the award of Trade Subcontract No. TG15.2 to Shimmick Construction Company, Inc. for performance of the construction of TG15.2 Façade Access Equipment.

2. The detailed scope of work and schedule incorporated by this Amendment is provided in the Contract Documents dated March 31, 2014, and all associated Addenda.

IN WITNESS WHEREOF, the parties hereto have executed this contract Amendment No. 42 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