

**STAFF REPORT FOR CALENDAR ITEM NO.: 8  
FOR THE MEETING OF: March 12, 2015**

**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 Southwest Specialty Contractors, for TG08.6R1: Metal Ceilings Design-Build Services (TG08.6R1) in an amount of \$928,900, thereby increasing authorized Direct Costs by \$928,900 and increasing the authorized Construction Services Fixed Fee by \$70,596, 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 only of a design-build contract for the metal ceilings of the Transbay Transit Center. Following completion of the design and the development and successful negotiation of a fair and reasonable total cost for construction services (Total Construction Cost), staff will request authorization from the Board to execute a change order to incorporate construction services for TG08.6R1: Metal Ceilings 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 metal ceiling systems will be competitively bid based on the final design prepared by Southwest Specialty Contractors.

**EXPLANATION:**

TG08.6 was originally issued for bid on October 9, 2014, as a traditional sealed bid procurement. However, as a result of input from bidders, the CM/GC determined, in conjunction with the TJPA and the Construction Management Oversight (CMO) consultant, that a collaborative design-build procurement methodology would provide the best opportunity to procure the metal ceiling systems with the greatest competition and at the best price. The TG08.6 bid process was subsequently suspended, and the trade package was restructured as a design-build procurement and reissued as TG08.6R in a Request for Proposals (RFP) on December 16, 2014.

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, CMO, 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 metal ceiling systems 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 metal ceiling systems 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 metal ceiling systems 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 metal ceiling systems 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.

For the purposes of determining the total proposed price, proposers were provided with an estimated construction value of \$15.8 million and were instructed to multiply their proposed Construction Fee percentage and Construction Overhead percentage by this amount.

On February 17, 2015, three firms responded to the RFP; however, two proposals were nonresponsive: one firm’s package was incomplete and one firm’s proposal was received after the submittal deadline and was not accepted. As a result, the CM/GC, in consultation with the TJPA, decided to reissue the RFP as TG08.6R1. It was re-issued on February 24, 2015, with a one-week turnaround time. On March 3, 2015, three firms responded to the RFP. The selection committee evaluated the proposals and scored them as follows:

<b>Proposer</b>	<b>Qualifications Proposal (350 max)</b>	<b>Price Proposal (500 max)</b>	<b>Total (850 max)</b>
A.C. Dellovade, Inc.	283.2	43	<b>326.2</b>
Crown Corr, Inc.	331.8	419	<b>750.8</b>
Southwest Specialty Contractors	266	500	<b>766</b>

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

<b>Cost Element</b>	<b>A.C Dellovade, Inc.</b>	<b>Crown Corr, Inc.</b>	<b>Southwest Specialty Contractors</b>
<b>Design Services of TG08.6R1</b>	\$2,205,903	\$1,150,000	\$928,900
<b>Construction Fee</b> (% x estimated construction costs of \$15.8 million)	\$3,156,840 (19.98%)	\$2,528,000 (16%)	\$2,528,000 (16%)
<b>Construction Overhead</b> (% x estimated construction costs of \$15.8 million)	\$3,817,280 (24.16%)	\$1,896,000 (12%)	\$1,343,000 (8.5%)
<b>Total Proposal Price</b>	<b>\$9,180,023</b>	<b>\$5,574,000</b>	<b>\$4,799,900</b>

The selection committee determined that Southwest Specialty Contractors would provide the best value to TJPA.

The scope of work under this trade package includes designing and potentially constructing corrugated metal ceiling systems at various interior and exterior locations throughout the Transit Center (Bus Deck, Grand Hall, Bus Plaza, and the exterior perimeter of the entire Transit Center) to meet the specified performance requirements and design criteria and intent for a construction cost of approximately \$15.8 million. The scope of work excludes ceiling systems at the Lower Concourse and Train Platform levels, which are part of Phase 2 construction.

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 metals ceiling systems. The Final Construction Cost will be based on the cost of the agreed-upon labor and materials required to fabricate and install the metal ceiling systems. 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 metal ceiling systems. The TJPA and the Trade Subcontractor will share the savings equally if the Final Construction Cost is less than \$15.8 million.

As stated above, the scope of work recommended for award at this time is only for design services related to the metal ceiling systems, 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 by its June 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 metal ceiling systems 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 TG08.6R1 trade package has a Small Business Enterprise (SBE) utilization goal of 10 percent, which applies to the construction services portion of the package. The Trade Subcontractor will need to demonstrate SBE participation that meets the 10 percent goal at the time the contract is modified to incorporate construction services.

TJPA's budget for TG08.6R1 is \$19,788,974, and the CM/GC's estimate is \$24,100,000. The total estimated cost of TG8.6R1 is \$20,599,900 (\$15,800,000 for direct construction cost and \$4,799,900 for design services, construction fee, and overhead).

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 Southwest Specialty

Contractors, in the amount of \$928,900 for the design services for TG08.6R1: Metal Ceilings Design-Build Services, thereby increasing the authorized Direct Costs by \$928,900 and increasing the authorized Construction Services Fixed Fee by \$70,596, 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 February 24, 2015, the CM/GC issued a Request for Proposals (RFP) for TG08.6R1: Metal Ceilings Design-Build Services (TG08.6R1) for the Transbay Transit Center Program to design and potentially construct the complete metal ceiling systems in accordance with the Contract Documents; and

WHEREAS, Under TG08.6R1, the Trade Subcontractor will perform all metal ceiling systems design and potentially construction-related activities for the Transbay Transit Center; and

WHEREAS, On March 3, 2015, three proposals were received by the CM/GC. A selection committee convened and evaluated the proposals for technical merit and cost and determined that Southwest Specialty Contractors offered the best value to the TJPA for the design scope of services under TG08.6R1; 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 Southwest Specialty Contractors, for design-build services for the metal ceiling systems as set forth in TG08.6R1 in an initial amount of \$928,900 for design services only; and be it

FURTHER RESOLVED, That upon award of the Trade Work Subcontract to Southwest Specialty Contractors, 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 Southwest Specialty Contractors, for TG08.6R1 by increasing the authorized Direct Costs by \$928,900, and increasing the authorized Construction Services Fixed Fee by \$70,596 (Direct Costs of \$928,900 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 metal ceiling systems, staff will return to the Board to request a change order to include the construction of the metal ceiling systems 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 March 12, 2015.

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Secretary, Transbay Joint Powers Authority

**AGREEMENT**  
**AMENDMENT NO. 48**  
**BETWEEN**  
**TRANSBAY JOINT POWERS AUTHORITY**  
**AND**  
**WEBCOR/OBAYASHI JOINT VENTURE**

THIS AMENDMENT for AGREEMENT is entered into as of the 12<sup>th</sup> day of March, 2015, by and between the TRANSBAY JOINT POWERS AUTHORITY (TJPA) and Webcor/Obayashi Joint Venture (the CM/GC). By this Amendment No. 48, 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. 48. 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 TG08.6R1: Metal Ceilings Design-Build Services on February 24, 2015, and received three responsive proposals on March 3, 2015.

**D.** A selection committee reviewed the proposals for technical merit and price, and determined that Southwest Specialty Contractors will provide the best value to the TJPA.

**E.** Based on the selection committee's recommendation, the CM/GC shall execute a Trade Work Subcontract with Southwest Specialty Contractors for metal ceiling design services, as set forth under TG08.6R1, for an amount of \$928,900.

**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 \$999,496 (Trade Package Direct Costs of \$928,900 and CM/GC Fixed Fee, calculated at 7.6 percent of Direct Costs, of \$70,596), and the award of Trade Work Subcontract No. TG08.6R1 to Southwest Specialty Contractors, for performance of design services for TG08.6R1: Metal Ceilings.

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

IN WITNESS WHEREOF, the parties hereto have executed this contract Amendment No. 48 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