

STAFF REPORT FOR CALENDAR ITEM NO.: 9
FOR THE MEETING OF: October 13, 2016

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 WPCS International-Suisun City, Inc. (WPCS) as the responsible bidder submitting the lowest responsive bid in the amount of \$1,455,292 for TG27.2R: Audio Visual Equipment and Integration (TG27.2R), thereby increasing authorized Direct Costs by \$1,455,292, and increasing the authorized CM/GC Construction Services Fixed Fee by \$50,935, under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B.

EXPLANATION:

On March 2, 2016, the CM/GC issued a Request for Qualifications (RFQ) for TG27.2. On March 23, 2016, five firms responded to the RFQ. Two additional firms submitted qualifications packages during the bid period. A selection committee consisting of representatives from the TJPA, CM/GC, Construction Management Oversight consultant, and Program Management/ Program Controls consultant reviewed and scored each firm's qualifications for technical merit. Based on its evaluation, the selection committee determined that all seven bidders, listed below, were qualified and free of conflicts of interest:

- 3D Datacom Security
- Avidex Industries, LLC
- Fisk Electric Company
- Ford Audio-Video, LLC
- Serb Systems, Inc., dba Pro Media Ultrasound
- World Wide Technology, Inc.
- WPCS International-Suisun City, Inc.

On July 7, 2016, the TG27.2 package was issued for bid. A pre-bid conference was held on July 19, 2016. One addendum was issued during the bid period to incorporate into the Contract Documents bidder questions and responses.

The scope of work under this package includes audio visual equipment procurement, installation, and systems integration. The major items of work consist of the following elements:

- Complete and Functioning Turnkey Audiovisual Systems
- Scheduling Boards
- Digital Signage
- Media Players

The TG27.2R audio visual/digital signage system is designed to provide data to the public, in the form of transit schedules, and wayfinding and visitor information. TG27.2R comprises digital media players, servers, and liquid crystal displays (LCDs) that process data for display in the Transit Center. The scope of work includes all labor, materials, equipment, tools, transportation, disposal fees, incidentals and any other costs/fees necessary to complete the work in accordance with the Contract Documents. All necessary work from mobilization to handover to the next trade subcontractor is included in the scope of work.

On August 17, 2016, three bids were received, opened, and evaluated. One bidder, WPCS, did not submit a complete bid package, which rendered WPCS’s bid non-responsive. 3D Datacom Security (3D Datacom) included several exclusions in its bid and did not complete the required Small Business Enterprise (SBE) documents, which rendered 3D Datacom’s bid non-responsive. Fisk Electric Company (Fisk) submitted a bid that was over the budget. As a result, the CM/GC, in consultation with the TJPA, made a determination to cancel the solicitation and reissue the package for bidding.

TG27.2R was re-issued for bid on September 12, 2016. One administrative addendum was issued during the bid period to officially incorporate into the Contract Documents all responses to bidders’ questions during the bid period.

The bid documents included one additive alternate to purchase additional spare parts at the same or lower cost as the bid price within 90 days. Bidders had the option of submitting value engineering proposals prior to the bid date. No value engineering proposals were received. On September 29, 2016, four bids were received, opened and evaluated. Below is a summary of the bid result:

Bidder Name	Fisk Electric	3D Datacom	Ford Audio-Video	WPCS
Bid Amount	\$2,254,579	\$2,090,866	\$1,778,480	\$1,455,292

WPCS submitted the lowest responsive bid based on its Base Bid Amount of \$1,455,292. WPCS’s bid includes one State-certified Bay Area SBE firm for 18% SBE participation, meeting the 18% SBE goal on the package.

Buy America

WPCS confirmed compliance with Buy America. Given the scope of work under this package and the bid documentation received, two waivers likely apply to the scope of work under TG27.2R: (1) the general public interest waiver; and (2) the non-availability waiver.

TJPA staff met with Region IX FTA staff on April 20, 2016, to discuss whether the audio visual/digital signage systems are subject to the “general public interest waiver” for microprocessors and other devices under 49 CFR Part 661.7 Appendix A (b), which states:

Under the provisions of §661.7 (b) and (c) of this part, a general public interest waiver from the Buy America requirements applies to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.

Following that meeting, TJPA submitted an informal request to the FTA for confirmation of the application of the “general public interest waiver” to the audio visual/digital signage systems. On July 19, 2016, in response to the June 1, 2016, informal request, the FTA requested additional information in support of the application of the “general public interest waiver” to be submitted by TJPA in a formal request. TJPA submitted the formal request to the FTA on August 1, 2016. The FTA then requested more specific information, which was provided by TJPA on August 9, 2016. The formal request is currently under review by the FTA.

Based on discussions with the FTA to date and the bid documentation submitted by the bidders, TJPA anticipates that the “general public interest waiver” will apply to a majority of the work under TG27.2R. To the extent some of the work is not subject to the “general public interest waiver,” such work may be exempt from the Buy America requirements if determined to be a subcomponent. If the work is neither subject to the “general public interest waiver” nor exempt, based upon a subcomponent determination, a “non-availability waiver” request will be prepared and submitted to the FTA for the items in question.

TJPA’s budget for TG27.2R is \$3 million, and the engineer’s estimate is \$2.2 million. Staff recommends placing the balance between the bid amount and the budget, less the CM/GC’s Construction Services Fixed Fee of \$50,935, the Subguard premium of \$14,262, and CM/GC contingency of \$58,212, into the Program Reserve, thereby increasing the Program Reserve by \$1,421,299 to a total of \$126,313,273.

No bid protests were received during the bid protest period, which ended on October 5, 2016.

This Trade Work Subcontract is anticipated to be funded with proceeds of the TIFIA Loan.

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 WPCS, as the responsible bidder submitting the lowest responsive bid in the amount of \$1,455,292 for TG27.2R: Audio Visual Equipment and Systems Integration, thereby increasing the authorized Direct Costs by \$1,455,292, and increasing the authorized CM/GC Construction Services Fixed Fee by \$50,935, under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B. In addition, an amount of \$14,262 would be authorized for the Subguard premium for this Trade Work Subcontract.

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 3.5% of Direct Costs (Contract, Section 00 05 20, ¶5.01); and

WHEREAS, On September 12, 2016, the CM/GC issued an Invitation for Bids for TG27.2R: Audio Visual Equipment and Systems Integration (TG27.2R) for the Transbay Transit Center to procure, install, and integrate the audio visual systems in accordance with the Contract Documents; and

WHEREAS, Under TG27.2R, the Trade Subcontractor will perform all audio visual equipment and systems integration construction-related activities for the Transbay Transit Center; and

WHEREAS, On September 29, 2016, four bids were received and opened publicly; and

WHEREAS, The CM/GC and TJPA have determined that WPCS International-Suisun City, Inc. (WPCS) is the responsible bidder submitting the lowest responsive bid, with a bid of \$1,455,292; and

WHEREAS, Funds for this Trade Work Subcontract are anticipated to be available from the TIFIA Loan; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the CM/GC to execute a Trade Work Subcontract for TG27.2R with WPCS as the responsible bidder submitting the lowest responsive bid in the contract amount of \$1,455,292; and be it

FURTHER RESOLVED, That upon award of the Trade Work Subcontract to WPCS, 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 Trade Work Subcontract awarded to WPCS, for TG27.2R, by increasing authorized Direct Costs by \$1,455,292, and increasing the authorized CM/GC Construction Services Fixed Fee by \$50,935 under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B; and be it

FURTHER RESOLVED, That \$14,262 is also authorized for the Subguard premium for this Trade Work Subcontract.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of October 13, 2016.

Secretary, Transbay Joint Powers Authority

AGREEMENT
AMENDMENT NO. 64
BETWEEN
TRANSBAY JOINT POWERS AUTHORITY
AND
WEBCOR/OBAYASHI JOINT VENTURE

THIS AMENDMENT for AGREEMENT is entered into as of the 13th day of October, 2016, by and between the TRANSBAY JOINT POWERS AUTHORITY (TJPA) and Webcor/Obayashi Joint Venture (CM/GC). By this Amendment No. 64, 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. 64. 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 TG27.2R Audio Visual Equipment and Systems Integration package on September 12, 2016, and received and publicly opened four bids on September 29, 2016.

D. WPCS International-Suisun City, Inc., was the responsible bidder submitting the lowest responsive bid in the amount of \$1,455,292.

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 \$1,506,227 (Trade Package Direct Costs of \$1,455,292 and CM/GC Fixed Fee, calculated at 3.5 percent of Direct Costs, of \$50,935) and the award of Trade Subcontract No. TG27.2R to WPCS International-Suisun City, Inc., for performance of the construction of TG27.2R Audio Visual Equipment and Systems Integration.

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

IN WITNESS WHEREOF, the parties hereto have executed this contract Amendment No. 64 on the day first mentioned above.

TRANSBAY JOINT POWERS AUTHORITY

Mark Zabaneh
Interim 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