

**STAFF REPORT FOR CALENDAR ITEM NO.: 8
FOR THE MEETING OF: February 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 Crown Corr, Inc., for TG08.11R: Glass Curtain Walls and Skylights Design-Build Services (TG08.11R) in an amount of \$2,950,000, thereby increasing authorized Direct Costs by \$2,950,000 and increasing the authorized Construction Services Fixed Fee by \$224,200, under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B. The award amount is for only the design services portion of a design-build contract for the Glass Curtain Walls and Skylights of the Transbay Transit Center. Following completion of the design and development, and successful negotiation of 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 Glass Curtain Walls and Skylights 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 Glass Curtain Walls and Skylights systems will be competitively bid based on the final design prepared by Crown Corr, Inc.

EXPLANATION:

The scope of TG08.11R includes six (6) different glazing systems in various locations throughout the Transit Center:

- W-2: Aluminum-framed insulated glass curtain wall system enclosing the majority of the Transit Center building including retail and office spaces on the first and second floors
- W-3: Glazed curtain wall system enclosing the Grand Hall and Beale Street Lobby
- W-4: Aluminum-framed curtain wall system at the light column from the Rooftop Park extending down through the Bus Deck above the Grand Hall
- W-6: Security ballistic resistant glazing at various sensitive security areas
- W-8: Glazed curtain wall system enclosing the escalators that access the Rooftop Park from the Bus Deck
- W-10: Skylight systems on the Rooftop Park (total of 3) including two elliptical grade-level skylights and one skylight at the top of the light column

Systems W-3, W-4, W-8, and W-10 were originally issued for bid under TG08.1 Glazing Design-Build Construction Services. On January 30, 2014, two bids for TG08.1 were received; both bids were substantially over the TJPA's budget, and thus were rejected. To mitigate cost increases and maintain the Transit Center schedule, the CM/GC determined, in conjunction with the TJPA, Construction Management Oversight consultant (CMO) and counsel, that a collaborative design-build procurement methodology would provide the best opportunity to

procure the Glass Curtain Walls and Skylights with the greatest 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, 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 Glass Curtain Walls and Skylights 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 Glass Curtain Walls and Skylights 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 Glass Curtain Walls and Skylights 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 Glass Curtain Walls and Skylights 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.

Consistent with the above methodology, on November 10, 2014, the CM/GC added systems W-2 and W-6 to the scope of TG08.1 and reissued the package as TG08.11 Glass Curtain Walls and Skylights Design-Build Services in a Request for Proposals (RFP), seeking proposals from qualified firms to provide design services as the design-builder of the Glass Curtain Walls and Skylights systems. Consistent with the methodology described above, proposers were required 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 \$23.5 million.

On December 9, 2014, two firms responded to the RFP; however, one firm's package was delivered after the submission deadline and could not be accepted. The proposal received on time was substantially higher than TJPA's budget of \$34,500,000. As a result of receiving a sole bid that was not within the budget, and through subsequent contractor outreach efforts, the CM/GC, in consultation with the TJPA, decided to reissue the RFP as TG08.11R.

On December 23, 2014, an RFP for TG08.11R was issued. On January 13, 2015, two firms responded to the RFP. The selection committee evaluated the proposals and scored them as follows:

Proposer	Qualifications Proposal (200 max)	Price Proposal (300 max)	Total (500 max)
Crown Corr, Inc.	196	300	496
Woodbridge Glass, Inc.	179	210	389

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

Cost Element	Crown Corr, Inc.	Woodbridge Glass, Inc.
Design Services of TG08.11R	\$2,950,000	\$3,000,000
Construction Fee (% x estimated construction costs of \$23.5 million)	\$4,230,000 (18%)	\$5,000,000 (21.28%)
Construction Overhead (% x estimated construction costs of \$23.5 million)	\$2,820,000 (12%)	\$5,000,000 (21.28%)
Total Proposal Price	\$10,000,000	\$13,000,000

The selection committee determined that Crown Corr, Inc. would provide the best value to TJPA.

The scope of work under this package includes designing and potentially constructing the Glass Curtain Walls and Skylights systems to meet the specified performance requirements and design criteria and intent for a construction cost of approximately \$23.5 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 Glass Curtain Walls and Skylights systems. The Final Construction Cost will be based on the cost of the agreed-upon labor and materials required to fabricate and install the Glass Curtain Walls and Skylights 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 Glass Curtain Walls and Skylights systems. The TJPA and the Trade Subcontractor will share the savings evenly if the Final Construction Cost is less than \$23.5 million.

As noted above, the scope of work recommended for award at this time is only for design services related to the Glass Curtain Walls and Skylights 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 July 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 Glass Curtain Walls and Skylights 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 TG08.11R 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 through a combination of interim bridge financing proceeds and land sales revenues.

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 \$2,950,000 for the design services for TG08.11R: Glass Curtain Walls and Skylights Design-Build Services, thereby increasing the authorized Direct Costs by \$2,950,000 and increasing the authorized Construction Services Fixed Fee by \$224,200, 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 December 23, 2014, the CM/GC issued a Request for Proposals (RFP) for TG08.11R: Glass Curtain Walls and Skylights Design-Build Services (TG08.11R) for the Transbay Transit Center Program to design and potentially construct the complete Glass Curtain Walls and Skylights systems in accordance with the Contract Documents; and

WHEREAS, Under TG08.11R, the Trade Subcontractor will perform all Glass Curtain Walls and Skylights systems design and potentially construction-related activities for the Transbay Transit Center; and

WHEREAS, On January 13, 2015, two 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 TG08.11R; and

WHEREAS, Funds for this Trade Work Subcontract are available from interim bridge financing proceeds and 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 Glass Curtain Walls and Skylights systems as set forth in TG08.11R in an initial amount of \$2,950,000 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 TG08.11R by increasing the authorized Direct Costs by \$2,950,000, and increasing the authorized Construction Services Fixed Fee by \$224,200 (Direct Costs of \$2,950,000 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 Glass Curtain Walls and Skylights systems, staff will return to the Board to request a change order to include the construction of the Glass Curtain Walls and Skylights 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 February 12, 2015.

Secretary, Transbay Joint Powers Authority

AGREEMENT
AMENDMENT NO. 46
BETWEEN
TRANSBAY JOINT POWERS AUTHORITY
AND
WEBCOR/OBAYASHI JOINT VENTURE

THIS AMENDMENT for AGREEMENT is entered into as of the 12th day of February, 2015, by and between the TRANSBAY JOINT POWERS AUTHORITY (TJPA) and Webcor/Obayashi Joint Venture (the CM/GC). By this Amendment No. 46 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. 46. 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 TG08.11R, Glass Curtain Walls and Skylights, on December 23, 2014, and received two proposal on January 13, 2015.

D. A selection committee reviewed the proposals for technical merit and determined that Crown Corr, Inc.'s proposal was responsive and offered the best value to the TJPA.

E. Based on the selection committee's recommendation, the CM/GC shall execute a Trade Work Subcontract with Crown Corr, Inc., for Glass Curtain Wall and Skylights design services, as set forth under TG08.11R, for an amount of \$2,950,000.

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 \$3,174,200 (Trade Package Direct Costs of \$2,950,000 and CM/GC Fixed Fee, calculated at 7.6 percent of Direct Costs, of \$224,200), and the award of Trade Work Subcontract No. TG08.11R to Crown Corr, Inc., for performance of Glass Curtain Walls and Skylights design services.

2. The detailed scope of work and schedule incorporated by this Amendment is provided in the Contract Bid Documents dated August 25, 2014, and all associated Addenda.

IN WITNESS WHEREOF, the parties hereto have executed this contract Amendment No. 46 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