

**STAFF REPORT FOR CALENDAR ITEM NO.: 10**  
**FOR THE MEETING OF: May 14, 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 Architectural Design & Signs, Inc. (ADS), for TG17.1: Signage/Graphics/Directory Systems Design-Build Services (TG17.1) in an amount of \$118,750, thereby increasing authorized Direct Costs by \$118,750 and increasing the authorized Construction Services Fixed Fee by \$4,156, 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 Signage, Graphics and Directory Systems 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 from the Board to execute a change order to incorporate construction services for Signage, Graphics and Directory Systems 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 Signage, Graphics and Directory Systems will be competitively bid based on the final design prepared by ADS.

**EXPLANATION:**

TG17.1 was originally going to be issued for bid as a traditional sealed bid procurement. On August 14, 2014, the CM/GC issued a Request for Qualifications (RFQ) for TG17.1. On September 11, 2014, eight firms responded to the RFQ. On September 25, 2014, a selection committee consisting of representatives from the TJPA, CM/GC, Construction Management Oversight (CMO) consultant, design team, 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:

- Architectural Graphics, Inc.
- Arrow Sign Company
- CNP Signs and Graphics
- Thomas Swan Sign Company, Inc.
- Vomar Products, Inc.

However, as a result of input from bidders, the CM/GC determined, in conjunction with the TJPA and the CMO, that a collaborative design-build procurement methodology would provide the best opportunity to procure the Signage, Graphics and Directory Systems with the greatest competition and at the best price. The TG17.1 bid process was subsequently cancelled, and the trade package was restructured as a design-build procurement and issued as a Request for Proposals (RFP) on March 3, 2015.

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. 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 Signage, Graphics and Directory 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 Signage, Graphics and Directory 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 Signage, Graphics and Directory 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 Signage, Graphics and Directory Systems will be competitively bid based on the final design prepared by the Trade Subcontractor. The TJPA received concurrence from the Federal Transit Administration (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, an estimated construction value of \$2.3 million was provided, and proposers were instructed to multiply their proposed Construction Fee percentage and Construction Overhead percentage by this amount.

On April 14, 2015, four firms responded to the RFP. On April 17, 2015, 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.

After submission of the proposals, one firm discovered that it had misinterpreted the requirements of the RFP and submitted incorrect Construction Fee and Construction Overhead

percentages. As a result of the mathematical errors, the firm subsequently withdrew its proposal from consideration on April 29, 2015.

The selection committee evaluated the three remaining 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>
Architectural Design & Signs, Inc.	325	500	<b>825</b>
Architectural Graphics, Inc.	326	0*	<b>326</b>
L.C. General Engineering and Construction, Inc.	276	0*	<b>276</b>

\*Per the proposal ranking instructions in the RFP, the lowest submitted fee receives 100% of the allowable points. Subsequent proposal points are reduced by the percentage their fee is over the lowest fee. Once a submitted fee is 100% over the lowest fee, 0 points are awarded that proposal.

The price proposals, based on the proposed percentages from the three remaining proposers, are shown below:

<b>Cost Element</b>	<b>Architectural Design &amp; Signs, Inc.</b>	<b>Architectural Graphics, Inc.</b>	<b>L.C. Engineering &amp; Construction, Inc.</b>
<b>Design Services of TG17.1</b>	\$118,750	\$1,447,550	\$200,000
<b>Construction Fee</b> (% x estimated construction costs of \$2.3 million)	\$230,000 (10%)	\$85,150 (3.7%)	\$460,000 (20%)
<b>Construction Overhead</b> (% x estimated construction costs of \$2.3 million)	\$115,000 (5%)	\$170,300 (7.4%)	\$575,000 (25%)
<b>Total Proposal Price</b>	<b>\$463,750</b>	<b>\$1,703,000</b>	<b>\$1,235,000</b>

The selection committee determined that ADS would provide the best value to TJPA.

The scope of work under this trade package includes designing and potentially constructing all graphics, signage and directory systems, such as cast and etched graphics, dimensional lettering signage, pylon signage, illuminated panel signage, non-illuminated panel signage, interpretive graphics, and informational kiosks, to meet the specified performance requirements and design criteria and intent. 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 Signage, Graphics and Directory Systems for the entire Transbay Transit Center. The Final Construction Cost will be based on the cost of the agreed-upon labor, materials and equipment required to fabricate and install the Signage, Graphics and Directory 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 Signage, Graphics and Directory Systems.

As stated above, the scope of work recommended for award at this time is only for design services related to the Signage, Graphics and Directory 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 in fall 2015 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 Signage, Graphics and Directory Systems in accordance with the Contract Documents. All necessary work from mobilization to handover to the next Trade Subcontractor will be included in the scope of work.

The TG17.1 trade package has a Small Business Enterprise (SBE) utilization goal of 20 percent, which applies to the construction services portion of the package. The Trade Subcontractor will be required to demonstrate SBE participation that meets the 20 percent goal at the time the contract is modified to incorporate construction services.

As the awarded direct work has exceeded \$910 million, the construction services fixed fee percentage is reduced to 3.5 percent under the terms of the CM/GC contract. TJPA's budget for TG17.1 is \$3,929,051, and the CM/GC's estimate is \$4,214,093. The total estimated cost of TG17.1 based on the proposal submitted by ADS is \$2,763,750 (\$2,300,000 for estimated direct construction costs, plus \$463,750 for design services, plus the construction fee and construction overhead based on the estimated direct construction costs).

The design portion of 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 Architectural Design & Signs, Inc., in the amount of \$118,750 for the design services for TG17.1: Signage/Graphics/Directory Systems Design-Build Services, thereby increasing the authorized Direct Costs by \$118,750 and increasing the authorized Construction Services Fixed Fee by \$4,156, 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 3.5% of Direct Costs (Contract, Section 00 05 20, ¶5.01); and

WHEREAS, On March 3, 2015, the CM/GC issued a Request for Proposals (RFP) for TG17.1: Signage/Graphics/Directory Systems Design-Build Services (TG17.1) for the Transbay Transit Center Program to design and potentially construct the complete Signage, Graphics and Directory Systems in accordance with the Contract Documents; and

WHEREAS, Under TG17.1, the Trade Subcontractor will perform all Signage, Graphics and Directory Systems design and potentially construction-related activities for the Transbay Transit Center; and

WHEREAS, On April 14, 2015, four proposals were received by the CM/GC. After one bidder withdrew its proposal due to mathematical errors, a selection committee convened and evaluated the remaining three proposals for technical merit and cost and determined that Architectural Design & Signs, Inc., offered the best value to the TJPA for the design scope of services under TG17.1; and

WHEREAS, Funds for the design portion of 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 Architectural Design & Signs, Inc., for design-build services for the Signage, Graphics and Directory Systems as set forth in TG17.1 in an initial amount of \$118,750 for design services only; and be it

FURTHER RESOLVED, That upon award of the Trade Work Subcontract to Architectural Design & Signs, 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 Architectural Design & Signs, Inc. for TG17.1 by increasing the authorized Direct Costs by \$118,750 and increasing the authorized Construction Services Fixed Fee by \$4,156 (Direct Costs of \$118,750 multiplied by the Construction Services Fee of 3.5%) 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 Signage, Graphics and Directory Systems, staff will return to the Board to request a change order to include the construction of the Signage, Graphics and Directory Systems in this Trade Work Subcontract. In the absence of an agreement on Total Construction Cost, staff may request authorization to issue an IFB for the fabrication and installation of the Signage, Graphics and Directory Systems.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of May 14, 2015.

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Secretary, Transbay Joint Powers Authority

**AGREEMENT**  
**AMENDMENT NO. 53**  
**BETWEEN**  
**TRANSBAY JOINT POWERS AUTHORITY**  
**AND**  
**WEBCOR/OBAYASHI JOINT VENTURE**

THIS AMENDMENT for AGREEMENT is entered into as of the 14<sup>th</sup> day of May, 2015, by and between the TRANSBAY JOINT POWERS AUTHORITY (TJPA) and Webcor/Obayashi Joint Venture (the CM/GC). By this Amendment No. 53 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. 53. 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 TG17.1, Signage/Graphics/Directory Systems Design-Build Services, on March 3, 2015, and received four responsive proposals on April 14, 2015.

**D.** A selection committee reviewed the proposals for technical merit and price, and determined Architectural Design & Signs, Inc., to be responsive and 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 Architectural Design & Signs, Inc., for Signage, Graphics and Directory Systems design services, as set forth under TG17.1, for an amount of \$118,750.

**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 \$122,906 (Trade Package Direct Costs of \$118,750 and CM/GC Fixed Fee, calculated at 3.5 percent of Direct Costs, of \$4,156), and the award of Trade Work Subcontract No. TG17.1 to Architectural Design & Signs, Inc., for performance of Signage, Graphics and Directory Systems design services.

**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. 53 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