

STAFF REPORT FOR CALENDAR ITEM NO.: 14
FOR THE MEETING OF: November 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 McGuire and Hester as the responsible bidder submitting the lowest responsive bid in the amount of \$32,280,000 for TG13.1: Roof Park Landscaping and Irrigation (TG13.1), thereby increasing authorized Direct Costs by \$32,280,000, and increasing the authorized Construction Services Fixed Fee by \$1,129,800, under and in accordance with Contract No. 08-04-CMGC-000, Section 00 05 20, ¶5.01B.

EXPLANATION:

On November 5, 2014, the CM/GC issued a Request for Qualifications (RFQ) for TG13.1. On December 4, 2014, eight firms responded to the RFQ. On December 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:

- Build Group, Inc.
- Jensen Corporation Landscape Contractors
- Marina Landscape, Inc.
- McGuire and Hester
- ValleyCrest Landscape Development, Inc.

On February 26, 2015, the TG13.1 package was issued for bid. A pre-bid conference was held on March 18, 2015. Four addenda to TG13.1 were issued during the bid period to provide clarifications, respond to bidders' questions, and provide updated specifications, drawings, and sketches. The addenda are briefly described as follows:

- Addendum #1 incorporated Architect's Supplemental Instruction 130 (Revised Site Grading at Muni Bus Plaza and Update Landscape Pre-grow Requirements Plans and Specifications) into the IFC set.
- Addendum #2 extended the bid date to June 30, 2015, from April 23, 2015, at the bidders' request.
- Addendum #3 provided for a bid stipend of \$50,000 to the second and third lowest responsible bidders with bids within 30% of the lowest responsive bid in order to maintain active bidder participation.
- Addendum #4 was an administrative addendum to officially incorporate into the Contract Documents all responses to TG13.1 bidders' questions during the bid period.

The scope of work under this package includes furnishing and installing all landscaping and irrigation for the Rooftop Park of the Transbay Transit Center, including hardscape and site furnishings. The major items of work for this package consist of:

- Roof Park Substructure – geosynthetic fill under planting and hardscape
- Roof Park Hardscape – plaza paving and pathways
- Contract Grow and Acclimatization – early procurement of trees prior to installation
- Roof Park Landscaping – all plant material including trees, plants and ground cover
- Roof Park Maintenance Period – required plant maintenance for 1 year after completion
- Roof Park Utility Corridor –trench for installation of utilities by mechanical, electrical and plumbing trades
- Roof Park Drainage and Irrigation
- Roof Park Site Furnishings – benches, seating and tables
- Bus Fountain Hardscape – paving at Bus Fountain
- Playground Structure at Children’s Play Area

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. On June 16, 2015, four VE proposals were received. On June 23, 2015, the VE evaluation team, consisting of representatives from the TJPA, design team, CM/GC, CMO consultant, and PMPC consultant evaluated the VE proposals. The following VE proposal was accepted:

VE Proposal #3: Acceptance of Precast Concrete Supplier

- Proposed Savings: \$500,000
- Reason for Acceptance: The proposed precast concrete supplier is acceptable to the design team.

The following three VE proposals were not accepted:

VE Proposal #1A: Geo-synthetic EPS29 (geofoam) in lieu of EPS39

- Proposed Savings: \$679,522
- Reason for Rejection: Geofoam is a lightweight synthetic fill material that is less dense than EPS39. The proposed product has less compressive resistance and flexural strength than required in the Contract Documents and did not meet the required minimum load bearing capacities.

VE Proposal #1B: Geo-synthetic EPS29 (geofoam) in lieu of EPS39 (submitted by a different bidder)

- Proposed Savings: \$380,000
- Reason for Rejection: Same as VE Proposal #1A above.

VE Proposal #2: Geo-synthetic EPS19 in lieu of EPS39

- Proposed Savings: \$1,855,619
- Reason for Rejection: Same as VE Proposal #1A above.

To ensure the best value for the bid scope, TJPA included in the package one deductive alternate:

- Delete Plant and Elliptical Rails

These rails were inadvertently priced by the TG07.3 Miscellaneous Metals Trade Subcontractor at \$740,000. As the rails were not intended to be part of the TG07.3 scope of work, they were removed from the package during negotiations with the sole bidder. However, the TG07.3 Trade Subcontractor was requested to hold its bid price until the TG13.1 bids were received so that the TJPA could accept the lower of the two costs for this item. Based on the bids received for TG13.1, staff recommends accepting this deductive alternate and procuring the plant and elliptical rails from the TG07.3 Trade Subcontractor for \$740,000, a savings to the TJPA of \$260,000.

On June 30, 2015, three bids were received, opened, and evaluated. Below is a summary of the bid results:

	Build Group, Inc.	McGuire and Hester	ValleyCrest Landscape Development, Inc.
Roof Park Landscaping and Irrigation	Incomplete	\$29,150,000	\$30,707,000
1 year Landscape Maintenance	Incomplete	\$150,000	\$455,000
1 mile of trenching for utilities	Incomplete	\$180,000	\$565,000
Cranes/Hoisting	Incomplete	\$3,300,000	\$4,725,000
Deductive Alternate – Plant and Elliptical Rails	Incomplete	\$1,000,000	\$700,000
Total Base Bid	\$65,563,050	\$33,780,000	\$37,152,000
Accepted Value Engineering Item		-\$500,000	
Total Bid Price	\$65,563,050	\$33,280,000	\$37,152,000

McGuire and Hester submitted the lowest responsive bid, based on the Total Bid Price (Base Bid less the accepted VE item) for the bid selection. The recommended award amount is \$32,280,000, which includes the sum of the Total Base Bid Amount (\$33,780,000), the deductive alternate (-\$1,000,000), and the accepted VE item (-\$500,000).

McGuire and Hester’s bid includes 16.83% SBE participation, exceeding the 10% SBE goal on the package. McGuire and Hester’s bid includes three SBE firms. No bid protests were received during the bid protest period, which ended on July 8, 2015.

As noted above, this trade package included a bid stipend of \$50,000 to the second and third lowest responsible bidders with responsive bids within 30% of the lowest responsive bid. The CM/GC offered the bid stipend to maintain active bidder participation and maximize the bidder pool after learning that four of the five prequalified bidders were no longer interested in bidding, leaving only one bidder actively pursuing bidding for the project. ValleyCrest Landscape Development, Inc., will receive a \$50,000 stipend, having submitted a bid that is within 30% of the lowest responsive bid. Build Group submitted a bid that was incomplete and also more than 30% above the lowest responsive bid and therefore will not receive a stipend.

According to the CM/GC, of the two prequalified bidders that did not submit bids, Marina Landscape, Inc. was too busy with current and pending work opportunities to take on the Transbay project, and Jensen Corporation Landscape Contractors believed that it needed to participate as part of a joint venture. Jensen approached both McGuire and Hester and ValleyCrest Landscape Development, Inc., neither of which were interested in forming a joint venture.

The CM/GC's estimate is \$24,500,000. Based on CM/GC outreach efforts, the major drivers of the cost difference between the CM/GC's estimate and the submitted bid prices are:

- The unique design of the park and its many features
- Limited number of available bidders
- A large project that consumes much of the bidders' capacity and limiting their opportunity to pursue other projects
- Inefficiencies and low productivity rates assumed by the bidders due to site logistics
- Perceived increased risk of a large public works project

TJPA's budget for TG13.1 was \$19,426,696. An increase to the budget for this package is included in the Interim Program budget update being recommended to the TJPA Board of Directors. The initial Notice to Proceed for 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 McGuire and Hester as the responsible bidder submitting the lowest responsive bid in the amount of \$32,280,000 for TG13.1: Roof Park Landscaping and Irrigation, thereby increasing the authorized Direct Costs by \$32,280,000, and increasing the authorized Construction Services Fixed Fee by \$1,129,800, 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 February 26, 2015, the CM/GC issued an Invitation for Bids for TG13.1: Roof Park Landscaping and Irrigation (TG13.1) for the Transbay Transit Center Program to furnish and install all Rooftop Park level landscaping and irrigation for the Transbay Transit Center, including hardscaped and site furnishings in accordance with the Contract Documents; and

WHEREAS, Under TG13.1, the Trade Subcontractor will perform all Rooftop Park level landscaping and irrigation construction-related activities for the Transbay Transit Center; and

WHEREAS, On June 30, 2015, three bids were received and opened publicly; and

WHEREAS, CM/GC and TJPA have determined that McGuire and Hester is the responsible bidder submitting the lowest responsive bid, with a total bid price of \$32,280,000, which includes the sum of the Total Base Bid Amount (\$33,780,000), the deductive alternate (-\$1,000,000), and the accepted VE item for proposed precast concrete supplier (-\$500,000); and

WHEREAS, Funds for the initial Notice to Proceed 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 TG13.1 with McGuire and Hester as the responsible bidder submitting the lowest responsive bid in the contract amount of \$32,280,000; and be it

FURTHER RESOLVED, That upon award of the Trade Work Subcontract to McGuire and Hester, 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 McGuire and Hester for TG13.1 by increasing authorized Direct Costs by \$32,280,000, and increasing the authorized Construction Services Fixed Fee by \$1,129,800 (Direct Costs of \$32,280,000 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.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of November 12, 2015.

Secretary, Transbay Joint Powers Authority

AGREEMENT
AMENDMENT NO. 60
BETWEEN
TRANSBAY JOINT POWERS AUTHORITY
AND
WEBCOR/OBAYASHI JOINT VENTURE

THIS AMENDMENT for AGREEMENT is entered into as of the 12th day of November, 2015, by and between the TRANSBAY JOINT POWERS AUTHORITY (TJPA) and Webcor/Obayashi Joint Venture (CM/GC). By this Amendment No. 60, 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. 60. 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 TG13.1: Roof Park Landscaping and Irrigation package on February 26, 2015, and received and publicly opened three bids on June 30, 2015.

D. McGuire and Hester was the responsible bidder submitting the lowest responsive bid in the amount of \$32,280,000.

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 \$33,409,800 (Trade Package Direct Costs of \$32,280,000 and CM/GC Fixed Fee, calculated at 3.5 percent of Direct Costs, of \$1,129,800) and the award of Trade Subcontract No. TG13.1 to McGuire and Hester, for performance of the construction of TG13.1: Roof Park Landscaping and Irrigation.

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. 60 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