

**THIS STAFF REPORT COVERS CALENDAR ITEM NO.: 9
FOR THE MEETING OF: December 9, 2010**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Amending Contract No. 08-04-CMGC-000, authorizing Webcor/Obayashi Joint Venture to award a Trade Subcontract to **M. Squared Construction Incorporated** as the responsible bidder submitting the lowest responsive bid in the amount of **\$1,699,000** for TG04.3: Howard, First & Beale Street Water Systems, and thereby increasing authorized Direct Costs under Contract No. 08-04-CMGC-000 (Section 00 05 20 Agreement, ¶5.01B), by \$1,699,000 and increasing the authorized Construction Services Fee by \$139,318.

SUMMARY:

- On February 4, 2010, the CM/GC issued a Request for Qualifications (RFQ) for the sewer, water and AWSS scope of work to be performed as part of the relocation of utilities. Sixteen qualification packages were received on March 11, 2010 and evaluated by a panel of CM/GC, TJPA, and PMPC staff. Relocation of utilities has been set aside for 100 percent Small Business Enterprise (SBE) participation, and seven SBE contractors were determined to be qualified. Four additional contractors have qualified during the various bid periods for utility relocation packages.
- The Invitation for Bids (IFB) was issued on October 13, 2010. Three addenda were issued during the bid period to clarify specifications and respond to questions from bidders.
- The scope of work is water utility relocations and replacement on Howard Street between First and Main Streets, on Beale Street between Natoma and Howard, and on Beale Street between Minna and Mission Streets.
- Staff recommends awarding Trade Subcontract TG04.3 to **M. Squared Construction Incorporated** as the responsible bidder submitting the lowest responsive bid, in the total amount of \$1,699,000. Said amount includes a base bid of \$1,515,000, a \$56,000 allowance for Soil Disposal Premium for Hazardous Material Class I, a \$28,000 allowance for Soil Disposal Premium for Hazardous Material Class II, and \$100,000 allowance for Traffic Control by uniformed off-duty San Francisco Police Officers.
- **M. Squared Construction Incorporated** is an SBE, certified by both the San Francisco Human Rights Commission and the California Department of General Services. Four SBE subcontractors are also included in the bid; this contract will have 100% SBE participation.
- This Trade Subcontract will be funded by the American Recovery and Reinvestment Act funding granted to the TJPA by the Federal Railroad Administration.

EXPLANATION:

Scope of Work

The scope of work under this package is relocation and installation and new domestic water utility lines on Howard Street between First and Main Streets, on Beale Street between Natoma and Howard Streets, and on Beale Street between Minna and Mission Streets. Work includes demolition and replacement of existing water lines, water laterals, fire hydrants and hydrant laterals along with installation of new fire hydrants and associated laterals. Sewer utility and Auxiliary Water Supply Systems (AWSS) demolition and installation are excluded (under separate bid package). Water service to adjacent buildings will remain active during construction.

Schedule

The time allowed for completion is 146 calendar days from issuance of notice to proceed to the Trade Subcontractor.

Invitation for Bids

The Invitation for Bids (IFB) was issued on October 13, 2010, noting that the engineer's estimate was \$1,643,262. Three addenda were issued during the bidding period as necessary to clarify and respond to bidder's questions.

Bids Received

On November 13, 2010 TJPA received and opened one bid, as follows:

<u>Bidder</u>	<u>Bid Amount (Base Plus Allowances)</u>
1. M Squared Construction Incorporated 1278 20 th Avenue – suite C San Francisco, CA 94122	\$1,699,000

As **M. Squared Construction Incorporated** was pre-qualified, CM/GC, TJPA and PMPC staff is satisfied that the company possesses the requisite experience to perform the scope of work for this subcontract. **M. Squared Construction Incorporated** complied with the instructions to bidders and submitted all required forms and certifications, including certification that it is signatory to a recognized apprenticeship and/or training program under Chapter 4 of the California Code as certified by the State of California Division of Apprenticeship Standards.

M. Squared Construction Incorporated has also included Small Business Enterprise (SBE) participation of 100% in its contract bid, meeting the contract goal of one hundred percent (100%).

Following the bid opening, Webcor/Obayashi staff contacted all other pre-qualified bidders to ascertain why more bids were not received. There were various reasons given by potential bidders for not proposing on the project, including complex scope documents; bidders not wanting to take responsibility for providing construction quantity take-offs; competing business opportunities; not understanding the SBE participation rules regarding credit for suppliers

although they are laid out in the TJPA SBE Program; specification requirements that they felt were arduous and concern regarding liquidated damages. Webcor/Obayashi will address these issues in future bid packages by making the SBE participation rules regarding supplier credit more clear, possibly revising the bid form to provide estimated quantities, and will also be available to schedule technical workshops to walk potential bidders through the drawings and ensure clarity. Because the sole bidder for this package could have reasonably expected that there would be competition—given the number of pre-qualified contractors and the number of pre-qualified contractors that attended the mandatory pre-bid—and because the base bid was less than the Engineer’s Estimate, this is not a sole source procurement.

Bid Protests

No bid protests were received.

RECOMMENDATION:

Staff recommends that the TJPA Board of Directors authorize amending Contract No. 08-04-CMGC-000, authorizing Webcor/Obayashi Joint Venture to award a Trade Subcontract to **M. Squared Construction Incorporated** as the responsible bidder submitting the lowest responsive bid in the amount of **\$1,699,000** for TG TG04.3: Howard, First & Beale Street Water Systems.

ENCLOSURE:

1. Resolution
2. Contract Amendment

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, On March 12, 2009, the TJPA awarded a contract to Webcor/Obayashi Joint Venture as Construction Manager/General Contractor ("CM/GC") for the Transbay Transit Center Building and Related Structures (Contract No. 08-04-CMGC-000 (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 Subcontract, (b) authorize the associated increase in allowable Direct Costs under the Contract (Agreement (Section 00 05 20), ¶5.01), and (c) authorize the CM/GC to charge a Construction Services Fee invoiced at a rate of 8.2% of Direct Costs; and

WHEREAS, On October 12, 2010, the CM/GC advertised for bids for TG04.3: Howard, First & Beale Street Water Systems ("TG04.3"), which is part of the Transbay Transit Center Program and which involves the relocation of utilities necessary to facilitate construction of the Transbay Transit Center; and

WHEREAS, Under TG04.3, the Trade Subcontractor will perform water utility relocations on Howard Street between First and Main Streets, on Beale Street between Natoma and Howard Streets, and on Beale Street between Minna and Mission Streets; and

WHEREAS, On November 12, 2010, one bid was received and opened publicly; and

WHEREAS, The bidder could have reasonably expected there to be competition given the number of pre-qualified contractors and thus this is not a sole source procurement; and

WHEREAS, CM/GC and TJPA have determined that **M. Squared Construction Incorporated** of San Francisco, California, is the responsible bidder submitting the lowest responsive bid, with a bid of \$1,699,000; and

WHEREAS, Funds for this contract are available from the American Recovery and Reinvestment Act grant from the Federal Railroad Administration; and

WHEREAS, The time allowed for completion of the work under this contract is 146 calendar days after issuance of the Notice to Proceed; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes Webcor/Obayashi Joint Venture to award a Trade Subcontract to **M. Squared Construction Incorporated** as the responsible bidder submitting the lowest responsive bid in the amount of \$1,699,000; and be it

FURTHER RESOLVED, That upon award of TG04.3, the Trade 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 Subcontract TG04.3: Howard, First & Beale Street Water Systems, by increasing authorized Direct Costs under Contract No. 08-04-CMGC-000 (Section 00 05 20 Agreement, ¶5.01B), by \$1,699,000 and increasing the authorized Construction Services Fee by \$139,318.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of December 9, 2010.

Secretary, Transbay Joint Powers Authority

AGREEMENT
AMENDMENT NO. 11
BETWEEN
TRANSBAY JOINT POWERS AUTHORITY
AND
WEBCOR/OBAYASHI, J.V.

THIS AMENDMENT for AGREEMENT is entered into as of the _____ day of _____, 2010 by and between the TRANSBAY JOINT POWERS AUTHORITY ("TJPA") and Webcor/Obayashi, J.V. (the "CM/GC"). By this Amendment No. 11 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. 11. 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 CM/GC is required to procure construction services through the award of Trade Packages, at which time the 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 TG04.3: Howard, First & Beale Street Water Systems on October 13, 2010, and received and publicly opened one bid on November 12, 2010.

D. **M. Squared Construction Incorporated** was the responsible bidder submitting the lowest responsive bid in the amount of \$1,699,000, which consists of a Base Bid of \$1,515,000, a \$56,000 allowance for Soil Disposal Premium for Hazardous Material Class I, a \$28,000 allowance for Soil Disposal Premium for Hazardous Material Class II, and \$100,000 allowance for Traffic Control by uniformed off-duty San Francisco Police Officers.

Terms and Conditions

1. By this Amendment the TJPA authorizes an increase in the CM/GC scope of work and the value of the Contract Sum by \$1,838,318 (Trade Package Direct Costs of \$1,699,000 and CM/GC Fixed Fee of \$139,318, and the award of Trade Subcontract No. TG04.3 to **M. Squared Construction Incorporated** for performance of TG04.3: Howard, First & Beale Street Water Systems.

2. The detailed scope of work and schedule incorporated by this Amendment is provided in the Invitation for Bid Documents dated October 13, 2010 and all associated Addenda.

IN WITNESS WHEREOF, the parties hereto have executed this contract Amendment No. 11 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:

Dennis J. Herrera, City Attorney

By: _____
Deputy City Attorney

WEBCOR/OBAYASHI, JOINT VENTURE

Authorized Signature

Printed Name

Title