

**STAFF REPORT FOR CALENDAR ITEM NO.: 8
FOR THE MEETING OF: March 25, 2013**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Under Contract No. 08-04-CMGC-000, authorize the Executive Director to enter into negotiations with Webcor/Obayashi Joint Venture and Skanska USA Civil West California District Inc., for Trade Package TG07.1, Structural Steel Superstructure to determine a fair and reasonable price for this Trade Subcontract.

SUMMARY:

On May 7, 2012, Webcor/Obayashi (CM/GC) issued a request for qualifications for the provision of structural steel superstructure construction services on the Transbay Transit Center. Six qualification packages were received on June 27, 2012, and evaluated by a panel consisting of staff from the CM/GC, TJPA, Program Management/Program Controls consultant, and Turner Construction, the Construction Management Oversight consultant. Of the six qualification packages received, five contractors were determined to be qualified.

The invitation for bids (IFB) was issued on October 31, 2012. One bid was received on March 7, 2013, from Skanska USA Civil West California District (Skanska). Skanska's bid exceeded the engineer's estimate by \$115M. Staff seeks authority to negotiate with Skanska to significantly lower the price for the Structural Steel Superstructure Trade Package to a mutually agreeable fair and reasonable Trade Subcontract value.

EXPLANATION:

Scope of Work

The scope of work under this package is for the provision and erection of the structural steel superstructure for the Transbay Transit Center. This work includes, but is not limited to, the fabrication and installation of steel castings, pipe columns, large span beams/girders, and metal deck and associated secondary steel, and the engineering, coordination, procurement, and complete installation of all respective structural steel superstructure systems. Erection of the superstructure will require significant coordination with adjacent properties and traffic relocation.

Schedule

The erection of the steel superstructure is on the critical path of the project. Resolving the over budget issue with this bid in a timely manner is of the utmost importance to the project schedule.

Background

On May 7, 2012, the CM/GC issued an RFQ for the provision of structural steel superstructure construction services on the Transbay Transit Center. Six qualification packages were received on June 27, 2012, and five contractors were determined to be qualified, including Skanska, SME, Shuff, CANAM, and Herrick.

The IFB, issued on October 31, 2012, estimated the value of the trade package between \$110M and \$120M. In recognition of the improving San Francisco construction market, the engineer's estimate was subsequently revised to \$144.5M.

The CM/GC mounted an outreach effort to the twenty largest steel erectors in the country prior to holding a pre-bid conference on November 15, 2012. All of the pre-qualified contractors were in attendance.

To maximize competition for the contract, the CM/GC extended the due date for submission of qualification packages from January 18 to February 22, 2013. The CM/GC issued eight addenda during the bidding period to respond to bidder questions and clarify the requirements for the contract. The CM/GC also extended the original bid date twice, setting a final date of March 7, 2013. In spite of these efforts, CM/GC received only one bid.

<u>Bidder</u>	<u>Bid Amount</u>
Skanska USA Civil West California District Inc.	\$259,528,000

Options

In the event that a single bid is received, the TJPA has several options. One option is to reject the bid and re-let the trade package. Another option is to reject the bid, repackage the trade package (*i.e.*, break the trade package into smaller bid packages), and re-let the trade packages for bid. Under either approach, the goal is to increase participation/ competition in the bid process by other potential bidders. A third option, as provided for under San Francisco Administrative Code section 6.23 and allowed by Federal Transit Authority regulations, is to enter into price negotiations with the sole bidder. This last option has the potential to be the most expedient alternative (*i.e.*, no schedule impact) to award the Trade Subcontract, subject to Board approval, if a reasonable and fair price is agreed upon by the parties.

Price Negotiation Procedure

In order to enter into price negotiations with the sole bidder, several steps must be taken. First, the TJPA must determine that there was adequate competition. This step requires the TJPA to determine why other prequalified bidders did not submit a bid. If other prequalified bidders indicate that they did not bid for reasons that are unrelated to the specification and/or solicitation terms, then competition may be presumed to have been adequate. Also, this determination should involve an evaluation of whether further outreach efforts or removal/modification of certain requirements in the contract would result in receiving more than one bid. If further outreach efforts or removal/modification of certain requirements in the contract would not result in more than one bid, the competition may be deemed adequate.

The TJPA has determined that adequate competition existed. Based on its communications with the other prequalified bidders, the primary reasons for the lack of other bids are: prequalified bidders have sufficient existing work and lack the necessary manpower to undertake an additional large project, and other and potentially more lucrative work exists based on an

upswing in current market conditions. While other reasons were provided, the two reasons listed above were consistently communicated to the TJPA by other prequalified bidders.

Second, after competition is determined to have been adequate, then a price analysis must be performed to determine that the bid price is fair and reasonable. The TJPA and the CM/GC have performed an independent analysis of Skanska's bid price and met with Skanska on two separate occasions to discuss its bid price. Based on this analysis and these meetings, the TJPA has determined that Skanska's bid price is not fair and reasonable.

Third, after competition is determined to have been adequate and the bid price is determined to not be fair and reasonable, the TJPA may, subject to Board approval, enter into negotiations with Skanska in an attempt to establish a different price that is fair and reasonable.

Fourth, if a fair and reasonable price is agreed upon, the contract may be awarded, subject to Board approval. If a fair and reasonable price is not agreed upon, the bid may be rejected and the trade package re-let (in the same or a modified form).

The foregoing procedure is consistent with the FTA's Third Party Contracting Circular 4220.1.F and San Francisco Administrative Code section 6.23 in the event only one bid is received.

Proposed Resolution

Based on the TJPA's determination that adequate competition existed and that Skanska's bid price was not fair and reasonable, the TJPA, subject to Board approval, will enter into price negotiations with Skanska with the objective to significantly lower the bid price to a mutually agreeable amount that is fair and reasonable. Assuming a fair and reasonable price is determined that is mutually agreed upon, the TJPA will seek Board approval of the Trade Subcontract award to Skanska for the agreed upon price.

RECOMMENDATION:

Staff recommends that the Board of Directors authorize the Executive Director to enter into price negotiations with the CM/GC and Skanska USA Civil West California District Inc. to determine a fair and reasonable price for the Trade Subcontract for the construction of the structural steel superstructure for the Transbay Transit Center.

In the event negotiations are successful, the resulting Trade Subcontract will be funded primarily by land sales' proceeds.

ENCLOSURES:

1. Resolution

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, On March 12, 2009, the TJPA Board of Directors awarded Contract No. 08-04-CMGC-000 (“Contract”) to the Webcor/Obayashi, Joint Venture (the “CM/GC”) to perform pre-construction and construction services for the Transbay Transit Center Building and Related Structures Project (the “Project”); and

WHEREAS, On May 7, 2012, the CM/GC issued a request for qualifications for the provision of structural steel superstructure construction services on the Transbay Transit Center; and

WHEREAS, On June 27, 2012, the CM/GC received six qualification packages from contractors. On that date, a panel consisting of staff from the CM/GC, the TJPA, the Program Management/Program Controls consultant, and the Construction Management Oversight consultant determined that five of the six contractors were qualified to submit bids for structural steel superstructure construction services; and

WHEREAS, On October 31, 2012, the CM/GC issued an Invitation for Bids (IFB) for Trade Package TG07.1, Structural Steel Superstructure, which is part of the Transbay Transit Center Program and which involves the fabrication and erection of the structural steel necessary to facilitate the construction of the Transbay Transit Center; and

WHEREAS, On March 7, 2013, the CM/GC received one bid from Skanska USA Civil West California District (Skanska) for the Structural Steel Superstructure Trade Package; and

WHEREAS, Skanska’s bid exceeded the engineer’s estimate by \$115 million; and

WHEREAS, Following receipt of Skanska’s bid, the TJPA, in conjunction with the CM/GC, contacted other qualified bidders and determined that adequate competition existed; and

WHEREAS, Following receipt of Skanska’s bid and a determination that adequate competition existed, the TJPA, in conjunction with the CM/GC, determined that Skanska’s bid price was not fair and reasonable; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the TJPA’s Executive Director to enter into price negotiations with Skanska with the objective to significantly lower the price for the Structural Steel Superstructure Trade Package to a mutually agreeable fair and reasonable Trade Subcontract value.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of March 25, 2013.

Secretary, Transbay Joint Powers Authority