

Date: July 22, 2020

To: Board of Directors



From: Doug Kelsey

Subject: RESOLUTION NO. 20-07-32 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT MODIFICATION WITH STACY AND WITBECK, INC. FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES FOR THE TRACK REHABILITATION PROJECT

1. Purpose of Item

This Resolution requests that the TriMet Board of Directors (Board) authorize the General Manager or his designee to execute a modification (Modification) to the contract with Stacy and Witbeck, Inc. (SWI) for construction manager/general contractor (CM/GC) services for the Track Rehabilitation Project (Project).

2. Type of Agenda Item

- Initial Contract
- Contract Modification
- Other _____

3. Reason for Board Action

Board approval is required for goods and services contracts obligating TriMet to pay in excess of \$1,000,000.

4. Type of Action:

- Resolution
- Ordinance 1st Reading
- Ordinance 2nd Reading
- Other _____

5. Background

When TriMet procured Construction Services for the Steel Bridge improvements, TriMet also determined that track rehabilitation work was necessary at multiple locations throughout the system. Those locations included NE Holladay (between 9th and 11th); SW 10th and Morrison; the Jackson Terminus; multiple crossings in Gresham, and the Banfield Curves (near 97th). Therefore, at its August 2016 meeting, the Board authorized an exemption from the low bid procurement requirement (Resolution 16-08-53) in order for TriMet to obtain a CM/GC to carry out the Project.

While preparing the CM/GC Request for Proposals, TriMet staff became aware of the need for additional track rehabilitation work, including safety upgrades. In order to increase efficiency, staff requested a new exemption from the low bid requirement for the Project, in consideration of its additional scope. At its February 2017 meeting, the Board approved Resolution 17-02-10 granting the request. This exemption allowed TriMet to utilize a competitive Request for Proposal (RFP) process to select the most qualified contractor to

provide CM/GC services for the Project.

During the February 2017 meeting, the Board was advised that the total cost for the Steel Bridge Transit Improvements and Track Rehabilitation Project would be approximately \$20,000,000, over a five-year period. Subsequently, at its May 2017 meeting, the Board approved Resolution 17-05-46, authorizing a Contract with SWI for preconstruction services in an amount not-to-exceed \$126,090.

Package 1

At its March 2018 meeting, the Board approved Resolution 18-03-31, authorizing a series of contract modifications with SWI for the Project, including construction services for Package 1, Steel Bridge Phase 1 and Providence Park MAX Improvements, in an amount not to exceed \$1,949,071.

Package 2

At its August 2018 meeting, the Board approved Resolution 18-08-59, authorizing a contract modification with SWI to include construction services for Package 2, the Hillsboro MAX Improvements, in an amount not to exceed \$2,297,082 (this Resolution included construction services, fee, and a change order allowance).

Package 3

At its May 2019 meeting, the Board approved Resolution 19-05-37 authorizing another contract modification with SWI to add construction services for Package 3 in an amount not to exceed \$3,977,771 (this Resolution also included construction services, fee, and a change order allowance). That modification included improvements to the approaches to the Steel Bridge and NE Holladay (between 9th and 11th), known as the Lloyd Improvements Project, and procurement of long lead time materials for the next phase of Steel Bridge improvements planned for construction during fiscal year 2020.

Package 4

At its August 2019 meeting the Board approved Resolution 19-08-63, authorizing a contract modification with SWI for package 4, to prepare for track rehabilitation work during the Cleveland Civil and Signals Improvements shutdown, in an amount not to exceed \$1,564,052 (including construction services, fee, and a change order allowance). Primarily, this work consisted of deconstructing rail-roadway crossings, replacing failed and/or deteriorated materials and wooden crossties, and reconstructing the crossings.

Package 5

Most recently, at its March 2020 meeting, the Board approved Resolution No. 20-03-13, which authorized additional work with SWI under construction services Package 5, Steel Bridge (East and West Spans) and Lift Span. The modification of SWI's contract for Package 5 brought the total contract authority for the Project to \$19,781,080.

Current Resolution (Package 6)

The current Resolution would authorize additional construction services with SWI for Package 6, Track Rehabilitation Work, and includes funding authority:

- 1) To procure construction services programmed in the FY2021 Capital Budget to rebuild the 33rd Avenue track curves between the Hollywood Transit Center and Holladay Park MAX station and to rebuild the at-grade bus crossings at the Gateway Transit Center,
- 2) To support TriMet Maintenance-of-Way (MOW) in responding to unplanned emergency work related to the Project,
- 3) For Track Rehabilitation work planned for FY2022 (subject to inclusion in the FY2022 budget) to rebuild the 19A/B track single crossover just east of the Holladay Park MAX Station, and

4) For additional pre-construction services associated with the items above.

Through this Resolution, the Modification of SWI's contract for Package 6 will increase the contract authority by \$6,000,000, plus a 12% change order allowance. If the Resolution is approved, it will establish a new total contract authority for the Project of \$26,465,080, as shown below:

Total Contract Authority Previously Approved (through Res 20-03-13)	\$19,781,080
Construction Services Modification (Package 6)	\$5,700,000
Construction Fee (authorized in Package 5)	\$300,000
Amount of Current Contract Modification	\$6,000,000
Change Order Allowance (12% of Construction)	\$684,000
Additional Contract Authority Requested by this Resolution	\$6,684,000
Total Contract Authority for Project upon Passage of this Resolution	\$26,465,080

SWI has performed very satisfactorily thus far and there have been no major safety incidents or disputes. Competitive pricing of the additional construction tasks has been ensured and will continue to be ensured through open book price negotiations with TriMet and competitive bidding of subcontractor work scopes as appropriate, in accordance with TriMet's CM/GC practices.

6. Procurement Process

The contract was procured through a competitive RFP process.

7. Diversity

In its original proposal, SWI stated that it expected to obtain M/W/ESB/SDBVE participation of approximately 18 percent through subcontracting opportunities, including permit coordination, site security, construction survey, metal fabrication, and train signal modifications. For package 1, SWI expected to achieve 17.2% utilization. Instead, it achieved 18.44%. For package 2, SWI expected to achieve 18.1% utilization, and was able to achieve 16.24%.

Package 3 includes scope for special track work material procurement that is exempt from M/W/ESB/SDBVE participation because there are no certified firms in this market. TriMet's Diversity department supported this exemption. For the balance of package 3, SWI expected to achieve 18% utilization and achieved 18.51%.

For package 4, SWI expects to achieve 18% utilization, and for package 5, SWI expects to achieve 18.2% utilization. Staff expects SWI to be able to achieve comparable results for package 6.

8. Financial/Budget Impact

The funding for the 33rd Curves and Gateway Crossing Panels and preconstruction services in support of the listed items being requested by this Resolution are included in the adopted FY2021 Capital budget.

Emergency work in support of MOW would be funded by MOW's FY2021 budget and will be limited to funds available.

Notice to proceed on the portion of the Contract Modification for Track Rehabilitation work planned for FY2022 for rebuilding the 19A/B track single crossover just east of the Holladay Park MAX Station would not be issued until after the Board adopts the FY2022 budget including that funding.

Costs for these scopes of work will be negotiated using established "open book" processes and supported with independent estimates to ensure they are fair and reasonable.

9. Impact if Not Approved

If this Resolution is not approved, TriMet would need to re-procure construction work for projects included in the FY2021 budget, which may not be possible within the current construction schedule. Further, TriMet would not have access to SWI's services to support MOW's response to emergency work.

RESOLUTION NO. 20-07-32

**RESOLUTION NO. 20-07-32 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A
CONTRACT MODIFICATION WITH STACY AND WITBECK, INC. FOR
CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES FOR
TRACK REHABILITATION PROJECT**

WHEREAS, TriMet has authority under ORS 267.200 to enter into a contract modification (Modification) with Stacy and Witbeck, Inc. for construction manager/general contractor services for the Steel Bridge Transit Improvements and Track Rehabilitation Project (Project); and

WHEREAS, the total amount of the Modification exceeds the contract amount originally authorized by the TriMet Board of Directors (Board); and

WHEREAS, by Resolution dated October 25, 2017, the Board adopted a Statement of Policies requiring the Board to approve goods and services contracts obligating TriMet to pay in excess of \$1,000,000;

NOW, THEREFORE, BE IT RESOLVED:

1. That the Modification shall conform with applicable law.
2. That the General Manager or his designee is authorized to execute the Modification in the amount of \$6,684,000, through the Project's anticipated end date of June 30, 2023.

Dated: July 22, 2020

Attest:

Presiding Officer

Recording Secretary

Approved as to Legal Sufficiency

Gregory E. Skillman

Legal Department