

**Date:** March 25, 2020

**To:** Board of Directors



**From:** Doug Kelsey

**Subject: RESOLUTION NO. 20-03-13 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 STEEL BRIDGE TRANSIT IMPROVEMENTS AND TRACK REHABILITATION PROJECTS**

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**1. Purpose of Item**

This Resolution requests that the TriMet Board of Directors (Board) authorize the General Manager to execute a modification (Modification) to the contract with Stacy and Witbeck, Inc. (SWI) for construction manager/general contractor (CM/GC) services for the Steel Bridge Transit Improvements and Track Rehabilitation Projects (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 1<sup>st</sup> Reading
- Ordinance 2<sup>nd</sup> Reading
- Other \_\_\_\_\_

**5. Background**

The Steel Bridge is owned by Union Pacific Railroad and is leased to the Oregon Department of Transportation (ODOT). TriMet subleases a portion of the bridge through an agreement with ODOT. Under this agreement, TriMet is required to maintain the transit related facilities on the bridge. Given the age of the bridge and its high use by multiple forms of traffic (including light and heavy rail, cars, bikes and pedestrians), maintenance and repair of the existing facilities has become difficult and increasingly ineffective.

An assessment by TriMet determined that major improvements would be necessary to increase the reliability of the bridge, as well as the speed and reliability of light rail vehicles that utilize the bridge. In addition to these bridge improvements, TriMet determined that track rehabilitation work was necessary at multiple locations throughout the system. These

locations included NE Holladay (between 9<sup>th</sup> and 11<sup>th</sup>); 10<sup>th</sup> and Morrison; the Jackson Terminus; multiple crossings in Gresham, and the Banfield Curves (near 97<sup>th</sup>). Therefore, at its August 2016 meeting, the Board approved Resolution 16-08-53, authorizing an exemption from the low bid procurement requirement for the CM/GC for the Project.

While preparing the CMGC Request for Proposals, TriMet staff became aware of the additional track rehabilitation work, including safety upgrades. In order to increase efficiency, TriMet staff requested a new exemption from low bid requirement for the Project with the additional scope considered. 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. At its March 2018 meeting, the Board approved Resolution 18-03-31, authorizing a contract modification with SWI to include construction services for Package 1, Steel Bridge Phase 1 and Providence Park MAX Improvements, in an amount not to exceed \$1,949,071 (including construction services, a fee, and a change order allowance).

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 similarly included construction services, fee, and a change order allowance).

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 9<sup>th</sup> and 11<sup>th</sup>), 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.

Most recently, at its August 2019 meeting the Board approved Resolution 19-08-63, which authorized 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.

There are a total of nine (9) construction packages anticipated for this Project. The exact locations and scope included in each package may vary slightly, but in general the packages include:

- Package 1 (*Complete*) – Steel Bridge East End Civil/Drainage & Providence Park
- Package 2 (*Complete*) – Hillsboro MAX Improvements (Hatfield Government Center)
- Package 3 (*Nearly Complete*) Lloyd Improvements & Steel Bridge Long Lead Materials
- Package 4 (*Nearly Complete*) Gresham Crossing and Tie Replacement
- Package 5 (*Scheduled*) Steel Bridge (East & West Spans) & Lift Span
- Package 6 – Track Rehabilitation Work

This Resolution No. 20-03-13 authorizes additional work with SWI under construction services Package 5, Steel Bridge (East and West Spans) and Lift Span. Package 5 primarily consists of track, civil, traffic signal, safety, and OCS improvements on and immediately adjacent to the Steel Bridge. This Package 5 work will include:

- 1) replacing all the Steel Bridge MAX rails,
- 2) replacing portions of the OCS wire,
- 3) installing safety enhancements focused on protecting our frontline employees,
- 4) enhancing drainage, and
- 5) installing prioritized traffic signal improvements to allow concurrent train movements.

Through this Resolution No. 20-03-13, the Modification of SWI's contract for Package 5 will increase the contract authority by \$8,922,404, plus a 12% change order allowance. If the Resolution is approved, it will establish a new total contract authority for the Project of \$19,781,080, as shown below:

<b>*Total Authority Amount Approved to Date (Res 19-08-63)</b>	<b>\$9,787,976</b>
Construction Services Modification (Package 5)	\$8,516,575
Construction Fee (Package 5)	\$405,829
<b>Contract Amount of Modification (Package 5)</b>	<b>\$8,922,404</b>
Change Order Allowance (12% of Construction)	\$1,070,700
<b>Additional Contract Authority Requested for Project by this Resolution No. 20-03-13</b>	<b>\$9,993,104</b>
<b>Total Contract Authority Authorized for Project through date of this Resolution No. 20-03-13</b>	<b>\$19,781,080</b>

\*Previously authorized by the Board

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 through open book price negotiations with TriMet and competitive bidding of work scopes as appropriate, in accordance with TriMet's CM/GC practices.

This Resolution No. 20-03-13 authorizes additional work under Construction Services Package 5 with SWI. Future packages will be brought to the Board when ready for approval.

## **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 this work is ongoing.

For package 5, SWI expects to achieve 18.2% M/W/ESB/SDBVE utilization.

**8. Financial/Budget Impact**

The funding requested by Resolution 20-03-13 is accounted for in the FY20 and FY21 Capital budgets.

**9. Impact if Not Approved**

Significant planning has been expended in preparation for the anticipated service impacts in August 2020. Additionally, the Board approved a separate MAX train signals construction contract that will be a concurrent project in the same area, and will require the same service disruption as this Modification for track, civil, traffic signal, safety, and OCS construction work. Although TriMet could delay performing the additional work in this Modification, delay is not recommended because it would cost TriMet significantly more money, and SWI is well qualified to perform the work.

**RESOLUTION NO. 20-03-13**

**RESOLUTION NO. 20-03-13 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 STEEL BRIDGE TRANSIT IMPROVEMENTS AND TRACK REHABILITATION PROJECTS**

**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 \$8,922,404, and is further authorized to execute change orders in an amount not to exceed \$1,070,700, through the Project's anticipated termination date of December 2022.

Dated: March 25, 2020

Attest:

\_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
Recording Secretary

Approved as to Legal Sufficiency:

*Gregory E. Skillman*

Legal Department