

**Date:** August 14, 2019

**To:** Board of Directors

**From:** Doug Kelsey

**Subject:** **RESOLUTION NO. 19-08-63 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT MODIFICATION WITH STACY AND WITBECK, INC. FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) SERVICES FOR THE STEEL BRIDGE TRANSIT IMPROVEMENTS AND TRACK REHABILITATION PROJECTS**

**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 to the contract (Modification) with Stacy and Witbeck, Inc. (SWI) for construction manager/general contractor (CM/GC) services for the Steel Bridge Transit Improvements and Track Rehabilitation Projects (Projects).

**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 has determined that improvements are 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 improvements, track rehabilitation work is necessary at multiple locations throughout the system. The locations include 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>).

At its August 2016 meeting, the Board approved Resolution 16-08-53, authorizing an exemption from the low bid procurement requirement for the Projects. While preparing the CM/GC Request for Proposals, TriMet staff became aware of the additional track rehabilitation work. In order to increase efficiency, TriMet staff requested a new exemption from low bid requirement for the Projects 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 Projects.

TriMet segmented the Steel Bridge Transit Improvements and Track Rehabilitation Projects into a total of nine construction Packages. The exact locations and scope included in each Package may vary slightly, but in general the Packages are described as:

- Package 1 (*Complete*) – Steel Bridge East End Civil/Drainage & Providence Park
- Package 2 (*Complete*) – Hillsboro MAX Improvements (Hatfield Government Center)
- Package 3 (*In Progress*) – Lloyd Improvements & Steel Bridge Long Lead Materials
- Package 4 – Gresham Crossing and Tie Replacement
- Package 5 – Steel Bridge (East & West Spans) & Lift Span
- Package 6 – Surface and Lining
- Package 7 – Banfield Curves & Jackson Terminus Track 1
- Package 8 – 10<sup>th</sup> & Morrison (Streetcar)
- Package 9 – 97<sup>th</sup> Avenue Curves

At its May 2017 meeting, the Board approved Resolution 17-05-46, authorizing a contract with SWI for preconstruction services in an amount of \$126,090. At its March 2018 meeting, the Board approved Resolution 18-03-31, authorizing a modification to the SWI contract to include construction services for Package 1, Steel Bridge Phase 1 and Providence Park MAX Improvements, increasing the amount of the contract to \$1,949,071 (providing for construction services, a fee, and a change order allowance).

Subsequently, at its August 2018 meeting, the Board approved Resolution 18-08-59, authorizing a modification of the SWI contract to include construction services for Package 2, the Hillsboro MAX Improvements. This increased the contract amount by \$2,297,082 (providing for construction services, a fee, and a change order allowance), and established a new contract authority amount of \$4,246,153.

Most recently, at its May 2019 meeting, the Board approved Resolution 19-05-37 authorizing a modification to the SWI contract to add construction services for Package 3, Lloyd Improvements & Steel Bridge Long Lead Materials, in the amount of \$3,977,771 (providing for construction services, a fee, and a change order allowance), and increasing the total contract authority to \$8,223,924. Package 3 allows for improvements to the approaches to the Steel Bridge and NE Holladay (between 9<sup>th</sup> and 11<sup>th</sup>), as well as for procurement of long lead time materials needed for the next phase of Steel Bridge improvements planned for construction next fiscal year.

This Resolution authorizes additional work with SWI under construction services Package 4, the Gresham Crossing and Tie Replacement project. Package 4 primarily consists of deconstructing rail-roadway crossings, replacing failed and worn materials, replacing a number of deteriorated wooden crossties with new crossties, and reconstructing the crossings. In order to take maximum advantage of the service interruption scheduled this September for the Gresham MAX Improvements project, TriMet has accelerated the schedule for the Gresham Crossings and Tie Replacement work so that it will occur concurrently with the Gresham MAX Improvements.

This Modification of SWI's contract for Package 4 increases the contract authority by \$1,364,052, plus a change order allowance, for a new total contract authority of \$9,787,976, as shown below:

*Total Contract Amount Approved (Res 18-08-59)	\$ 8,223,924
Construction Services Modification (Package 4)	\$1,299,097
Construction Fee (Package 4)	\$64,955
<b>Amount of Contract Modification (Package 4)</b>	<b>\$1,364,052</b>
Change Order Allowance (15%) (Package 4)	\$200,000
<b>Additional Contract Authority Requested by this Resolution</b>	<b>\$1,564,052</b>
<b>New Contract Authority Total via this Resolution</b>	<b>\$9,787,976</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. Future Packages will be brought to the Board upon satisfactory completion of negotiations.

**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% 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. It achieved 18.44%. For Package 2, SWI expected to achieve 18.1% utilization. It achieved 16.24%. The special trackwork procurement required in Package 3 was exempt from M/W/ESB/SDBVE participation because there are no certified firms in this market.

For Package 4, SWI expects to achieve 18% M/W/ESB/SDBVE utilization. TriMet will work with SWI to maximize M/W/ESB/SDBVE participation when negotiating subsequent Packages.

**8. Financial/Budget Impact**

The funding being requested by this Resolution is accounted for in the approved FY20 Capital budget.

9. **Impact if Not Approved**

TriMet could delay performing this additional work. This is not recommended because it will cost TriMet significantly more money. Further, SWI is well qualified to perform the work, and has performed well under this contract to date.

**RESOLUTION 19-08-63**

**RESOLUTION NO. 19-07-63 OF THE TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A  
CONTRACT MODIFICATION WITH STACY AND WITBECK, INC. FOR  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC)  
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 (CM/GC) services for the Steel Bridge Transit Improvements and Track Rehabilitation Projects; 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 it 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 \$1,364,052.
3. That the General Manager or his designee is further authorized to execute Change Orders to the Modification in an amount not to exceed \$200,000.


Dated: August 14, 2019

Attest:

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

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

Approved as to Legal Sufficiency:

  
\_\_\_\_\_  
Legal Department

