

Date: December 13, 2023

To: Board of Directors

From: Sam Desue, Jr.

Subject: **RESOLUTION NO. 23-12-66 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT MODIFICATION WITH STACY AND WITBECK, INC. (SWI) FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) SERVICES FOR THE BANFIELD TRACK REHABILITATION PROJECT**

1. Purpose of Item

This Resolution requests that the TriMet Board of Directors (Board) authorize the General Manager to execute a modification (Modification) of the contract with Stacy and Witbeck, Inc. (SWI) for Construction Manager/General Contractor (CM/GC) services for the Banfield Track Rehabilitation (Project).

2. Type of Agenda Item

- Initial Contract
- Contract Modification
- Other _____

3. Type of Contract Procurement

- Low Bid / Invitation to Bid (ITB)
- Request for Proposals (RFP) (inc. CM/GC)
- Request for Qualifications (RFQ) (Personal Services)
- Other: Sole Source

4. Reason for Board Action

Board authorization is required for all contracts obligating TriMet to pay in excess of \$1,000,000, and for all contract modifications that exceed the amount previously authorized by the Board.

5. Type of Action

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

6. Background

TriMet's oldest and highest speed light rail corridor (the Banfield) is located on our MAX Blue Line between the Gateway and Lloyd Stations. Up to half of the 39 year-old timber ties and rails in the Banfield corridor need to be replaced within the next few years. The planned MAX shutdown for the Better Red Project now provides a unique opportunity for TriMet

Maintenance of Way (MOW) to complete a significant portion of the track rehabilitation work concurrent with the shutdown. The Banfield Track Rehabilitation Project includes removal and replacement of existing wooden ties with concrete ties, and replacement of curved track and associated transit system components, and must be completed by February 26, 2024 to accommodate the resumption of light rail service.

Pursuant to the Board’s June 2023 approval of Resolution No. 23-06-29, TriMet engaged SWI as the Project’s CM/GC. SWI is an experienced and specialized track contractor that is expected to complete as much of the Project as possible with minimal interruption to service. As the CM/GC, SWI will exercise overall responsibility for the construction and installation of track, civil engineering, and associated signal/systems related work on the Blue Line between the Gateway Transit Center and NE 13th Avenue.

In October of 2023, TriMet executed the Pre-Construction Services contract with SWI in the amount of \$113,342. This Resolution authorizes a Modification of the SWI contract to include Construction Services in the amount of \$8,238,780, and an additional Change Order Allowance of \$400,000 (approximately 5% of the Modification amount).

TriMet’s and SWI’s negotiated cost for Construction Services is shown below:

Pre-Construction Services		\$113,342
	Subtotal	\$113,342
Amount Requested for Work Under Modification		\$8,238,780
Additional TriMet Held Change Order Allowance (~5%)		\$400,000
Amount Requested by this Resolution No. 23-12-66	Subtotal	\$8,638,780
Total Amount of Revised CM/GC Contract		\$8,752,122

7. Description of Procurement Process

The original CM/GC contract was procured through a competitive Request for Proposals (RFP) process.

8. Diversity

SWI’s total employee count is 865, and its workforce is 30% minority and 15% female. In its proposal, SWI indicated it would utilize Oregon-certified small business contractors for approximately 10% of the work.

9. Financial/Budget Impact

The Modification amount is included in the Maintenance Operations division’s FY2024 Budget.

10. Impact if Not Approved

Under the terms of the CM/GC contract, TriMet could terminate the CM/GC arrangement upon the completion of the pre-construction services work and then obtain bids for the construction work. However, doing so would result in delay or potential cancellation of the project due to a short shut-down window.

SWI has performed well on the Project, and its CM/GC contract requires “open book” negotiations that ensure fair and reasonable pricing. The approval of this contract Modification will ensure that the Project maintains its current schedule for completion by February 26, 2024.

RESOLUTION NO. 23-12-66

**RESOLUTION NO. 23-12-66 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A
CONTRACT MODIFICATION WITH STACY AND WITBECK, INC. (SWI) FOR
CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC)
SERVICES FOR THE BANFIELD TRACK REHABILITATION PROJECT**

WHEREAS, TriMet has authority under ORS 267.200 to enter into a contract modification (Modification) with Stacy and Witbeck, Inc. (SWI) for Construction Manager/General Contractor (CM/GC) Services for the Banfield Track Rehabilitation Project; and

WHEREAS, by Resolution No. 22-05-35, dated May 25, 2022, the TriMet Board of Directors (Board) adopted a Statement of Policies requiring the Board to approve all contracts obligating TriMet to pay in excess of \$1,000,000; and

WHEREAS, the total amount of this Modification exceeds \$1,000,000;

NOW, THEREFORE, BE IT RESOLVED:

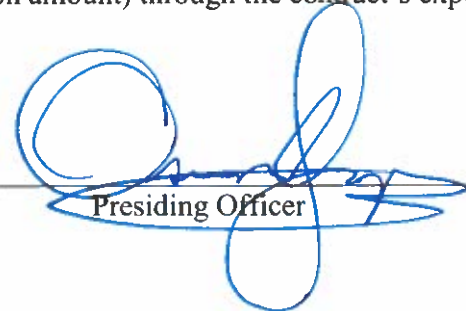
1. That the Modification shall conform with applicable law.
2. That the General Manager or his designee is authorized to execute the Modification with SWI for construction services in the amount of \$8,238,780.
3. That the General Manager or his designee is further authorized to execute Change Orders to the modified CM/GC contract in an amount not to exceed \$400,000 (approximately 5% of the Modification amount) through the contract's expected termination date of March 31, 2024.

Dated: December 13, 2023

Attest:



Recording Secretary



Presiding Officer

Approved as to Legal Sufficiency:



Legal Department