

Date: March 27, 2019

To: Board of Directors

From: Doug Kelsey

Subject: RESOLUTION 19-03-24 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A MODIFICATION TO THE CONTRACT WITH STACY AND WITBECK, INC., FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) SERVICES FOR THE GIDEON OVERCROSSING PROJECT

1. Purpose of Item

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

2. Type of Agenda Item

- Initial Contract
 Contract Modification
 Other _____

3. Reason for Board Action

Board approval is required because the proposed modification increases the contract amount beyond the amount previously authorized by the Board.

4. Type of Action

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

5. Background

This Project provides an accessible pedestrian and cyclist overcrossing over the Union Pacific Railroad and TriMet MAX tracks between SE 14th Avenue and SE 13th Place, in Portland, and restores an important connection in Southeast Portland's Hosford-Abernethy and Brooklyn neighborhoods that was eliminated due to the construction of the Orange Line MAX tracks. The Project will be constructed using remaining Portland-Milwaukie Light Rail (PMLR) Project funds from the Federal Transit Administration (FTA). The City of Portland will be the ultimate owner, end user/operator, and maintainer of all assets designed and constructed.

At its December 2017 meeting, the Board approved Resolution 17-12-85, authorizing an exemption from the low bid procurement requirement for CM/GC services for this Project.

This exemption allowed TriMet to utilize a competitive Request for Proposal (RFP) process to select the most qualified contractor to provide CM/GC services.

At its May 2018 meeting, the Board approved Resolution 18-05-43, authorizing award of a contract for pre-construction services to Stacy and Witbeck in an amount not-to-exceed \$91,025. At its September 2018 meeting, the Board approved Resolution 18-09-69, authorizing the addition of construction services to Stacy and Witbeck's contract in an amount not-to-exceed \$9,939,836 (which included the original pre-construction services amount of \$91,025, and a Change Order allowance of \$1,075,122).

The project team recently completed the 90% design for the project on January 15, 2019 and is rapidly working towards final design completion and commencement of construction. In order to address public concerns, additional pre-construction services were needed to review and analyze potential cost impacts of possible design modifications. In addition, construction costs have increased more than anticipated due to the active Portland area construction market. TriMet also determined that the original project contingencies must be increased to account for construction risks of working over the Union Pacific Railroad (UPRR) right-of-way, and coordinating and maintaining business access and operations on SE 14th Avenue.

These considerations require a modification to Stacy and Witbeck's contract to increase the contract authority by \$568,367 (which includes authority to increase the total Change Order allowance by \$141,810), for a revised total contract amount of \$10,508,203:

1.	Stacy and Witbeck Contract Authority (Resolution 18-09-69)	\$9,939,836
2.	Contract Modification (including Change Order authority)	\$568,367
3.	Revised Total Contract Authority	\$10,508,203

6. Procurement Process

The CM/GC contract initially was procured through a competitive RFP process.

7. Diversity

This project is one of the final components of the now completed PMLR construction work. By value, for all contracts awarded on the completed PMLR project (\$668.9 million), Disadvantaged Business Enterprise (DBE) contracts exceeded 25% (\$174.8 million). Stacy and Witbeck was the CM/GC contractor for much of the PMLR work, and demonstrated diligence in exceeding its goals for DBE participation, with nearly \$106 million worth of contracts awarded to DBE firms, and achieving more than 27% DBE participation. Stacy and Witbeck currently employs 310 minority employees, out of 836 total employees.

In conjunction with its 60% cost estimate for the Gideon Overcrossing Project, Stacy and Witbeck indicated it would utilize DBE contractors for approximately 11% of Project construction. This exceeds TriMet's Agency DBE Program aspirational goal of 10.72% for the fiscal years 2017-2019 for contracts with U.S. DOT assistance. TriMet will continue to work with Stacy and Witbeck to maximize DBE opportunities as the construction services contract is negotiated.

8. Financial/Budget Impact

The cost of the Project is included in the PMLR Project budget.

9. Impact if Not Approved

If the Board decides not to approve this contract modification, TriMet would need to resolicit for the Construction Manager/General Contractor work. However, Stacy and Witbeck has performed well on the Project thus far, and resoliciting the work at this time would increase costs and potentially jeopardize eligibility for continued grant funding.

RESOLUTION 19-03-24

**RESOLUTION 19-03-24 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A
MODIFICATION TO THE CONTRACT WITH STACY AND WITBECK, INC.,
FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC)
SERVICES FOR THE GIDEON OVERCROSSING PROJECT**

WHEREAS, TriMet has authority under ORS 267.200 to execute a contract modification with Stacy and Witbeck, Inc., for Construction Manager/General Contractor services for the Gideon Overcrossing (Modification); and

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

WHEREAS, the Board, by Resolution dated October 25, 2017, adopted a Statement of Policies requiring the Board to approve modifications to contracts that exceed the contract amount previously authorized by the Board;

NOW, THEREFORE, BE IT RESOLVED:

1. That the Modification shall conform with applicable laws.
2. That the General Manager or his designee is authorized to execute a Modification to increase the total Contract amount by \$568,367 (which includes authorization to increase the total Change Order allowance by \$141,810), over the life of the Gideon Overcrossing Project.

Dated: March 27, 2019

Attest:

Presiding Officer

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department