

Date: October 28, 2020

To: Board of Directors

From: Doug Kelsey

Subject: **RESOLUTION NO. 20-10-41 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH STACY AND WITBECK, INC. FOR THE RUBY JUNCTION EXPANSION CIVIL AND SYSTEMS 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 contract with Stacy and Witbeck, Inc. (SWI) for the Ruby Junction Expansion Civil and Systems Project (Project).

2. Type of Agenda Item

- ☒ Initial Contract
- ☐ Contract Modification
- ☐ Other _____

3. Type of Contract Procurement

- ☒ Two Step Invitation to Bid (ITB)
- ☐ Request for Proposals (RFP) (inc. CM/GC)
- ☐ Request for Qualifications (RFQ) (Personal Services)
- ☐ Other (inc. sole source) _____

4. Reason for Board Action

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

5. Type of Action

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

6. Background

The Project will provide additional storage tracks for the decommissioning of TriMet's Type 1 light rail vehicles (LRVs), and their replacement with Type 6 LRVs. The storage tracks also will be used to accommodate the future increase in the LRV fleet due to the procurement for the Red Line Project. The Project will also provide an unpowered Maintenance of Way (MOW) track to load and unload rail equipment, mitigate pull-out issues and re-sectionalize the Ruby Junction yard to incorporate an already-purchased new yard substation to enhance operations.

7. Description of Procurement Process

Due to the complex and specialized nature of the work involved, TriMet conducted a two-step Invitation to Bid (ITB) for the Project. Step 1 was issued on April 14, 2020 and closed on May 14, 2020, and asked bidders to submit statements of qualifications. TriMet received only two (2) responses to Step 1, which were evaluated on a pass/fail basis. Both bidders qualified based on the review of the responses and were eligible to proceed to Step 2.

Step 2 was issued on May 29, 2020 to the two qualified bidders, and asked them to provide pricing for the work. Two bid responses were received on June 25, 2020, and they are summarized below:

BIDDER	Mass Electric Construction Co.	Stacy and Witbeck, Inc.
BID PRICE	\$13,051,000	\$11,366,888

Both bids exceeded the overall construction budget and the Independent Cost Estimate of \$9,385,500. In this situation, Oregon law and TriMet's Contracting Rules permit negotiation with the lowest bidder in order to obtain value engineering that may lower the cost of the Project. Because staff felt that significant savings would not be possible without significant alterations to the scope of work, TriMet elected not to pursue this option.

Therefore, to be fair to both qualified bidders, TriMet adjusted the scope of the Project by eliminating the test track, and re-issued Step 2 on August 7, 2020. At this point, Mass Electric Construction elected not to submit a bid for the re-issued Step 2 because it regarded the work as civil, rather than systems. As a result, TriMet received just one bid in response to the re-solicitation.

BIDDER	Stacy and Witbeck, Inc.
BID PRICE	\$5,341,000

Subsequent to receiving the bid, TriMet engaged in negotiations with the low-bidder, which resulted in a savings of \$130,000 as reflected in the price listed above. Even though the cost still exceeded the Independent Cost Estimate of \$4,113,250, the protracted procurement process resulted in front-end Project pressures, updated labor rates, and an increase in the overall construction schedule. Further, the reduced scale of the Project did not result in a decrease of material unit pricing. COVID-related safety and global market concerns also played a role in the pricing received. Finally, TriMet declined to pursue a potential cost savings that would have resulted in lower Disadvantaged Business Enterprise (DBE) participation than TriMet's DBE goal for the Project.

Notwithstanding these factors, the cost was found to be fair and reasonable, and it is not believed that re-bidding the Project would result in reduced cost or better competition.

As it is typical for construction work, unforeseen circumstances may occur that require changes to the scope of work for the Project. Therefore, the attached Resolution includes authority for potential change orders of up to \$801,150, or 15% of the total contract amount.

8. Diversity

In its bid, SWI indicated that it would utilize certified DBE subcontractors for approximately 12% of the work. Because this is a low bid contract, TriMet has limited input into the subcontractors selected to work on the Project. However, TriMet will work with SWI to determine if there are additional opportunities to engage certified DBE firms and encourage it to provide opportunities for DBE subcontractors to work on the Project.

9. Financial/Budget Impact

The maximum amount of the contract is \$6,142,150, which includes an allowance of up to 15% for change orders. SWI's services are covered under the Capital Projects budget for FY21 through FY22.

10. Impact if Not Approved

If this Resolution is not approved, TriMet will need to delay the procurement and integration schedule of the Type 6 LRVs slated to replace the Type 1 LRVs. TriMet also will incur the cost to ship and store the substation purchased for the Project while it completes the construction of the infrastructure needed by the substation. TriMet operations will continue to be negatively affected by the lack of power in the yard during pull-out and future operations will be constrained by inefficiencies due to a lack of storage for the LRV fleet.

RESOLUTION NO. 20-10-41

**RESOLUTION NO. 20-10-41 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING
A CONTRACT WITH STACY AND WITBECK, INC. FOR THE RUBY
JUNCTION EXPANSION CIVIL AND SYSTEMS PROJECT**

WHEREAS, TriMet has authority under ORS 267.200 to enter into a contract (Contract) with Stacy and Witbeck, Inc. (SWI) for the procurement of the Ruby Junction Expansion Civil and Systems Project; and

WHEREAS, the total amount of the Contract exceeds \$1,000,000; and

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

NOW, THEREFORE, BE IT RESOLVED:

1. That the Contract shall conform with applicable law.
2. That the General Manager or his designee is authorized to execute the Contract in the amount of not more than \$6,142,150, through the March 2022 end of the Project.
3. That the General Manager or his designee is authorized to execute change orders to the Contract in a total amount not to exceed \$801,150, over the Project period.

Dated: October 28, 2020

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:

Gregory E. Skillman

Legal Department