


**Date:** February 28, 2024

**To:** Board of Directors

**From:** Sam Desue, Jr. 

**Subject:** **RESOLUTION NO. 24-02-08 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING ADDITIONAL CHANGE ORDERS TO THE CONTRACT 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 additional Change Orders to 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: Increase in Change Order Allowance

**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 actions that exceed the amount previously authorized by the Board.

**5. Type of Action**

- Resolution
- Ordinance 1<sup>st</sup> Reading
- Ordinance 2<sup>nd</sup> 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 Project includes removal and replacement of existing wooden ties with concrete ties, and replacement of curved track and associated transit system components.

On October 12, 2023, TriMer executed a CM/GC contract with SWI for pre-construction services in the amount of \$113,342.

At its December 13, 2023 meeting, the Board approved Resolution No. 23-12-66, which authorized a modification to the CM/GC Contract with SWI and authorized construction services in the amount of \$8,638,780, which included a Change Order Allowance of \$400,000.

The majority of the current Change Order Allowance has been expended on SWI's unanticipated work on the Project to restore MAX Blue Line service during and after the recent snow and ice storms. This unanticipated work and costs included:

- removal of snow and ice from tracks,
- additional personnel needed to safely manage all heavy rail equipment moves, and
- additional security guards needed to protect against theft and violence along the Project work areas.

As a result, midway through the Project the total cost of the additional work and personnel will exceed the currently authorized \$400,000 Change Order amount. Increasing the Change Order Allowance by \$500,000 will bring the total authorized Change Order amount to \$900,000.

As shown below, this Resolution authorizes an additional Change Order Allowance in the amount of \$500,000.

Pre-Construction Services	\$113,342
Modification 1 Resolution No. 23-12-66 (including original \$400,000 Change Order Allowance)	\$8,638,780
<b>Subtotal</b>	<b>\$8,752,122</b>
<b>Amount Authorized by this Resolution No. 24-02-08</b>	<b>\$500,000</b>
<b>Total Amount of Revised CM/GC Contract</b>	<b>\$9,252,122</b>

**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 additional Change Order Allowance 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 and then obtain bids for the remaining construction work. However, doing so would result in delay or potential cancellation of the Project due to a short shut-down window, which has already been impacted by weather.

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 Resolution will ensure that this critical work maintains its current schedule for completion by March 4, 2024, with weather dependent punch-list work to be completed by June 30, 2024.

**RESOLUTION NO. 24-02-08**

**RESOLUTION NO. 24-02-08 OF THE TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING  
ADDITIONAL CHANGE ORDERS TO THE CONTRACT 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 execute Change Orders with Stacy and Witbeck, Inc. (SWI) for Construction Manager/General Contractor (CM/GC) services for the Banfield Track Rehabilitation Project (Project); and

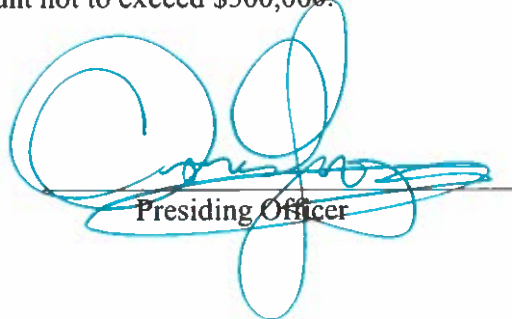
**WHEREAS**, by Resolution No. 22-05-35, dated May 25, 2022, the TriMet Board of Directors (Board) adopted a Statement of Policies requiring the Board to approve all contracts obligating TriMet to pay in excess of \$1,000,000; and

**WHEREAS**, the total amount of the Change Order Allowance exceeds the contract amount previously authorized by the Board;

**NOW, THEREFORE, BE IT RESOLVED:**

1. That the total amount of the CM/GC contract shall be increased to an amount not to exceed \$9,252,122.
2. That the General Manager or his designee is authorized to execute additional Change Orders to the CM/GC contract in an amount not to exceed \$500,000.

Dated: February 28, 2024



Presiding Officer

Attest:



Recording Secretary

Approved as to Legal Sufficiency:



Legal Department