

Date: October 24, 2012

To: Board of Directors

From: Neil McFarlane

Subject: RESOLUTION 12-10-93 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING MODIFICATIONS AND CHANGE ORDER ALLOWANCE TO THE CONTRACT WITH STACY AND WITBECK, INC. FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES FOR THE EAST SEGMENT OF THE PORTLAND-MILWAUKIE LIGHT RAIL PROJECT

1. Issue or Purpose of the Item.

The purpose of this item is to request that the TriMet Board of Directors (“Board”) adopt a resolution authorizing modifications and establishing a change order allowance to the construction manager/general contractor (“CM/GC”) contract with Stacy and Witbeck, Inc. (“SWI”), for the East Segment of the Portland-Milwaukie Light Rail Project (“Project”).

2. Reason for Board Action.

Board authorization is required because the proposed modifications and change order allowance will increase the contract amount beyond the amount previously authorized by the Board.

3. Background.

At its January 26, 2011 meeting, the Board approved Resolution 11-01-11, which authorized award of a contract to SWI for CM/GC pre-construction services on the East Segment of the Project. Under the CM/GC contracting method, a pre-construction services scope of work is awarded as the first phase of the CM/GC contract, and the construction scope of services is awarded as a second phase, using a series of contract modifications for distinct scopes of work. Typical modification work scopes include advanced utility relocation, advanced sewer and water system reconstruction, early structural work, demolition, and procurement of long lead items such as steel. Subsequent construction modifications then allow the CM/GC to proceed fully into all aspects of the construction phase of the contract. This comprehensive modification establishes the Total Contract Price (TCP) for the contract.

This multi-phased design and construction approach is advantageous for several reasons. First, it allows TriMet to obtain contractor feedback during project design, thereby enhancing constructability and cost certainty of the final design. It allows early work to begin while the design is being completed, thereby reducing overall Project duration. It also focuses attention on the

coordination of complex elements of the Project, in this case minimizing impacts to freight, commerce, transit and commuter traffic, neighborhoods, and transportation centers. These aspects are very important for the East Segment of the Project, where coordination with multiple railroads will be key to maintaining Project schedule.

For this contract, three distinctive modifications have been authorized to advance early work and meet schedule. At its October 26, 2011 meeting, the Board approved Resolution 11-10-73, which authorized Modification No. 1 to the CM/GC contract for advanced utility work at SE Powell and SE Holgate.

At its January 25, 2012 meeting, the Board approved Resolution 12-01-08, which authorized Modification No. 2 to the CM/GC contract for advanced utility and railroad relocation, associated demolition, early structure foundations, and purchase of the Crystal Springs box culvert.

At its June 27, 2012 meeting, the Board approved Resolution 12-06-61, which authorized Modification No. 3 to the CM/GC contract for aerial structures, freight and light rail trackway, an allowance for early civil construction items, and general condition items.

Meanwhile, final design was completed for the remaining PMLR East Segment Project scope and final construction plans were issued on May 14, 2012. Since then, TriMet has worked with the CM/GC to reconcile material quantities, clarify Project scope, and negotiate a contract price for the PMLR East Segment Project scope.

This is the largest construction contract that TriMet has held to date. The contract price for the East Segment Project scope is 0.5 percent higher than TriMet's fair cost estimate. A comparison to TriMet's fair cost estimate and Project budget are noted below:

• East Segment Project TCP	\$263,825,008
• TriMet Fair Cost Estimate	\$262,552,604
• East Segment Project budget	\$261,761,000

The TCP is slightly (0.8 percent) higher than the Project budget due to specific increases in the work scope, including the addition of jurisdictional requirements added through various agreements and land use decisions. In order to hold the contract price as close as possible to the budget, the Contractor and the Project team implemented scope reductions and value engineering to reduce the total cost for the final additional budget needed for the TCP. Project contingencies allocated for bid and market risk that were not needed by other contracts will be utilized for this contract, thus keeping this contract within the Project's overall construction budget.

Final design for the Tacoma Park and Ride and Bybee station are still in progress, and for that reason these items are included in this Resolution and in the TCP as allowances. The final price for these items will be finalized as a separate modification once value engineering and pricing are completed.

This Resolution also includes authorization for allowances for future modifications, including additional scope for the South Bybee pullout and the Insley structure, as well as a change order allowance of 4 percent. These items are funded by Project contingency allocated to this contract.

Additionally, specific work items to be done concurrently with Project work (known as betterments, and funded by others), will be incorporated into the contract and paid for by other government agencies as their design is complete and pricing is negotiated. In sum, these additions are estimated to add approximately \$13,910,892 to the contract price.

Accordingly, the comprehensive construction scope to the CM/GC contract is as shown below:

SWI CM/GC Contract	
Mod 1 - Advanced Utilities	\$19,151,915
Mod 2 – Utilities, OPRR Track, and Early Structures	\$2,757,504
Mod 3 – Aerial Structures, Track, and Early Civil Work	\$90,973,974
Remaining East Segment Project Scope	\$142,396,615
Future Mod – Tacoma Park and Ride and Bybee Structures, Upon Completion of Design (Allowance)	\$8,545,000
Subtotal	\$263,825,008
Allowances	
Added Scope – South Bybee Pullout and Insley Structure, Upon Completion of Design	\$3,400,000
Change Order Allowance (4 percent)	\$10,584,580
Betterments (paid for by others)	\$13,910,892
Subtotal	\$27,895,472
Total Contract Authorization	\$291,720,480

SWI is currently achieving Disadvantaged Business Enterprise (“DBE”) participation of 22 percent for work on the East Segment of the Project, and is on track to continue to do so.

4. Options.

Under the terms of the CM/GC contract, TriMet could terminate the CM/GC arrangement at the completion of the already-awarded work, and then obtain bids for the balance of the work. However, this option is not recommended. The CM/GC contractor has performed well on the Project, and re-procuring this work would extend the schedule, and jeopardize the Total Contract Price estimate. Approval is the only recommended option.

5. Recommendation.

The General Manager recommends approval of the Resolution.

RESOLUTION 12-10-93

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING MODIFICATIONS AND CHANGE ORDER ALLOWANCE TO THE CONTRACT WITH STACY AND WITBECK, INC. FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES FOR THE EAST SEGMENT OF THE PORTLAND-MILWAUKIE LIGHT RAIL PROJECT

WHEREAS, TriMet has authority under ORS 267.200 to enter into modifications to the contract with Stacy and Witbeck Inc. for construction activities related to the East segment of the Portland-Milwaukie Light Rail Project (“Modifications”), and to establish a Change Order allowance for such Modifications; and

WHEREAS, the total amount of the Modifications and Change Order allowance shall exceed the amount originally authorized by the Board; and

WHEREAS, the TriMet Board of Directors (“Board”), by Resolution dated November 25, 2009, adopted a Statement of Policies requiring the Board to approve goods and services contracts obligating TriMet to pay in excess of \$500,000;

NOW, THEREFORE, BE IT RESOLVED:

1. That the Modifications shall be in conformance with applicable laws.
2. That the General Manager or his designee is authorized to execute the Modifications in an amount not to exceed \$168,252,507.
3. That a Change Order allowance is authorized for the Modifications in an amount not to exceed \$10,584,580, and the General Manager or his designee is authorized to execute Change Orders up to that authorized amount.

Dated: October 24, 2012

Attest:

Presiding Officer

Recording Secretary

Approved as to Legal Sufficiency:

Legal Department