

Date: September 27, 2017

To: Board of Directors

From: Neil McFarlane *Neil McFarlane*

Subject: RESOLUTION 17-09-68 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH RAILWORKS TRACK SYSTEMS, INC. FOR CONSTRUCTION SERVICES FOR THE WESTSIDE EXPRESS SERVICE (WES) COMMUTER RAIL RIGHT OF WAY (ROW) MAINTENANCE PROJECT

1. Purpose of Item

The purpose of this item is to request that the TriMet Board of Directors (Board) authorize the General Manager to execute a contract with Railworks Track Systems, Inc. (Railworks) for construction services for the WES right-of-way (ROW) Maintenance Project (Project).

2. Type of Agenda Item

- Initial Contract
- Contract Modification
- Other _____

3. Reason for Board Action

Board approval is required for goods and services contracts obligating TriMet to pay in excess of \$500,000.

4. Type of Action

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

5. Background

TriMet operates the Westside Express Service (WES) commuter rail in a shared, 14.7 mile corridor with Portland & Western Railroad (PNWRR) freight service. The WES serves Beaverton, Tigard, Tualatin, and Wilsonville. It runs every 30 minutes during the weekday morning and afternoon rush hour. TriMet has operated WES service on the corridor since February 2009. PNWRR owns and maintains the track and ROW to the minimum Track Safety Standards established by the Federal Railroad Administration (FRA). Minimum Track Safety Standards can include operational restrictions that could inhibit WES Trains from meeting the daily schedule and Positive Train Control (PTC) compliance. If TriMet requests or requires improvements beyond the Track Safety Standards, TriMet may request that PNWRR perform additional work at TriMet's cost or TriMet may elect to contract out the work itself. There are

several track issues that require maintenance above and beyond the capacity of PNWRR personnel to ensure a state of good repair, maintain operational performance, and meet PTC compliance. TriMet has documented these issues via an inspection and design phase and developed engineered plans and specifications to take corrective action to fix them.

6. Procurement Process

A competitive Invitation to Bid (ITB) process was used to select the contractor for the Project. The ITB was issued on May 18, 2017, and bids were due on June 9, 2017. A total of 200 vendors were notified of the ITB and 45 vendors downloaded a copy, including several plan centers. Vendor outreach was also performed through publication in the Daily Journal of Commerce and several firms that were not already registered in TriMet's vendor registration system, eBidexchange, were notified by email of the ITB and encouraged to register and download a copy. A pre-bid conference was held on May 30, 2017, and attended by 6 vendors. An additional site visit and walkthrough was held on June 5, 2017, and attended by 3 of the vendors that attended the pre-bid conference.

On the bid due date, the following bids were received:

Contractor	Railworks	Stacy and Witbeck, Inc.
Bid Price	\$1,957,804.50	\$2,057,943.00

TriMet's independent cost estimate for the project was \$922,315. The discrepancy between the bids submitted and the independent cost estimate can be attributed to several factors: the current state of the market, the specialized nature of track work and size of the pool of available contractors, prescriptive/limited work windows requiring premium wages (all overtime pay rate), and the degree of risk that the contractor would have to assume in performance of the work. Since both bids came in over the estimate, staff had the option of reposting the project for bid or negotiating with the low bidder in accordance with TriMet's Contracting Rules and ORS 279C.340. Staff decided to pursue negotiation with the low bidder and requested a breakdown of Railworks' bid to identify areas that were out of line with the estimate. After an extensive review and discussion with Railworks, staff has determined that their bid is fair and reasonable and is in the best interest of TriMet to accept and move forward with a contract. Accordingly, staff recommends award of a contract to Railworks in the amount of their bid. Customary changes will likely be incurred during performance of the work that will require additional expenditures under the contract, and since the work must comply with FRA requirements, the attached Resolution includes authority for future change orders up to \$223,592.

7. Diversity

Railworks intends to self-perform all of the work except for signal support and repair services. Because of the highly technical nature of the Project, the required qualifications and experience and necessary equipment, there are very few firms that can perform the work. Prior to the ITB being issued, staff queried the State of Oregon Certified Firm Directory and reached out to the few Disadvantaged, Minority-owned, Woman-owned, Emerging Small Businesses and Service-Disabled Veteran-owned Businesses to discuss the opportunity and encourage participation.

Since this is a low bid contract, TriMet has limited input into the subcontractors selected to work on the Project. TriMet will work with Railworks to determine if there are additional

opportunities to engage certified firms and encourage them, whenever possible, to provide an opportunity to a certified firm to work on this Project.

8. Financial/Budget Impact

Despite the fact that Railworks' bid came in over the estimate, the contract amount is included within TriMet's Capital Budget for Fiscal Year 2018.

9. Impact if Not Approved

If the Board chooses not to approve this contract, impacts and delays to the Project would affect TriMet's ability to continue the PTC implementation project and the timeline required to satisfy compliance with FRA regulations that need to be met by December 2018. Further delays would also inhibit TriMet's ability to maintain a state of good repair on the alignment and to maintain operational performance. Staff could re-procure the contract, but it is unlikely that a more favorable price would be achieved.

RESOLUTION 17-09-68

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A CONTRACT WITH RAILWORKS TRACK SYSTEMS, INC. FOR CONSTRUCTION SERVICES FOR THE WESTSIDE EXPRESS SERVICE (WES) COMMUTER RAIL RIGHT OF WAY (ROW) MAINTENANCE PROJECT

WHEREAS, TriMet has authority under ORS 267.200 to enter into a contract with Railworks Track Systems, Inc. for construction of the WES ROW Maintenance Project (Contract); and

WHEREAS, the total amount of the Contract shall exceed \$500,000; 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 Contract shall be in conformance with applicable laws.
2. That the General Manager or his designee is authorized to execute the Contract in an amount not to exceed \$1,957,804.50.
3. That the General Manager or his designee is authorized to execute change orders to the Contract in an amount not to exceed \$223,592.

Dated: September 27, 2017

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department