



Board of Commissioners Special Meeting

Open Meeting

Monday, May 9, 2022 @ 8:30 AM

Virtual Meeting

211 North Broadway, 6th Floor

St. Louis, MO, 63102



Board of Commissioners Special Meeting -- May 9, 2022 at 8:30 AM

Notice of Meeting and Agenda

1. Call to Order	Approval	Chair Windmiller
2. Roll Call	Quorum	M. Bennett
3. Adjustment of the Consent Agenda	Approval	Chair Windmiller
4. Consent Agenda	Approval	Chair Windmiller
A. Contract Modification - Union Station Tunnel Rehabilitation Consultant Services (Resolution #1196)	Approval	
1. Briefing Paper - 3		
2. Resolution #1196 - 5		
B. Single Bid Contract Award – Downtown Tunnel Repairs (Resolution #1197)	Approval	
1. Briefing Paper - 8		
2. Resolution #1197 - 9		
5. Adjournment	Approval	Chair Windmiller

**Bi-State Development Agency
Board of Commissioners – Special Meeting
Open Session Agenda Item
May 9, 2022**

From: Taulby Roach, President and Chief Executive Officer
Subject: **Contract Modification - Union Station Tunnel Rehabilitation Consultant Services**
Disposition: Approval
Presentation: Christopher C. Poehler, P.E., Assistant Executive Director Engineering Systems
Tom Curran, Executive Vice President - Administration

Objective:

To present to the Board of Commissioners for approval, a request for authorization to modify the current contract for design and construction phase services for the Union Station Tunnel rehabilitation project.

Background:

On June 24, 2016, Bi-State Development (BSD) issued Solicitation Number 17-RFP-103314-DGR-Union Station Tunnel Rehabilitation Design Services, and as a result of the procurement process, award was made to Modjeski and Masters.

The Board of Commissioners approved a not-to-exceed amount of \$4,500,000.00 at their September 23, 2016 meeting. Due to the on-going negotiations with Union Station ownership, it has been necessary to significantly revise the design approach and construction sequencing of the Union Station tunnel project. In addition to completely changing the nature of the repairs, it has become necessary to break the overall scope of work into smaller packages and issue separate early work design and construction packages, while continuing the overall design of the entire tunnel rehabilitation.

Contract Modification #5 includes funding to cover:

- Additional design work that is necessary to minimize impact to the surface; and
- Construction phase services for both the early work structural construction package and the overall rehabilitation construction package.

The construction phase services include design review activities and construction inspection services to augment the BSD staff, over the 36-month project. The cost for these additional services is \$1,694,165.52, which includes a 10% contingency.

Analysis:

Engineering and Procurement have reviewed the cost proposal by Modjeski and Masters and have determined that the cost proposal is deemed fair and reasonable.

Board Policy Chapter 50.010, Section E.1.d., requires the Board of Commissioners to approve Procurements which exceed the amounts budgeted or otherwise approved by the Board of Commissioners for such project, function or service.

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Contract Modification - Union Station Tunnel Rehabilitation Consultant Services
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Previous Action:

This item was recommended for approval at the March 18, 2022, Operations Committee meeting.

Board Action Requested:

The Operations Committee recommends that the Board of Commissioners approve the request to authorize the President & CEO to approve Contract Modification #5, for the continued design and construction phase services for the Union Station Tunnel, to Modjeski and Masters, in an amount not to exceed \$1,694,165.52, and to extend the contract end date to May 1, 2026.

Funding Source:

Federal Transit Administration Grant Number MO-05-0028, MO-90-X231 and Local Match from Prop M.

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE BI-STATE DEVELOPMENT AGENCY
OF THE MISSOURI-ILLINOIS METROPOLITAN DISTRICT
MODIFYING A CONTRACT WITH MODJESKI AND MASTERS FOR
CONTINUED DESIGN AND CONSTRUCTION PHASE SERVICES
FOR THE UNION STATION TUNNEL REHABILITATION PROJECT**

PREAMBLES:

Whereas, The Bi-State Development Agency of the Missouri-Illinois Metropolitan District (the “Agency”/ “BSD”) is a body corporate and politic, created by an interstate compact between the States of Missouri and Illinois, acting by and through its Board of Commissioners (the “Board of Commissioners”); and

Whereas, the Agency is authorized by Mo. Rev. Stat. § 70.370 et seq. and 45 Ill. Comp. Stat. 100/1 et seq. (jointly referred to herein as the “Compact”) to plan, construct, maintain, own and operate passenger transportation facilities, and to perform all other necessary and incidental functions, and to disburse funds for its lawful activities, to adopt rules and regulations for the proper operation of its passenger transportation facilities and conveyances, to contract and to be contracted with; and

Whereas, Board Policy Chapter 50.010, Section G.1. and 2. requires the Board of Commissioners to approve modifications which modify the approved contract cost and extend the contract performance period beyond 180 days; and

Whereas, on June 24, 2016, Bi-State Development (BSD) issued Solicitation Number 17-RFP-103314-DGR-Union Station Tunnel Rehabilitation Design Services, and as a result of the procurement process, award was made to Modjeski and Masters; and

Whereas, the Board of Commissioners approved a not-to-exceed amount of \$4,500,000.00 for the project at their September 23, 2016 meeting; however, due to the on-going negotiations with Union Station ownership, it has been necessary to significantly revise the design approach and construction sequencing of the Union Station tunnel project; and

Whereas, in addition to changing the nature of the repairs, it has become necessary to break the overall scope of work into smaller packages and issue separate early work design and construction packages, while continuing the overall design of the entire tunnel rehabilitation; and

Whereas, it is necessary to modify the contract to include additional design work that is necessary to minimize impact to the surface and to include construction phase services, for both the early work structural construction package and the overall rehabilitation construction package; and

Whereas, it is feasible, necessary and in the public interest for the Agency for the Board of Commissioners to authorize the President and CEO to approve Contract Modification #5, for the continued design and construction phase services for the Union Station Tunnel, to Modjeski and Masters, in an amount not to exceed \$1,694,165.52, and to extend the contract end date to May 1, 2026, in accordance with the terms and conditions described herein.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE BI-STATE DEVELOPMENT AGENCY OF THE MISSOURI-ILLINOIS METROPOLITAN DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Findings. The Board of Commissioners hereby finds and determines those matters set forth in the preambles hereof as fully and completely as if set out in full in this Section 1.

Section 2. Approval of the Modification of the Contract. The Board of Commissioners hereby authorizes the President and CEO to approve Contract Modification #5, for the continued design and construction phase services for the Union Station Tunnel, to Modjeski and Masters, in an amount not to exceed \$1,694,165.52, and to extend the contract end date to May 1, 2026, under and pursuant to this Resolution and the Compact for the authorized Agency purposes set forth in the preambles hereof and subject to the conditions hereinafter provided.

Section 3. Actions of Officers Authorized. The officers of the Agency, including, without limitation, the President and CEO, and Vice President of Procurement are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution and the Contract and the execution of such documents or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 4. Severability. It is hereby declared to be the intention of the Board of Commissioners that each and every part, section and subsection of this Resolution shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Commissioners intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Resolution shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the intent of this Resolution.

Section 5. Rights under Resolution Limited. No rights shall be conferred by this Resolution upon any person or entity other than the Agency and Modjeski and Masters.

Section 6. Governing Law. The laws of the State of Missouri shall govern this Resolution.

Section 7. No Personal Liability. No member of the Board of Commissioners, officer, employee or agent of the Agency shall have any personal liability for acts taken in accordance with this Resolution and the Contract.

Section 8. Payment of Expenses. The Executive Vice President and CFO is hereby authorized and directed to pay or cause to be paid all costs, expenses and fees incurred in connection with or incidental to this Resolution and the Contract.

Section 9. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval.

ADOPTED by the Board of Commissioners of The Bi-State Development Agency of the Missouri-Illinois Metropolitan District this 9th day of May, 2022.

In Witness Whereof, the undersigned has hereto subscribed her signature and caused the Seal of the Agency to be affixed.

**THE BI-STATE DEVELOPMENT AGENCY OF THE
MISSOURI-ILLINOIS METROPOLITAN DISTRICT**

By _____
Title _____

[SEAL]

ATTEST:

By _____
Deputy Secretary to the Board of Commissioners

**Bi-State Development Agency
Board of Commissioners – Special Meeting
Open Session Agenda Item
May 9, 2022**

From: Taulby Roach, President and Chief Executive Officer
Subject: **Single Bid Contract Award – Downtown Tunnel Repairs**
Disposition: Approval
Presentation: Charles Stewart, Interim Executive Director - Metro Transit
Christopher C. Poehler, P.E., Assistant Executive Director Engineering Systems
Tom Curran, Executive Vice President Administration

Objective:

To present to the Board of Commissioners for approval, a request for authorization to award a single bid contract to Kozeny-Wagner, Inc. for Downtown Tunnel Repairs.

Background:

On January 14, 2022, Bi-State Development received a sealed bid in response to Solicitation Number 22-SB-277987-DGR - Downtown Tunnel Repairs. Only one bid from Kozeny-Wagner, Inc. was received in the amount of the \$5,469,690.00, which significantly exceeded the independent cost estimate of \$2,900,000. Since only one bid was received, bid documents allowed staff to convert the solicitation from a Request for Sealed Bids to a Request for Proposal 22-SB/RFP-277987-DGR to allow negotiations to occur between the contractor and staff.

During negotiations with the contractor, two major costs were identified that could be reduced: Standpipe Replacement and labor costs associated with the shortened workweek, due to track time limitations. Based on increased flexibility in the workweek and reductions in the cost of the standpipe installation (which allows water to be piped from fire hydrants at the street level down into the tunnel in case of a fire), the contractor's bid was reduced to \$4,377,659.00, which includes a 10% contingency.

Analysis:

Metro Engineering has reviewed the cost proposal by Kozeny-Wagner, Inc. and has determined that the cost proposal is deemed fair and reasonable.

Previous Action:

This item was recommended for approval at the March 18, 2022, Operations Committee meeting.

Board Action Requested:

The Operations Committee recommends that the Board of Commissioners approve the request to authorize the President & CEO to approve the contract for construction for the repairs of the Downtown Tunnel to Kozeny-Wagner, Inc., in an amount not to exceed \$4,377,659.00.

Funding Source:

Federal Transit Administration Grant Number MO-54-0001, MO-90-X296 and Local Match from Prop M.

Board Policy Chapter 50.010, Section E.1.b., requires the Board of Commissioners to approve Non-Competitive Procurements which exceed \$100,000.

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE
BI-STATE DEVELOPMENT AGENCY
OF THE MISSOURI - ILLINOIS METROPOLITAN DISTRICT
AWARDING A CONTRACT TO KOZENY-WAGNER, INC.
FOR DOWNTOWN TUNNEL REPAIRS**

PREAMBLES:

Whereas, The Bi-State Development Agency of the Missouri-Illinois Metropolitan District (the "Agency"/ "BSD") is a body corporate and politic, created by an interstate compact between the States of Missouri and Illinois, acting by and through its Board of Commissioners (the "Board of Commissioners"); and

Whereas, the Agency is authorized by Mo. Rev. Stat. §§ 70.370 et seq. and 45 Ill. Comp. Stat. 100/1 et seq. (jointly referred to herein as the "Compact") to acquire by gift, purchase or lease, sell or otherwise dispose of, and to plan, construct, operate and maintain, or lease to others for operation and maintenance, airports, wharves, docks, harbors, and industrial parks adjacent to and necessary and convenient thereto, bridges, tunnels, warehouses, grain elevators, commodity and other storage facilities, sewage disposal plants, passenger transportation facilities, and air, water, rail, motor vehicle and other terminal or parking facilities; to contract and to be contracted with; and to perform all other necessary and incidental functions; and

Whereas, Board Policy Chapter 50, §50.010 (E)(1)(b), requires Board approval of all Non-competitive ("sole source or single bid") Procurements exceeding \$100,000; and

Whereas, on January 14, 2022, Bi-State Development received a sealed bid in response to Solicitation Number 22-SB-277987-DGR - Downtown Tunnel Repairs; and

Whereas, only one bid, from Kozeny-Wagner, Inc., was received in the amount of the \$5,469,690.00, which significantly exceeded the independent cost estimate. Bid documents allowed staff to convert the solicitation from a Request for Sealed Bids to a Request for Proposal 22-SB/RFP-277987-DGR, to allow negotiations to occur between the contractor and staff; and

Whereas, during negotiations with the contractor, two major costs were identified that could be reduced: standpipe replacement and labor costs associated with the shortened workweek, due to track time limitations; and

Whereas, based on increased flexibility in the workweek and reductions in the cost of the standpipe installation, the contractor's bid was reduced to \$4,377,659.00, which includes a 10% contingency; and

Whereas, it is feasible, necessary and in the public interest for the Agency to authorize the President & CEO to approve the contract for construction for the repairs of the Downtown Tunnel to Kozeny-Wagner, Inc., in an amount not to exceed \$4,377,659.00, which includes a 10% contingency, in accordance with the terms and conditions described herein.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE BI-STATE DEVELOPMENT AGENCY OF THE MISSOURI- ILLINOIS METROPOLITAN DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Findings. The Board of Commissioners hereby finds and determines those matters set forth in the preambles hereof as fully and completely as if set out in full in this Section 1.

Section 2. Approval of the Sole Source Contract. The Board of Commissioners hereby authorizes the President & CEO to approve the contract for construction for the repairs of the Downtown Tunnel to Kozeny-Wagner, Inc., in an amount not to exceed \$4,377,659.00, which includes a 10% contingency, under and pursuant to this Resolution and the Compact for the authorized Agency purposes set forth in the preambles hereof and subject to the conditions hereinafter provided.

Section 3. Actions of Officers Authorized. The officers of the Agency, including, without limitation, the President and CEO, and Vice President of Procurement are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution and the Contracts and the execution of such documents or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 4. Severability. It is hereby declared to be the intention of the Board of Commissioners that each and every part, section and subsection of this Resolution shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Commissioners intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Resolution shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the intent of this Resolution.

Section 5. Rights under Resolution Limited. No rights shall be conferred by this Resolution upon any person or entity other than the Agency and Kozeny-Wagner, Inc.

Section 6. Governing Law. The laws of the State of Missouri shall govern this Resolution.

Section 7. No Personal Liability. No member of the Board of Commissioners, officer, employee or agent of the Agency shall have any personal liability for acts taken in accordance with this Resolution.

Section 8. Payment of Expenses. The Executive Vice President and CFO is hereby authorized and directed to pay or cause to be paid all costs, expenses and fees incurred in connection with or incidental to this Resolution and the Contracts.

Section 9. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval.

ADOPTED by the Board of Commissioners of The Bi-State Development Agency of the Missouri-Illinois Metropolitan District this 9th day of May, 2022.

In Witness Whereof, the undersigned has hereto subscribed her signature and caused the Seal of the Agency to be affixed.

THE BI-STATE DEVELOPMENT AGENCY OF THE MISSOURI-ILLINOIS METROPOLITAN DISTRICT

By _____
Title _____

[SEAL]

ATTEST:

By _____
Deputy Secretary to the Board of Commissioners

Resolution #1197
Bi-State Development Agency Board of Commissioners Special Meeting
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Sole Source Contract - Kozeny-Wagner, Inc. – Downtown Tunnel Repairs
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