

Date: June 27, 2018

To: Board of Directors

From: Doug Kelsey

Subject: RESOLUTION 18-06-48 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A MODIFICATION TO A CONTRACT WITH J.E. DUNN CONSTRUCTION COMPANY FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES FOR THE POWELL BUS GARAGE REPLACEMENT 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 modification to a contract with J.E. Dunn Construction Company (J.E. Dunn) for construction manager/general contractor (CM/GC) services for the Powell Bus Garage Replacement Project (Project).

2. Type of Agenda Item

- Initial Contract
- Contract Modification
- Other _____

3. Reason for Board Action

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

4. Type of Action

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

5. Background

At its April, 26, 2017 meeting, the Board approved Resolution 17-04-33, authorizing award of a contract to J.E. Dunn for CM/GC pre-construction services for the Project. The amount of the pre-construction services contract was \$110,040. In February 2018, staff returned to the Board and received authorization via Board Resolution 18-02-21 for Modification #1 to the contract for preconstruction services and long-lead items in an amount not to exceed \$800,000. In May 2018, staff returned to the Board again via Resolution 18-05-37 and received authorization for an additional \$670,529 for Modification #2 to the contract to add construction services in order to purchase additional long-lead items, related administrative expenses, public

involvement activities, and third-party review services.

The parties have been working to establish a total contract price (TCP) for construction services so that TriMet may modify the contract and give notice to proceed for the construction work.

Approximately 90% of the subcontracted work has been bid out. However, J.E. Dunn has experienced an increase in bid costs across the board for building material commodities and labor due to pressures in such a robust economy and a quickly escalating construction market.

One example of the increased cost and market volatility is the structural steel scope for the project. Cost for structural steel has seen a dramatic increase in cost due to market pressures combined with material demand and the threat of added tariffs in that marketplace.

Structural steel price per ton has nearly tripled, from \$3,800 per ton in April to over \$8,400 per ton in June. In this market, the steel pricing is only good for 30 days, and has the potential to escalate further in the future.

TriMet is still in the process evaluating the J.E. Dunn proposal for the total contract price. TriMet desires to minimize further cost escalation risk by modifying the contract at this time to secure sub-contracts for site work, utilities, demolition, and materials and labor subject to the volatile market conditions.

This early work package, due to increased market volatility, will allow TriMet to finalize the TCP negotiations, minimize additional bid market risk, identify further opportunities for value engineering, and return to the Board with a TCP in July or August.

This Resolution would authorize modifying J.E. Dunn's contract to include early work and procurement packages as follows:

Contract Total To-Date	\$1,580,569
Additional Construction Services under this Authorization	\$23,809,246
Construction Fee	\$513,040
Risk Allowance	\$727,946
Subtotal	\$26,630,801
Change Order Allowance (10% of construction)	\$2,380,925
Total	\$29,011,726

TriMet and J.E. Dunn have engaged in open book price negotiations to ensure competitive pricing of the construction work. When we return to the Board for the full TCP authorization, TriMet will have reviewed all costs against an independent cost estimate and will have negotiated a contract price that is fair and reasonable.

This total authorization includes a 10% owner's change order allowance based on the construction services amount of the authorization in the amount of \$2,380,925.

6. Procurement Process

The contract was procured through a competitive Request for Proposals (RFP) process.

7. Diversity

In its proposal, J.E. Dunn indicated it will utilize Disadvantaged Business Enterprise (DBE) contractors for approximately 20 percent of the work. The anticipated participation rose to 25% with the addition of the key subcontractors approved under Resolution 18-02-21.

8. Financial/Budget Impact

The Project is included in the FY 2018-19 Capital Program budget.

9. 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 remainder of the construction work. However, J.E. Dunn has performed well on the Project thus far, and TriMet was able to negotiate a construction services agreement that it considers to be fair and reasonable. Re-procuring the work at this time would extend the schedule and significantly delay the Project.

RESOLUTION 18-06-48

RESOLUTION OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING A MODIFICATION TO A CONTRACT WITH J.E. DUNN CONSTRUCTION COMPANY FOR CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES FOR THE POWELL BUS GARAGE REPLACEMENT PROJECT

WHEREAS, TriMet has authority under ORS 267.200 to enter into a contract modification with J.E. Dunn Construction Company (J.E. Dunn) for construction manager/general contractor (CM/GC) services for the Powell Bus Garage Replacement Project (Contract Modification); and

WHEREAS, the total amount of the Contract Modification shall exceed \$1,000,000; and

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

NOW, THEREFORE, BE IT RESOLVED:

1. That the Contract Modification shall be in conformance with applicable laws.
2. That the General Manager or his designee is authorized to execute the Contract Modification in an amount not to exceed \$26,630,801.
3. That the General Manager or his designee is further authorized to execute change orders to the modified contract in an amount not to exceed \$2,380,925.

Dated: June 27, 2018

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department