

Date: June 26, 2019

To: Board of Directors

From: Doug Kelsey

Subject: **RESOLUTION NO. 19-06-42 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 (CM/GC) SERVICES FOR THE POWELL BUS GARAGE REPLACEMENT PROJECT**

1. **Purpose of Item**

This Resolution requests 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 (Modification) 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, the Board approved Resolution 18-02-21, authorizing \$800,000 for early design assist trade partners, preconstruction services and long lead items. In May 2018, the Board approved Resolution 18-05-37, authorizing an additional \$670,529 for construction services to purchase additional long lead items, related administrative expenses, public involvement activities and third-party review

services. In June 2018, staff returned to the Board again and received authorization via Board Resolution 18-06-48 for an additional \$29,011,726 for an early work package to secure subcontracts for site work, utilities, demolition, and materials and labor subject to volatile market conditions. Finally, in August 2018, the Board approved Resolution 18-08-62, which authorized a modification to the contract to add construction services for the completion of the new garage.

As the project has progressed, the scope of work has become further defined. Since the original construction price was established, TriMet has made a commitment to an electrified bus fleet. With that decision comes the need to provide infrastructure for the electrified bus fleet, which will be maintained and dispatched from the Powell Garage.

The issuance of the final construction permits also has impacted the project scope and schedule, requiring additional funds to meet the permit modifications.

	JE Dunn TCP	Change Order + Risk	Total
Total Authority Amount Previously Approved (Res 18-08-62)	\$100,426,327	\$5,945,476 (5.9%)	\$106,371,803
Electrification (HB17)*	\$8,635,879	\$2,664,788 (7% CO + risk)	\$11,300,667
Permit Modifications	\$8,554,047		\$8,554,047
TriMet Held Risk		\$13,009,380 (12%)	\$13,009,380
Total Additional Authority Amount Requested	\$17,189,926	\$21,619,644	\$32,864,094
Total			\$139,235,897

*Expenditure pending 3rd party utility agreement

TriMet and J.E. Dunn have engaged in open book price negotiations to ensure competitive pricing of the construction work, and TriMet believes that the negotiated contract modification price is fair and reasonable.

6. Procurement Process

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

7. Diversity

In its proposal, J.E. Dunn indicated it would utilize Disadvantaged Business Enterprise (DBE) contractors for approximately 20 percent of the work. The anticipated DBE participation rose to 25% with addition of the key subcontractors approved under Resolution 18-02-21. Work performed under this Resolution anticipates 37% DBE participation. J.E. Dunn's workforce is 14% minority and 20% women.

8. Financial/Budget Impact

The Project is included in the FY 2019-20 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 could significantly delay the Project.

RESOLUTION NO. 19-06-42

**RESOLUTION NO. 19-06-42 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
(CM/GC) 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 (Modification); and

WHEREAS, the total amount of the Modification exceeds the contract amount originally authorized by the TriMet Board of Directors (Board); and

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

NOW, THEREFORE, BE IT RESOLVED:

1. That the Modification shall conform with applicable law.
2. That the General Manager or his designee is authorized to execute a contract Modification in the amount of \$17,189,926 over the approximately three-year remaining life of the contract.
3. That the General Manager or his designee is further authorized to execute change orders to the contract and pay contract risk in an amount not to exceed \$21,619,644.

Dated: June 26, 2019

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department

