


Date: August 8, 2018

To: Board of Directors

From: Doug Kelsey 

Subject: **RESOLUTION 18-08-62 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 approval is required because this modification will increase the value of the agreement beyond the amount previously authorized by the Board.

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 to add “early design assist” by key subcontractors and long lead items in an amount not to exceed \$800,000. In May 2018, staff returned to the Board and received authorization via Resolution 18-05-37 for an additional \$670,529 to add construction services in order 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.

The parties have now agreed to the total contract price (TCP) for construction services and TriMet is now prepared to modify the contract to add those additional construction services. This Resolution would authorize modifying J.E. Dunn's contract to include the TCP as follows:

	J.E. Dunn (TCP)	Change Order Allowance	Total
Prior Authorization Limit	\$26,630,801	\$2,380,925	\$29,011,726
Additional Authority	\$73,795,526	\$3,564,551	\$77,360,077
Total	\$100,426,327	\$5,945,476	\$106,371,803
Change Order Allowance (% of TCP)		5.9%	

The direct construction cost is 7% more than TriMet's fair cost estimate. J.E. Dunn has gone to the market and has worked diligently toward fair market prices and price certainty. 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 price is fair and reasonable.

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 would utilize Disadvantaged Business Enterprise (DBE) contractors for approximately 20 percent of the work. The anticipated participation rose to 25% with addition of the key subcontractors approved under Resolution 18-02-21. Work performed under this resolution anticipates above 35% participation. J.E. Dunn's workforce diversity is 14% minority and 20% women.

8. Financial/Budget Impact

The Project is included in the FY 2018-2019 Capital Program budget. The Powell Bus Garage Project is bond funded at approximately 26% (\$25,000,000 of MTIP Bonds and \$5,931,822 of 2017 Revenue Bonds).

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 18-08-62

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 the amount previously authorized by the Board; and

WHEREAS, the TriMet Board of Directors (Board), by Resolution dated October 25, 2017, adopted a Statement of Policies requiring the Board to authorize contract modifications obligating TriMet to pay in excess of the amount previously authorized by the Board;

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 for a total contract price not to exceed \$100,426,327.
3. That the General Manager or his designee is further authorized to execute change orders to the contract as modified in an amount not to exceed \$5,945,476.

Dated: August 8, 2018

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:



Legal Department