

Date: February 23, 2022

To: Board of Directors

From: Sam Desue, Jr.

Subject: RESOLUTION NO. 22-02-06 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING AN INCREASE IN THE TOTAL AMOUNT OF THE 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 increase the total amount of the 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
- Modification of Contract to Increase Total Amount
- Other:

3. Reason for Board Action

Board authorization is required to increase the overall contract amount in excess of what was previously authorized.

4. Type of Action

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

5. Background

The Powell Garage Replacement Project (Project) began in late 2016. When completed, the Project will provide a new and larger garage, articulated fleet facilities, bus electrification facilities, dramatically increased bus storage and maintenance capacity, new fuel and wash facilities, and improved operator accommodations and employee parking. To date, the existing garage structure has been demolished, and completion of the new Fuel and Wash and Phase 1 of the project is already in use.

In early 2017, TriMet engaged J.E. Dunn as its Construction Manager / General Contractor (CM/GC) for the Project. As the Project progressed, the CM/GC contract has been modified multiple times to address pre-construction services, securing trade partners, long lead items,

and construction services. Most recently, on June 26, 2019 the Board approved Resolution 19-06-42 to modify the contract to include electrification and permit-related scopes of work, bringing the total amount authorized for this CM/GC contract to \$139,235,897.

This Resolution seeks a contract modification of \$7,400,000, increasing the total amount of the contract from \$139,235,897 to \$146,635,897.

This additional contract amount recognizes the potential need to issue change orders to complete the Project arising from significant factors outside of J.E. Dunn's control. These factors include: labor and supply chain issues due to the COVID pandemic, the need to increase the temporary operations area to accommodate workforce social distancing, third-party utility work (e.g., PGE), additional public entity work permit requirements (e.g., ODOT), delays due to City permitting and approval timelines, the Corporate Activities Tax passed through to TriMet, and Project betterments requested by TriMet.

TriMet and J.E. Dunn have engaged in open book price negotiations for all change orders to ensure fair and reasonable pricing of changes, and will continue to do so in the future.

6. **Description of Procurement Process**

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

7. **Diversity**

In its initial proposal, J.E. Dunn indicated it would utilize Disadvantaged Business Enterprise (DBE) contractors for approximately 20 percent of the work. To date, JE Dunn has awarded 27.5% of the work to DBE contractors. J.E. Dunn's workforce is 14% minority and 20% women.

8. **Financial/Budget Impact**

The increased Project cost is included in the FY 2021-22 Capital Program budget.

9. **Impact if Not Approved**

TriMet could terminate the CM/GC contract and then obtain bids for the remainder of the construction work on the Project. However, re-procuring the work at this time would extend the schedule and could significantly delay Project completion. Further, J.E. Dunn has performed well on the Project thus far, and TriMet has been able to negotiate modifications to the agreement that it considers to be fair and reasonable

RESOLUTION NO. 22-02-06

**RESOLUTION NO. 22-02-06 OF THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET) AUTHORIZING AN
INCREASE IN THE TOTAL AMOUNT OF THE 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 increase the amount of the 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 (Modification); 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; and

WHEREAS, the amount of the contract Modification exceeds the total contract amount previously authorized by the Board;

NOW, THEREFORE, BE IT RESOLVED:

1. That the General Manager or his designee is authorized to execute a Modification of the contract to increase the contract amount by \$7,400,000, increasing the total contract amount to not more than \$146,635,897, through the anticipated CM/GC contract termination date of February 2023.

Dated: February 23, 2022

Presiding Officer

Attest:

Recording Secretary

Approved as to Legal Sufficiency:

Gregory E. Skillman

Legal Department