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APRIL 1, 1997



TO: BOARD OF DIRECTORS *L. Bohlinger*

FROM: LINDA BOHLINGER, INTERIM CHIEF EXECUTIVE OFFICER

SUBJECT: APPROVE AN AWARD FEE FOR EMC CONTRACT  
ENGINEERING SERVICES - ALL METRO RAIL PROJECTS

Los Angeles County  
Metropolitan  
Transportation  
Authority

One Gateway Plaza  
Los Angeles, CA  
90012

213.922.6000

**RECOMMENDATION**

Approve Award Fee totaling \$2,841,926 under Contract E0070 with the Engineering Management Consultant (EMC) for work performed in 1995 and 1996.

Within Construction Committee authority: Yes  No  N/A

**ORGANIZATIONAL IMPACT**

Payment of this Award Fee will bring closure to MTA's previous contractual arrangement with EMC and will allow performance of required engineering services under re-negotiated terms and conditions. In addition, future work performed by EMC will no longer be eligible for Award Fee payments.

**BUDGET IMPACTS**

The funds for this action are available within each individual MTA Board approved Project Budget.

The recommended action is already included in the current contract budget. The forecast final cost for this contract including in-process change notices and other anticipated changes is \$467,144,826.

Potential for Cost Recovery: Yes  No

**ALTERNATIVES CONSIDERED**

The Board has the option to deny approval. However, this action may result in the consultant seeking other contractual or legal remedies.

**BACKGROUND**

The contract currently provides for the payment of a Base Fee of 5% and an Award Fee up to a maximum of 8%, depending on EMC's performance. Award Fee evaluations take place once every four months, with report cards due within 45 days from the end of the period. If an evaluation is not made for the trimester, contract provisions provide for a nominal 5 % Award Fee.

The recommendation encompasses performance periods for 1995 through 1996. MTA did not complete and submit to the Board performance evaluations for any of the trimester periods in those calendar years. In accordance with contract provisions, the nominal 5 % Award Fee is recommended, bringing the total fee recommendation for calendar years 1995 and 1996 to a flat 10%.

EMC has submitted invoices for Award Fees totaling \$2,841,926 which are currently being validated against the terms of the contract prior to payment.

Except for potential changes as a result of staffs review of these invoices, this is the last time that Award Fee will be paid to EMC. Amendment 1, which is the subject of a separate report also pending before the Board, revises the fee methodology from a base and award fee structure to a fee structure as follows:

- Program Oversight shall be performed on a cost reimbursable, 7% **fixed-fee** basis.
- Design Services shall be performed on a cost reimbursable, 8% **fixed-fee** basis.
- CWOs may be negotiated to be performed on a **firm fixed price** basis, with a **fee** component of 12%. Firm fixed priced CWOs transfer the risk of performance to the EMC.

As a result of a negotiation with MTA concerning professional liability insurance for the Eastside project, MTA will retain \$1,000,000 of the above \$2,841,926 Award Fee payment to be applied towards insurance contributions owed by EMC.

### **SMALL BUSINESS PARTICIPATION**

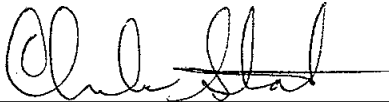
The contract has a DBE participation goal of 27% and is approximately 50% complete. The current DBE participation reported by the consultant is 24.29%. MTA's Contract Compliance Unit is currently determining the accuracy of these figures through the survey audits.

### **ATTACHMENTS**

Attachment 1 - EMC Award Fee Contract Language

Attachment 2 - EMC Award Fee Invoices for Performance Periods 1995 and 1996

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**ATTACHMENT 1  
AWARD FEE CONTRACT LANGUAGE  
ENGINEERING MANAGEMENT CONSULTANTS  
CONTRACT E0070**

The Award Fee contract language from EMC Contract E0070 is:

CP-5.            AWARD FEE

A. Calculation of Award Fee

Each monthly Base Fee calculated and payable in accordance with Article CP-3 hereof, shall be adjusted as follows. At the end of the fourth month following commencement of Services under a Contract Work Order, and at the end of every fourth month thereafter, CONSULTANT shall be evaluated by COMMISSION based on those factors set forth in Exhibit 2 attached hereto and made a part hereof, and CONSULTANT be issued a trimester "Evaluation of CONSULTANT's Performance" for each Contract Work Order. Each trimester Evaluation of CONSULTANT's Performance shall contain grades for Consultant's performance in critical areas of responsibility and shall yield an overall summary letter grade (the "Trimester Performance Grade") calculated from numeric scores in accordance with Exhibit 2. The Trimester Performance Grade shall then be translated into a numeric adjustment factor (pursuant to Exhibit 2), expressed as a positive or negative percentage adjustment that shall be known as the "Award or a Negative Fee Percentage".

The Award Fee paid during the four month period covered by the Trimester Performance Grade shall be calculated as follows:

$$\text{Award Fee} = \frac{(\text{Award Fee Percentage}) \times (\text{sum of 4 Monthly Base Fees for Trimester})}{5}$$

CONSULTANT shall include the Award Fee on its next invoice to COMMISSION.

**The Award Fee Percentage for any four-month period for which no trimester Evaluation of CONSULTANT's Performance has been completed or Trimester Performance Grade calculated within forty-five (45) days from the end of the period shall be 5 percent.**

**ATTACHMENT 2**

**EMC AWARD FEE INVOICES FOR PERFORMANCE PERIODS 1995 AND 1996**

CWO PROJECT	PERIOD	PERIOD	AWARD	AWARD
	FROM	TO	FEE %	FEE \$
3 Red Line Seg. 2	1/1/95	12/31/96	5.0%	\$ 687,622
4 Redline Seg. 3 North Hollywood	1/1/95	12/31/96	5.0%	\$ 465,530
4 Red Line Seg. 3 SB 1995	1/1/95	12/31/96	5.0%	\$ 199,513
5 Systemwide Retrofit Seg. 1 Radio	1/1/95	12/31/96	5.0%	\$ 4,528
5 Systemwide Environmental Mitigatn	1/1/95	12/31/96	5.0%	\$ 9,297
5 Systemwide ADA Red Line	1/1/95	12/31/96	5.0%	\$ 2,490
5 Systemwide R92/275 Subtasks	1/1/95	12/31/96	5.0%	\$ 82,532
5 Systemwide Safety Enhancements	1/1/95	12/31/96	5.0%	\$ 25,090
5 Systemwide ADA Blue Line	1/1/95	12/31/96	5.0%	\$ 9,779
5 Systemwide BL Cap. Expenditures	1/1/95	12/31/96	5.0%	\$ 39,767
11 Green Line	1/1/95	12/31/96	5.0%	\$ 248,546
21 Pasadena Blue Line Final Design	1/1/95	12/31/96	5.0%	\$ 173,992
23 Red Line Seg 3 East Side	1/1/95	12/31/96	5.0%	\$ 3,372
25 PB Line Design Support	1/1/95	12/31/96	5.0%	\$ 46,590
28 East Side Ext. Final Design	6/1/95	12/31/96	5.0%	\$ 700,948
31 Blue Line Survey Revisions	8/1/95	12/31/96	5.0%	\$ 2,972
33 PB Line Project Planning	8/1/95	12/31/96	5.0%	\$ 180
34 Pasadena BL Cost Containment	8/1/95	12/31/96	5.0%	\$ 2,091
35 Red Line Segment 2 Rebid R8L	8/1/95	12/31/96	5.0%	\$ 27,399
36 East Side Extension Art	9/1/96	12/31/96	5.0%	\$ 2,657
37 Pasadena Blue Line Redesign	1/1/95	12/31/96	5.0%	\$ 97,372
38 RL Seg 3 Mid City Ex. Subsurface	5/1/96	12/31/96	5.0%	\$ 9,659
		<b>TOTAL</b>		<b>\$ 2,841,926</b>