

46

APRIL 1, 1997

46



TO: BOARD OF DIRECTORS

FROM: LINDA BOHLINGER, INTERIM CHIEF EXECUTIVE OFFICER

*Linda Bohlinger*

SUBJECT: APPROVE PLAN TO COMPLETE THE FIBER OPTIC & CABLE TRANSMISSION PROCUREMENT FOR THE METRO RED LINE

Los Angeles County  
Metropolitan  
Transportation  
Authority

One Gateway Plaza  
Los Angeles, CA  
90012

213.922.6000

**RECOMMENDATION**

Approve:

- a) termination of ETA Technologies, Inc. (ETA) as prime contractor on Contract No. B644, Fiber Optic & Cable Transmission (FO&CT) procurement; and
- b) authorize the negotiation of the completion contract for the B644 Contract work with the existing B644 subcontractor, NORTEL Communications Systems, Inc., (NORTEL) for the remaining balance of the terminated B644 Contract, plus additional costs Not-To-Exceed (NTE) \$200,000 to result in a succeeding FO&CT Completion Contract No. B644S.

Within Construction Committee authority:  Yes  No

**ORGANIZATIONAL IMPACT**

The above action will maintain the project schedule for Metro Red Line, Vermont/Hollywood Corridor, allowing FO&CT equipment to be delivered to the B648B Communications Installation Contractor on the delivery milestone date of June 1, 1997, thereby mitigating delay claims.

**BUDGET IMPACT**

The funds for this action are available within the Board approved project budget of \$1,640,781,000. This recommended action will negotiate the current remaining B644 Contract balance of \$2,909,041, plus up to \$200,000, in order to result in a succeeding Completion Contract No. B644S with a Total Contract Value NTE \$3,109,041. The Forecast Final Cost, including this re-award and other anticipated options and changes for the Completion Contract, is \$8,504,000. This recommended action does not impact the MTA Fiscal Year Budget or the Sources of Funds. Project Contingency will not be affected.

Potential Cost Recovery:  Yes  No

There is no Performance Bond on this Contract per a July 23, 1993 decision by MTA Risk Management.

## **ALTERNATIVES CONSIDERED**

A rebid of the Contract was considered (this may be a viable option in the future for Segment 3, North Hollywood, Mid-City, and East Side Extension). However, rebid and award of the Segment 2 Vermont/Hollywood procurement would take a minimum of nine (9) months, plus a four (4) month design phase required after award.

Additional costs would be incurred in rebidding the Contract, plus additional costs for construction management and EMC services associated with rebid and second design phase submittal processing. In addition to the costs mentioned, the B648B Communications Installation Contractor might choose to pursue possible costs resulting from the delay in equipment delivery.

## **BACKGROUND**

The B644 contractor, ETA, has not been able to perform the work awarded to it in January 1994. The company is unable or unwilling to pay its obligations under the Contract. Because of its inability or unwillingness to pay subcontractors and suppliers, ETA has failed to meet its obligations in processing purchase orders, and is more than four (4) weeks behind with the long-lead procurements necessary to meet the scheduled delivery on June 1, 1997. ETA has lost most of its key personnel on the Contract.

Despite continuous efforts by the MTA and its Construction Manager to mitigate the situation, ETA has not paid the subcontractor responsible for the Network Management System. Despite repeated requests, ETA has declined to provide evidence of any financial capability to proceed with the work and has failed to respond to either the first or second Cure Notices. In spite of Contract provisions that require ETA to allow audits of its records, ETA refused to grant access to MTA auditors in an attempt to conduct a financial capabilities audit.

## **SMALL BUSINESS PARTICIPATION**

The Contract has a Disadvantaged Business Enterprise participation of 6.02%. The Contract is 72% complete, and ETA has attained 4.10% towards the goal. The majority of the DBE value is in the documentation published to meet requirements under the Contract Data Requirements List. The negotiated Completion Contract B644S will be held to the same goal.

Prepared by:

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