



CONSTRUCTION COMMITTEE
APRIL 15, 2004

PROJECT: METRO GOLD LINE EASTSIDE EXTENSION PROJECT

CONTRACT: C0803 - TUNNEL, STATIONS, TRACKWORK AND SYSTEMS

ACTION: REAFFIRM THE CHIEF EXECUTIVE OFFICER'S AUTHORITY TO EXECUTE CONTRACT C0803 WITH THE TECHNICALLY ACCEPTABLE LOWEST- PRICED RESPONSIVE AND RESPONSIBLE BIDDER, AND AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO ESTABLISH AND EXECUTE CONTRACT MODIFICATIONS BASED UPON THE DOLLAR LIMITATIONS SET FORTH IN ATTACHMENT A

RECOMMENDATION

- A. Reaffirm the Chief Executive Officer's authority to execute Contract C0803 and to exercise the options within the contract with the technically acceptable lowest-priced responsive and responsible bidder for design and construction; and
- B. Authorize the Chief Executive Officer to execute Contract Modifications and establish a Contract Authorization for Modifications in the amount of \$42,031,430 which is equal to 7% of the contract award value, subject to reporting and authority approval based upon individual contract modification dollar limitations set forth in Attachment A.

RATIONALE

On February 28, 2002, the MTA Board of Directors approved solicitation of a Design-Build contract for construction of the Metro Gold Line Eastside Extension Stations, Trackwork and Systems elements of the Project. The project also includes a Design-Bid-Build contract for the Tunnel and Stations Excavation segment. The two contracts were issued under one solicitation, where bidders had the option to bid the contracts individually or the combined contract work. On June 9, 2003 an invitation to bid the contract(s) was advertised.

Price bids were opened on December 10, 2003 and are valid through June 2, 2004. Three bids were received for individual contracts and two for the combined contracts. The lowest overall price bid submitted was from one of the bidders for the combined contracts. While all price bids were higher than the construction budget, an Action Plan was developed to reconcile the cost difference. (Refer to the March 2004 Receive and File Board Item No. 17, Subject: Status of Full Funding Grant Agreement and Construction Contract Award

Attachment B for more details). A recommendation for award in the amount of \$600,449,000 to Eastside LRT Constructors (a Joint Venture of Washington Group International, Obayashi Corporation and Shimmick Construction Corporation) for the combined contracts work has been forwarded by the bid evaluation team to the CEO.

Contract award is dependent upon receiving an executed Full Funding Grant Agreement (FFGA) from the Federal Transit Administration (FTA). MTA is anticipating receiving the executed FFGA by early June 2004.

The authorization of the CEO to execute contract modifications will allow the MTA and contractors to negotiate contract modifications in a timely manner to ensure that the project cost and schedule benefits are effectively realized by MTA, and the contractors are justly compensated. Streamlining the contract modification approval processes would provide the necessary real-time decision making tools to facilitate the critical nature of tunneling and underground construction work as well as maximize the benefits of the Design-Build method of project delivery. The large magnitude of this contract necessitates a commensurate CEO contract modifications authority level to expedite the processing of contract modifications and to avoid or minimize the potential for significant delay costs.

During the industry review meetings conducted for this project, representatives of the major contracting industry from around the country have collectively expressed serious reservations about doing business with the MTA based on past experiences with, amongst other things, delays in processing legitimate and equitable contract modifications. This action will endorse the new image of the MTA and how it conducts business.

Since the Chief Executive Officer has the authority to award construction contracts, it is prudent that at the time of award the Contract Authorization for Modifications amount is in place. The industry standard nationwide is 10% of the contract award value. Staff is requesting Board approval of 7%.

In order to protect the MTA's interests, and to comply with applicable laws, staff will process contract modifications in accordance with all requirements of MTA Procurement, including cost analysis, legal review and audit before any contract modification is executed. Such contract modifications will be subject to the reporting, approval and individual contract modification dollar limitations set forth in Attachment A.

In February 2003, the MTA Board approved the same reporting, approval and contract modification dollar limitations, as in Attachment A, to be executed by the Chief Executive Officer for the Metro Orange Line.

FINANCIAL IMPACT

Funding for the Metro Gold Line Eastside Extension Project has been included in the Long Range Transportation Plan and the Five Year Capital Program. Sufficient funds are included in the FY04 budget to cover project costs during FY04. Since this is a multi-year project, the cost center manager and appropriate Executive Officer will be accountable for

budgeting project costs in future years consistent with the proposed MTA Board of Directors adopted project budgets.

ALTERNATIVES CONSIDERED

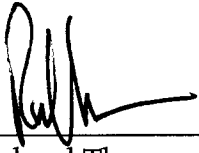
The MTA Board may reject the reaffirmation of the Chief Executive Officer's authority to execute Contract C0803. However, rejection would be contradictory to Public Utilities Code Section 130051 and may delay contract award and the start of construction.

The MTA Board of Directors may elect to reject the recommendation on contract modifications. However, rejecting the Chief Executive Officer's ability to execute contract modifications within the dollar limitations described in Attachment A and setting the Contract Authorization for Modifications amount to 7% of the contract award value, could potentially delay the execution of time sensitive contract modifications during construction leading to project delays. Also, this could potentially reduce any benefits from the contracting delivery approaches that have been set forth, Design-Build and Design-Bid-Build, thereby delaying the Project Revenue Operations Date.

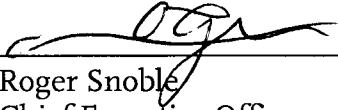
ATTACHMENTS

- A. Contract Modification Reporting and Approval Authority Matrix
- B. March 2004 Receive and File Board Item No. 17

Prepared By: Eli Choueiry, Deputy Project Manager
Dennis S. Mori, Executive Officer, Project Management



Richard Thorpe
Chief Capital Management Officer
Construction Project Management



Roger Snoble
Chief Executive Officer



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**ATTACHMENT A
CONTRACT MODIFICATION
REPORTING & APPROVAL AUTHORITY MATRIX**

Contract Modification \$ Amount	Approval Authority	Comment
Up to \$1,000,000	Chief Executive Officer	Chief Executive Officer approves and executes contract modification under his authority.
Greater than \$1,000,000 (normal)	Construction Committee and MTA Board of Directors	Chief Executive Officer executes after Construction Committee recommendation and final approval by the MTA Board of Directors.
Greater than \$1,000,000 (time critical)	MTA Board of Directors	For <u>time critical</u> contract modifications, staff may place an item on the agenda for the MTA Board of Directors without prior recommendation from the Construction Committee. Chief Executive Officer executes after MTA Board of Directors approval.
For all contract modifications regardless of value. The total cumulative change amount will not be greater than the Board approved not to exceed amount for contract modifications.	Merit review by County Counsel and Office of Procurement subject to Public Utility Code Section 130243.	Staff will issue a monthly update of all executed and pending contract modifications and remaining contract modification authority value to the Construction Committee for information.



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ATTACHMENT B

CONSTRUCTION COMMITTEE
MARCH 18, 2004

**SUBJECT: METRO GOLD LINE EASTSIDE EXTENSION
STATUS OF FULL FUNDING GRANT AGREEMENT AND
CONSTRUCTION CONTRACT AWARD**

ACTION: RECEIVE AND FILE THIS REPORT

RECOMMENDATION

Receive and file this report on the status of the Metro Gold Line Eastside Extension Full Funding Grant Agreement and construction contract award.

ISSUE

On December 10, 2003, MTA received bids for the Metro Gold Line Eastside Extension, Contract C0803 "Tunnels & Station Excavations and Stations Trackwork & Systems". The bids were higher than anticipated, relative to the proposed construction budget in the pending Full Funding Grant Agreement (FFGA). An "Action Plan" was developed which defined the steps necessary to reconcile this cost difference.

BACKGROUND

On January 20, 2004, an Action Plan was transmitted to the FTA that defined the steps necessary to reconcile the cost difference between the higher than anticipated bid amounts and the proposed construction budget (\$113.3 million). The Action Plan identified (1) MTA budget line item adjustments and reallocations commensurate with the current status of the project, (2) cost reductions by invoking the contract provision which allows the MTA to request Best And Final Offer (BAFO) from the bidder(s), (3) that the project budget will be maintained at \$898.8 million and (4) that the Federal Section 5309 New Starts share of \$490.7 million, as set forth in the FFGA, will be preserved without any change.

On February 23, 2004, MTA received a BAFO of \$586.8 million, from the lowest bidder (Eastside LRT Constructors). This represents a reduction of \$57.6 million from the original bid of \$644.4 million. MTA project budget adjustments allowed the construction budget of \$531.1 million (Contract C0803) to be adjusted upward by \$56.3 million, for a revised construction budget of \$587.4 million as indicated below.

**Project Construction Budget Adjustments Per Action Plan
FINAL RESULTS**

Description	Initial Bid December 10, 2004	Action Plan/BAFO February 23, 2004
Construction Budget	\$531.1	\$587.4
Low Bid	\$644.4	\$586.8
Variance	\$(113.3)	\$0.6

The BAFO amount is \$600,000 below the revised construction budget. Therefore, MTA has indicated to the FTA that the Action Plan can be successfully implemented through the project construction budget adjustments and the cost reductions achieved through the BAFO process, with \$600,000 returning to the contingency.

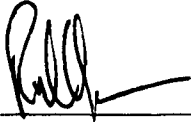
NEXT STEPS

MTA staff believes that the revisions to the Action Plan will not substantively change the Eastside FFGA package currently under review. A schedule with suggested target dates for the remaining steps in the FFGA review process (see Attachment A) has been transmitted to the FTA. This schedule contemplates that, as soon as the Office of Management and Budget (OMB) has completed its review of the FFGA and the FTA has concluded its assessment of the MTA's plan, the FFGA be forwarded to the Congress to commence the 60 day review period. This would provide just enough time for the FFGA to be executed before the end of the 180-day bid validity period for the construction contract (June 2, 2004).

ATTACHMENT

A. Proposed Schedule For Remaining FFGA Review

Prepared by: Dennis S. Mori, Executive Officer, Project Management



Richard Thorpe
Chief Capital Management Officer



Roger Snoble
Chief Executive Officer

ATTACHMENT A

PROPOSED SCHEDULE FOR REMAINING FFGA REVIEW

Mid January 2004: Submittal of Bid Results & Project Adjustments Action Plan

Late February 2004: Receipt of BAFO from contractor

Late February 2004: OMB completes FFGA review

Early March 2004: FTA and PMOC completes review of MTA Action Plan

Mid March 2004: Submittal of FFGA package to Congress

Mid May 2004: Congressional 60-day review period ends

Late May 2004: FTA executes FFGA

Motion by Director Molina

The Metropolitan Transportation Authority developed a Project Budget Adjustments Action Plan when the bids for the Metro Gold Line Eastside Extension came in over budget. This plan called for a series of project efficiencies and modifications. The plan was successful as it kept MTA within the proposed Full Funding Grant Agreement budget and secured MTA's ability to award a contract for construction.

However, as the project progresses through construction, the MTA will have the ability to review those items where modifications were made and may be able to restore the items depending upon the amount of contingency left in the project budget. To maximize the integrity of the project, community expectations and the operational efficiency it is essential that a set of priorities be developed in order to most efficiently implement those items that were deferred.

I therefore move that this Board direct staff to implement the following items, as prioritized below, as funding from project contingency becomes available.

1. Traction power substations
2. 200 space parking structure at Atlantic and Pomona
3. Urban design elements next to each station, portal and power substations
4. Ticket vending machines

I further move that this Board direct staff to attempt to secure a price for each of these items from the lowest bidder before the contract is signed.