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**CONSTRUCTION COMMITTEE
FEBRUARY 19, 2004**

PROJECT: ALL TRANSIT CORRIDOR AND CAPITAL PROJECTS

**CONTRACT: EN070, ENVIRONMENTAL COMPLIANCE SERVICES
ULTRASYSTEMS ENVIRONMENTAL INC.**

**ACTION: CONTRACT MODIFICATION NO. 3 IN AN AMOUNT NOT-TO-
EXCEED \$281,000**

RECOMMENDATION

Authorize the Chief Executive Officer to execute Modification No. 3 to Contract No. EN070 with Ultrasystems Environmental, to provide Environmental Compliance Services through fiscal year 2005 in an amount not-to-exceed \$281,000, increasing the total contract value from \$1,620,000 to \$1,901,000.

Within Construction Committee authority: Yes No N/A

RATIONALE

In March 2001, the Board awarded a five-year contract, inclusive of three one-year options to Ultrasystems Environmental under Contract No. EN070 for environmental compliance services. At that time, the Board funded the Contract Value of \$1,400,000 based on the first two years of the five-year period of performance. Modification No 1 exercised an Option to extend the contract to March 2004. Modification No. 2 issued in March 2003, increased the Contract Value by \$220,000, from the original award of \$1,400,000. Staff is now requesting additional funding in the amount of \$281,000 based on MTA's Environmental Compliance & Services Department's (ECSD) estimated projection of required services through fiscal year 2005.

Contract No. EN070 provides the MTA with environmental analysis and clearance of projects with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), as well as other environmental, historic and transportation laws and regulations. These types of services are required to support projects programwide, as well as to assist the MTA in complying with the numerous federal, state, and local environmental regulations

imposed upon the agency. The MTA must comply with these regulatory agencies or face litigation for violations and possible reductions to State and federal grants.

As the need for specific Environmental Compliance services arise, ECSD will issue Task Orders, funded from their associated project budget, considering the information available and applicable time constraints on the performance of the work. Most of the work will be negotiated on a not-to-exceed basis and performed and paid on a Time-and-Materials basis in order to be practically expedient. ECSD staff will closely monitor the contractor's budget and schedule using existing project management controls.

IMPACTS TO OTHER CONTRACTS

If EN070's contract value is not increased, then support to other MTA contracts will be limited. The project manager would have to competitively procure environmental compliance services for their individual projects, including the Orange Line and the Eastside LRT. For example, the Orange Line Project, Contract No. C0675 Design/Build, which is currently in design and construction, may be impacted if the Contractor requests MTA to provide timely environmental compliance services. Any delay in an MTA response may increase MTA's liability for Contractor claims to delay in schedule completion milestones.

FINANCIAL IMPACT

EN070 is a Task Order contract and no funds are obligated until a Task Order is awarded against a valid project budget. The funds for this contract modification are available in the FY04 budget in Cost Center 8510 (Construction Contracts). To date, \$1,520,976.69 was expended on various transit corridor and capital projects as shown in Attachment B. Since this is a multi-year contract, the Executive Officer is responsible for budgeting future year expenditures, including Segment 3 North Hollywood (800082), the Orange Line (800112) and the East Side LRT (800088), and will be brought back for Board approval.

Potential for Cost Recovery: Yes No N/A

ALTERNATIVES CONSIDERED

The MTA could decline to increase the funding for this contract, and a new Environmental Compliance Services contract could be solicited, competitively selected, and procured when funding is exhausted. This would obviate the administrative advantages of a multi-year contract controlled by Task Orders.

MTA could prepare individual contracts for each environmental support task needed. To date 29 Task Orders have been issued for Contract No. EN070. It would not be time or cost-effective to have staff conduct individual procurements for each task required.

MTA could do all the environmental compliance support work in-house. Insufficient staffing, both in quantity and expertise, equipment, and supplies prevent MTA from performing the work internally. The MTA would have to hire additional staff with expertise in many different

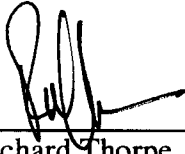
subjects, such as traffic, noise and vibration, biology, archaeology, and paleontology, and would thereby incur more cost to do the work internally than by employing a consultant

This action will allow Ultrasystems to proceed with performing environmental compliance services for the proposed projects as described above. A not-to-exceed increase for this contract will provide a timely method for MTA's qualified contractor, Ultrasystems, to mitigate environmental related issues for the Major Transit Corridor and Capital Program Projects in a cost controlled manner.

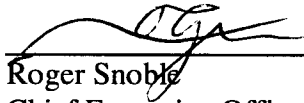
ATTACHMENTS

- A. Procurement Summary
- A-1. Procurement History
- A-2. List of Subcontractors
- B. Summary of Current and Proposed Work

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Richard Thorpe
Chief Project Management Officer



Roger Snoble
Chief Executive Officer

**BOARD REPORT ATTACHMENT A
PROCUREMENT SUMMARY**

**INCREASE CONTRACT AWARD – NOT TO EXCEED AMOUNT
FROM \$1,620,000 TO \$1,901,000**

1.	Contract Number: EN070		
2.	Recommended Vendor: Ultrasystems Environmental Incorporated		
3.	Cost/Price Analysis Information:		
	A. Bid/Proposed Price: N/A	Recommended Price: \$1,901,000	
	B. Details of Significant Variances are in Attachment: N/A		
4.	Contract Type: CWO Time and Material		
5.	Procurement Dates:		
	A. Issued: N/A		
	B. Advertised: N/A		
	C. Pre-proposal Conference: N/A		
	D. Proposals Due: N/A		
	E. Pre-Qualification Completed: N/A		
	F. Conflict of Interest Form Submitted to Ethics: N/A		
6.	Small Business Participation:		
	A. Bid/Proposal Goal: N/A	Date Small Business Evaluation Completed: 10/25/99	
	B. Small Business Commitment: 20% Details are in Attachment A-2		
7.	Invitation for Bid/Request for Proposal Data:		
	Notifications Sent: N/A	Bids/Proposals Picked up: N/A	Bids/Proposals Received: N/A
8.	Evaluation Information:		
	A. Bidders/Proposers Names: N/A	Bid/Proposal Amount: N/A	Best and Final Offer Amount: N/A
	B. Evaluation Methodology: Increasing the Not To Exceed Amount		
9.	Protest Information:		
	A. Protest Period End Date: N/A		
	B. Protest Receipt Date: N/A		
	C. Disposition of Protest Date: N/A		
10.	Contract Administrator: Hina Patel	Telephone Number: (213) 922-1064	
11.	Project Manager: Jim Sowell	Telephone Number: (213) 922-7306	

**BOARD REPORT ATTACHMENT A-1
PROCUREMENT HISTORY**

**INCREASE CONTRACT AWARD – NOT TO EXCEED AMOUNT
FROM \$1,620,000 TO \$1,901,000**

A. Background on Contractor

Ultrasystems Environmental Incorporated, located in Irvine, California, in business since 1994, has been providing environmental compliance services to the MTA since April 2001. The contract duration is five years (two base years with three one-year options). The base year contract was extended for the first option year, and will expire March 30, 2004. Staff intends to exercise a second year option prior to March 2004.

B. Procurement Background

The MTA Board awarded a Contract Work Order (CWO), Time and Material contract to Ultrasystems, Inc. for a not-to-exceed amount of \$1,400,000 and approved Modification No.2, which requested additional funding of \$220,000 based on Environmental Compliance Department's projection of required services through fiscal year 2004.

The requested additional funding (Modification No.3) of \$281,000 is based on Environmental Compliance Department's projection of required services through fiscal year 2005. These services include environmental support for various capital improvement and transit corridor projects. Staff was to return to the Board for an authorized increase in the not-to-exceed amount if additional projects are approved or unanticipated environmental compliance services for all transit and capital projects are required.

C. Evaluation of Proposals

In November 2000, Ultrasystems' proposal which was evaluated the second most technically competent proposer, was negotiated for a fair and reasonable contract price, and is in compliance with MTA Procurement policies and procedures.

D. Cost/Price Analysis Explanation of Variances

The requested additional funding is based on an Environmental Compliance Department's projection of required services through fiscal year 2005. The recommended price has been determined to be fair and reasonable based on MTA estimate, post audit procedures and negotiations.

BOARD REPORT ATTACHMENT A-2

LIST OF SUBCONTRACTORS

**INCREASE CONTRACT AWARD – NOT TO EXCEED AMOUNT
FROM \$1,620,000 TO \$1,901,000**

SMALL BUSINESS PARTICIPATION (CONTRACT EN070)

This Task Order Contract (TO) has a DBE participation goal of 20%. The Contract was awarded in April 2001 to Ultrasystems Environmental Incorporation (a DBE Prime) for 3 years. Current DBE attainment¹ based on the relevant contract amount² is 36%. Current DBE participation³ based on total actual amount paid-to-date to the Prime Contractor and total actual amount paid-to-date to the DBE firms is 47%.

Since the contract inception, a total of 29 Task Orders have been issued. The DBE Prime is performing on the project as listed below. None of the listed DBE subcontractors have been issued task orders to date.

Original Not to exceed (NTE) Amount	\$	1,400,000.00
Relevant Contract Value²	\$	450,051.00
Total Actual Amount Paid to Date to Prime	\$	634,468.00

Subcontractor's Name	Commitment (to date)	Current Attainment¹	Current Participation³	Current Status
Ultrasystems (DBE Prime)	CWO	36%	47%	Performing
Hernandez, Kroone & Assoc.	CWO	0%	0%	Not performing
Lee Andrews Group	CWO	0%	0%	Not performing
Ninyo & Moore	CWO	0%	0%	Not performing
TOTAL	20%	36%	47%	Meeting the Goal

1 Current Attainment = Total Actual Amount Paid-To-Date to Subcontractors ÷ Total Relevant Contract Amount

2 Relevant Contract = Original Contract values (Task Orders) + Contract Cost Modifications

3 Current Participation = Total Actual Amount Paid-To-Date to Subcontractors ÷ Total Actual Amount Paid-To-Date to Prime Contractor

**BOARD REPORT ATTACHMENT B
CONTRACT EN070 SUMMARY OF CURRENT AND PROPOSED WORK**

CURRENT WORK IN PROGRESS/COMPLETED:

Project	Total Contract To Date
Various Capital Projects	\$ 247,528.12
The Orange Line (800112)	\$ 236,875.77
Metro Red Line (800082)	\$ 963,968.42
Metro Gold Line (800088)	\$ 72,604.38
Value of Current Work	\$ 1,520,976.69

PROPOSED FUTURE WORK THROUGH FY05:

Archaeological services for Segment 3 of the Metro Red Line	\$ 50,000
Environmental Compliance Services for the Orange Line	\$ 200,000
Environmental Compliance Services for Eastside Corridor	\$ 100,000
Miscellaneous Capital Projects	\$ 30,000
Value of Proposed Work	<u>\$ 380,000</u>
Value of Current + Proposed Work	\$ 1,901,000
Less Contract EN070 Current Value	<u>\$ 1,620,000</u>
Additional Value Required	\$ 281,000