



**Metro**

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**CONSTRUCTION COMMITTEE  
SEPTEMBER 16, 2004**

**PROJECT: METRO ORANGE LINE**

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

**ACTION: CONTRACT MODIFICATION NO. 5 IN AN AMOUNT NOT-TO-  
EXCEED \$650,000**

**RECOMMENDATION**

Authorize the Chief Executive Officer to execute Modification No. 5 to Contract No. EN070, Environmental Compliance Services, with Ultrasystems Environmental to perform an additional study as requested by the Court of Appeals to revise the San Fernando Valley East-West Transit Corridor's (now known as Metro Orange Line) Final Environmental Impact Report (EIR) in an amount not-to-exceed \$650,000, increasing the Total Contract Value from \$1,901,000 to \$2,551,000.

Within Construction Committee authority:       Yes     No     N/A

**ISSUE**

In April 2002, an action was filed in Superior Court seeking a writ of mandate against MTA on the grounds its certification of the Final EIR violated the California Environmental Quality Act (CEQA). Although the Superior Court upheld the MTA's Final EIR, in July 2004 the Court of Appeals directed the Superior Court to vacate the Final EIR with directions to consider an additional Rapid Bus alternative(s) instead of the Orange Line. In August 2004, the Court of Appeals issued a Preliminary Stay Order directing MTA to halt construction until further hearing. The Court subsequently let the Stay Order expire and construction has resumed. However, there remains a possibility that construction could again be halted by some court. MTA needs to expeditiously prepare a Revised EIR to comply with the Court's Order to reduce any further impact to the Metro Orange Line budget and schedule.

The amount requested is an upper limit estimate and includes contingencies. MTA will negotiate the task order on a time and materials basis and pay only on the actual hours worked.

### **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. Previous Board actions authorized increases to the previous total not-to-exceed Contract Value from \$1,400,000 to \$1,901,000. Staff is now requesting additional funding in the amount of \$650,000 based on MTA's Environmental Compliance & Services Department's (ECSD) estimate to prepare a revised EIR with the same level of impact analysis and on a fast-track schedule.

On August 5, 2004, MTA staff initiated a Task Order to start this work and issued a Limited Notice to Proceed in order to minimize schedule impacts. This study is being funded from the project's construction budget. The scope of work was based on information from the Court of Appeals opinion. County Counsel has reviewed and approved the scope of work as well as the format of the document.

This action will allow Ultrasystems to continue to proceed with completing the revised environmental document for the Orange Line in an expeditious manner.

### **DISCUSSION**

Pursuant to the Court of Appeals decision, MTA is updating the project's alternatives analysis to consider additional Rapid Bus in the San Fernando Valley. The purpose of this Revised EIR is to update and supplement the alternative analyses presented in the 2002 Metro Orange Line Final EIR pertinent to the proposed project. The scope of work for this effort includes the alternatives mentioned in the Court of Appeals decision analyzed at the same level of detail as the original EIR.

### **IMPACTS TO OTHER CONTRACTS**

If EN070's contract value is not increased, then the additional study requested by the Court of Appeals will not be completed in the shortest period possible. MTA could experience increased liability for Contractor claims for delay to schedule completion milestones if further court orders again stop construction.

### **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 within the FY05 Capital Budget of \$144,341,000; within budget Cost Center No. 8510 for Project 800112 Metro Orange Line Project. Since this is a multi-year project, the Cost Center Manager and appropriate Executive Officer will be accountable for budgeting the project

costs in future years consistent with the MTA Board adopted total project budget. Funding sources for Project 800112 are a combination of state and local funding sources.

Potential for Cost Recovery:  Yes  No  N/A

### ALTERNATIVES CONSIDERED

MTA staff considered two alternatives to the recommended action for completing this work:


1. Utilize the Countywide Planning and Development Division's Planning Bench.
2. Procure a contractor through a sole source contract.

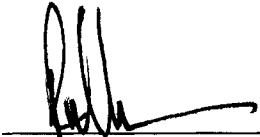
Staff is not recommending these because using Ultrasystems, a firm that is well qualified to do the study, was determined to be the most expedient path to take. Although the Planning Division has a consultant bench that could perform the work and MTA could procure contractors to perform the work, staff is not recommending these alternatives, as these create additional delays due to normal procurement processes and would defeat the purpose of a fast track schedule. Also, if MTA were to pursue these other alternatives, the work undertaken by Ultrasystems to date would have to stop and the project team would demobilize and start up again under the new work order, causing increased project costs. Additionally, this would leave current action on this critical issue unresolved and delay our response.


### ATTACHMENTS

- A. Procurement Summary
- A-1. Procurement History
- A-2. List of Subcontractors

Prepared by: Manuel R. Gurrola, Environmental Specialist III

  
James de la Loza  
Chief Planning Officer  
Regional Transportation Planning & Development

  
Richard Thorpe  
Chief Capital Management Officer  
Construction Project Management

  
Roger Snoble  
Chief Executive Officer

**BOARD REPORT ATTACHMENT A  
PROCUREMENT SUMMARY**

**INCREASE CONTRACT AWARD – NOT TO EXCEED AMOUNT \$650,000  
FROM \$1,901,000.00 to 2,551,000.00**

1.	Contract Number: EN070		
2.	Recommended Vendor: Ultrasystems Environmental Incorporated		
3.	Cost/Price Analysis Information:		
	A. Bid/Proposed Price: N/A	Recommended Price: \$650,000	
	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: Ultrasystems, Inc.	<u>Bid/Proposal Amount:</u> \$860,000	<u>Best and Final Offer Amount:</u> 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: Manuel Gurrola	Telephone Number: (213) 922-7305	

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

**INCREASE CONTRACT AWARD AMOUNT NOT-TO-EXCEED \$650,000  
FROM \$1,901,000 TO \$2,551,000**

**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 (Modification 4) for the second option year, and will expire March 30, 2005.

**B. Procurement Background**

The requested additional funding (Modification No.5) of \$650,000 is required to perform additional reports for the Orange Line. Use of the existing Ultrasystems contract is the most expedient and cost effective way to obtain a revised EIR report, which is required to comply with the Appellate Court order.

**C. Cost/Price Analysis**

The recommended increase to the not-to-exceed contract value is fair and reasonable based on the contracts, time and material negotiated rates, which are subject to yearly adjustments based on the Consumer Price Index. The final negotiated amount will comply with all requirements of Contract No. EN070 and Metro Procurement.

**BOARD REPORT ATTACHMENT A-2**

**LIST OF SUBCONTRACTORS**

**INCREASE CONTRACT AWARD – NOT TO EXCEED AMOUNT \$650,000  
FROM \$1,901,000 TO \$2,551,000**

**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 attainment<sup>1</sup> based on the relevant contract amount<sup>2</sup> is 40%. Current DBE participation<sup>3</sup> based on total actual amount paid-to-date to the Prime Contractor and total actual amount paid-to-date to the DBE firms is 36%.

Since the contract inception, a total of 36 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.

<b>Original Not to exceed (NTE) Amount</b>	\$ 1,400,000.00
<b>Relevant Contract Value<sup>2</sup></b>	\$ 456,961.00
<b>Total Actual Amount Paid to Date to Prime</b>	\$ 1,274,106.00

<b>Subcontractor's Name</b>	<b>Commitment (to date)</b>	<b>Current Attainment<sup>1</sup></b>	<b>Current Participation<sup>3</sup></b>	<b>Current Status</b>
<b>Ultrasystems (DBE Prime)</b>	<b>CWO</b>	<b>40%</b>	<b>36%</b>	<b>Performing</b>
Hernandez, Kroone & Assoc.	CWO	0%	0%	Not performing
Lee Andrews Group	CWO	0%	0%	Not performing
Ninyo & Moore	CWO	0%	0%	Not performing
<b>TOTAL</b>	<b>20%</b>	<b>40%</b>	<b>36%</b>	<b>Meeting the Goal</b>

*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 (un-audited)*

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