



Expo

Exposition Metro Line
Construction Authority


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BuildExpo.org

REVISED
6.b

DATE: March 31, 2006

TO: BOARD OF DIRECTORS

FROM: RICHARD D. THORPE 
CHIEF EXECUTIVE OFFICER

**ACTION: AUTHORIZE CEO TO ASSUME METRO CONTRACT E0016 AND
NEGOTIATE AND AUTHORIZE ENGINEERING SUPPORT
SERVICES**

RECOMMENDATION

Authorize the CEO to execute the attached Assignment and Assumption Agreement for Metro Contract No. E0016, Preliminary Engineering Design Services Mid-City/Exposition Light Rail Transit Project and authorize the CEO to negotiate and execute Phase III of Contract No. E0016, Design Support Services During Construction for an amount not-to-exceed \$5.8 million with a period of performance through June 30, 2010.

SUMMARY

With the recent award of the Design-Build Contract, it is critical that the Authority obtain Design Support Services During Construction from a qualified Engineering firm to provide the technical expertise for effective oversight and management of the design and construction activities of the Design-Build Contractor. Phase III of the existing Metro Contract with DMJM+Harris is specifically structured to provide the required support for review of Design-Build submittals, response to Requests for Information from the Design Build Contractor, coordinate jurisdictional approvals and other Engineering support functions. DMJM+Harris is uniquely qualified to perform this work based on its significant involvement in the successful completion of the FEIS and Preliminary Engineering of the Exposition LRT Project.

DISCUSSION

DMJM+Harris was selected by Metro for award of Metro Contract No. E0016, Preliminary Engineering Design Services Mid-City/Exposition Light Rail Transit Project, following a competitive consultant procurement involving four nationally recognized engineering consultant teams. This procurement followed all Federal and State statutes governing procurement of Architectural and Engineering services. The consultant proposed \$16.2 million and the Metro Board awarded the Cost-Plus-Fixed-Fee (CPFF) contract for \$12.4 million for Phase I, Preliminary Engineering Design, and Phase II, Bid Support Services. The consultant will satisfactorily complete the scope of authorized services including FEIS planning, preliminary engineering, preparation of the Design-Build contract technical provisions and jurisdictional coordination within this contract amount. The contract also includes provisions for Design Support Services During Construction as Phase III of the contract.

The Authority's Administrative Code provides for procurement of goods and services without competition under limited conditions. Procurement of contracts may be made by non-competitive negotiation when the proposed Authority contract is for the same scope of work and contains substantially the same terms as a contract that was competitively procured and awarded by Metro. The E0016 contract meets these criteria and assumption of the current Metro contract E0016 is the most effective manner to ensure that the vital Engineering support services can continue through completion of the Project by the Design-Build Contractor. A new procurement for these design services would require:

- Additional Authority administrative, management and legal costs,
- Extensive and costly mobilization of new staff
- Time consuming and costly Project scope familiarization by new staff

Furthermore, design firms will be reluctant to expend significant proposal costs when the incumbent firm DMJM+Harris would have a considerable technical advantage in a qualifications based procurement process. For these reasons and since the consultant is performing satisfactorily, a new procurement is not recommended.

In anticipation of proceeding with Project execution during the third phase, a scope of services was prepared and includes third party design coordination with L.A. City, Culver City, Caltrans, Utilities & Metro; CPUC applications, Design-Build submittal reviews, Design-Build RFI responses, public design workshops/presentations, recommendations and responses to Authority technical questions, studies and analyses. These services will involve engineers in civil, structural, track, electrical, train control, utilities, and architectural/landscaping

specialists. The consultant has proposed approximately \$7.5 million to perform this work over the course of the Project. Staff expects to reduce this proposed amount substantially in negotiations by reducing or eliminating proposed functions that can be performed by Authority staff or performed more effectively by other consultants and refining hours required for specified activities.

The final negotiated amount has not been determined, but will comply with all state and federal requirements and the project budget. The Authority's estimate is not disclosed since it will jeopardize the CEO's ability to negotiate the best and lowest price possible for these required services.

FINANCIAL IMPACT

The estimated costs of the proposed engineering support services are within the Project's proposed fiscal year budget and the overall Project budget of \$640 million.

NEXT STEPS

Upon approval, the CEO will execute the assumption on behalf of the Authority and process the Assignment execution with Metro and the Consultant. The Authority will develop an independent cost estimate and perform a Cost and Price Analysis prior to the CEO negotiating a not-to-exceed price with the Consultant.

ATTACHMENT(S)

Assignment and Assumption Agreement

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(METRO CONTRACT E0016)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement") is made and entered into as of the ___ day of April 2006, by and between LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, a public agency duly formed and existing under the laws of the State of California ("Metro") and EXPOSITION METRO LINE CONSTRUCTION AUTHORITY, a public agency duly formed and existing under the laws of the State of California ("Expo Authority"), with reference to the following facts:

A. Pursuant to a competitive procurement, Metro and DMJM + Harris entered into that certain METRO CONTRACT NO: E0016, Preliminary Engineering Design Services Mid-City/Exposition Light Rail Transit Project (the Contract), dated April 3, 2003, that included Phase III Design Support During Construction; as described in Part A, Technical Scope of Services; Section A4 (Subsections 9.0 through 11.7).

B. Expo Authority was established by Chapter 7 of Division 12.7 of the Public Utilities Code, commencing with Section 132600, which became effective January 1, 2004. The Expo Authority has been authorized by State Legislation to design and build the Los Angeles-Exposition Metro Line light rail project ("Project").

C. Expo Authority's Administrative Code Chapter 7 Section 1 A.9 permits the Authority to accept assignment and assume from Metro the rights and obligations under various Metro contracts and agreements concerning the Project, including the Contract for Phase III Design Support During Construction.

D. Metro has agreed to assign the Contract to Expo Authority and Expo Authority has agreed to assume all of Metro's liabilities with respect to the Contract;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Assignment. Metro does hereby irrevocably assign, grant, bargain, sell, convey and transfer to Expo Authority all of Metro's rights, title interests and obligations ("Contract Rights") in and to the Contract.

Section 2. Acceptance of Assignment. Expo Authority hereby accepts the assignment of the Contract Rights.

Section 3. Assumption of Liabilities. Expo Authority does hereby irrevocably assume all of the liabilities of Metro with respect to the Contract.

Section 4. Indemnity. Expo Authority shall indemnify, defend, protect and hold harmless Metro and its officers, directors, employees, contractors and agents from and against any loss, liability, claim, cause of action, damages, costs or expenses (including attorney's and other professional fees, and the cost of expert witnesses) that Assignor may incur and which arises with respect to, or results directly or indirectly from, the Contract.

Section 5. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

Section 6. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon all the parties hereto and their respective successors.

Section 7. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 8. Further Assurances. Metro shall promptly execute and deliver to Expo Authority all such instruments and other documents and assurances as are reasonably requested by Expo Authority to further evidence the assignment contained herein.

IN WITNESS WHEREOF, Metro and Expo Authority have caused this instrument to be executed and delivered effective as of the day and year first above written.

**LOS ANGELES COUNTY
METROPOLITAN
TRANSPORTATION AUTHORITY**

By:

Name: Roger Snoble

Title: Chief Executive Officer

Date: _____

Approved as to Form:

By: _____
Los Angeles County Counsel

**EXPOSITION METRO LINE
CONSTRUCTION AUTHORITY**

By: _____

Name: Richard D. Thorpe

Title: Chief Executive Officer

Date: _____

Approved as to Form:

By: _____
Exposition Metro Line Construction Authority
General Counsel

The undersigned hereby approves and accepts the assignment set forth herein.

DMJM+HARRIS

By: _____

Name: S.J. Polechronis

Title: Sr. Vice President

Date: _____