



**Metro**

Metropolitan Transportation Authority

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**CONSTRUCTION COMMITTEE  
APRIL 19, 2007**

**SUBJECT: METRO GOLD LINE EASTSIDE EXTENSION  
CONTRACT C0803 – EASTSIDE LRT CONSTRUCTORS  
TUNNEL, STATIONS, TRACKWORK AND SYSTEMS  
STEEL ECONOMIC PRICE ADJUSTMENTS**

**ACTION: AUTHORIZE THE CHIEF EXECUTIVE OFFICER  
TO NEGOTIATE AND EXECUTE MODIFICATIONS FOR STEEL  
ECONOMIC PRICE ADJUSTMENTS**

**RECOMMENDATION**

Authorize the Chief Executive Officer to:

- A) Execute Modification No. 81 to Contract No. C0803 with Eastside LRT Constructors for \$1,926,280.95 for Economic Price Adjustment for Rebar;
- B) Negotiate and Execute a Modification to Contract No. C0803 with Eastside LRT Constructors in an amount Not-To-Exceed \$1,563,545 for Economic Price Adjustment for Track Material; and
- C) Negotiate and Execute a Modification to Contract No. C0803 with Eastside LRT Constructors in an amount Not-To-Exceed \$1,015,198 for Economic Price Adjustment for Custom Tunnel Construction Steel Material.

**RATIONALE**

The C0803 Contract included indexing language to address possible cost adjustments related to potential increases to the price of steel that are impacting the U. S. construction industry. By recognizing the potential increases to the price of steel, Metro provided a means of sharing the costs that were beyond the Contractor's ability to predict at the time the Contractor submitted their construction bid.

**BACKGROUND**

The Metro Gold Line Eastside Extension Project is an \$898.8 million, 6-mile Light Rail Transit Project consisting 1.7 miles of two twin-bored tunnels, 2 underground stations, 6 at-grade stations, trackwork and systems. In June 2004, the Chief Executive Officer under the authority delegated by the Board of Directors, awarded the C0803 Contract to the Eastside

LRT Constructors (a Joint Venture of Washington Group International, Obayashi Corporation and Shimmick Construction Corporation) in the amount of \$600,449,000, based on the Contractor's Best and Final Offer (BAFO). The C0803 Contract included indexing language to address possible cost adjustments related to potential increases to the price of steel that are impacting the U. S. construction industry.

Although the contract included indexing language and a formula, Metro and the Contractor could not agree on the value of certain elements of the formula and the total price adjustment costs. This dispute resulted in a claim by the Contractor. The claim was presented to a Disputes Review Board (DRB) that decided in favor of the Contractor's position. The DRB recommended that the Contractor is due payment for the mill costs of steel in excess of that in the BAFO, but that Contractor shares the risk of escalation with the Owner by not being compensated for profit, taxes, bond, insurance or any escalation for steel items such as walers and struts that are used in the temporary underground excavation support system.

The contract includes language that requires the Contractor to submit for review and approval, certified cost and pricing data that includes all calculations and supporting data necessary to determine the price adjustment. The contract also states that price adjustments will be made on at least a quarterly basis for all months since the last price adjustment and that the Contracting Officer will prepare a modification for any quarterly adjustments. The Contractor has submitted Economic Price Adjustment (EPA) requests totaling \$9,331,557. Of these requests, seven (7) were denied, totaling \$1,570,566; five (5) EPAs totaling less than \$1 million each were executed by the CEO under his Board-Delegated Authority; thirteen (13) are yet to be negotiated; and one (1) has yet to be submitted. The EPA requests are summarized in Attachment A. It is anticipated that negotiations for the recommendations B and C will be completed prior to the Metro Board's April Meeting.

### **FINANCIAL IMPACT**

The funding for this action is included in the FY07 budget in Cost Center 8510 (Construction Contracts/Procurement) under Project 800088 (Metro Gold Line Eastside Extension) Line Item No. 53101 (Acquisition – Building and Structure) and Line Item No. 53102 (Acquisition of Equipment).

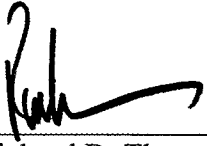
### **ALTERNATIVES CONSIDERED**

The Metro Board of Directors could decide to not approve staff's recommendation. However, this would be inconsistent with the contract interpretation rendered by the Disputes Review Board and would most likely result in litigation and potential additional cost exposure to the Metro.

## **ATTACHMENTS**

- A. Procurement Summary
- A-1. Small Business Participation (C0803 – Tunnel Portion)
- A-2. Small Business Participation (C0803 – Design Portion)
- A-3. Small Business Participation (C0803 – Construction Portion)
- B. Steel Adjustments – This Board Action

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



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Richard D. Thorpe  
Chief Capital Management Officer



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Roger Snoble  
Chief Executive Officer

**BOARD REPORT ATTACHMENT A  
PROCUREMENT SUMMARY**

**AUTHORIZE THE CHIEF EXECUTIVE OFFICER  
TO NEGOTIATE AND EXECUTE MODIFICATIONS FOR STEEL ECONOMIC  
PRICE ADJUSTMENTS**

1.	Contract Number: C0803		
2.	Design-Builder: Eastside LRT Constructors		
3.	Cost/Price Analysis Information:		
	A. Bid/Proposed Price: \$4,574,593	Recommended Price: \$4,505,024	
	B. Details of Significant Variances: None		
4.	Contract Type: Firm Fixed Price		
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: 3/15/07		
6.	Small Business Participation:		
	A. Bid/Proposal Goal: N/A	Date Small Business Evaluation Completed: N/A	
	Small Business Commitment: N/A		
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: Eastside LRT Constructors	Bid/Proposal Amount: N/A	Best and Final Offer Amount: N/A
	B. Evaluation Methodology: Per Disputes Review Board recommendation of quantum		
9.	Protest Information:		
	A. Protest Period End Date: N/A		
	B. Protest Receipt Date: N/A		
	C. Disposition of Protest Date: N/A		
10.	Per Disputes Review Board Recommendation	Telephone Number:	
11.	Project Manager: Dennis Mori	Telephone Number: 922-7238	

**BOARD REPORT ATTACHMENT A-1**  
**SMALL BUSINESS PARTICIPATION (C0803 – Tunnel Portion)**

This Contract has a Disadvantaged Business Enterprise (DBE) participation commitment of 13.11%. The contract was awarded to Eastside LRT Contractors on June 1, 2004 and is approximately 87% complete. Current DBE attainment<sup>1</sup> based on the current contract amount<sup>2</sup> is 13.95%. Current DBE participation<sup>3</sup> based on total actual amount paid-to-date to Contractor and total actual amount paid-to-date to DBE firms is 17.74%. The fourteen (14) original subcontractors/suppliers have performed or are performing as listed below. Also, the Contractor has demonstrated Good Faith Efforts by utilizing nine (9) additional DBE firms, which were not listed with the original team.

<b>Original Award Amount</b>	<b>\$212,563,757</b>
<b>Current Contract Amount<sup>2</sup></b>	<b>\$212,563,757</b>
<b>Total Actual Amount Paid to Date to Prime</b>	<b>\$167,020,977</b>

Subcontractor's Name	Commitment	Current Attainment <sup>1</sup>	Current Participation <sup>3</sup>	Current Status
Abatique and Associates	0.14%	0.19%	0.24%	Performing
Ace Fence Company	0.48%	0.57%	0.73%	Performing
Anthony Marmolejo Construction	2.97%	3.07%	3.91%	Performed
CGO Construction	0.28%	0.28%	0.36%	Performed
G&C Equipment	2.26%	3.91%	4.98%	Performed
Ghazi Precast	0.86%	0.75%	0.96%	Performing
Island Environmental Services	1.07%	0.04%	0.06%	Performed
Medlin & Associates	0.38%	0.00%	0.00%	Substituted
RMD Rebar	1.38%	0.93%	1.18%	Performing
RT Construction	2.45%	1.17%	1.49%	Performing
Seville Group	0.47%	1.08%	1.37%	Performed
Sudhakar Company	0.06%	0.06%	0.07%	Performing
Sullivan Concrete Textures	0.11%	0.07%	0.09%	Performing
W. C. Goolsby, Inc.	0.20%	0.15%	0.20%	Performing
MBI Media, Inc.	N/A	0.03%	0.04%	Performed
Antich Consulting	N/A	0.11%	0.14%	Performed
Mariman Sercurity	N/A	0.32%	0.41%	Performed
VSA and Associates	N/A	0.12%	0.16%	Performing
Morgner Tech. Management	N/A	0.04%	0.05%	Performed
Ultrasystems Environmental	N/A	0.02%	0.02%	Performing
G&C Equipment – Procurement Services	N/A	0.10%	0.13%	Performed
Manual Tejada Trucking	N/A	0.42%	0.53%	Performed
EW Corporation	N/A	0.51%	0.64%	Performing
<b>TOTAL</b>	<b>13.11%</b>	<b>13.95%</b>	<b>17.74%</b>	<b><u>Performing</u></b>

<sup>1</sup>Current Attainment = Total Actual Amount Paid-to-Date to DBE Subs ÷ Total Current Contract Amount

<sup>2</sup>Current Contract Amount = Original Contract Amount + Contract Cost Modifications

<sup>3</sup>Current Participation = Total Actual Amount Paid-to-Date to DBE Subs ÷ Total Actual Amount Paid-to-Date to Prime

**BOARD REPORT ATTACHMENT A-2**  
**SMALL BUSINESS PARTICIPATION (CO803 – Design Portion)**

This Design-Build Contract has a Disadvantaged Business Enterprise (DBE) participation commitment of 21.76% for Design. The contract for Design was awarded to Eastside LRT Constructors on June 1, 2004 and is 92.75% complete. Current DBE attainment based on the current contract amount is 17.36%. Current DBE participation<sup>3</sup> based on total actual amount paid-to-date to the contractor and total actual amount paid-to-date to DBEs is 21.06%. A total of seventeen (17) DBE subcontractors are listed to perform. Fourteen (14) subcontractors are performing as shown below.

<b>Original Award Amount</b>	<b>\$ 30,000,000.00</b>
<b>Current Contract Value<sup>2</sup></b>	<b>31,565,321.00</b>
<b>Total Actual Amount Paid to Date to Prime</b>	<b>\$ 26,022,040.00</b>

Subcontractor	Commitment	Current Attainment <sup>1</sup>	Current Participation <sup>3</sup>	Current Status
Abatique & Associates	2.55%	2.20%	2.67%	Performing
Abatique & Associates	.64	.41	.50	Performing
GC Tech.	.54	.54	.65	Performing
William J. Yang & Associates	2.17	1.12	1.36	Performing
Richard Chong	2.88	1.01	1.22	Performing
MCE Group	.44	0	0	Not performing
MHI Group.	5.20	2.39	2.90	Performing
ACEx Technology	2.83	3.51	4.26	Performing
Melendrez	1.44	1.55	1.88	Performing
Cornerstone	.72	.55	.67	Performing
D'Leon	2.29	.82	.99	Performing
Geomatic Transportation Services	.05	-0-	0	Not performing
IK Curtis Inc.	.01	-0-	0	Not performing
Linda J. Meadows & Associates`	-0-	.53	.65	Performing
Bullocks & Associates	-0-	.89	1.08	Performing
Antich Consulting	-0-	1.23	1.49	Performing
Davis Blueprint	-0-	.61	.74	Performing
<b>TOTAL</b>	<b>21.76%</b>	<b>17.36%</b>	<b>21.06%</b>	

<sup>1</sup>Current Attainment Percentage = Total Actual Amount Paid-to-Date to DBE Subs ÷ Total Current Contract Amount

<sup>2</sup>Total Current Contract Amount=Original Award Amount plus Change Orders

<sup>3</sup>Current Participation Percentage= Total Actual Amount Paid-to-Date to DBE Subs ÷ Total Actual Amount Paid-to-Date to Prime

PREPARED: March 20, 2007

Data is based on January 2007 DBE Reports

**BOARD REPORT ATTACHMENT A-3**  
**SMALL BUSINESS PARTICIPATION (CO803 – Construction Portion)**

This Design-Build Contract has a Disadvantaged Business Enterprise (DBE) participation commitment of \$ 51,500,000 or 17.2 % for Construction. The contract for Construction was awarded to Eastside LRT Constructors on June 1, 2004 and is 12.6% complete. To date, the Design Builder, Eastside LRT Constructors, has committed \$48,706,815 or 15.91% to DBE subcontractors. Current DBE attainment<sup>2</sup> based on the current contract amount is 2.36%. Current DBE participation<sup>3</sup> based on total actual amount paid-to-date to the contractor and total actual amount paid-to-date to DBEs is 17.37%. A total of twenty-three (23) DBE subcontractors are listed to perform. Seventeen (17) are performing as shown below.

<b>Original Award Amount</b>	<b>\$ 300,263,963.00</b>
<b>Current Contract Value<sup>2</sup></b>	<b>306,149,360.00</b>
<b>Total Actual Amount Paid to Date to Prime</b>	<b>\$ 41,527,890.00</b>

Subcontractor	Commitment	Current Attainment <sup>1</sup>	Current Participation <sup>3</sup>	Current Status
RMD Rebar	2.87%	.54%	4.01%	Performing
Anthony Marmolejo Construction	.20	.20	1.45	Performing
G & C Equipment	3.92	.65	4.78	Performing
G & C Equip (procurement)	.10	.05	.34	Performing
ACE Fence Company	.12	.04	.32	Performing
Seville Group	1.56	.30	2.21	Performing
Abratique and Associates	.04	.01	.05	Performing
W.C. Goolsby	.03	.02	.15	Performing
Sudhaker Company	.08	00	-0-	Not performing
MBI Media, Inc.	.03	.01	.06	Not performing
SCA Environmental Inc.	-0-	00	.01	Not performing
Meriman Security	.26	.11	.80	Performing
VSA and Associates	.16	00	.01	Performing
Tejada Trucking	.33	.31	2.30	Performing
Hope Bullock	.03	.03	.20	Performing
CGO Construction	.05	.04	.33	Performing
Sullivan Concrete Textures	.02	.03	.23	Performing
Metco	3.27	.00	.00	Not performing
G & C Equipment	2.41	.00	.00	Not performing
Alatorre & Associates	.07	.00	.00	Not performing
Apex Doors and Frames	.10	.00	.00	Not performing
Colavan & Son	.24	.00	.00	Not performing
S & M Landscape	.02	.02	.12	Performing
<b>TOTAL</b>	<b>15.91%</b>	<b>2.36%</b>	<b>17.37%</b>	

<sup>1</sup>Current Attainment Percentage = Total Actual Amount Paid-to-Date to DBE Subs ÷ Total Current Contract Amount

<sup>2</sup>Total Current Contract Amount=Original Award Amount plus Change Orders

<sup>3</sup>Current Participation Percentage= Total Actual Amount Paid-to-Date to DBE Subs ÷ Total Actual Amount Paid-to-Date to Prime

PREPARED: March 20, 2007  
 Data is based on January 2007 DBE Reports  
 BY: TOM L. SINGLETON



**BOARD REPORT ATTACHMENT B  
STEEL ADJUSTMENTS - THIS BOARD ACTION**

Steel Items	Submitted Amount	Agreed/ Not-to-Exceed Amount
Rebar	\$1,995,850.00	\$1,926,280.95
Track Material	\$1,563,545.00	\$1,563,545.00
Custom Tunnel Construction Steel Material	\$1,015,198.00	\$1,015,198.00
<b>SUBTOTAL</b>	<b>\$4,574,593.00</b>	<b>\$4,505,023.95</b>

**STEEL ADJUSTMENTS PROCESSED UNDER BOARD-DELEGATED CEO AUTHORITY**

Steel Items	Submitted Amount	Amount Processed
Boyle Piles	\$351,453.46	\$351,453.46
Balance of C0800 Piles, Splice Plates and Elevator Casings	\$686,042.43	\$645,650.20
Steel Tunnel Liners	\$113,550.94	\$113,526.68
Elevator Casing	\$298.79	\$298.79
Pile Splice plates	\$24,416.96	\$11,516.33
Rebar for Precast Segments	\$896,903.57	\$369,994.18
<b>SUBTOTAL</b>	<b>\$2,072,666.15</b>	<b>\$1,492,439.64</b>

<b>TOTAL STEEL ADJUSTMENTS THIS BOARD ACTION AND PROCESSED UNDER BOARD-DELEGATED CEO AUTHORITY</b>	<b>\$5,997,463.59</b>
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**STEEL ADJUSTMENTS – UNDER REVIEW**

Steel Items	Amount Under Review
Rebar for tunnel invert and walkways	\$54,877.77
Rebar for Crosspassages	\$8,901.97
C0801 Soldier Piles	\$221,669.00
Structural Steel (Stations)	\$97,664.00
Fencing	\$22,091.00
Fire Protection	\$68,471.00
OCS Poles and Misc. OCS Components	\$158,432.00
Catch basin steps, frames, hook anchors, catch hooks, manhole covers	\$1,787.80
Miscellaneous Permanent Steel Materials	\$264,394.00
Miscellaneous Permanent Steel Materials - Book 2	\$181,565.19
Miscellaneous Permanent Steel Materials - Book 3	\$44,316.73
<b>TOTAL</b>	<b>\$1,124,170.46</b>

**STEEL ADJUSTMENTS – NOT YET SUBMITTED**

Steel Items	Estimated Amount
Permanent Station Fans	\$125,000.00

**Note: Shaded items are, or include, requests to adjust temporary steel. Metro Executive Management to determine whether adjustment will apply to temporary steel elements.**

