



(Board Copy)  
Washington Metropolitan Area Transit Authority  
**METRO ELECTRONIC ACTION  
DOCUMENT**

IDENTIFICATION			
MEAD ID:	99264	ACTION:	Modify
AWARD VALUE:	\$1,762,969.00	CONTRACT:	C05034
FUND SOURCES: ( <a href="#">View</a> )	Infrastructure Renewal Program Operating Funds	CONTRACTOR:	ERG Transit Systems ( USA) Inc. 1800 Sutter Street Suite 900 Concord, CA 94520
LAST MODIFIED:	03/01/2006		

DESCRIPTION	
SUBJECT:	Modify RCSC Contract No. C05034, for settlement of identified claims and changes
PURPOSE:	To request approval of the Board of Directors for contract modifications to Contract C05034, Regional Customer Service Center, for settlement of identified claims and changes.

ORIGINATION					
INITIATOR			DEPARTMENTAL APPROVAL		
CHRISTIAN BERES on 01/18/2006			Approved by WILKINS , PAMELA 01/26/2006		
PHONE:	202-962-2707	OFFICE:	FARE	DEPT:	Communications

COORDINATION (ROUTING)		
OFFICE	NAME	ACTION/DATE
(7110)	WILKINS, PAMELA	Approved 01/26/2006
AGMC (6110)	AGOURIDIS, LEONA	Re-assigned 01/25/2006
PRMT (7410)	JACKSON, LUCY	Approved 02/03/2006
COUN (1410)	O'KEEFFE, CAROL	Approved 03/03/2006
AUDT (7210)	STEWART, JAMES	Approved w/ Comments 03/01/2006
(1120)	Moneme, Emeka	Approved 03/10/2006

FINAL APPROVALS	
OFFICE	NAME/ACTION
GM	Approved for GMGR by GMGR CEO on 03/10/2006
BEMR	Approved for by Emeka Moneme on 03/10/2006
BOARD	BOARD WMATA (Not Yet Approved)



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**NARRATIVE**

**Background & Discussion:**

Contract C05034, SmarTrip® Regional Customer Service Center (RCSC), was awarded to ERG Transit Systems USA on July 21, 2003. The RCSC provides a series of services to WMATA, and participating agencies in the Regional SmarTrip® System. These services include: customer service, card management, card fulfillment, financial clearing & settlement, and operation and maintenance of the point-of-sale system.

Contract C05034 was anticipated to be implemented in two phases: a startup phase of one year, followed by an operations phase of four years. The purpose of the startup phase was to put in place three major elements: customer service, financial clearing & settlement, and the point-of-sale network. At the finalization of the startup phase; the development of financial clearing & settlement, and point-of-sale network elements had not been completed. The customer service element, while operational, did not incorporate the contractor's Multi-Application Smartcard Solution (MASS) software – thus, certain automated elements of customer service and card management were not functional.

The commencement of Customer Service operations in June 2004 coincided with the implementation of cashless parking at WMATA. Sales of SmarTrip® cards increased from an average of 8,000 per month to 58,000 per month. Moreover, calls to the customer RCSC, that ranged around 6,000 per month before cashless parking, increased in excess of 12,000 calls per month. This resulted in an increase in customer service labor costs, which the contractor could not recoup through the contract unit price schedule due to the fact that all contract elements, as discussed previously, were not implemented. There have been three contract modifications issued for the necessary additional labor in the amounts of \$50,000, \$145,000, and \$200,000; issued September 14, December 8, 2004, and June 16, 2005, respectively. These modifications provided necessary funding for the additional RCSC labor through June 30, 2005. The previously approved funding only supported additional costs up to May 31, 2005. Approval is requested to reimburse the contractor for additional labor from June 1, 2005 through the anticipated end of the additional customer service labor requirement, June 30, 2006, for a maximum not-to-exceed amount of \$60,613 per month, or \$787,969 for the designated period.

Further, this MEAD requests approval for funding associated with the settlement of a number of change orders and claims associated with Contract C05034. The principal claims are CP#7, Delays Due to Changes in Clearing and Settlement during the period 7/21/2003 - 3/15/2004; and CP#18, Connectivity to Carmen Turner Facility for Disaster Recovery. Additional claims and changes include CP#6, Paper Products; CP#8, Data Synchronization; CP#10, Delay of POS Devices; CP#15, SIRS development Feb. 2004 to Aug. 2005; CP#17, Pre-Bill Autoload; CP#19, Additional Website Functionality; and CP#20, Multiple Language Capability. Agreement was reached with the contractor in the amount of \$975,000 subject to WMATA Board of Director approval. The funding breakdown is as follows: Capital Payments - \$588,648, and Operating Payments - \$386,352 (subject to availability of funding, and WMATA Board of Director approval of the Operating Budgets for FY06 - \$88,752; FY07 - \$142,848; FY08 - \$142,848; FY09 - \$11,904). This settlement is subject to audit of costs and pricing data in accordance with the audit and record provisions of contract C05034, supporting CP#6, Paper Products and CP#18, Connectivity to Carmen Turner Facility for Disaster Recovery, which have not been previously audited. Approval to award Contract C05034 to ERG Transit for the SmarTrip® Regional Customer Service Center was granted by the Board of Directors on January 16, 2003, subject to receipt of certain financial documents. The contract was subsequently awarded to ERG on July 21, 2003.

The revised contract amount resulting from these change orders is \$22,353,227.30 which includes \$8,682,630.30 Capital and \$13,670,597 Four-Year Operating.

**Alternatives:**

The alternative to payment for additional labor charges at the RCSC, driven by unanticipated card sales since the launch of cashless parking and not reimbursed through contract payments, is to not reimburse the contractor. Without reimbursement, the contractor would likely reduce staff, resulting in a steep decline in service and corresponding increase in customer dissatisfaction.

The alternative to settlement of the subject claims and changes is to issue unilateral modifications to the contract and address resultant litigation. This would result in substantial staff legal costs as well as a possible higher settlement cost.

**Impact on Funding (Capital):**

Budget: Infrastructure Renewal Program  
Fiscal 2005 & Prior and FY06  
Project: Title Regional Fare Integration  
FY06 Budget Book Page 200

**Budget Information**

	FY05 & Prior	FY06	Total
Budget Amount	\$26,900,000	\$12,500,000	\$39,400,000
This Action (ERG Delay Claim and Change Orders)	\$588,648	\$0	\$588,648
Prior Obligations (see remark below)	\$20,729,052	\$12,142,942	\$32,871,994
Subtotal	\$21,317,700	\$12,142,942	\$33,460,642
Remaining Budget	\$5,582,300	\$357,058	\$5,939,358

**Remarks:**

On January 16, 2003, the Board of Directors provided capital program approval of the Regional Customer Service Center Program in the amount of \$31,157,843, which is funded partly by MTA in the amount of \$6,599,427, and WMATA in the amount of \$24,558,416 (Meads No. 37358, 44172, and 47625). The Prior Obligations amount includes ERG's contract award in the amount of \$7,857,195. Not all program funds have been obligated to date because they include approved options to other contracts which have not been exercised, 10% contract contingency, and other incidental costs for Project Management and Consulting support. Prior obligations further include NF4 Single Platform change order to contract C44444 with Cubic Corp.

**Impact on Funding (Operating):**

Budget: Operating Budget, Fiscal 2006, 2007, 2008, 2009  
Department: Department of Customer Contract Services  
Office: SmarTrip® Operations  
Total Multi-Year Operating Amount: \$1,174,321

ERG was awarded the amount of \$12,101,276 for four year operations subject to funding availability and yearly Board approval

FY06 Operating Budget

Budget Book: Page 70

Account: SmarTrip® Operations

Services Other Budget: \$3,670,000

Prior Expenses: \$1,126,998

This Action (FY06): \$876,721

Remaining FY06 Funds: \$1,666,281

Remarks: There are sufficient funds available in the FY06 budget to support this action.

FY07 Operating Budget (Proposed)

Proposed Budget Book: Page 61

Account: SmarTrip® Operations

Services Other Budget: \$4,337,600

Prior Expenses: \$0

This Action (FY07): \$142,848

Remaining FY07 Funds: \$4,194,752

Remarks: FY07 Funding is subject to Board approval of the budget and the availability of funding

FY08 Operating Budget (Pending)

Proposed Budget Book: N/A

Account: SmarTrip® Operations

This Action (FY08): \$142,848

Remarks: FY08 Funding is subject to Board approval of the budget and the availability of funding

FY09 Operating Budget (Pending)

Proposed Budget Book: N/A

Account: SmarTrip® Operations

This Action (FY09): \$11,904

Remarks: FY09 Funding is subject to Board approval of the budget and the availability of funding

**Schedule:**

There is no change to the final contract completion date of July 21, 2008 as a result of this action.

**Prior Approvals:**

On January 16, 2003, the Board of Directors authorized award of a contract for the procurement, installation and operation of a Regional Customer Service Center, to ERG Transit Systems (USA), Inc., of Concord, CA., which included operating costs for four years, subject to annual Board approval

On April 22, 2005, the Board of Directors approved a modification to Contract C05034 to allow reimbursement of \$200,000 in additional operating costs to the Regional Customer Service Center (RCSC) incurred and forecast to continue due to unanticipated SmarTrip® card sales volumes. (As discussed in the text above, the combined additional labor change orders exceeded the Board threshold.)

**Affirmative Action:**

Equal Employment Opportunity:

Contractor will comply with Executive Order 11246, Revision 4.

Disadvantaged Business Enterprise

Appendix "B" requirements for C05034 applies to the additional work associated with these changes.

**Recommendation:**

Recommend the Board of Directors approve contract modifications for the identified claims and changes to Contract C05034, Regional Customer Service Center.