

**Metro**Los Angeles County  
Metropolitan Transportation AuthorityOne Gateway Plaza  
Los Angeles, CA 90012-2952213.922.-----  
metro.net**CONSTRUCTION COMMITTEE  
JANUARY 17, 2013****SUBJECT: I-210 FREEWAY SOUNDWALL CONSTRUCTION PROJECT****ACTION: APPROVE RECOMMENDATION****RECOMMENDATION**

Authorize the Chief Executive Officer to execute Contract Modification No. 52 to Contract No. C0942 with Sema Construction Inc. for a Mutual Release and Settlement Agreement resolving all claims and disputes in the amount of \$1,750,000 increasing the total contract value from \$17,558,527 to \$19,308,527. This action does not increase the Life-of-Project Budget.

**ISSUE**

The I-210 Soundwall Construction project has been successfully completed and is ready for contract close-out. Metro and the Contractor have negotiated a mutual release and settlement agreement which resolves all outstanding claims and payments to Sema Construction, Inc., (Sema), its subcontractors, suppliers and vendors.

**DISCUSSION**

Construction of Soundwall Package 4, Contract C0942, Soundwall and Bridge Widening Project began in September 2009. In September 2010, staff advised Metro Board that the Contractor was encountering differing site conditions of large boulders in the construction area, which was creating difficulty in the installation of cast in drilled holes (CIDH) piles for the soundwall foundations. Staff also advised the Board that once a thorough analysis of the ground conditions and the soundwall foundation design was completed staff would return to the Board with its recommendations.

Caltrans performed the design for this project as well as the geotechnical investigations supporting the design. The geotechnical reports that were prepared by Caltrans and their consultants did not state that ground conditions contained large boulders located

at this location. Caltrans design for the foundations of the bridges and soundwalls called for their support being on CIDH piles.

When the Contractor started work on the soundwall section 144, the Contractor was only able to install 18 piles in a period of 10 days. The number of boulders at this location was very large. There was still a total of approximately 800 CIDH piles to be installed at soundwall sections 144, 184, 190, 196 and 210. Ground investigations at the remaining soundwall locations revealed the existence of a large number of boulders. If the Contractor continued installing CIDH piles for soundwall sections 144, 184, 190, 196 and 210, it was estimated that it would cost an additional \$5 million with the delays factored in to complete the pile installations.

As a result Metro suspended the CIDH piles work and requested Caltrans to redesign the foundations for the remaining soundwall sections 144, 184, 190, 196 and 210. In mid November 2010 Caltrans provided Metro with a final design. The cost proposal for this changed work received from Sema Construction Inc. was in the amount of \$4.7 million.

During late December and early January 2011, Metro attempted to negotiate with Sema Construction, Inc. an appropriate amount for the changed work. However, the Contractor was unwilling to modify his cost proposal; therefore the negotiations reached an impasse. Metro felt at the time that the most cost effective approach was to proceed in issuing a Unilateral Change Order based on the independent cost estimate in the amount of \$1,492,607.

In February 2011, Metro Staff presented the Metro Board with the recommendation and received approval to issue a Unilateral Change Order in the amount of \$1,492,607 for construction of the redesigned foundations for Soundwalls 144, 184, 190, 196, 210 and retaining walls 192 and 194. The board report also advised Metro Board Members that once Metro issued the unilateral change order to Sema, Metro was subject to a claim from the Contractor at a future date.

The unilateral change order for \$1,492,607 was issued to Sema Construction Inc. in March 2011. Sema Construction then submitted a Notice of Intent to Claim after receipt of the Unilateral Change Order. Subsequently, Sema claimed it was entitled to additional compensation of \$2.2 million over the amount that was included in the unilateral change order. This amount did not include other outstanding claims that Sema Construction Inc. filed against Metro that would further increase Metro's cost exposure and liability.

Over the course of eighteen (18) months Metro Staff attempted to negotiate a settlement amount with Sema Construction Inc., however, the Contractor was still unwilling to modify his cost proposal. On September 13, 2012 Metro and Sema met for a final time to negotiate a full and fair value in a global settlement. As a result of the negotiation, an agreement was reached between Sema and Metro on the full and final amount of \$1,750,000 due to Sema, its subcontractors, suppliers and vendors for

settlement of all issues arising out of or relating to Metro Contract C0942. The construction work under this contract is now complete. Execution of this agreement resolves all outstanding claims and allows close-out of this contract within the project budget.

Metro and Caltrans implemented a lessons learned program on all other Soundwall Projects based on this experience.

### **DETERMINATION OF SAFETY IMPACT**

This Board Action will not have an impact on established safety standards for Metro's Construction Projects.

### **FINANCIAL IMPACT**

The funding of \$1,750,000 for this Project is included in the FY13 budget in cost center 8510, Construction Contracts/Procurement, under Project Number 460309, Countywide Soundwall Projects.

#### **Impact to Budget**

The FY13 funding for this action comes from Measure R Highway Capital 20%.

No other sources of funds were considered for this activity. This fund is not eligible for Bus and Rail Operations.

### **ALTERNATIVES CONSIDERED**

The Board may decline to approve the recommended action. This action is not recommended as it will prevent the close-out of this project and subject Metro to legal action that will be taken by the Contractor to recover the costs described in this Board Action. These costs will be further increased when the attorney fees and the court costs are included in the contractor's pursuit of their cost recovery.

### **ATTACHMENTS**

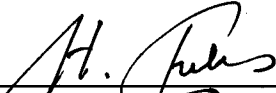
- A. Procurement Summary
- B. Contract Modification Authority (CMA) Summary

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Michelle Lopes Caldwell  
Chief Administrative Services Officer



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Krishniah N. Murthy  
Executive Director, Transit Project Delivery



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Arthur T. Leahy  
Chief Executive Officer

## PROCUREMENT SUMMARY

## SR-210 SOUNDWALLS AND BRIDGE WIDENING PROJECT

1.	Contract Number: C0942	
2.	Recommended Vendor: SEMA Construction, Inc.	
3.	Type of Procurement (check one) : <input checked="" type="checkbox"/> IFB <input type="checkbox"/> RFP <input type="checkbox"/> RFP – A&E <input type="checkbox"/> Non-Competitive <input type="checkbox"/> Modification <input type="checkbox"/> Task Order	
4.	Procurement Dates:	
	A. Issued: March 13, 2009	
	B. Advertised/Publicized: March 16, 2009	
	C. Pre-proposal/Pre-Bid Conference: April 8, 2009	
	D. Proposals/Bids Due: May 5, 2009	
	E. Pre-Qualification Completed: June 8, 2009	
	F. Conflict of Interest Form Submitted to Ethics: December 7, 2012	
	G. Protest Period End Date: July 8, 2009	
5.	Solicitations Picked up/Downloaded: 56	Bids/Proposals Received: 5
6.	Contract Administrator: Tim Clark	Telephone Number: (213) 922-7246
7.	Project Manager: James S. Gleig	Telephone Number: (213) 922-7453

**A. Procurement Background**

An Invitation for Bid was issued for a firm fixed price contract in accordance with Public Utilities Code §130232 sealed bid requirements. A firm fixed price contract was selected because the construction requirements were clearly defined and two or more firms are able to perform the work. The IFB was issued on March 13, 2009. On April 8, 2009, a Pre-Bid meeting was held and eight contractors attended the meeting. On May 5, 2009, Metro received five bids from fifty-six plan holders. The bid prices ranged from \$13,766,000 to \$16,865,300 with the Metro Independent Cost Estimate at \$18,334,701.

This Contract was awarded on July 14, 2009 and substantially complete on October 23, 2012. Execution of this agreement resolves all outstanding claims and allows close-out of the Contract within the project budget.

**B. Evaluation of Proposals**

The recommended amount for this Mutual Release and Settlement Agreement has been determined to be fair and reasonable and in compliance with Metro Procurement Policies and Procedures, as described below.

**C. Cost/Price Analysis**

The recommended price has been determined to be fair and reasonable based upon cost analysis, technical evaluation, fact finding, and negotiations.

<b>Proposal Amount</b>	<b>Staff Estimate</b>	<b>Settlement Amount</b>
\$2,200,000	\$1,750,000	\$1,750,000

**D. Background on Contractor**

Sema Construction, Inc. was incorporated in California in March 1996. Sema Construction, Inc. is a full service construction firm with its Corporate Office located in Centennial, Colorado, USA. Other offices are located in Florida and Veracruz. Sema Construction has completed numerous projects in California for Caltrans as well as various cities and counties and is in the process of completing the Temple Ave., 4<sup>th</sup> Track Infrastructure Project for the Alameda Corridor-East Construction Authority as well as other projects for other agencies. This Contract was the first between Metro and Sema Construction, Inc.

**E. Small Business Participation**

At time of contract award Sema Construction, Inc. made no voluntary MBE/WBE commitments.

**F. Subcontractors**

	<b>Subcontractors</b>	<b>Scope of Work</b>
1	Anderson Drilling	CIDH
2	Coral Construction Company	Signing & Striping
3	Eco-Logic, Inc.	Landscaping
4	Integrity Rebar Placers	Rebar
5	Lincoln Pacific Builders, Inc.	Electrical
6	Penhall Company	Demo, Joint Seal, Joints
7	Reycon Construction, Inc.	Masonry
8	RMA Group, Inc.	Quality Control/Quality Assurance
9	Sterndahl Enterprises, Inc.	Striping

**CONTRACT MODIFICATION AUTHORITY (CMA) SUMMARY**

**C0942 SR-210 SOUNDWALLS AND BRIDGE WIDENING PROJECT**

<b>MOD or CO</b>	<b>Description</b>	<b>Value</b>
MOD 1	TRAFFIC HANDLING AT SANTA ANITA	\$ 31,652.81
MOD 2	CHANGE QUANTITIES FOR HAZARDOUS MATERIALS	\$ 312,550.00
MOD 3	ADDITIONAL SERVICE PEDESTAL AT MAYFLOWER	\$ 12,169.13
MOD 4	SOUNDWALL TEST HOLES - DSC	\$ 16,994.27
MOD5	ADMIN CHANGE - REVISE SPECIAL PROVISIONS	\$ 0
MOD 6	METAL GUARD RAIL LIMITS OF REMOVAL - REV'D DWGS	\$ 47,167.27
MOD 7	ADMIN CHANGE - CORRECT CALTRANS TRAFFIC TABLES	\$ 0
MOD 7	ADMIN CHANGE - CHANGE SIGN PEDESTALS	\$ 0
MOD 8	DSC - RETAINING WALL 184	\$ 99,732.86
MOD 9	DSC - MAGNOLIA BRIDGE PILE DRILLING	\$ 5,002.15
MOD 10	DSC - MYRTLE BRIDGE OBSTRUCTIONS DRILLING CIDH	\$ 75,014.20
MOD 11	DSC - CALIFORNIA BRIDGE OBSTRUCTIONS DRILLING CIDH	\$ 86,862.31
MOD 12	MAYFLOWER & MONTEREY BRIDGE CIDH DRILLING - DSC	\$ 88,015.56
MOD 13	WIDENING OF WINGWALL AT MAYFLOWER	\$ 0
MOD 14	INTERFERING STORM DRAIN AT MAYFLOWER	\$ 59,909.44
MOD 14.01	INTERFERING STORM DRAIN W/CIDH ABUTMENT	\$ 104,632.54
MOD 14.02	INTERFERING STORM DRAIN WITH CIDH - ADD COSTS	\$ 9,975.00
MOD 15	ADMIN CHANGE -TOP OF GIRDER STEM FINISH CHANGE	\$ 0
MOD 16	ABUTMENTS AT MAYFLOWER & MONTEREY UNDERXINGS	\$ 12,912.75
MOD 17	REPLACEMENT OF DAMAGED CRASH BARRIERS	\$ 16,474.40
MOD 18	INSTALL 4 OPEN FOR BUSINESS SIGNS	\$ 2,504.25
MOD 19	ADDITION TO CALTRANS SP'S- POLYESTER CONCRETE-	\$ 0
MOD 20	ADMIN CHANGE -ADDITION TO CALTRANS SP'S- NCR NO 4	\$ 0
MOD 21	SOUNDWALL 144 PILE DRILLING - DSC	\$ 51,045.54

MOD or CO	Description	Value
MOD 22	FIRST STREET BRIDGE - BENT 3 COLUMN FOOTING	\$ 7,338.34
MOD 23	SOUNDWALL 95 DIFFERING SITE CONDITION	\$ 94,802.67
MOD 24	ADDITIONAL TRAFFIC CONTROL AND SWPPP MAINTENANCE PART 1	\$ 156,325.00
MOD 24.01	ADDITIONAL TRAFFIC CONTROL AND SWPPP MAINTENANCE PART 2	\$ 63,675.00
MOD 25	RELOCATE RAMP METERING SYSTEM CABINET 1258	\$ 47,828.00
MOD 26	ADMINISTRATIVE CHANGE - NCR NO. 6	\$ 0
MOD 27	ADMINISTRATIVE CHANGE - MASONRY BLOCK COLOR	\$ 0
MOD 28.01	OVERHEAD SIGNS E, H, I SIGN STRUCTURE FOUNDATION DSC	\$ 47,494.27
MOD 29	ADMINISTRATIVE CHANGE - BRIDGE MOUNTED SIGN DETAIL SD-6	\$ 0
MOD 30	CIDH SOUNDWALL REBAR	\$ 48,906.23
MOD 31	ADMINISTRATIVE CHANGE - 5TH AVENUE BRIDGE RESTRAINER SYSTEM	\$ 0
MOD 32.01	5TH STREET BRIDGE W/B APPROACH PACING DWGS L1 AND L3	\$ 8,058.00
MOD 33	ADMINISTRATIVE CHANGE - NCR NO. 9	\$ 0
MOD 34	5TH AVENUE BRIDGE BMP DECK DRAINS	\$ 16,164.40
CO - UNI 26.02	SOUNDWALL REDESIGN - CIDH TO SPREAD FOOTING	\$ 1,492,607.00
MOD 35	HUNTINGTON DRIVE W/B ON RAMP A-2 - DSC	\$ 5,461.98
MOD 36	HUNTINGTON DRIVE E/B ON RAMP A-5 - ON RAMP DSC	\$ 27,591.38
MOD 37	SANTA ANITA E/B OR - 1 ON RAMP DSC	\$ 8,516.47
MOD 38	TRAFFIC CRASH CUSHIONS	\$ 17,806.23
MOD 38	MYRTLE AVENUE DECK CORES AND SURVEY	\$ 9,429.20
MOD 39	SIGN STRUCTURE D POST MODIFICATIONS	\$ 26,630.72
MOD 40	PROFILE GRADE CHANGE AT SW 184 - RFI NO. 68	\$ 76,129.00
MOD 41	SCREEN BACKFILL MATERIAL	\$ 48,243.78
CO - UNI 45.01	MYRTLE AVENUE DECK REMEDIATION	\$ 403,230.61
MOD 42	MYRTLE AVENUE DECK REMEDIATION - REBAR	\$ 15,695.82
MOD 49	TRAFFIC CRASH CUSHIONS	\$ 2,236.28



<b>MOD or CO</b>	<b>Description</b>	<b>Value</b>
MOD 43	SOUNDWALL NO.127 -CORING/FACING/CHIPPING INVESTIGATIVE WORK	\$ 9,421.60
MOD 44	PANEL REPLACEMENT ON 210 AT MYRTLE	\$ 40,949.27
MOD 44.01	PANEL REPLACEMENT - ADDITIONAL RS PCC CONCRETE	\$ 3,653.35
MOD 45	CONTRACT TIME EXTENSION	\$ 21,000.00
MOD 46	MYRTLE AVENUE BRIDGE DECK SURVEY	\$ 2,656.50
MOD 47	REVISE CONTRACT DRAWING L-9 - DETAIL 1- ADMIN CN	\$ 0
MOD 48	CAT SMART CRASH CUSHION	\$ 37,575.42
MOD 49	CLEAR DEAD TREES TO THE REAR OF SW 144	\$ 8,644.00
MOD 49	PAINT ABUTMENTS AT BRIDGES IN CITY OF MONROVIA	\$ 6,506.38
MOD 49	SOUNDWALL NO. 144 BARRIER RAIL TIE IN TO EXISTING BARRIER	\$ 13,759.52
MOD 50	REVISION TO SOUNDWALL EXPANSION JOINTS AT SW95 AND SW 127	\$ 18,352.02
MOD 51	PLANTING PLAN PP-1A	\$ 0
MOD 53	CUT IN TRAFFIC LOOPS	\$ 18,734.77
MOD 54	SAFETY CABLE RAILING AT SW 95 AND SW 127	\$ 6,489.55
MOD 55	DELETE LINE ITEM NO. 4 FROM SCHEDULE OF QUANTITIES AND PRICES	\$ (52,000.00)
<b>Subtotal Modifications/Change Orders</b>		<b>\$3,792,527.24</b>
<b>TOTAL MODIFICATIONS/CHANGE ORDERS ISSUED TO DATE (Including this recommended action)</b>		<b>\$5,542,527.24</b>
<b>TOTAL CMA AUTHORIZED BY THE BOARD</b>		<b>\$5,810,000.00</b>
<b>REMAINING CMA</b>		<b>\$267,472.76</b>