

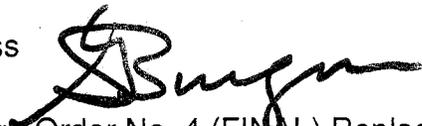
Memorandum

Date: January 20, 2005

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

Agenda Item No. 7(J)(1)(K)

From: George M. Burgess
County Manager



Subject: Retroactive Change Order No. 4 (FINAL) Replacement of Uninterruptible Power Systems (UPS), Contract No. TA00-MF12 with Fisk Electric Company

The attached retroactive Change Order No. Four (FINAL) to the contract between Fisk Electric Company, the contractor, and Miami-Dade County has been prepared by Miami-Dade Transit (MDT) and is recommended for approval.

CHANGE ORDER NO.: Four (FINAL)

PROJECT NO.: TA00-MF12

PROJECT LOCATION: Various facilities along the Metrorail and Metromover systems.

PROJECT DESCRIPTION: The furnishing and installation of Uninterruptible Power Supply (UPS) units for the Metrorail and Metromover systems. The work also includes the removal and disposal of the existing UPS units, batteries and racks.

PRIME CONTRACTOR: Fisk Electric Company

COMPANY PRINCIPAL(S): Larry C. Brookshire, President
D. Jack Maxwell, Vice-President

COMPANY QUALIFIER: Norman G. Clyne

LOCATION OF COMPANY: Miami, Florida

YEARS IN BUSINESS: Seventy-eight (78)

SUBCONTRACTOR: APC Sales & Service

DBE GOAL: None established.

GOAL ACHIEVED AT AWARD: N/A

ORIGINAL ESTIMATE: \$3,645,000.00

CONTRACT AMOUNT: \$3,496,490.55 (See attached bid tabulation)

PREVIOUS CHANGE ORDERS:

C.O. #1 – A time extension of 198 calendar days, approved 12/17/2002 through Resolution No. R-1476-02. This was needed because of the additional work required and permitting delays.

C.O. #2 – An increase of \$163,565.60 in cost, approved 04/08/2003 as Agenda Item No. 7J3B. This was to provide a 40KW UPS unit at Metrorail Central Control and retrofit an existing 120KW UPS unit to serve the MDT Computer Center.

C.O. #3 – An increase of \$154,200.59 in cost and a non-compensable time extension of 140 calendar days, approved 10/07/2003 through Resolution No. R-1069-03. – This was to provide additional work at the MDT Computer Center; temporary openings at Metrorail station battery room walls; and a 60 KW UPS unit for the Metromover Maintenance Building.

CHANGE ORDER
RECOMMENDATION:

A decrease of (\$167,800.84) in the contract amount and a non-compensable time extension of 199 calendar days.

CLASSIFICATION OF
CHANGE ORDER:

- Regulatory Change
- Other Agency Request Change
- Design Error Change
- Design Omission Change
- County Requested Change
- Unforeseen/Unforeseeable Change
- Other _____

ADJUSTED CONTRACT AMOUNT:

\$3,646,455.90

PERCENTAGE OF INCREASE
OR DECREASE PREVIOUS
CHANGE ORDERS:

9.1% increase in the contract amount.
55% increase in the contract duration.

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PERCENTAGE OF INCREASE
OR DECREASE THIS
CHANGE ORDER:

(4.8%) decrease in the contract amount.
38.9% increase in the contract duration.

JUSTIFICATION FOR
CHANGE ORDER:

This change order is necessary due to County requested changes to revise the original allowance accounts to reflect the actual amounts expended and to provide a non-compensable time extension of 199 calendar days for the performance of additional change work that included the relocation of the 120 KW UPS unit at the MDT Computer Center and the provision of the required rectifier and 60 KW UPS unit at the Metromover Maintenance Building.

During the performance of this contract, 41 UPS units were installed in different locations starting from November 27, 2001, through December 9, 2003. The last unit was installed on December 9, 2003; this date can be considered the substantial completion date for this contract. Due to the expiration of the permits from the Building Department, the final inspection was not obtained until August 10, 2004. As soon as the as-built drawings are submitted and minor warranty items completed, final payment can be made to the contractor and this contract will be closed.

Included in this Change Order is a credit in the amount of (\$167,800.84) to revise the Allowance Account for Unforeseen Conditions, the Inspector General (IG) and the Independent Private Sector Inspector General (IPSIG) to reflect the actual amount expended. The cumulative credit can be calculated as follows:

<i>Unforeseen</i>	(\$124,634.29)
<i>IG</i>	(\$ 8,633.31)
<i>IPSIG</i>	<u>(\$ 34,533.24)</u>
<i>Total credit</i>	(\$167,800.84)

The draft copy of the Change Order was prepared on September 13, 2004, and routed to the MDT Project Control and Design & Engineering Divisions and the Assistant Director for their review and comments.

Based on the comments received and after several revisions, the completed draft copy was sent to the County Attorney's Office for their preliminary legal review on September 23, 2004. On September 29, 2004, the originals of the Change Order were sent to the contractor for signature and execution. On October 6, 2004, the contractor informed MDT staff he had misplaced the Change Order originals. As a result, a second set of Change Order originals were sent to the contractor. These originals were received from the contractor on October 22, 2004, and the required County signatures (MDT Chief, Construction; MDT Finance; MDT Assistant Director; MDT Director and Office of Strategic Business Management (OSBM)) were obtained on November 3, 2004.

ALLOWANCE ACCOUNT STATUS: Original Amount: \$311,600.00
Expended to date: \$186,965.71
Balance Remaining \$124,634.29

This balance of \$124,634.29 will be deducted from the original contract amount in this Change Order No. 4 (FINAL).

CONTRACT COMPLETION DATE: To be revised to December 9, 2003

USING AGENCY: Miami-Dade Transit

MANAGING AGENCY: Miami-Dade Transit

FUNDING SOURCE: Federal Transit Administration (FTA)
100% - \$3,646,455.90

APPROVED FOR LEGAL
SUFFICIENCY:


Bruce Libhaber
Assistant County Attorney

11/12/04
Date


Assistant County Manager



MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 20, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 7(J)(1)(K)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(J)(1)(K)
01-20-05

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF
RETROACTIVE CHANGE ORDER NO. 4 (FINAL) TO
CONTRACT TA00-MF12 BETWEEN MIAMI-DADE COUNTY
AND FISK ELECTRIC COMPANY FOR A DECREASE OF
(\$167,800.84) IN THE CONTRACT AMOUNT AND A NON-
COMPENSABLE TIME EXTENSION OF 199 CALENDAR
DAYS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves Retroactive Change Order No. 4 (FINAL) to Contract TA00-MF12 between Miami-Dade County and Fisk Electric Company for a decrease of (\$167,800.84) in the contract amount and a non-compensable time extension of 199 calendar days in substantially the form attached hereto and made a part hereof; and authorizes the County Manager to execute same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Dennis C. Moss, Vice-Chairman

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Dorin D. Rolle
Katy Sorenson
Sen. Javier D. Souto

Dr. Barbara Carey-Shuler
Carlos A. Gimenez
Barbara J. Jordan
Natacha Seijas
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of January, 2005. This Resolution and contract, if not vetoed, shall become effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency.



Bruce Libhaber

By: _____
Deputy Clerk

CHANGE ORDER NO. 4(FINAL)

PROJECT NO. TA00-MF12

DATE September 29, 2004

PROJECT TITLE: Replacement of Uninterruptible Power Supplies (UPS)

CONTRACTOR: Fisk Electric Co. 10125 NW 116th Way, Suite 14 Miami, FL 33178

YOU ARE HEREBY REQUESTED TO MAKE THE FOLLOWING CHANGES IN THE PLANS AND SPECIFICATIONS FOR THIS PROJECT AND TO PERFORM THE WORK ACCORDINGLY, SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS. 81839617

Perform the change work detailed in Change Notice #15 and #16.

SUMMARY OF CONTRACT AMOUNT

ORIGINAL CONTRACT AMOUNT	<u>\$3,496,490.55</u>
COST OF CONSTRUCTION CHANGES PREVIOUSLY ORDERED	<u>\$317,766.19</u>
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER	<u>\$3,814,256.74</u>
COST OF CONSTRUCTION CHANGES THIS ORDER	<u>(\$167,800.84)</u>
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER	<u>\$3,646,455.90</u>
PERCENT INCREASE IN COST THIS CHANGE ORDER	<u>(4.8)%</u>
TOTAL PERCENT INCREASE IN COST TO DATE	<u>4.3%</u>
PERCENT INCREASE IN TIME THIS CHANGE ORDER	<u>38.9%</u>
TOTAL PERCENT INCREASE IN TIME TO DATE	<u>93.9%</u>

EXTENSION OF CONTRACT TIME ALLOWED BY THIS CHANGE 199 CALENDAR DAYS TO December 9, 2003
Date

CERTIFYING STATEMENT: *I hereby certify that the supporting cost data included is, in my considered opinion, accurate; that the prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under benefit competitive bidding.*


SIGNATURE PROJECT MANAGER

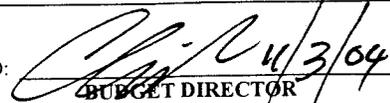
TO BE FILLED OUT BY DEPARTMENT INITIATING CHANGE ORDER

Miami-Dade Transit
DEPARTMENT

MT026732000
~~MT3002622001~~
FUNDS BUDGETED CODE

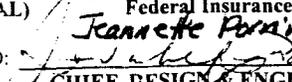

MDT Finance CERTIFIED BY

ACCEPTED BY: 
D. J. Maxwell, Fisk Electric Company Regional Vice President
(COMPANY SEAL)

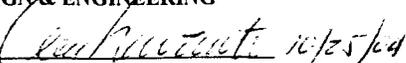
APPROVED: 
BUDGET DIRECTOR

(SURETY SEAL)  10/13/04
Federal Insurance Company

DADE COUNTY, Florida
By its BOARD OF COUNTY COMMISSIONERS

RECOMMENDED:  10/25/04
CHIEF, DESIGN & ENGINEERING

By: _____
County Manager

APPROVED:  10/25/04
ASST. DIRECTOR, PLANNING & DEVELOPMENT

ATTEST:

APPROVED: 
DEPARTMENTAL DIRECTOR

By: _____
Deputy Clerk

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CHANGE ORDER TO ORIGINAL CONTRACT

PROJECT TITLE: Replacement of
Uninterruptible Power
Supplies (UPS)

CONTRACT NO. TA00-MF12

CONTRACTOR: Fisk Electric Company

CHANGE ORDER NO. 4(FINAL)

Change Notice #15 – Revise the Allowance accounts to reflect the actual amounts expended

BACKGROUND

Paragraph D of Article 1.08, Allowance Accounts, states: "Upon completion of the work, the Contract Price shall be decreased by Change Order to reflect unexpended amounts under these Allowance Accounts."

On Page 5 of 12 of the original bid form, the amounts specified for Bid Item 01010.01, Allowance Account for Unforeseen Changes, Bid Item 01010.02, Allowance Account for IG and Bid Item 01010.03, Allowance Account for IPSIG were \$316,000.00, \$8,633.31 and \$34,533.24 respectively.

As a result and in accordance with the above paragraph, this change notice shall revise these accounts to reflect the actual amounts expended.

SUMMARY OF NEGOTIATIONS

In a meeting held on December 1, 2003 the Project Manager and the contractor agreed that the expended amounts for the above described allowance accounts were \$186,965.71, \$0.00 and \$0.00 respectively. As a result, the original contract amount shall be reduced by the amounts of (\$124,469.53), (\$8,633.31) and (\$34,533.24) respectively for the above described allowance accounts.

Change Notice #16 – Provide a non-compensable time extension to the contractor for the performance of change work

BACKGROUND

Change Notices #9, #11 and #12 detailed the specifications for the relocation of the 120 KW UPS unit to be installed at the MDT Computer Center. Change Notice #9 was paid for in Change Order #2. Change Notices #11 and #12 were paid for in Change Order #3. Change Notice #13 detailed the provision of an additional 60 KW UPS unit to be installed at the Metromover Maintenance building and was paid for in Change Order #3. When the contractor went to the MDC Building Department to obtain the building permits, he was informed that he had to provide additional information in order to obtain these permits. As a result, the contractor had to make several trips to meet with the MDC Building Department staff to resolve their concerns and finally obtain the required building permits. In addition, when the contractor went to the MDC Building Department to obtain the Certificates of Completion, he was required to provide additional drawings and back-up information in order to obtain these certificates. Also, since this 60 KW UPS unit was a special order and had to be custom-built, the UPS manufacturer exceeded the required delivery date for this unit. As a result, the installation and completion dates for these UPS units at the MDT Computer Center and the Metromover Maintenance building were completed later than anticipated in the original schedule.

CHANGE ORDER TO ORIGINAL CONTRACT

PROJECT TITLE: Replacement of
Uninterruptible Power
Supplies (UPS)

CONTRACT NO. TA00-MF12

CONTRACTOR: Fisk Electric Company

CHANGE ORDER NO. 4(FINAL)

In addition, in Change Notice #14 the P.M. instructed the contractor to provide a rectifier to control the electric circuits for the main feeders for the Metromover Maintenance building. This rectifier was required in order to insure that the new back-up batteries would be properly warranted by the battery manufacturer. The rectifier was ordered on October 2, 2003 and delivered on November 15, 2003. The contractor installed the rectifier on December 9, 2003.

As a result of the above, in his letter dated October 3, 2003 the contractor requested a non-compensable time extension of 199 calendar days.

SUMMARY OF NEGOTIATIONS

In his letter dated September 22, 2003 the contractor provided a proposal of \$5,884.49 to perform the above work described in Change Notice #14. The P.M. reviewed the provided back-up information and accepted this amount. This amount of \$5,884.49 was paid in Pay Request #13 under the Allowance Account for Unforeseen Changes. MDT Scheduling staff reviewed the contractor's request for a non-compensable time extension of 199 calendar days and found it to be valid.

Measurement and payment shall be as follows:

Revise the original Bid Form Page 5 of 12 as follows:

Delete "698" calendar days and insert "897" calendar days

Revise Paragraph 1.06.B of Page 5 of 13 of the Contract Conditions as follows:

Delete "698" calendar days and insert "897" calendar days

Revise the following bid items to the Bid Form Page 5 of 12 as follows:

<u>Bid Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Original Amount</u>	<u>Revised Amount</u>	<u>Change Amount</u>
01010.01	Allowance Account for Unforeseen	1	L.S.	\$311,600.00	\$186,965.71	(\$124,634.29)
01010.02	Allowance Account for IG	1	L.S.	\$8,633.31	-- 0 --	(\$8,633.31)
01010.03	Allowance Account for IPSIG	1	L.S.	\$34,533.24	-- 0 --	(\$34,533.24)
					Total	(\$167,800.84)

CHANGE ORDER TO ORIGINAL CONTRACT

PROJECT TITLE: Replacement of
Uninterruptible Power
Supplies (UPS)

CONTRACT NO. TA00-MF12

CONTRACTOR: Fisk Electric Company

CHANGE ORDER NO. 4(FINAL)

The terms and conditions of this Change Order and receipt by the Contractor of the sum stipulated in this Change Order shall constitute a full accord and satisfaction by the Contractor for all direct and indirect costs and time of performance related to the services and materials described and/or referenced herein, and for any claims the Contractor has or may discover it had for acts or omissions of the County or the County's agents preceding the date the Contractor executes this Change Order.



**Chubb
Surety**

**POWER
OF
ATTORNEY**

**Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company**

**Attn: Surety Department
15 Mountain View Road
Warren, NJ 07059**

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Jeannette Porrini and Stacy Rivera of Farmington, Connecticut-----

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 14th day of July, 2004


Kenneth C. Wendel, Assistant Secretary


Frank E. Robertson, Vice President

STATE OF NEW JERSEY }
County of Somerset } ss.

On this 14th day of July, 2004, before me, a Notary Public of New Jersey, personally came Kenneth C. Wendel, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Kenneth C. Wendel being by me duly sworn, did depose and say that he is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By-Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that he is acquainted with Frank E. Robertson, and knows him to be Vice President of said Companies; and that the signature of Frank E. Robertson, subscribed to said Power of Attorney is in the genuine handwriting of Frank E. Robertson, and was thereto subscribed by authority of said By-Laws and in deponent's presence.



Karen A. Price
Notary Public State of New Jersey
No. 2231647
Commission Expires Oct 28, 2004


Notary Public

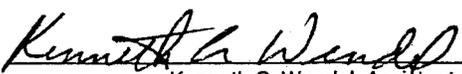
Extract from the By-Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:
"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Kenneth C. Wendel, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing extract of the By-Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U. S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U. S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this 13 day of October 2004




Kenneth C. Wendel, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903-3485 Fax (908) 903-3656 e-mail: surety@chubb.com