



March 4, 1999

Metropolitan  
Transportation  
Authority

One Gateway Plaza  
Los Angeles, CA  
90012-2952

**TO: BOARD OF DIRECTORS**

**FROM: JULIAN BURKE** *Julian*  
**CHIEF EXECUTIVE OFFICER**

**SUBJECT: PARSONS-DILLINGHAM INTERIM FUNDING**

MTA staff will again seek approval of item 42 (copy attached) of the February 25, 1999 MTA Board Meeting at the March Board meeting. That Board item included recommendations (b) and (c) for an increase of \$4.3 million in P-D's construction management contract for Segment 2B of the Red Line. As you know, item 42 was on the consent calendar for the February 25, 1999 meeting, but conflict of interest considerations prevented the MTA Board from acting upon it. Due to the unique circumstance of four Board members with conflicts, and three absent Board members without conflicts, the Board was unable to consider item 42.

As explained in the board report, if the MTA cannot assure P-D that additional Segment 2 funding is available, by contract terms P-D is entitled to stop work when the funding limit is reached. This would deprive the MTA of needed Construction Management Services, thereby, directly impacting project ROD.

I believe it is the best interests of the agency to bridge the issue until the next Board meeting by advancing to P-D additional Segment 2B funding of \$1.2 million in the meantime. That \$1.2 million is based on P-D's current expenditure rate of \$300,000 per week which is limited by a provisional overhead rate of 68%. In any event, I will not advance any of this additional funding without our Chief Estimator's assurance that such funding is within his independent cost estimate. Also, all payments made against this amount will be provisional, subject to later audit.

P-D performs both Segment 2 and Segment 3 construction management services under a single contract. The additional \$1.2 million funding discussed above is within the combined Segment 2 and 3 AFE for this single contract, and is also within the Board approved Segment 2 contract budget and project budget.

If you have questions or comments regarding this action I am taking, please contact me at (213) 922-4788. If you disagree with this proposed action, please notify me no later than March 8, 1999. Obviously, conflicted members should not participate in this matter, and in no event will I proceed as indicated if any non-conflicted member indicates disagreement with this suggestion.

Prepared by: Robert Webb, Sr. Contractor Administrator

**42****42**CONSTRUCTION COMMITTEE OF:  
FEBRUARY 17, 1999Metropolitan  
Transportation  
AuthorityOne Gateway Plaza  
Los Angeles, CA  
90012-2952

**PROJECT:** METRO RED LINE, VERMONT/HOLLYWOOD  
CORRIDOR (SEGMENT 2)

**CONTRACT:** 3369, PARSONS-DILLINGHAM

**ACTION:** REALLOCATION BETWEEN SEGMENTS 2 AND 3  
AND CONTRACT MODIFICATION IN AN  
AMOUNT NOT TO EXCEED \$4,282,019 AND AFE  
INCREASE IN THE AMOUNT OF \$4,282,019

**RECOMMENDATION**

- (a) Approve adjustments to the Segment 2 and Segment 3 components of the Contract value and Authorization for Expenditure (AFE) of Contract No. 3369 in the amount of a \$5,151,172 decrease for Segment 2 and a \$5,151,172 increase for Segment 3 to properly assign costs incurred by Segment 2 in providing construction management of that portion of the B251 tunnel contract located in the Segment 3 geographic limits. This action will have no effect on the combined Segment 2 and Segment 3 contract value or AFE;
- (b) authorize the CEO to negotiate and execute a Change Order in an amount not to exceed \$4,282,019 to Contract No. 3369 with Parsons-Dillingham (P-D), subject to final negotiations, covering completion of Construction Management services in support of Metro Red Line, Vermont/Hollywood Corridor (Segment 2B) and a contract extension through June 2000; and
- (c) approve an increase in the Authorization for Expenditure (AFE) of Contract No. 3369 for Segment 2 in the amount of \$4,282,019.

Within Construction Committee authority: Yes  No **MERIT**

The MTA Project Office, Office of Procurement, and County Counsel have reviewed this action for compliance with Public Utilities Code §130243. A pre-award audit was performed by Management Audit Services (MASD) to determine if the contractor's proposed costs are fair and reasonable. Once procurement staff and MASD resolve outstanding cost issues, staff will conduct and conclude negotiations.

## LITIGATION

As reported to the Board in July 1997, November 1997, April 1998, and October 1998, the MTA has joined a false claims lawsuit against P-D. The lawsuit alleges that P-D has overbilled the MTA. The MTA has also filed a related breach of contract and fraud complaint against P-D.

## BACKGROUND

In 1991 and 1992, MTA directed P-D to perform construction management services related to the B251 tunnel under the Segment 2 Project Budget. Approximately 79% of this tunnel construction work was within Segment 2 and 21% was in Segment 3 NHC project limits. The Board authorized this joint tunnel design and construction effort as a cost saving measure for Segment 3 North Hollywood Corridor (NHC). The FTA also concurred in this cost saving approach. P-D then performed all construction management effort related to the B251 tunnel under the Segment 2 Contract 3369.

In March 1996, the Segment 2 Project Team received additional Board authorization to temporarily incur construction management costs which were done for the benefit of the North Hollywood Project. At the same time, the Board was advised that a future transfer of approximately \$5.1 million in costs from Segment 2 to Segment 3 would be submitted for Board approval at a future date. Subsequently, the Segment 2 and Segment 3 Project Teams determined and agreed upon the final value of construction management costs to be transferred. This action Recommendation (a) implements the approach previously approved by the Board in March 1996.

This action Recommendation (a) involves no additional net billings by P-D. P-D has incurred, billed, and been paid these costs against the Segment 2 contract value. This transfer will not affect the Board approved P-D total contract value or AFE, but will simply allocate costs more accurately between Metro Red Line Projects.

Recommendations (b) and (c) will authorize the staff to negotiate and execute a change order in an amount currently estimated to fund the 3369 contract to the completion of Segment 2. In October 1998 the Board approved a contract amendment in the amount of \$7,864,936 which was intended to fund the work through May 1999. The approved amount only covered the provisional overhead rate of 68%. The current request is also based on the 68% rate and has been calculated as shown below.

	<u>Contract Value</u>	<u>AFE</u>
10/22/98 Board Report	173,071,784	174,071,784
Transfer to Segment 3	(5,151,172)	(5,151,172)

	<u>Contract Value</u>	<u>AFE</u>
Remaining Balance	167,920,612	168,920,612
Estimated Contract Value at Completion at Provisional Rate	172,202,631	
Future Change Contingency		1,000,000
Authorization Required	4,282,019	4,282,019

\* The outstanding dispute with P-D concerning the overhead rate will have to be resolved at a future date, either by settlement or litigation. If P-D establishes a right to a higher overhead rate, the MTA will have significant additional obligations under this contract. At P-D's claimed rates an additional \$4,646,187 will be payable.

The additional amount requested as shown in the table above is for continued construction management services relating to the Kaiser entrance, claims and closeout support of the construction and systems contracts, testing support after ROD, and necessary management and administrative staff to support the effort. The aforementioned services continue past ROD at decreasing levels and conclude in June 2000 for Segment 2.

Recoverable costs under the Construction Management contract with P-D have increased principally as a result of increased durations for various construction contracts, continuing high levels of effort on Requests for Information and Change Order processing requirements, and significant numbers of contractor claims.

A portion of the costs attributed to increased duration may be recovered through assessment of liquidated damages and/or actual damages through litigation with responsible contractors. Due to the uncertainties surrounding the claims and litigation process, the amount and timing of such recoveries cannot be determined at this time.

#### COST/PRICE ANALYSIS

NOT-TO-EXCEED AMOUNT	MTA ESTIMATOR'S	HISTORIAL AMOUNT
\$4,282,019	SEE BELOW	N/A

The final terms of the Change Order have not been determined but will comply with all requirements of MTA Procurement, including cost analysis, legal and audit before the CO is

approvals. If the final costs of this Change Order exceed the not-to-exceed amount, specific Board Authorization will be requested.

### **BUDGET IMPACT - SEGMENT 2**

The funds for these actions are available within the current Board approved Segment 2 Project Budget of \$1,738,771,000. The contract budget and forecast is \$179,800,000 which is adequate to fund the net impact of these actions. The combined effect of these recommended actions is a decrease to the current contract value of \$174,071,784 in an amount not to exceed \$2,777,044 consisting of minus \$5,151,172 for Recommendation a and plus \$3,282,216 for Recommendation (b) to \$172,202,631. The combined effect of these recommended actions is a decrease to the AFE from \$174,071,784 in an amount of \$869,153 consisting of minus \$5,151,172 for Recommendation (a) and plus \$4,282,019 for Recommendation (c) to \$173,202,631. The recommended AFE increase to \$173,202,631 includes an additional \$1,000,000 for potential future changes. The current status of the Contract, including the impact of these recommended actions, is shown in Attachment 1. Attachment 1 reflects the incremental effect of Recommendations (b) and (c) on the assumption that Recommendation (a) transfers are completed and shows the cumulative effect of Recommendations (a), (b), and (c). This recommended action does not impact the MTA Fiscal Year Budget or the Sources of Funds in the fiscal year. Staff has analyzed the cash requirements on an annual basis and determined that Proposition A 35% Rail Capital will be the funding source to meet the additional requirements. Adequate Proposition A 35% rail bond capacity is available to provide the additional cash as required.

Potential For Cost Recovery:      Yes        No   

### **BUDGET IMPACT - SEGMENT 3**

The funds for this action are available within the current Board approved Segment 3 North Hollywood project budget of \$1,310,822,000. This recommended action will increase the current contract value of \$50,882,113 by an amount of \$5,151,172 per Recommendation (a) to \$56,033,285. It will also increase the AFE from \$52,827,036 by an amount of \$5,151,172 per Recommendation (a) to \$57,978,208. The current status of the Contract, including the impact of this recommended change is shown in Attachment 2. This recommended action does not impact the MTA Fiscal Year Budget or the Sources of Funds in the fiscal year.

Potential For Cost Recovery:      Yes        No   

### **ALTERNATIVES CONSIDERED**

The Board has the option to withhold authorization. However, disapproval of Recommendations (b) and (c) to increase contract funding will require the MTA to either suspend performance or terminate the Construction Management contract, which would deprive the MTA of needed Construction Management Services, thereby, directly impacting project ROD and closeout of

various construction contracts. This action would be very disruptive and costly to the project, since staff would not be able to perform these services in-house. If Recommendations (b) and (c) were approved without approving Recommendation (a) then Segment 2 will continue to reflect contract values and Authorization for Expenditure for Segment 3 work and corresponding adjustments to the Budget Impact values above would need to be made.

**SMALL BUSINESS PARTICIPATION - SEGMENT 2**

The Disadvantaged Business Enterprise (DBE) goal established for this contract, pursuant to Contract amendments, is 20%. At the time of original award in 1984, the Contractor designated DBE subcontractors to be utilized without schedules or expenditures specified. As such, there are no specific dollar commitments to the designated DBEs. Each of the listed DBE subcontractors are performing or have performed as listed.

This Contract Work Order (CWO) Contract is 95% complete. The Current DBE attainment<sup>1</sup> based on the relevant contract amount<sup>2</sup> is 32.07%. Current DBE participation<sup>3</sup> based on the total actual amount paid-to-date to prime and total actual amount paid-to-date to DBE is 33.29%.

<b>Original Award Amount</b>	<b>\$ 145,423,824</b>
<b>Relevant Contract Value<sup>2</sup></b>	<b>\$ 174,071,784</b>
<b>Total Actual Amount Paid to Date to Prime</b>	<b>\$ 167,807,451</b>

<b>Subcontractor</b>	<b>Commitment</b>	<b>Current Attainment<sup>1</sup></b>	<b>Current Participation<sup>3</sup></b>	<b>Current Status</b>
Jenkins, Gales, Martinez	CWO	4.88 %	5.07 %	Performing
Construction Control Svcs	CWO	5.05 %	5.24 %	Performing
The Nettleship Group	CWO	5.29 %	5.49 %	Performing
Kal Krishnan Consulting	CWO	7.05 %	7.31 %	Performing
Better Personnel	CWO	0.70 %	0.73 %	Complete
Cambridge Sterling Assoc	CWO	1.25 %	1.30 %	Complete
Martin & Huang International	CWO	0.24 %	0.25 %	Performing
D'Leon Consulting	CWO	3.03 %	3.14 %	Performing
RCA and Associates	CWO	0.003 %	0.003 %	Performing
Mary & Son Maintenance	CWO	0.04 %	0.05 %	Complete
George Gray Photography	CWO	0.39 %	0.41 %	Performing

Haro Engineering	CWO	1.70 %	1.76 %	Complete
P.E. Terminal	CWO	0.33 %	0.34 %	Complete
Kabler Construction	CWO	0.18 %	0.19 %	Complete
EMS Laboratories	CWO	0.03 %	0.03 %	Performing
Arche Engineering	CWO	0.01 %	0.01 %	Complete
US Guards	CWO	1.49 %	1.55 %	Performing
The G Crew	CWO	0.38 %	0.39 %	Performing
Marmolejo Contractors	CWO	0.004 %	0.004 %	Complete
HK Concrete	CWO	0.02 %	0.02 %	Complete
Transmetrics	CWO	0.00 %	0.00 %	Complete
Dean Ryan Construction	CWO	0.00 %	0.00 %	Performing
<b>TOTAL</b>	<b>20 %</b>	<b>32.07 %</b>	<b>33.29 %</b>	<b>Exceeding the Goal</b>

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

<sup>2</sup>Relevant Contract Amount = Original Contract Value ÷ Contract Cost Modifications affecting DBE or SBE Scope of Work

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

### SMALL BUSINESS PARTICIPATION - SEGMENT 3

The Disadvantaged Business Enterprise (DBE) goal established for this contract, pursuant to Contract amendments, is 26%. At the time of original award in 1984, the Contractor designated DBE subcontractors to be utilized without schedules or expenditures specified. As such, there are no specific dollar commitments to the designated DBE firms. Each of the listed DBE subcontractors are performing or have performed as listed.

This Contract Work Order (CWO) Contract is 75% complete. The Current DBE attainment<sup>1</sup> based on the relevant contract amount<sup>2</sup> is 19.22%. Current DBE participation<sup>3</sup> based on the total actual amount paid-to-date to prime and total actual amount paid-to-date to DBE is 27.99%.

Original Award Amount	\$ 15,000,000
Relevant Contract Value <sup>2</sup>	\$ 50,902,113
Total Actual Amount Paid to Date to Prime	\$ 34,964,883

Subcontractor	Commitment	Current Attainment <sup>1</sup>	Current Participation <sup>3</sup>	Current Status
Jenkins, Gales, Martinez	CWO	2.34%	3.41%	Performing
Construction Control Svcs	CWO	2.99%	4.36%	Performing
The Nettleship Group	CWO	1.72%	2.50%	Performing
Kal Krishnan Consulting	CWO	4.01%	5.84%	Performing
Better Personnel	CWO	0.01%	0.01%	Complete
Cambridge Sterling Assoc	CWO	0.47%	0.68%	Complete
D'Leon Consulting	CWO	1.43%	2.08%	Performing
RCA and Associates	CWO	0.26%	0.38%	Performing
George Gray Photography	CWO	0.05%	0.07%	Performing
Haro Engineering	CWO	5.27%	7.68%	Complete
Lee Andrews Group	CWO	0.24%	0.34%	Performing
P.E. Terminal	CWO	0.25%	0.37%	Complete
The G Crew	CWO	0.18%	0.27%	Performing
<b>TOTAL</b>	<b>26%</b>	<b>19.22%</b>	<b>27.99%</b>	<b>Expected to Meet Goal</b>

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

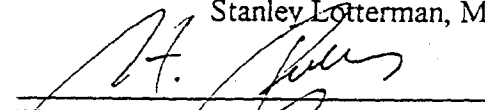
<sup>2</sup>Relevant Contract Amount = Original Contract Value + Contract Cost Modifications affecting DBE or SBE Scope of Work

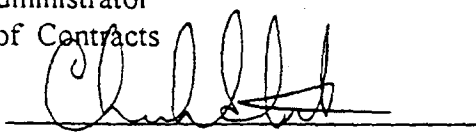
<sup>3</sup>Current Participation = Total Actual Amount Paid-to-Date to Subs ÷ Total Actual Amount Paid-to-Date to Prime

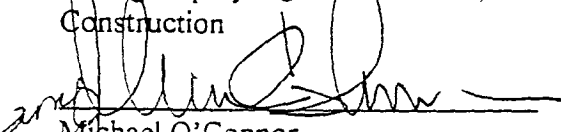
### ATTACHMENT

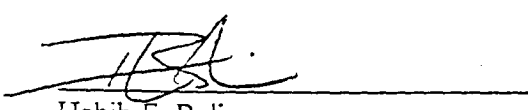
1. Contract Value Status for R81 Segment 2.
2. Contract Value Status for R82 Segment 3.

Prepared by: Robert Webb, Sr. Contract Administrator  
Stanley Lotterman, Manager of Contracts

  
Henry Fuks  
Acting Deputy Executive Officer,  
Construction

  
Charles W. Stark  
Executive Officer, Construction

  
Michael O'Connor  
Executive Officer, Procurement

  
Habib F. Balian  
Office of the Chief Executive Officer



# ATTACHMENT 1 CONTRACT VALUE STATUS SUMMARY

R81 Metro Red Line - Segment 2  
CHANGE NOTICE03369-CN-455.04

Only shows cost allocated to R81

CONTRACTOR: PARSONS-DILLINGHAM / CONSTRUCTION MANAGEMENT CONSULTANT  
ACTION DESCRIPTION: SEGMENT 2B FUNDING - FEB 1, 1999 THROUGH PROJECT COMPLETION

### CUMULATIVE CONTRACT WORK ORDER VALUE STATUS

1.	CUMULATIVE AWARD AMOUNT:[1]	\$131,085,156.91	(Includes \$27,237.91 in Planned Scope Amendments)
2.	PREVIOUSLY EXECUTED CHANGES:	\$21,989,546.81	
3.	CURRENT VALUE: (1+2)	\$153,074,703.72	
4.	AUTHORIZED WACN'S (NTE):	\$14,845,908.28	
5.	OBLIGATED VALUE: (3+4)	\$167,920,612.00	
6.	VALUE OF THIS ACTION:	\$4,282,019.00	
7.	NEW VALUE (IF APPROVED): (5+6)	\$172,202,631.00	

Cumulative Contract Work Order Value Status Reviewed by MTA Procurement:

### CUMULATIVE AUTHORIZATION FOR EXPENDITURE STATUS

### AFE INCREASE REQUIRED/REQUESTED:

8.	MTA APPROVED AFE:	\$168,920,612.00	
9.	NEW VALUE: (Line 7)	\$172,202,631.00	
10.	REMAINING AFE: (8-9)	(\$3,282,019.00)	\$3,282,019.00 For this action
11.	OTHER PENDING CHANGES (merited)	\$8,563,345.85	
12.	REMAINING AFE VALUE (w/Changes: 10-11)	(\$11,845,364.85)	\$11,845,364.85 For all merited changes (projected cost)
13.	ALLOWANCE FOR UNDEFINED CHANGES:	(\$7,563,345.85)	
14.	REMAINING AFE VALUE (w/Allowance: 12-13)	(\$4,282,019.00)	\$4,282,019.00 For all merited and undefined changes

### CUMULATIVE BUDGET STATUS

### BUDGET VARIANCE (Initial to Current)

15.	INITIAL BUDGET: (PBCR # 0 , 9/30/90) [2]	\$111,711,000.00	
16.	CURRENT BUDGET:	\$179,800,000.00	\$68,089,000.00 Initial to Current Budget
17.	NEW VALUE (IF APPROVED): (Line 7)	\$172,202,631.00	
18.	REMAINING BUDGET: (16-17)	\$7,597,369.00	
19.	OTHER PENDING CHANGES (merited) (Line 11)	\$8,563,345.85	
20.	REMAINING BUDGET w/Changes (18-19)	(\$965,976.85)	

Cumulative Budget Status Reviewed by MTA Program Control: 

DATE: 2/10/99

[1] - Award Amount includes initial award and Planned Scope Amendments  
[2] - PBCR = Project Budget Change Request  
ATTACHMENT 1: Allocated Contract Data  
\\constr\apps\pmis\Workpkg.dbf

**ATTACHMENT 2  
CONTRACT VALUE STATUS SUMMARY**

R82 Metro Red Line - Segment 3 - N. Hollywood  
CHANGE ORDER 03369-C0-0.08

Only shows cost allocated to R82

CONTRACTOR: PARSONS-DILLINGHAM / CONSTRUCTION MANAGEMENT CONSULTANT  
ACTION DESCRIPTION: B251 FUNDS TRANSFER FROM R81 TO R82

**CUMULATIVE CONTRACT WORK ORDER VALUE STATUS**

1.	CUMULATIVE AWARD AMOUNT: [1]	\$49,770,587.00	(Includes \$34,770,587.00 in Planned Scope Amendments)
2.	PREVIOUSLY EXECUTED CHANGES:	\$127,552.92	
3.	CURRENT VALUE: (1+2)	\$49,898,139.92	
4.	AUTHORIZED WACN/LNTP'S (NTE):	\$983,973.11	
5.	OBLIGATED VALUE: (3+4)	\$50,882,113.03	
6.	VALUE OF THIS ACTION:	\$5,151,172.00	
7.	NEW VALUE (IF APPROVED): (5+6)	\$56,033,285.03	

Contract Work Order Value Status Reviewed by MTA Procurement:

**CUMULATIVE AUTHORIZATION FOR EXPENDITURE STATUS**

**AFE INCREASE REQUIRED/REQUESTED:**

8.	MTA APPROVED AFE:	\$52,827,036.00	
9.	NEW VALUE: (Line 7)	\$56,033,285.03	
10.	REMAINING AFE: (8-9)	(\$3,206,249.03)	\$3,206,249.03 For this action
11.	OTHER PENDING CHANGES (merited)	\$2,997,884.26	
12.	REMAINING AFE VALUE (w/Changes: 10-11)	(\$6,204,133.29)	\$6,204,133.29 For all merited changes (projected cost)
13.	ALLOWANCE FOR OTHER POTENTIAL CHANGES:	(\$1,052,961.29)	
14.	REMAINING AFE VALUE (w/Allowance: 12-13)	(\$5,151,172.00)	\$5,151,172.00 For all merited and undefined changes

**CUMULATIVE BUDGET STATUS**

**BUDGET VARIANCE (Initial to Current)**

15.	INITIAL BUDGET: (PBCR # 0 , 7/30/93) [2]	\$84,000,000.00	
16.	CURRENT BUDGET:	\$55,210,000.00	(\$28,790,000.00) Initial to Current Budget
17.	NEW VALUE (IF APPROVED): (Line 7)	\$56,033,285.03	
18.	REMAINING BUDGET: (16-17)	(\$823,285.03)	
19.	OTHER PENDING CHANGES (merited) (Line 11)	\$2,997,884.26	
20.	REMAINING BUDGET w/Changes (18-19)	(\$3,821,169.29)	

Contract Budget Status Reviewed by MTA Program Control: *Modell*

DATE: 2/15/99

[1] - Award Amount includes initial award and Planned Scope Amendments

[2] - PBCR = Project Budget Change Request