

December 31, 2003



Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
90012-2952

TO: BOARD OF DIRECTORS

THROUGH: ROGER SNOBLE
CHIEF EXECUTIVE OFFICER

FROM: RICHARD THORPE
CHIEF PROJECT MANAGEMENT OFFICER
CONSTRUCTION PROJECT MANAGEMENT

SUBJECT: BOARD REQUESTED MONTHLY UPDATE ON
CONTRACT MODIFICATIONS FOR SAN FERNANDO
VALLEY METRO RAPIDWAY CONTRACTS FOR
PERIOD ENDING NOVEMBER 2003

ISSUE

With the February 2003 adoption of the Project Budgets for the San Fernando Valley Metro Rapidway and Bikeway Projects, the MTA Board of Directors requested that a monthly update for the two major construction contracts showing all executed and pending Contract Modifications and remaining Contract Modification authority value be sent to the Construction Committee for their information. The Contract Modification Reports in Attachment A and B reflect the status of the two construction contracts for the San Fernando Valley Metro Rapidway and Bikeway, as of the end of November 2003. In addition, Attachment C includes contract actions for the Los Angeles Department of Water and Power Recycled Water Pipeline Project.

RATIONALE

On February 27, 2003, the MTA Board of Directors approved the adoption of the budgets for Project 800112, San Fernando Valley Metro Rapidway for a baseline value of \$329,500,000 and Project 800114, San Fernando Valley Bikeway for a baseline value of \$8,100,000. Within these budgets, the MTA Board authorized the Chief Executive Officer to execute contract modifications for Contract No. C0675 Design-Build up to \$15,109,502 and Contract No. C0676 Los Angeles River Bridge up to \$383,658, subject to project budget and funding limitations and reporting and approval and individual contract modification dollar limitations set forth in Attachment D. The additional sums and the authority to approve and execute contract modifications were not included as part of the contract award values for Contract Nos. C0675 and C0676. The additional sums allow the MTA and the Contractors to negotiate contract modifications in a timely manner to ensure that the cost and schedule benefits of a Design-Build process are realized.

In order to protect the MTA's interests and to comply with applicable law, staff will process contract modifications in accordance with all requirements of MTA Procurement policies, including cost analysis, legal review and audit (when applicable) before any contract modification is executed. Attachments A through C provide contract modifications and remaining contract modification authority values for Contract Nos. C0675 and C0676 as well as the contract actions for Los Angeles Department of Water and Power (LADWP) Recycled Water Pipeline.

STATUS

Contract C0675 - Base Scope (Attachment A)

As of the November 2003 period end, for the busway and bike/pedestrian path scope of work, there are six (6) executed Contract Modifications for a combined value of negative \$36,100 and four (4) Approved Change Orders issued for a combined value of negative \$243,072. Of the six executed Contract Modifications three were deductive changes and one was a no cost change. In addition, on June 16, 2003, the Chief Executive Officer authorized exercise of Option E.6 - Fiber Optic Ducts and Pull Boxes within the City of Burbank Bikeway Project and a Contract Modification was issued on June 12, 2003. This was pursuant to February 28, 2003 when the MTA Board of Directors separately authorized (via Recommendation E) the Chief Executive Officer to exercise, if deemed appropriate, Options E-2 through E-8 to Contract No. C0675. Accordingly, this option has not drawn down against the \$15,109,502 authorization for modifications.

There are several major pending Contract Modifications that may draw down the current contract authorization for modifications value for Contract No. C0675 Design-Build (busway and bike/pedestrian path projects). These are:

| Change Notice No. | Change Notice Description | C0675 Cost Proposal | C0675 Time Extension Request |
|-------------------|---|---------------------|------------------------------|
| CN - 15.00 | Modify & Expand Busway Irrigation System | \$8,067,181 | 133 Days |
| CN - 12.01 | Replace PCC with Rubberized Asphalt in Busway at 10 Intersections | \$1,129,793 | 78 Days |
| CN - 12.02 | Modify AC with Rubberized Asphalt along portions of the Busway | \$ 438,157 | 10 Days |
| CN - 27.00 | Bike Path Enhancements | \$ 590,715 | 0 Days |

There is a wide range between the MTA estimate and the Contractor's proposal (\$8,067,181) for the change from temporary landscaping irrigation to permanent landscaping irrigation designed to utilize recycled water. Due to the large variance, MTA is reviewing this proposed change in scope to see if any reductions are possible. The "Total Pending Rough Order of Magnitude Cost" of \$11,751,499 shown in Attachment A includes for the four changes above the C0675 Contractor's cost proposal instead of the MTA Independent Cost Estimate value, which is confidential. Typically the final negotiated value of a change will end up between the Contractor's proposal and the MTA estimate. Because of their very large cost and schedule

impacts, staff is considering modifications to CN-12.01 and possibly reducing the scope of CN15.00 in favor of bidding a separate contract at a later date. The MTA will not proceed with these four changes until every effort is made to minimize their cost and MTA Board approval is obtained if required per Attachment D.

Contract C0676 - Base Scope (Attachment B)

As of the November 2003 period end, there are seven (7) change notices for Contract No. C0676 of which, six (6) are executed. No major Contract Modifications are pending, and only one deductive Contract Modification remains to be finalized. In December 2003, this Contract will be completed on time and under budget. The projected Contract cost growth is less than 1% of Contract value (excluding new scope for LADWP Recycled Water Pipeline).

LADWP Recycled Water Pipeline Project – New Scope (Attachment C)

On September 16, 2003, the LADWP Board of Commissioners approved a \$5.0 million budget under an existing Master Cooperative Agreement with MTA for partial funding for schedule-critical portions of the LADWP Recycled Water Pipeline. On September 25, 2003, the MTA Board approved a \$5,000,000 initial budget for Project Number 800116 and authorized the issuance of Change Orders in the amount not to exceed \$2,500,000 to Contract No. C0675 for initial funding of design and construction of the LADWP Recycled Water Pipeline. These actions are required to maintain contract baseline scope of work completion milestones and avoid impacting the Project Revenue Operation Date of August 2005. Initial Contract Modifications for the Recycled Water pipeline are less than \$5.0 million but the total Contract Modifications value may be as high as \$32.0 million. (A revised proposal from the Contract No. C0675 Contractor was received for \$32 million, a decrease of \$5.0 million from the original proposal). The MTA's rough order of magnitude estimate is considerably less than the Contract No. C0675 Contractor's proposal. MTA and LADWP staffs have developed the scope of work for the initial funding and a strategy for completion of the LADWP Recycled Water Pipeline.

There are six issued Change Orders (NTE's) for Contract No. C0675, for the LADWP Recycled Water Pipeline. These changes are shown in Attachment C and total to \$719,000 against the current MTA Board authorization of \$2,500,000. There is only one Contract Modification for Contract No. C0676, Change Notice 1.00 for installation of the Recycled Water Pipeline under the Los Angeles River Bridge. Construction of the Pipeline across the Los Angeles River Bridge is complete.

These Change Notices have been segregated from the current contract authorization for modification draw down as they are for the LADWP Recycled Water Pipeline. All Recycled Water Pipeline contract modifications are being tracked separately since they will be 100% reimbursable by LADWP. These Change Orders allow the Contract Nos. C0675 and C0676 Contractors to perform advance work for the Recycled Water Pipeline. This advance work is necessary to maintain contract baseline scope of work completion milestones and avoid impacting the Project Revenue Operation Date of August 2005.

However, the C0675 Contractor, in recent correspondence to the MTA, disagrees that there is no impact to Contract C0675 milestones. MTA staff will only authorize pipeline related changes to Contract C0675 on the basis that there will be no impact to the Project Revenue Operation Date

of August 2005 but will permit, if necessary, the pipeline and the City's bikeway/pedestrian path to be built immediately above the pipeline to be completed after August 2005. MTA staff and the C0675 Contractor are in the process of defining the potential impact to Contract C0675 milestones and appropriate schedule mitigation measures. The cost of these schedule mitigation measures shall be born by LADWP as a condition of proceeding with the work.

LADWP related Contract Modifications will be negotiated and executed subject to the same rules governing MTA Board delegated authority to the Chief Executive Officer as were established in the February 2003 Board action (Attachment D). As an alternative to MTA executing changes to Contract C0675 for the pipeline, on October 28, 2003 LADWP Chief Operating Officer – Water Systems, Mr. Gerald Gewe sent a letter to MTA (Attachment E) requesting a variance to MTA Procurement Policies to allow LADWP staff to determine price reasonableness and to negotiate the price of pipeline change order work. MTA Legal and Procurement staff are evaluating this request including allowing the use of LADWP-prepared Independent Cost Estimates and audit reports in lieu of MTA prepared documents and the possibility of allowing LADWP, subject to an appropriate LADWP/MTA indemnity agreement, to create a direct LADWP contract with the C0675 Contractor. These concepts as well as the need to quickly resolve all pipeline related changes to avoid any unacceptable cost and schedule impacts to the busway opening were discussed in a recent MTA letter to the LADWP General Manager (Attachment F).

NEXT STEPS

Provide the MTA Board of Directors with the San Fernando Valley Metro Rapidway and Bikeway Contract Modification Report for the period ending December 31, 2003.

ATTACHMENTS

- A. Contract No. C0675 Design-Build Contract Modification Report
- B. Contract No. C0676 Los Angeles River Bridge Contract Modification Report
- C. Los Angeles Department of Water and Power Recycled Water Pipeline Contract Modification Report
- D. Design-Build Contract Modification Reporting & Approval Authority Matrix
- E. Letter from Gerald Gewe, Chief Operating Officer – Water System, LADWP
- F. Letter from Roger Snoble to David Wiggs, General Manager LADWP

**ATTACHMENT A
SAN FERNANDO VALLEY METRO RAPIDWAY AND BIKEWAY
CONTRACT MODIFICATION REPORT**

CONTRACT C0675, DESIGN BUILD - SHIMMICK -OBAYASHI, JV

Current Contract Authorization for Modifications:

\$15,109,502

Less Executed Modifications:

| | | |
|-----------------------------|---|-------------------|
| 3.00 | DELETE WORK ASSOCIATED WITH PARKING LOT AT TYRONE AND BESSEMER AVENUES (Deductive Change) | (\$74,280) |
| 5.00 | DELETE AERIAL PHOTOGRAPHY & WORK ASSOCIATED WITH SECTION 1380.DB-2.3 (Deductive Change) | (\$10,395) |
| 7.00 | MODIFY R VALUES AT CERTAIN LOCATIONS | \$40,614 |
| 11.00 | LABOR COMPLIANCE MANUAL | \$0 |
| 13.00 | DELETION OF DESIGN & INSTALLATION OF RACEWAY & FIBER OPTIC CABLE IN USG P-2 AREA (Deductive Change) | (\$21,076) |
| 16.00 | REMOVE UNSUITABLE MATERIAL ON ROW NEAR CEDROS AVE. | \$29,037 |
| Total Modifications: | | (\$36,100) |

Less Total Approved Change Orders (NTE's):

| | | |
|-----------------------------|---|--------------------|
| 1.01 | NTE: EXPANDED SPACE FOR INTEGRATED PROJECT OFFICE | \$181,043 |
| 6.01 | UPGRADE LOS ANGELES BUREAU OF STREET SERVICES (BSS) ACCESS ROAD EASEMENT (initial design effort) | \$15,000 |
| 9.00 | REPLACE THE EXISTING SIGNAL HEADS FROM INCANDESCENT LAMP USE WITH LIGHT EMITTING DIODES (Initial Start of Design) | \$2,000 |
| 25.00 | REPLACE PVC CONDUIT W/ HDPE CONDUIT & OTHER REQUIREMENTS (Unilateral Deductive Change) | (\$441,115) |
| Total Modifications: | | (\$243,072) |

Less Pending Modifications: (Exact estimate not shown to preserve confidentiality of MTA negotiation position)

| <u>Change Notice #</u> | <u>Description</u> | <u>Cost Range*</u> |
|------------------------|---|-----------------------|
| 1.00 | NTE: EXPANDED SPACE FOR INTEGRATED PROJECT OFFICE (balance of work not in 1.01) | Less than One Million |
| 6.00 | UPGRADE LOS ANGELES BUREAU OF STREET SERVICES (BSS) ACCESS ROAD EASEMENT- DESIGN AND CONSTRUCTION (remaining effort for construction not in 6.01) | Less than One Million |
| 6.01 | UPGRADE LOS ANGELES BUREAU OF STREET SERVICES (BSS) ACCESS ROAD EASEMENT (remaining design only) | Less than One Million |
| 8.00 | DELETION OF TWO TRAFFIC SIGNAL CONTROLLERS (Deductive Change) | Less than One Million |
| 9.00 | REPLACE THE EXISTING SIGNAL HEADS FROM INCANDESCENT LAMP USE WITH LIGHT EMITTING DIODES (Balance of Work) | Less than One Million |
| 12.01 | REPLACE PCC W/ RUBBERIZED ASPHALT IN BUSWAY AT TEN (10) INTERSECTIONS | More than One Million |
| 12.02 | MODIFY AC W/ RUBBERIZED ASPHALT ALONG PORTIONS OF THE BUSWAY | Less than One Million |

**ATTACHMENT A
SAN FERNANDO VALLEY METRO RAPIDWAY AND BIKEWAY
CONTRACT MODIFICATION REPORT**

CONTRACT C0675, DESIGN BUILD - SHIMMICK -OBAYASHI, JV

Current Contract Authorization for Modifications:

\$15,109,502

Less Pending Modifications (continued): (Exact estimate not shown to preserve confidentiality of MTA negotiation position)

| <u>Change Notice #</u> | <u>Description</u> | <u>Cost Range*</u> |
|------------------------|--|-----------------------|
| 14.01 | DESIGN OF THE NEW SIGNALIZED INTERSECTION AT CHANDLER BLVD SOUTH & LEGHORN AVE IN THE CITY OF LA | Less than One Million |
| 14.02 | CONSTRUCTION OF ADDITIONAL SIGNALIZED INTERSECTION AT CHANDLER BLVD SOUTH & LEGHORN AVE IN THE CITY OF LA | Less than One Million |
| 15.00 | MODIFY AND EXPAND BUSWAY IRRIGATION SYSTEM | More than One Million |
| 17.00 | ACCESS TO NO HOLLYWOOD PKG LOT BY FAST TRACK CONSTRUCTION | Less than One Million |
| 19.00 | SEPULVEDA PARK AND RIDE MODIFICATIONS | Less than One Million |
| 20.00 | REVISION OF SOUNDWALL LIMITS ADJACENT TO CROSS STREETS | Less than One Million |
| 21.00 | REMOB OF DEMO CONTRACTOR DUE TO UTILITY DISCONNECT | Less than One Million |
| 22.00 | FIBER OPTIC DUCT BANK EAST OF LANKERSHIM BLVD | Less than One Million |
| 24.00 | NEW CRANE STRUCTURE & CATWALK; DELETE 1 of 2 CRANES AT DIVISION 8 | Less than One Million |
| 27.00 | BIKE PATH ENHANCEMENTS | Less than One Million |
| 28.00 | MODIFY BUSWAY HORIZONTAL ALIGNMENT IN THE VICINITY OF THE I-405 | Less than One Million |
| 29.00 | SYSTEMS PASSENGER INFORMATION SYSTEM SOFTWARE MODIFICATION AND EQUIPMENT PROCUREMENT | Less than One Million |
| 34.00 | REVISE TRAFFIC INDEX (TI) AND INCREASE ASPHALT CONCRETE PAVEMENT THICKNESS FOR BUSWAY SEGMENT 1A, STATION 649+00 TO STATION 724+51 | Less than One Million |

Total Pending Rough Order of Magnitude Cost: \$11,751,499

Projected Remaining Authorization for Modifications after Disposition of Pending Changes: \$3,637,175

*Cost Range data is preliminary and may be revised as change notice scope is refined, estimates are prepared and Contractor cost proposals are received. When available (and before negotiations are finalized) the Contractor's proposal value is usually used to project the remaining funds available. This tends to result in a "worst case" scenario. However, final negotiated values tend to end up in between the confidential Independent Cost Estimate and the Contractor's proposal. Not all pending change notices noted above become executed contract modifications - some are subsequently cancelled.

**ATTACHMENT B
SAN FERNANDO VALLEY METRO RAPIDWAY AND BIKEWAY
CONTRACT MODIFICATION REPORT**

CONTRACT C0676, LOS ANGELES RIVER BRIDGE - BRUTUCO ENGINEERING & CONSTRUCTION, INC.

Current Contract Authorization for Modifications: \$383,658

Less Executed Modifications:

Change Notice # Description

| | | |
|------|---|------------|
| 2.00 | FOUNDATION PLAN REVISION | \$0 |
| 3.00 | WELDING INSPECTIONS PROCEDURE FOR CISS PILES | \$0 |
| 4.00 | ANTI GRAFFITTI COATING REVISIONS | \$39,038 |
| 5.00 | ADDITIONAL REMOVAL OF EXISTING CHANNEL LINING | \$10,527 |
| 6.00 | ADDITIONAL CONCRETE THICKNESS IN CHANNEL LINING | \$2,850 |
| 7.00 | BRIDGE DECK PROFILOGRAPH | \$6,201.00 |

Total Modifications: \$58,616

Less Pending Modifications: (Exact estimate not shown to preserve confidentiality of MTA negotiation position)

Change Notice # Description

Cost Range

| | | |
|------|--|-----------------------|
| 8.00 | DELETE FIELD OFFICE - SPEC. 01590 (DEDUCTIVE CHANGE) | Less than One Million |
|------|--|-----------------------|

Total Pending Rough Order of Magnitude Cost*: \$0

**Projected Remaining Authorization for Modifications \$325,042
after Disposition of Pending Changes*:**

*Exact estimate can not be shown to preserve confidentiality of MTA negotiation position.

**ATTACHMENT C
SAN FERNANDO VALLEY METRO RAPIDWAY - LADWP RECYCLED WATER PIPELINE
CONTRACT MODIFICATION REPORT**

CONTRACT C0675, DESIGN BUILD - SHIMMICK -OBAYASHI, JV - LADWP RECYCLED WATER PIPELINE (RWP)

Current Contract Authorization for Modifications**:

\$2,500,000

Less Executed Modifications:

| | | |
|------|------|--------|
| 0.00 | NONE | \$0.00 |
|------|------|--------|

Total Modifications: \$0.00

Less Total Approved Change Orders (NTE's):

| | | |
|-------|---|---------|
| 10.01 | POTHOLING AND DESIGN OF DWP RECYCLED WATERLINE AT SELECT EXISTING ROADWAY INTERSECTIONS | 90,000 |
| 10.02 | ADDED POTHOLING AND DESIGN OF DWP RECYCLED WATERLINE AT SELECT EXISTING ROADWAY INTERSECTIONS | 90,000 |
| 10.03 | DESIGN AND INSTALL DWP RWP AT THREE (3) INTERSECTIONS OF THE EAST END | 384,000 |
| 10.04 | INSTALL DWP RWP AT TUJUNGA BRIDGE | 75,000 |
| 10.05 | INSTALL DWP RWP AT BULL CREEK BRIDGE | 75,000 |
| 10.10 | VERIFY PRESTRESSED GIRDER CALCULATIONS FOR DWP RWP LOADS | 5,000 |

Total Modifications: \$719,000

Less Pending Modifications: (Exact estimate not shown to preserve confidentiality of MTA negotiation position)

| <u>Change Notice #</u> | <u>Description</u> | <u>Cost Range*</u> |
|------------------------|---|-----------------------|
| 10.00 | DWP RECYCLED WATERLINE (Full Length)*** | More than One Million |
| 10.03 | DESIGN AND INSTALL DWP RWP AT THREE (3) INTERSECTIONS OF THE EAST END (balance of work) | Less than One Million |
| 10.04 | INSTALL DWP RWP AT TUJUNGA BRIDGE (balance of work) | Less than One Million |
| 10.05 | INSTALL DWP RWP AT BULL CREEK BRIDGE (balance of work) | Less than One Million |
| 10.06 | INSTALL DWP RWP AT NINE (9) CROSSINGS AND BOTH ENDS OF THE LOS ANGELES RIVER BRIDGE | Less than One Million |
| 10.12 | DWP SOJV DESIGN ENGINEERING WITH BOYLE ENGINEERING | Less than One Million |

Total Pending Rough Order of Magnitude Cost: \$31,178,718

ADDITIONAL FUNDING POTENTIALLY REQUIRED FROM DWP BASED ON CONTRACTOR'S PROPOSAL FOR CN 10.00: \$29,397,718

*Cost Range data is preliminary and may be revised as change notice scope is refined, estimates are prepared and Contractor cost proposals are received. When available (and before negotiations are finalized) the Contractor's proposal value is usually used to project the remaining funds available. This tends to result in a "worst case" evaluation. Final negotiated values tend to end up in between the confidential Independent Cost Estimate and the Contractor's proposal. Not all pending change notices noted above become executed contract modifications - some are subsequently cancelled.

**Of the \$2,500,000 current MTA Board authorization, \$719,000 has been committed leaving \$1,781,000 available for future amendments before additional Board authorization will be required.

*** Revised estimate from C0675 Contractor was submitted for \$31,897,718 for the entire alignment. This may be further reduced by 10 to 15% to reflect scope reduction to delete Pipeline installation east of Whitsett Ave.

ATTACHMENT C (continued)
SAN FERNANDO VALLEY METRO RAPIDWAY - LADWP RECYCLED WATER PIPELINE
CONTRACT MODIFICATION REPORT

CONTRACT C0676, LOS ANGELES RIVER BRIDGE - BRUTUCO ENGINEERING & CONSTRUCTION - LADWP RWP

Executed Modifications:

| <u>Change Notice #</u> | <u>Description</u> | <u>Cost Range</u> |
|-----------------------------|-------------------------|-------------------|
| 1.00 | DWP RECYCLED WATER LINE | \$208,465 |
| Total Modifications: | | \$208,465 |

Pending Modifications: (Exact estimate not shown to preserve confidentiality of MTA negotiation position)

| <u>Change Notice #</u> | <u>Description</u> | <u>Cost Range</u> |
|---|--------------------|-------------------|
| 0.00 | NONE | 0 |
| Total Pending Rough Order of Magnitude Cost: | | \$0 |

No further changes to Contract C0676 for the Pipeline are anticipated.

**ATTACHMENT D
DESIGN-BUILD CONTRACT MODIFICATION
REPORTING & APPROVAL AUTHORITY MATRIX**

| Contract Modification \$ Amount | Approval Authority | Comment |
|---|--|---|
| Up to \$1,000,000 | Chief Executive Officer | Chief Executive Officer approves and executes Contract Modification under his authority. |
| >\$1,000,000 | Construction Committee/ MTA Board of Directors | Chief Executive Officer executes after Construction Committee recommendation and final approval by the full MTA Board of Directors. |
| > \$1,000,000 | MTA Board of Directors | For time critical Contract Modification, staff may agendaize an item to the full MTA Board of Directors without prior recommendation from the Construction Committee. Chief Executive Officer executes after MTA Board of Directors approval. |
| For all contract modifications regardless of value The total cumulative change amount will not be greater than the Board approved not to exceed amount for Contract Modifications. | Merit review by County Counsel and Office of Procurement subject to Public Utility Code Section 130243 | Staff will issue a monthly update of all executed and pending Contract Modifications and remaining Contract Modification authority value to the Construction Committee for their information. |

Department of Water and Power



the City of Los Angeles

JAMES K. HAHN
Mayor

Commission
DOMINICK W. RUBALCAVA, *President*
LELAND WONG, *Vice President*
ANNIE E. CHO
KENNETH T. LOMBARD
SID C. STOLPER
SUSAN C. PARKS, *Secretary*

DAVID H. WIGGS, *General Manager*
FRANK SALAS, *Chief Administrative Officer*

October 28, 2003

Mr. Roger Snoble
General Manager
Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952

RECEIVED

NOV 03 2003

Dear Mr. Snoble:

Subject: Negotiation Procedure with Shimmick-Obayashi Joint
Venture for Recycled Water Pipeline

Thank you for your continuing assistance in pursuing the addition of the recycled water pipeline within the San Fernando Valley Metro Rapidway (Rapidway). I recognize the need to keep the Rapidway on schedule and want to do everything possible to minimize any delays to the completion of the bicycle path and landscaping. It has come to my attention that Metropolitan Transportation Authority's normal change order procedure requires various estimates and audits depending upon the dollar value and that these procedures can become time consuming. Since the Los Angeles Department of Water and Power (LADWP) will bear the cost of the recycled water change orders, and in the interest of avoiding delays, I propose there be a variance to allow LADWP staff to negotiate the price of the recycled water pipeline change order work.

LADWP relies on its project managers to negotiate a fair price directly with contractors. Using LADWP procedure for this work may significantly accelerate the change order process, allowing Shimmick-Obayashi Joint Venture to begin work sooner, and consequently keep the Rapidway on schedule and minimize any delays to the opening of the bicycle path.

If you have any additional questions, please contact Mr. Richard F. Harasick, of my staff, at (213) 367-0910.

Sincerely,

Gerald A. Gewe
Chief Operating Officer - Water System

- c: Mr. Dennis Mori - MTA
- Mr. Roger Dames - MTA
- Mr. Hitesh Patel - MTA
- Mr. Mark Van Gessel - MTA
- Mr. Bharpor Takhar - MTA
- Mr. Richard F. Harasick

Water and Power Conservation ... a way of life

111 North Hope Street Los Angeles, California Mailing address: Box 51111, Los Angeles 90051-0100
Telephone: (213) 367-4211 Cable address: DEWAPOLA



December 2, 2003

800112-EX230
MOTH 154

Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
90012-2952

Mr. David H. Wiggs
General Manager
City of Los Angeles
Department of Water and Power
P. O. Box 51111
Los Angeles, CA 90051-0100

Dear Mr. Wiggs:

**Subject: San Fernando Valley Metro Rapidway Project
Potential Addition of Recycled Water Pipeline**

For most of year 2003, Metropolitan Transportation Authority (MTA) and Los Angeles Department of Water and Power (LADWP) staff have been working together to develop and advance the proposed recycled water pipeline to connect the Tillman Water Reclamation Plant to Pierce College on the west and North Hollywood Park on the east. MTA is very concerned about the progress of design and construction of the pipeline and its potential impact to the busway's planned August 2005 Revenue Operation Date (ROD) as well as slow progress in negotiating a pipeline specific amendment to the MTA/LADWP Master Cooperative Agreement. MTA wants to be supportive of LADWP's project but is concerned that if these issues remain unresolved it could create unacceptable cost and schedule impacts for MTA and LADWP.

On September 16, 2003 the Board of Water and Power Commissioners approved a resolution authorizing payment of up to \$5,000,000 to the MTA, under an existing Master Cooperative Agreement, to provide initial funding for the construction of the South Valley Water Recycling Facilities of which this pipeline is the major component. As a result of the DWP's Board action, on September 25, 2003 the MTA Board of Directors approved an initial project budget of \$5.0 million for Project 800116 (established in MTA's accounting system to track recycled water pipeline related costs exclusively) to be reimbursed by LADWP and authorized the Chief Executive Officer to negotiate and execute change orders to Contract No. C0675 Design/Build with Shimmick Construction Co., Inc./Obayashi Corporation, J. V. (SOJV) in an amount not to exceed \$2.5 million for initial funding to design and construct a Recycled Water Pipeline within the San Fernando Valley Metro Rapidway Project. At that time, it was anticipated that this funding would provide initial fast track funding to commence work during the four-month period October 1, 2003 to January 31, 2004 and that during this time period negotiations would be concluded with SOJV for construction of the entire pipeline.

The present cost proposals received from SOJV (initially in excess of \$37 million) have not been acceptable to LADWP and also do not address potential delay impacts to the busway project. Portions of the pipeline within several intersections need to be constructed immediately in order not to impact the busway construction schedule. The MTA Board's approval of proceeding with any part of this project was contingent upon (1) LADWP bearing all costs for the pipeline including, but not limited to, costs for a real estate easement, costs of MTA's staff, amounts paid to MTA's contractors and consultants, and any costs paid by MTA to third parties in connection with the design and construction of the project and (2) the pipeline project not impacting the planned August 2005 opening of the busway to the public.

Since September 2003, MTA's Project Manager, Roger Dames, has been working closely with LADWP staff including Gerald Gewe, Tom Erb, Richard Harasick and Steve Ott to implement early portions of the pipeline project. A section of pipeline has been successfully completed across our new Los Angeles River Bridge by Brutoco Engineering and Construction, Inc. under MTA contract C0676. However, the work proposed to be performed by design/build contractor SOJV under MTA contract C0675 is not progressing promptly nor has negotiation of a pipeline specific amendment to the existing Master Cooperative Agreement Number 10098 dated 12/22/83 entered into between MTA (as successor to Southern California Rapid Transit District) and the Water System of Department of Water and Power been finalized. This amendment must be negotiated and executed as a condition for MTA to grant LADWP a real estate easement for the pipeline.

On October 28, 2003, Mr. Gerald Gewe of LADWP wrote to me regarding the pipeline and proposed that, in the interest of speeding up the process, a variance be granted to MTA Procurement Procedures to allow LADWP staff to negotiate the price of the recycled water pipeline change order work to contract C0675 with SOJV. MTA believes that participation by LADWP staff in negotiations is essential. MTA also believes that the best way for the pipeline project to be exempt from MTA Procurement Procedures would be for LADWP to directly enter into its own contract with SOJV for design and construction of the pipeline. Although this contract would primarily be a matter for negotiation between LADWP and SOJV, the new contract would need to correspond with the existing C0675 contract to avoid conflicts with the schedule and/or efficiency of performance of work under contract C0675.

Recognizing that it may take some time for LADWP to enter into a new contract with SOJV and that it is essential to commence construction of the pipeline across several critical street intersections immediately, MTA is also willing to vary from its normal procurement practices by substituting independent cost estimates prepared by LADWP staff and audits of forward priced SOJV cost proposals prepared by LADWP staff or consultants for the corresponding documents which are normally prepared by MTA staff before commencement of formal negotiations to finalize a contract modification. The details of this approach and the alternative separate LADWP/SOJV contract were discussed in a November 21, 2003 meeting between MTA's Roger Dames, Bruce Warrensford and Ivan Page and LADWP's Richard Harasick and Steve Ott.

Mr. David H. Wiggs

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Although MTA wants to support the pipeline project as a water conservation benefit to San Fernando Valley residents, LADWP and MTA, we cannot afford to do so if it impacts the cost or schedule of the busway opening. In the interest of allowing LADWP some schedule flexibility, MTA is willing, subject to concurrence by the City of Los Angeles Department of Transportation (LADOT), to decouple the opening of the bikeway/pedestrian portion of the project from the opening of the busway. This would mean that more time would be available for construction of some portions of the pipeline which primarily runs underneath LADOT's bikeway/pedestrian path. Portions of the pipeline through intersections, adjacent to MTA stations or park-n-ride lots, across bridges, or beneath the Sepulveda Station access roads would need to be completed prior to June 2005 to allow time for prerevenue testing of the busway prior to the August 2005 revenue operation date.

With respect to cost exposure, MTA is concerned not only with LADWP bearing the cost of the initial contract change orders for design and construction of the pipeline but also with protecting MTA from the potential impact costs on the busway base scope of work should a problem be encountered with the pipeline that creates inefficiencies and/or delay impacts requiring costly mitigation measures. Therefore, MTA has proposed an indemnification clause for incorporation into the amendment to the Master Cooperative Agreement and specific language for incorporation into either contract C0675 change orders and/or the possible separate contract between LADWP and SOJV.

The longer the above issues remain unresolved, the greater the likelihood that they could create unacceptable impacts to the cost and schedule for opening the busway. Your assistance in resolving these outstanding issues no later than December 31, 2003 is requested.

Sincerely,



Roger Snoble
Chief Executive Officer

cc: Zev Yaroslavsky, Supervisor, Third District
Tom LeBonge, Councilmember, Fourth District
Wayne Tanda, LADOT
Gerald Gewe, LADWP
Tom Erb, LADWP
Richard Harasick, LADWP
David Armijo, MTA
Maria Guerra, MTA
Rick Thorpe, MTA
Dennis Mori, MTA
Roger Dames, MTA
Gary Clark, MTA