



SEPTEMBER 18, 2001

TO: BOARD OF DIRECTORS

FROM: ROOBIK GALOOSIAN *R. Galoosian*
MANAGING DIRECTOR OF RISK MANAGEMENT

SUBJECT: CONSTRUCTION CLAIMS CONSULTANTS CONTRACT

AS
Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
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ISSUE

In July, the Board of Directors authorized staff to execute Amendment No. 5 to Contract No. PS-5320-0463 with Construction Claims Consultants for the period of August 1, 2001 to June 30, 2002, in the amount not to exceed \$199,000, increasing the Total Contract Value from \$170,000 to \$369,000.

The recommendation of Item 16 on the July Construction Committee Agenda should have read as follows:

- A. Ratify expenditures in the amount of \$117,320.83 for claims negotiation and settlement activities performed through July 31, 2001; for a total revised not to exceed amount \$287,320.83 and
- B. Authorize the Chief Executive Officer to execute Amendment No. 5 to Contract No. PS-5320-0463 with Construction Claims Consultants to assist with preparation, submission and negotiation of the Hollywood Boulevard Tunnel Failure Proof of Loss, as well as the Flood Damage claim for Contract B261; and to provide assistance for the on-going litigation with Argonaut Insurance for the period ending June 30, 2002, in the amount not to exceed \$81,679.17, increasing the Total Contract Value from \$287,320.83 to \$369,000.

DISCUSSION

Construction Claims Consultants has been providing service to the MTA in preparation of the Proof of Loss for the Hollywood Boulevard Tunnel Failure claim under the MTA's Builders' Risk policy with Allianz Insurance Company. Settlement activity intensified beginning January 2001. Unlike our previous negotiations for the Hollywood Boulevard Sinkhole claim, which went smoothly and resulted in a \$10,007,650 recovery, in this instance, the insurer raised many coverage and documentation issues for the MTA to answer.

In order to preserve our rights of full recovery and to comply with the obligations of the policy, Mr. Stephen Wontrobski, the sole proprietor of Construction Claims Consultants, proceeded to research coverage issues and compile all requested documentation. As direct result of this expedited response to insurer's requests, the MTA received \$1.1 million in undisputed recovery in April. However, considerable coverage research and documentation related to the balance of the claim amount continued through July. At the request of the insurer, Mr. Wontrobski as well as MTA staff, provided statements under oath in July. During this period of intensified claims activity, Mr. Wontrobski's billable hours more than doubled compared to the prior months and staff neglected to closely monitor total contract expenses.

Although we have clearly stated above that the recommendation to the Board should have read differently, the intent remains the same. Mr. Wontrobski is providing services in preparation of proof of loss for specific claims: Hollywood Hudson Tunnel Failure Claim, Flood Damage Claim at the Vermont Beverly Station and assistance with the Argonaut litigation. The work that was performed exceeding his contract authority was in support of these same claims and the total contract value remains unchanged at \$369,000.

At this time, the level of claims activity has decreased. The balance of the contract value is sufficient to conclude all remaining claims issues.

NEXT STEPS

Since the Board Authority in July captures the intent of the services provided by Mr. Stephen Wontrobski of Construction Claims Consultants, and there is no change in the total authorized contract amount, staff will proceed to implement the actions as stated above.

A directive has been issued to staff notifying them that paid and outstanding invoices must be reconciled in the Financial Information System prior to authorizing additional work under this contract.