



DATE: May 18, 1999

Metropolitan  
Transportation  
Authority

TO: **BOARD OF DIRECTORS**

One Gateway Plaza  
Los Angeles, CA  
90012-2952

FROM: **ALLAN LIPSKY** *Allan Lipsky*  
Chief Operating Officer

SUBJECT: **MAY 1999 CONSTRUCTION COMMITTEE  
AGENDA ITEMS 18, 19 AND 45**

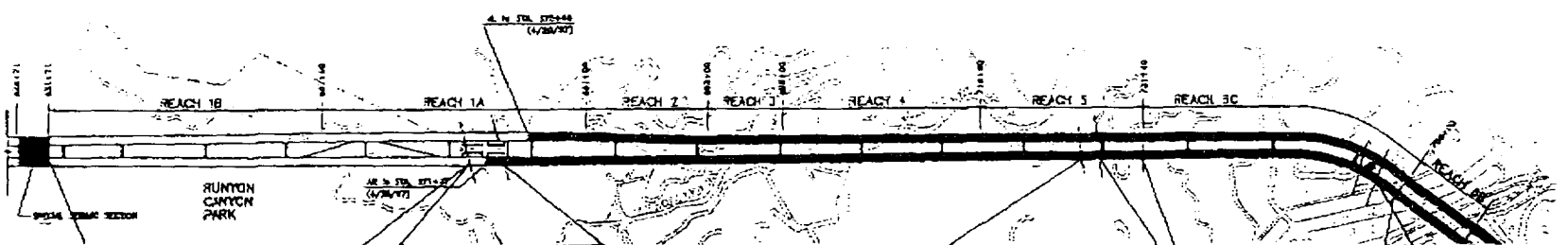
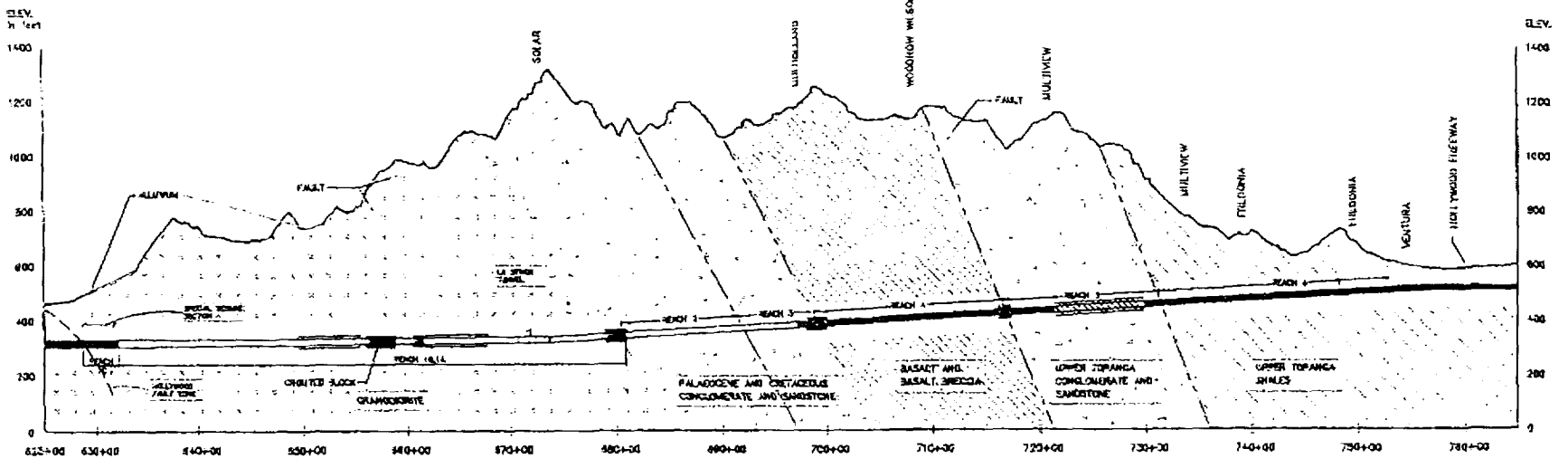
The three Committee Reports, Item 18, 19, and 45, on Contract C0311 Tunnel Section to Universal City, relate to claims for differing site conditions in the Segment 3 tunnel (see Attachment 1). Staff is recommending the authorization to execute three change orders, number 141, 111, and 125 respectively. These three reports hold in common a Dispute Resolution Board (DRB) decision on the tunnel boring machine rates. The negotiated change orders reflect that decision.

Attachment 2 summarizes the costs of the three Board Reports. Please note that there will be a fourth recommendation that will be forwarded to the Board shortly. Currently it is under negotiation with the Contractor. Attachment 3 is a chronology for each of the reports.

The MTA Estimator and management disagreed with the DRB recommendation the tunnel boring machine rates. However, given the magnitude of the claims and the successful negotiations, it is to the advantage of the MTA to accept the decision in its entirety.

Attachments:

1. Section and Plan Outlining Claims
2. Table Comparing Costs
3. Chronology of Claims



	<p><b>Claim 14</b>                  Limited DSC in Reach 1A &amp; 1B in AR &amp; AL Tunnels (637+19 to 670+14)                  CO125.00/CN193.00                  Original Claim \$24,020,550                  Negotiated \$990,885</p>	<p><b>Authority Recognized DSC</b>                  Shear Zone Reach 1A AR &amp; AL Tunnels 672+23 to 670+14                  CO000/CN131.00                  Authority Recognized DSC                  MTA FCE 3603,181</p>	<p><b>Authority Recognized DSC</b>                  Settlement of DSC in AR between 727+00 &amp; 726+12 (Reach 3)                  CO111.00/CN103.00                  Original CSP \$711,001                  Negotiated \$650,199</p>	<p><b>Claim 6</b>                  DSC in Reach 6C of the AR &amp; AL Tunnels                  CO82.00/CN92.93.94 &amp; 132                  Original Claim \$28,967,037                  Accepted DRB Recommendation \$6,907,435</p>	<p><b>Claim 5</b>                  Remedial Work to Control Shear Zone at 754+00 to 753+32 AR Tunnel                  CO141/CN98.00                  Authority Recognized DSC                  Original CSP \$725,214                  Negotiated \$122,322</p>
1996			1/96 NOI Rec'd	6/96 NOI Rec'd	6/96 NOI Rec'd
1997	4/97 NOI Rec'd	3/97 NOI Rec'd		12/96 Go to DRB	
1998	1/98 Claim Rec'd \$24M 3/98 DRB Claim 14 Ruling 7/98 Negotiate		9/98 CSP \$711,001 9/98 Negotiate	1/97 DRB 6C Ruling (accept w/o prejudice)	9/98 Negotiate
	11/98 CSP \$1,581,757 11/98 Go to DRB over TBM Rates		11/98 Go to DRB over TBM Rates		11/98 Go to DRB over TBM Rates
1999	1/99 TBM DRB Ruling 4/99 Negotiate	1/99 TBM DRB Ruling 5/99 CSP Erected	1/99 TBM DRB Ruling 4/99 Negotiate		1/99 TBM DRB Ruling 4/99 Negotiate



	Original Proposed Amount	PROPOSED AMOUNT	NEGOTIATED AMOUNT	DRB Recommended amount relative to TBM during negotiations	Percent Reduction between DRB and negotiated	ESTIMATOR'S POSITION	Estimator's position relative to TBM	Percent Difference between negotiated and estimator's position
Agenda Item #18 Change Order 141 Claim No. 5	\$725,214	\$354,070	\$222,822	\$42,222	37%	\$217,410	\$20,875	2%
Agenda Item #19 Change Order 111 Differing Site Condition	\$711,001	\$657,213	\$650,199	\$175,105	1%	\$513,054	\$92,868	21%
Agenda Item #45 Change Order 125 Claim No. 14	\$24,020,550	\$1,581,757	\$990,885	\$242,762	37%	\$793,383	\$126,044	20%
Agenda Item #TBD Change Order 131 Claim No. TBD	TBD	TBD	TBD		TBD	\$603,381 **		TBD
<b>Total</b>	<b>\$25,456,765</b>	<b>\$2,593,040</b>	<b>\$1,863,906</b>	<b>\$460,089</b>	<b>28%</b>	<b>\$2,127,228</b>	<b>\$239,787</b>	<b>-14%</b>

Note 1: The Proposed Amount is that amount proposed by the Contractor after the DRB made their ruling.

Note 2: The majority of the difference between the MTA Estimator's position and that of the negotiated amount is the DRB Tunnel Boring Machine Rate decision.

\*\* Rough Order of Magnitude

* Negotiated Total	\$1,863,506	
Estimator's Position	\$1,523,487	
Difference	\$340,419	18%
TBM difference -		
DRB and Estimating	\$220,032	12%
Total negotiated difference	\$120,387	6%

#18

**C0311 - Change Order 141/Change Notice 98.0 - Settlement of Claim #5**  
**Remedial Work To Fill Voids and Additional Support Measures To Control**  
**Shear Zone In AR Tunnel In Reach 6B**

**Chronology of Events**

1. **In late May, 1996** Significant surface settlement was noticed at the Kentucky Apartment Building located at 3944 Kentucky Drive above the alignment at Sta. 755+00 in the AR tunnel.
2. EMC recommended further investigation into the soil conditions adjacent to the building. The Contractor was directed to drill an exploratory borehole to a depth of 110 ft. at approx. Sta. 755+00 above the pillar between the AR and AL tunnels. The Contractor was directed to install rock bolts in the pillar between the tunnels and jump sets and shotcrete in the AR and AL tunnels.
3. **6/6 through 6/14/96** Additional work activities started by Contractor.
4. **6/14/96** Contractor submitted the Notice Of Intent on (CRE-1188)
5. **6/17/96** JMA acknowledged the Contractor's Notice of Intent to Claim.
6. JMA directed the Contractor to install supplemental dowels in the pillar between AL & AR tunnels.
7. **8/7/96** EMC issued a number of design options.
8. **8/15/96** MA transmitted factual preliminary information from the borehole to the Contractor o.
9. **8/15/96** Contractor requested that the deadline for submitting their claim be extended to 9/6/96. They also noticed a similar condition is appearing in the AL tunnel.
10. **9/6/96** Contractor submitted their claim package for \$205,017 and an extension of contract milestone of 3 days.
11. **11/4/96** JMA prepared Claim Analysis.
12. **11/5/96** Change Notice 98 was drafted.
13. **2/4/97** EMC acknowledged a Differing Site Conditions existed.
14. **2/21/97** MTA recognized a Differing Site Conditions.
15. **3/6/97** Change Control Board meeting approved Change Notice 98.
16. **2/28/97 & 3/5/97** Change Notice 98 merited by Contracts and by Legal.

17. **3/19/98** Contractor submitted a Cost and Schedule Proposal for \$725,214.
18. **4/30/98** Fair Cost Estimate (FCE) approved by MTA Estimating.
19. **8/10/98** Audit Report completed.
20. **September/98** Fact Findings began on 9/1/98 and continued through 9/15 and 9/18/98.  
Disagreements on the Tunnel Boring Machine (TBM) rates.
21. **11/6/98** The Authority and Contractor submitted their Position Papers to the C0311 Disputes Review Board requesting DRB to re-examine the TBM rates from Claim #6. Contractor felt that the rates should be increased. Authority requested clarification of the rates.
22. **1/22/99** The C0311 DRB submitted their recommendation on the TBM rates to both Authority and Contractor.
23. **4/9/99** **Agreement reached in the amount of \$222,821.76**

#19

**C0311 - Change Order 111/Change Notice103.0 - Settlement of DSC in Reach 5  
Shear Zone in AR Tunnel Sta.727+00 to Sta.726+12**

**Chronology of Events**

1. 11/12/96 During excavation in the AR tunnel at 10:00 pm, Contractor encountered ground conditions which will require additional measures to control
2. 11/13/96 Contractor notified JMA by memo, CRE No. 1472, on the ground conditions encountered on 11/12/96.
3. 11/21/96 Contractor notified JMA fallout encountered in AR tunnel Sta.726+50..
4. 12/4/96 JMA notified Contractor that Authority concurs that the ground encountered between Sta.727+00 and Sta.726+12 in the AR tunnel constitutes a Differing Site Conditions.
5. 1/15/97 Charles Safer has comments on Change Notice 103
6. 1/16/97 Change Control Board approved Change Notice 103 pending approval by Contracts & Legal.
7. 3/3/97 Change Notice 103 is merited by Legal. Charles Safer.
8. 2/26/97 MTA Board approved WACN 103 in the NTE amount of \$800,000.
9. 4/3/97 Authority (Charles Stark) executed WACN 103
10. 2/25/98 Contractor submitted Cost and Schedule Proposal in the amount of \$711,001.
11. 5/13/98 Fair Cost Estimate approved by MTA Estimating for \$414,997.
12. 8/18/98 Audit Report completed.
13. September/98 Fact Findings began on 9/1/98 and continued through 9/15 and 9/18/98. Disagreements on the Tunnel Boring Machine (TBM) rates.
14. 11/6/98 The Authority and Contractor submitted their Position Papers to the C0311 Disputes Review Board requesting DRB to re-examine the TBM rates from Claim #6. Contractor felt that the rates should be increased. Authority requested clarification of the rates.
15. 1/22/99 The C0311 DRB submitted their recommendation on the TBM rates to both Authority and Contractor.
16. 4/1/99 Contractor submitted a revised Cost and Schedule Proposal in the amount of \$657,213

17. 4/5/99 FCE revised and approved by MTA Estimating for \$513,054
18. 4/8/99 **Agreement was reached in the amount of \$650,199.**

#45

**C0311 - Change Order 125/Change Notice 193.0-Settlement of Claim #14**  
**Adverse Ground Behavior In AR & AL Tunnels In Reach 1A/1B**

**Chronology of Events**

1. 4/21/97 Contractor notified the Authority that on 4/18/97, an apparent shear zone was encountered in the AR tunnel at Sta.671+85. Contractor also requested that the Authority accept the letter as a Notice of Intent to Claim (NOIC).
2. 4/24/97 Authority acknowledged Contractor's letter of 4/21/97.
3. 6/19/97 Authority concluded that a Differing Site Conditions existed between Sta.672+26 to Sta.670+14 in the AR tunnel and Sta.671+90 to Sta. 670+25 in the AL tunnel. Authority also asserted that Contractor had not demonstrated that DSC had been encountered south of the acknowledged DSC zone.
4. 11/10/97 Contractor submitted his claim package to the Authority in the amount of \$24,020,550 inclusive of 73 calendar day extension to the contract. This was later revised to 41 and 62.8 working days delay respectively in AR and AL tunnels.
5. 11/12/97 Authority request additional data from the Contractor on Claim #14.
6. 12/3/97 Contractor provide additional data to the Authority.
7. 1/20 thru Disputes Review Board hearings at C0311 jobsite.  
1/22/98
8. 3/23/98 DRB submit recommendation to Authority and Contractor.
9. 4/13/98 Memorandum of Understanding signed by MTA, EMC JMA and Tunnel Advisory Panel.
9. 4/22/98 DRB provides clarification to their recommendation to both parties.
10. 8/7/98 Change Notice 193 merited by Legal & Contract.
11. 11/19/98 Change Notice 193 executed by Authority & issued to the Contractor.
12. 4/9/99 Agreement was reached in the amount of \$990,885.
13. May/99 Claim #14 presented to the MTA Board for approval