MCM CONSTRUCTION, INC.
GENERAL ENGINEERING CONTRACTORS
SACRAMENTO, CA

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November 30, 2009

State of California
Department of Transportation
345 Burma Road
Oakland CA 94607

Attn: Ben Ghafghazi, R. E.

Re: Contract No. 04-0120L4
Bay Bridge, Oakland Touchdown 1
NOPC #10

Dear Mr. Ghafghazi:

Reference is made to the State's letter November 10, 2009 (Letter No. 05.03.01-001718) regarding MCM Construction's NOPC #10 related to the 1% increase in Statewide Sales and Use taxes.

MCM Construction, Inc. does not agree with the State's position regarding its responsibility to reimburse the Contractor for the additional costs of material imposed as a result of the 1% increase in Sales and Use taxes.

The Contractor's obligation under this Contract is to perform all WORK. The work related to all items on the Contract includes providing labor and materials. As a result of the 1% increase in Sales tax, the cost of the work has been impacted and therefore should be reimbursed under the terms of the Change In Character and Changes provisions of the Standard Specifications. Although MCM Construction is not willing to waive its rights for reimbursement for this additional cost of material, we do recognize that the Dispute Review Board may not be qualified to review this dispute and render an appropriate recommendation. MCM Construction will not waive its rights under the Notice of Potential Claim and DRB provisions of the Contract.

Accordingly, MCM Construction, Inc. proposes that Caltrans and MCM mutually agree to waive the provisions of the Dispute Review Board requirements under the Contract and agree that MCM reserves its rights to pursue this matter through the Proposed Final Estimate and claims provisions of the Contract. Please advise if Caltrans is willing to enter into such a mutual agreement. We believe this will expedite the process of concluding the Contract and avoid what may be needless costs of the Dispute Review Board procedures.

In the event that Caltrans does not agree with this proposal, please consider this letter as our Notice to the Dispute Review Board that we intend to request that they schedule a hearing on the matter of NOPC #10 related to the temporary increase of State Sales and Use tax.

Thank you for your courtesy and cooperation in this regard.

Very truly yours,

MCM CONSTRUCTION, INC.

EMDUNDO A. PUCHI
Treasurer and General Counsel

Enclosure

cc: Amer Bata, Caltrans
Tony Anziano, Caltrans
Dave McCracken, DRB Chairman, Ron Reading,
DRB Member, Heigo Orav, DRB Member
Greg Allen HDM JAC R. McCall 307 File NPC #10