STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

NOTICE OF POTENTIAL CLAIM

CEM-6201 (REV 3/2001)

TO	CONTRACT NUMBER	DATE
Doug Coe (resident engineer)	04-012024	06/04/02

This is a Notice of potential Claim for additional compensation under the provisions of Section 9-1.04 of the Standard Specifications. The act of the engineer, or his/her failure to act, or the event, thing, occurrence, or other cause giving rise to the potential claim occurred on

DATE 05/21/02

The particular circumstances of this potential claim are described in detail as follows:

The State, in Letter # 5.03.1-000142, dated May, 21, 2002, directed KFM to re-sequence the activities in the project schedule to support an 18-month segment age restriction for the exterior closures of Frame 3. Additional detail on the particular circumstances of this restriction can be found in the attached documents.

The reasons for which I believe additional compensation may be due are:

KFM believes the direction provided by the State in Letter # 5.03.1-000142 is not clearly represented as a requirement under the contract documents. In order to provide the best cost to the State, KFM's bid price was based upon a schedule and sequence that was not restricted by **an** 18-month segment age for the exterior closures of Frame 3. Addition detail on the reasons KFM believes it is entitled to additional compensation and time can be found in the attached documents.

The nature of the costs involved and the amount of the potential claim are described as follows:
(If accurate cost figures are not available, provide an estimate. or describe the types of expenses involved.)

As a result of the 18-month segment age restriction, KFM believes additional costs not anticipated in its bid price will be incurred. The nature of these costs could be a result of storing an increased number of segments in the precast yard, delaying or reducing precast segment production, precast segment form modifications, providing closure bridges for access between structures, acceleration of some activities, and increased time related overhead. In order to maintain the project completion date, re-sequencing and/or acceleration of some activities may be necessary.

*The undersigned originator (Contractor **or** Subcontractor as appropriate) certifies that the above statements are made in full cognizance of the California False Claims Act, Government Code sections **72650-12655.** The undersigned further understands and **agrees** that this potential claim to be further considered unless resolved, must be restated as a claim in response to the states proposed final estimate in accordance with Section 9-1.07B of the Standard Specifications.*

KIEWIT/FCI/MANSON, A JV

SUBCONTRACTOR or CONTRACTOR (Circle one)

[redacted] SIGN HERE

(Authorized Representative)

~~For subcontractor notice of potential claim~~

*This notice of potential claim is acknowledged and **forwarded** by*

~~KIEWIT/FCI/~~MANSON, A JV

PRIME CONTRACTOR

(Authorized Representative)

NOTICE OF POTENTIAL CLAIM

Additional Information

Subject: Minimum Segment Age for Frame 3 Exterior Closures

In Caltrans ("State") Letter No. 000093, "Comments to Baseline Schedule C2C0", it states the following comment (No. 27) needs to be addressed and implemented prior to the State's acceptance of the baseline schedule:

> 27. Sheets 917 and 918 of the contract plans address the aging requirements of the cast segments for both the external and the internal closures. Casting of the segments within Frame 3 do not support the 18 months aging requirements for the exterior closures in both the eastbound and westbound. Resequence the respective activities to support the aging requirements.

KFM does not agree with the State that sheets 917 and 918 of the contract plans (Attachment "A") represent an 18-month aging requirement for the exterior closures in Frame 3 for both eastbound and westbound. While sheet 918, in the "Closure and Jacking Schedule", clearly requires an 18-month segment age for the ***interior*** closure of Frame 3 at E13W and E13E, there is no specific duration given on either sheet for the segment age for the ***exterior*** closures. If provided, this duration for segment age would have been designated as, and specified for, E12W, E14W, E12E, and E14W.

The only specific reference on these sheets to the segment age with regard to the exterior closure is in Step 19, on Sheet 917. Step 19 states the segment age at the time of exterior closure will be in accordance with the "Closure and Jacking Schedule" in the "Construction Sequence No. 2" sheet, which is Sheet 918. Again, the "Closure and Jacking Schedule" on sheet 918 only specifies the segment age requirements for the ***interior,*** not the ***exterior,*** closures for Frarne 3.

KFM found the language on Sheets 917 and 918 ambiguous. Because of this ambiguity, during the bidding process KFM requested clarification in the Fall of 2001 in the form of the question listed as No. 84 of the Contractor's Inquiry Responses (Attachment "B"). Question No. 84 and the State's response are as follows:

> Question No. 84
>
> 84. Concerning segment age at time of closure, please reference plan sheet #917 of 978, note #19. Is it the owner's intention to hold the contractor to the same requirements for concrete age for the exterior closures as is imposed for the interior closures (18 months)? Currently, the interior closure construction is predicated on reaching the segment age of 2, 6 or 18 months depending upon the span.

Response to No. 84

Attention is directed to Addendum #7.

While a yes or no answer would have provided the necessary clarity, the State's direction of attention to Addendum No. 7 did not respond to this question. Addendum No. 7 (Attachment "C") dealt primarily with, among other unrelated items, the phasing of hinge pipe beam operations and segment age at erection, but did not address the segment age for exterior closures.

Although Question No. 84 is the most direct example, Question Nos. 26, 35, 165, and 169, along with the States responses (Attachment "B"), also demonstrate that the bidders were confused by the representations shown in the contract documents regarding segment age at erection, construction sequencing, jacking, and closures. This confusion also supports our view that these representations are ambiguous, leading to different interpretations of the State's objective intent. Question Nos. 26, 35, 165, and 169, and the State's response are as follows:

Question No. 26

26. The segment age at time of closure of 18 months for E13W and E13E is measured from the date the segment is put into storage ? correct? Changing the direction of construction will help this eliminate the impact of the 18 months on the schedule.

Response to No. 26

Attention is directed to Addendum #12.

Question No. 35

35. (Re) Question #26 ? One will need to match cast the segments for the spans 13 E and 13 W. This will cause need for all of these segments to be in storage for a minimum of eighteen months. Is this correct? (This also pertains to the six month duration of Frame 2 - Pier 9 East and West and the two month duration of Frame 1 - Pier 5 East and West.) Do the segments need this amount of time before they are jacked, implying they could be set in place before the eighteen months, or before they are placed?

Response to No. 35

Attention is directed to Addendum #12.

Question No. 165

165. Given the new drawings from Addendum No. 7, specifically the Construction Sequence No. **A,** B, and C (sheets 916A, 916B, and 916C), showing the order in which the superstructure is to proceed during erection. There seems to be no consistent order to the sequence shown, in some cases all the piers are erected long before any closures or finishing activities begin and in other cases (for example, the closure between piers 9 and 10) all of the piers in a frame are not erected when an exterior closure occurs.

Response to No. 165

Attention is directed to Addendum #12.

Question to No. 169

169. Do all of the piers tables and segment installation processes in a frame need to be completed before any closures may occur or is an exterior closure able to begin directly after adjacent piers segments are fully erected?

Response to No. 169

Attention is directed to Addendum #12.

Again, while a direct response to these questions could have cleared up the confusion for all bidders, the State did not provide the specific answers, instead directing attention to Addendum No. 12. Addendum No. 12 (Attachment "D"), which was issued on December 13, 2001, only 6 days before the bid date, attempted to provide more guidance on the relationship between segment age, construction sequence, erection, and closure. This guidance is provided in the second and third paragraphs of the revisions to Section 10-1.29 "FURNISH PRECAST CONCRETE SEGMENT", subsection "GENERAL", of the Special Provisions as follows:

> Precast concrete segment age is measured from the date a segment casting is complete. Prior to release for erection, furnished precast concrete segments shall be stored in the Contractor's casting yard or storage facility until the segments are of the age as shown in the following table. Prior to casting the closure at mid-span, the segments shall conform to the minimum age requirements as shown in the following table:

Frame No.	Segment Age at Erection	Segment Age at Closure of Mid-Span
W1, E1	2 months	2 months
W2. E2	6 months	6 months
W3, E3	6 months	18 months
W4. E4	2 months	2 months

> The design of these structures is based on the construction sequence, methods, and equipment loads as shown on the plans. Not all details for construction sequence and construction methods are shown.

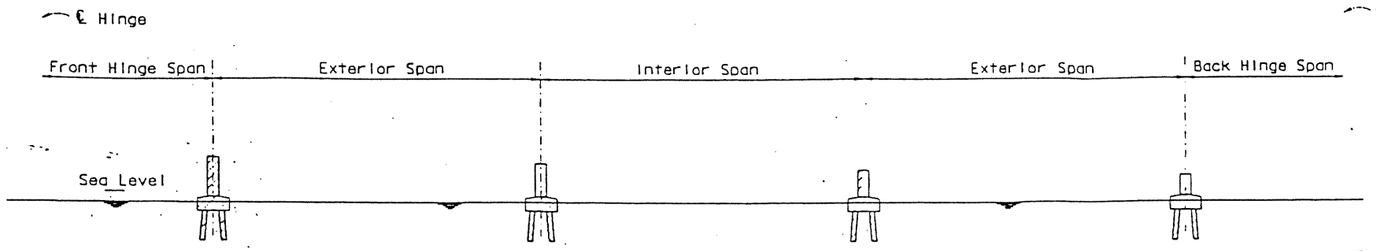
'While providing minimum segment age requirements for both erection and closure in tabular form, this revision of Addendum No. 12 still failed to distinguish between exterior and interior closures. In our view, a question still remained as to whether this segrnent age requirement applied to the exterior closures. As used in the context of this revision, KFM interpreted the "closure at mid-span" to mean only the interior closure, which occurs at the mid-span of the referenced frame. The use of a singular "closure of mid-span'' description, rather than a plural usage such as "closures at all mid-spans", which would imply there is more than one closure per frame, only furthers this interpretation. Based on this understanding, the segment age requirement would then only apply to the ***interior*** closure, not the ***exterior*** closures. Since the State was apparently either unwilling or unable to provide a direct answer to the questions of segment age for the exterior closures, KFM made a reasonable and prudent interpretation based on the contract documents in order to provide the most competitive bid.

In summary, as the author of the contract documents, the State had at least three opportunities to create clear and concise language or guidance regarding the minimum segment age requirements for the exterior closures. The first opportunity, the original plans and specifications, failed to provide this clarity, as evidenced by the contractor inquiries and issuance of Addenda Nos. 7 and 12. The second and third opportunities, while responding to the contractor inquiries and writing these Addenda, also clearly failed, in our view, to provide plain and unambiguous language or guidance in this regard. It is our understanding that the risk of ambiguities lies with the drafter of a contract or, said in another way, ambiguities in the language are construed most strongly against the party that drafted the language.

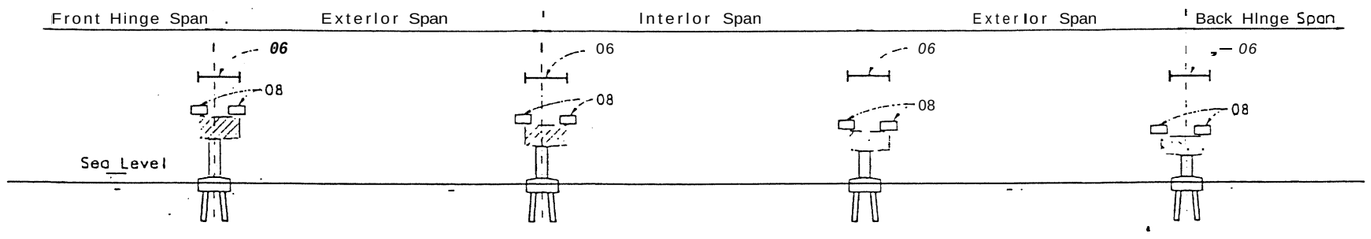
Without further transparency on this issue, KFM's bid was necessarily based solely upon the representations made in the contract documents. In order to provide the best cost to the State, KFM's bid price was based upon a schedule and sequence that was not restricted by an 18-month segment age requirement for the exterior closures. Should the State direct KFM to re-sequence activities to support this 18-month requirement, as stated in Letter No. 000093, then it is KFM's position that any additional cost or time associated with this direction would be compensated for by an equitable adjustment to the contract.

On May 10, 2002, in Serial Letter KFM-CT4-2002-017 (Attachment "E"), KFM described its position on this issue, and requested written confirmation from the State of this directive and that a change order would be issued. The State responded on May 21, 2002, in Letter # 5.03.1-000142, confirming the directive, but stating that no change order would be forthcoming at this time. Therefore, in accordance with Section 9-1.04 "Notice of Potential Claim" of the Standard Specifications, KFM is submitting a Notice of Potential Claim based on this act of the Engineer.

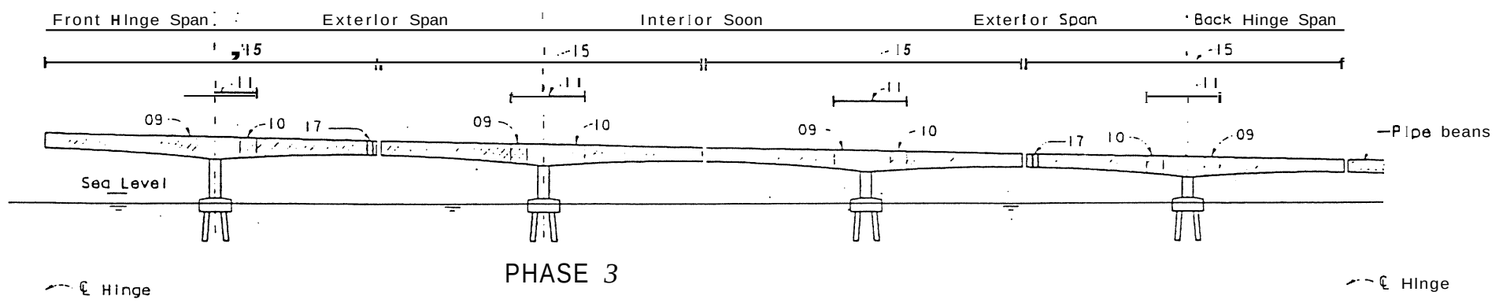
Attachment “A”



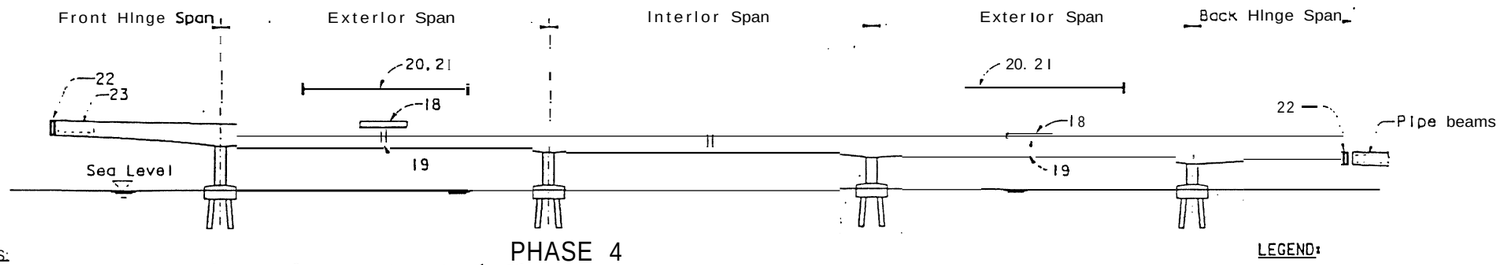
PHASE 1



PHASE 2



PHASE 3



PHASE 4

NOTES:

1. Construction sequence shown is for Frame 1W, 1E, 2W, 2E, 3W and 3E. For transition span in Frame 1W and 1E. see "Construction sequence Na.6" sheet.
2. Dead load of holst used for lifting precast segments is assumed to be 1000 kN.
3. Construction In Phases 1. 2 and 3 can proceed pier by pier.
4. For phasing of hinge pipe beam operations, see "Construction Sequence No.5" and "Construction Sequence A. B and C" sheets.

LEGEND:

- Construction completed
- Construction in progress

PHASE 1: FOUNDATION

00. Complete construction of foundations and substructures.

PHASE 2: CONSTRUCTION OF PIER TABLE

01. Erect pier table falsework. Erect formwork.
02. Place precast side panels into forms.
03. Install reinforcement and prestressing elements.
04. Cast and cure pier table.
05. Stress transverse tendons in pier diaphragms and ceck.
06. Install and stress cantilever tendons
07. Remove forms and falsework.
08. Mount segment holsts for segment erection.

PHASE 3: CANTILEVER CONSTRUCTION

09. Begin segment erection on short cantilever side of pier table. Lift first seynent into positlon and cas? closure between first segment and pier table.
10. Repeat step 09 on long cantilever slae of Pier table.
11. Install and stress cantilever tendons.
12. Erect second segment on snort cantilever side cf pier table.
13. Erect second segment on long cantilever side of pier table.
14. Form and cast too deck closure joints.
15. Install cnd stress cantilever tenaons.
16. Repeat Drocedures of steps 12 to 15 for remaining segments.
17. Cast counterweight diaphragms.

PHASE 4: CLOSURE OF EXTERIOR SPANS

18. Erect strongbock across closure of exterior spans.
19. Cast closure concrete. Segment age in exterior spans shall be in accordance with "Closure and Jacking Schedule" in "Construction Sequence No. 2" sheet.
20. Install and stress two Top Span and two Bottom Span tendons when closure concrete has attained the minimum required strength at stressing (f'cl).
21. After closure concrete has attained the minimum required strength (f'c). Complete Installation and stressing cf top and Bottom Soan tendons.
22. Cast hinge diaphragms.
23. Lift and temporary support hinge pipe beam in the front and/or back hinge span using "Construction Sequence No. 5", and "Construction Sequence No. A. B and C" sheets.

7 **REVISED PER ADDENDUM NO. 7 DATED NOVEMBER 2. 2001**

The design of these structures is based on the construction sequence. methods, and equipment loads as shown on the plans. Not all details for construction sequence and construction methods are shown.

Addendum #12

Caltrans Metric

DIST	COUNTY	ROUTE	KILOMETER POST TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
04	SF, Ala	80	13.9/14.3. 0.0/1.6	917	978

Sin Fu Chan
REGISTERED ENGINEER - CIVIL
6-4-01
PLANS APPROVAL DATE
The State of California or its officers or agents shall not be responsible for the accuracy or completeness of electronic copies of this plan sheet.

REGISTERED PROFESSIONAL ENGINEER — Sin Fu John Chan — No. C 39457 — Exp. 12/31/01 — CIVIL — STATE OF CALIFORNIA

T.Y.LIN / MOFFATT & NICHOL
825 BATTERY STREET
SAN FRANCISCO. CA 94111

ALL DIMENSIONS ARE IN MILLIMETERS UNLESS OTHERWISE SHOWN

SAN FRANCISCO OAKLAND BAY BRIDGE EAST SPAN SEISMIC SAFETY PROJECT

SKYWAY STRUCTURES

CONSTRUCTION SEQUENCE NO. 1

R.S. Bagha	DESIGN	BY J. Chan	CHECKED H. Lund
DESIGN OVERSIGHT	DETAILS	BY K. Lo	CHECKED H. Lund
R S. Bagha	QUANTITIES	BY D. Nguyen-Ton	CHECKED T. West
SIGN OFF DATE 11/17/00			

PREPARED FOR THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Sajid Abbas
PROJECT ENGINEER

BRIDGE NO. 34-0006L/R
KILOMETER POST 13.9/14.3. 0.0/1.6

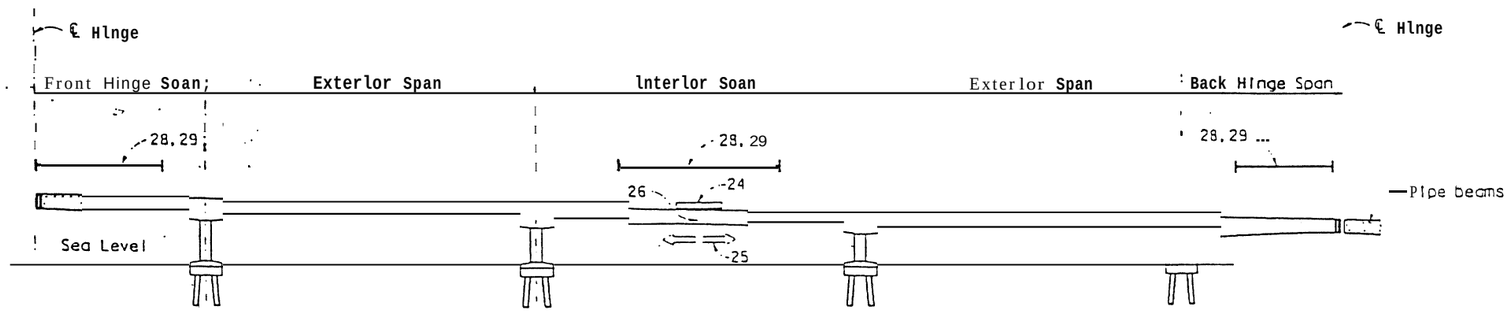
CU 04
EA 012021

Rev. Dates 5-18-98

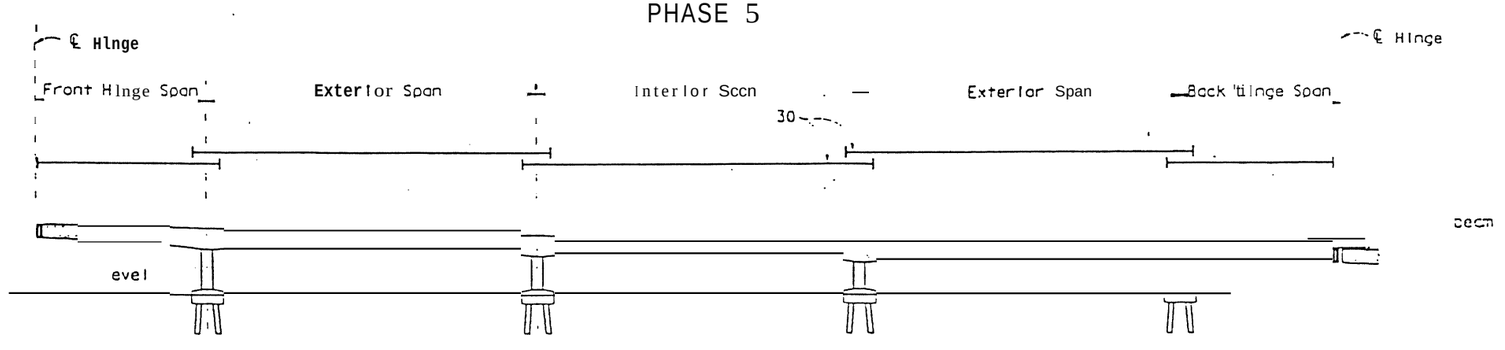
ORIGINAL SCALE IN MILLIMETERS FOR REDUCED PLANS 0 10 20 30 40 50 60 70 80 90 100

DISREGARD PRINTS BEARING EARLIER REVISION DATES

485



PHASE 5



PHASE 6

CLOSURE **AND JACK** ING SCHEDULE

FRAME	JACKING SPAN	SEGMENT AGE AT TIME OF CLOSURE (MINIMUM)	ESTIMATE3 JACKING FORCE	IMPOSED DISPLACEMENT ACROSS CLOSURE
W2		6 Months	25 Mn	110 m
w3	E13W	18 Months	40 Mn	100 mm
E3	E13E	18 Months	40 Mn	100 mm

7 REVISED PER ADDENDUM NO. 7 DATED NOVEMBER 2, 2001

The design of these structures is based on the construction scquencc. methods. and equipment loads as shown on the plans. Not all details for construction sequence and construction methods are shown.

Addendum #12

PHASE 5: JACKING AND CLOSURE OF INTERIOR SPAN

24. Erect strongback across **closure** of interior span.
25. Perform Jacking **operation** In accordcnce with "Closure **ana Jacking** Schedule".
26. ***Cast*** closure concrete. Segment **cge** In interior scon **shall be** In accordance with "Closure and Jacking Schedule".
27. After closure concrete **has attained the minimum** required strength of stressing (f'ci), remove Jacks.
28. **Install** and stress two Top **Scan** cna **two** Bottom Scon tendons.
29. **After** closure concrete nos attained the minimum requirec strength (f'ci, complete Installation and stressing of **remaining** Top and Bottom Scon tendons.

PHASE 6: FRAME COMPLETION

30. Install and stress Continuity tendons in the frame.
31. Erect strongback across ℄ hinge in the hinge scon.
32. Complete hinge construction as cofined in "Construction Seauence No. 5" sheet.

LEGEND:

- Construct Icn in progress
- Construction complered

NOTES:

1. For details not shown, sea "Construction **Seauence** No. 1" and "Construction Secuence No. 5" sneers.

DIST.	COUNTY	ROUTE	KILOMETER POST TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
04	SF, Ala	80	13.9/14.3, 0.0/1.6	918	978

Caltrans Metric

Sin Fu Chan
REGISTERED ENGINEER - CIVIL
6-4-01
PLANS APPROVAL DATE
The State of California or its officers or agents shall not be responsible for the accuracy or completeness of electronic copies of this sheet.

REGISTERED PROFESSIONAL ENGINEER — Sin Fu John Chan — No. C 39457 — Exp. 12/31/01 — CIVIL — STATE OF CALIFORNIA

T.Y. LIN / MOFFATT ■ NICHOL
825 BATTERY STREET
SJN FRANCISCO. CA 9411l

ALL DIMENSIONS ARE IN MILLIMETERS UNLESS OTHERWISE SHOWN

DESIGN	BY J. Chan	CHECKED H. Lund	PREPARED FOR THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
DETAILS	BY K. Lo	CHECKED H. Lund	
QUANTITIES	BY D. Nguyen-Tan	CHECKED T. Rost	

Sajid Abbas
PROJECT ENGINEER

R.S. Bogna
DESIGN OVERSIGHT
R S. Bogna
SIGN OFF DATE 11/17/00

CU 04
EA 012021

SAN FRANCISCO OAKLAND BAY BRIDGE
EAST SPAN SEISMIC SAFETY PROJECT

SKYWAY STRUCTURES

CONSTRUCTION SEQUENCE NO. 2

BRIDGE NO. 34-0006L/R
REGISTER POST 13.9/14.3, 0.0/1.6

DISREGARD PRINTS BEARING EARLIER REVISION DATES

Rev. Date 5-18-98

ORIGINAL SCALE IN MILLIMETERS FOR REDUCED PLANS 0 10 20 30 40 50 60 70 80 90 100