



CC MYERS INC.

09-Aug-2004

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State of California
Department of Transportation
333 Burma Road
Oakland, CA 94607

Temporary Bypass Structure
Contract No. 04-0120R4
CCM Job # 215

Attn: Mr. Kenneth Loncharich
Resident Engineer

Re: Potential Claim No. 1

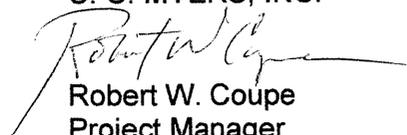
Dear Mr. Loncharich,

In your letter SL #51, you request that we provide you with a contractual basis to substantiate our request for an index to be established to provide price adjustments for the current fluctuating steel prices. This is not as simple as referencing an existing Standard Specification that addresses the situation, as none exist. This is a new and unusual situation that currently, is causing great hardship for the construction industry. We do not believe that it is the State's intention to cause hardship on their contractors. The situation with the steel market is beyond the control of either the State or the industry, not dissimilar to the situations that are addressed by Section 7-1.165 of the Standard Specifications. Here, the State provides relief for damages caused that are beyond either party's control. Another example of this is with the asphalt oil. The State accounts for the fluctuations in the oil prices with an index through a Contract Change Order. Neither party can control the index, but both parties can benefit from the presence of the index. This method has been utilized for years with much success on State projects and is an excellent example of how the steel price fluctuations should be handled.

Please also consider what benefit the State may realize by the establishment of an indexed adjustment. Projects that contain large amounts of steel that are bid when steel prices are high would benefit from the indexed method in that downward adjustments would be possible during the life of the project when prices subsided. A good example such a project is the Self Anchored Suspension Bridge project. The State would also benefit from the index at bid time, as contractors would not have to build in potential price increases that ended up never being realized. The State would benefit from the savings, rather than the contractor.

We therefore, again request that a Contract Change Order be written to provide a method to adjust the steel prices based on a mutually agreeable index.

Very truly yours,
C. C. MYERS, INC.


Robert W. Coupe
Project Manager

cc: MO, DH
File: 215-101, 215-9901

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