

**DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program**

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CC Myers - YBI  
51 Macalla Road  
San Francisco, CA 94130

Attn: Mr. Bob Coupe

Ref: 215-STT.00558

January 24, 2006

Contract No. 04-0120R4  
04-SF-80-12.6, 13.2  
South – South Detour

Letter No. 05.03.01-000660

Subject: Notice of Potential Claim No. 16 - Design Review

Dear Mr. Coupe,

This Office has received and reviewed C.C. Myers, Inc.'s and Imbsen and Associates, Inc.'s (IAI) Notice of Potential Claim No. 16 requesting additional time and costs for the production of Temporary Bypass Structure (TBS) design documents due to the involvement of the State's reviewers.

This Office takes exception to the position that the State's reviewers have severely impacted the design of the TBS. In fact, these review comments have highlighted the degree to which the design packages have been submitted incompletely. The delay in completing the design of the TBS is directly related to the contractor's resistance to addressing the review comments in a straightforward manner. For instance, the original comments to the final design submittal of the viaduct superstructure correctly pointed out that fabrication tolerances were overlooked in the calculations for the stringer to floor beam connections. However, after a year's time and several resubmittals the designer has neither disputed the reviewer's comment nor revised the calculations to address the comment. A portion of the comments returned for this segment of the TBS addressed the same issues in each of the revisions received by this Office. Responses to the review comments have often been vague and without detail resulting in additional work by the reviewers to determine what the actual responses entailed. This lack of action and/or clarity on the part of IAI to adequately address the review comments has been a large part of the delays in completing the design process.

Regarding the actual review period delays, it was acknowledged that the allotted review periods for two separate Viaduct Superstructure packages were exceeded and that compensation was agreed to be provided in accordance with Standard Specifications Section 8-1.09, "Right of Way Delays," and Special Provisions Section 10-1.20, "Time Related Overhead." By these specifications, compensation can only be provided for actual loss as defined by Section 8-1.09 and costs as related to time delays on the controlling item of the critical path. The State is currently awaiting this information from C.C. Myers, and IAI.

With regards to delays in the fabrication of the Viaduct segment of the TBS, the Special Provisions allow for the Contractor to proceed with fabrication ahead of the design comments being returned. At no time has this Office issued direction to stop fabrication of the TBS steel components. C.C. Myers was reminded of this by State letter 141, dated October 04, 2004. The fabrication work has always been allowed to proceed at the risk of the Contractor.

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This Office requests that this Notice of Potential Claim be withdrawn.

If you have additional questions, please contact this Office at (510) 286-0511.

Sincerely,

**<<< ORIGINAL SIGNED >>>**

Gary Lai  
Structure Representative  
for  
Resident Engineer  
Lourdes David

cc: R. Morrow  
L. David  
A. Yan  
M. Anigol

file: 05.03.01, 62.02.16