

C.C. MYERS INC.

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January 27, 2006

*Document No.: 215-STL.00227*

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

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

Attn: Mr. Lourdes David  
Resident Engineer

Re: NOPC #16

Dear Mr. David,

Please see attached Notice of Potential Claim #16. We have also attached Imbsen & Associates Notice of Potential Claim #16 stating their interpretation of the issue.

If you have any questions or comments about this, please contact our office.

Very Truly Yours,  
C. C. Myers, Inc.

  
Christine Williams  
Project Engineer

cc: MO

File: 215-101, 215-9916

FOR STATE USE ONLY		
Received by:	(For Resident Engineer)	Date:

To <b>Lourdes David</b> (resident engineer)	CONTRACT NUMBER <b>04-0120R4</b>	DATE <b>January 25, 2006</b>	IDENTIFICATION NUMBER <b>16</b> <b>Page 1 of 2</b>
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This is a Supplemental Notice of Potential Claim for additional compensation submitted as required under the provisions of Section 9-1.04 "Notice of Potential Claim" 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:

January 12, 2005

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

The State has taken on such an involved role in the design and design review process that our designer, Imbsen & Associates, Inc., has been impacted, resulting in the design of the Temporary Bypass Structure taking extremely longer than anticipated. Not only has the State caused a severe schedule impact to the project, significant costs have been, and will continue to be incurred. The types of costs include, but are not limited to, the financial impact to Imbsen, costs resulting from the steel fabricator missing their planned fabrication window and costs associated with impacts resulting from the delay. It has become apparent that the State does not recognize this situation as in their letter 05.03.01-000651 received by us on January 12, 2006, they state that the events have already occurred and thus the costs are readily available. As the involvement in the design by the State continues to occur, the final cost for this matter cannot be determined until the design is complete and the steel fabrication schedule for the entire Temporary Bypass Structure is realized and confirmed. The costs and delays are continuing to be incurred.

The basis of this potential claim including all relevant contract provisions are listed as follows:

Section 5-1.14 of the Special Provisions outlines the review process for the design submittals. The State has been notified previously that their involvement in the review process is beyond that called for in the specifications and is considered by us to be subjective, arbitrary and interfering with the design process. Examples of these notifications include Imbsen's letter #59 dated March 14, 2005, forwarded to the State via our letter 215-STL.00104 and Imbsen's letter #154 dated October 4, 2005, forwarded to the State via our letter 215-STL.00201. Both of these notifications have requested Contract Change Orders to provide for this interference. To date, the State has not responded to the complete subject matter of these notifications.

The estimated dollar cost of the potential claim including a description of how the estimate was derived and an itemized breakdown of the individual costs are attached hereto.

Due to the continuation of the current involvement by the State in the design process, we cannot determine what the costs are until the design is complete and the steel fabrication schedule for the project can be confirmed.

A time impact analysis of the disputed disruption has been performed and is attached hereto. The affect on the scheduled project completion date is as follows:

A time impact cannot yet be performed as some or all of the work within the scope of this potential claim is not complete. A time impact analysis can be performed once the work is completed to demonstrate any delays that actually occur as a result of this matter.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUPPLEMENTAL NOTICE OF POTENTIAL CLAIM**  
 CEM-6201B (NEW 9/2002)

FOR STATE USE ONLY		
Received by:	(For Resident Engineer)	Date:

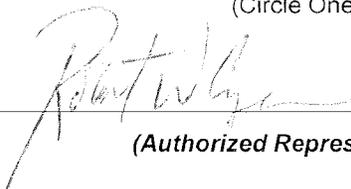
To <b>Lourdes David</b> (resident engineer)	CONTRACT NUMBER <b>04-0120R4</b>	DATE <b>January 25, 2006</b>	IDENTIFICATION NUMBER <b>16</b> <b>Page 2 of 2</b>
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*The undersigned originator (Contractor or Subcontractor as appropriate) certifies that the above statements and attached documents are made in full cognizance of the California False Claims Act, Government Code Sections 12650-12655. The undersigned further understands and agrees that this potential claim to be further considered, unless resolved, must fully conform to the requirements in Section 9-1.04 of the Standard Specifications and must be restated as a claim in the Contractors written statement of claims in conformance with Section 9-1.07B of the Standard Specifications.*

C. C. Myers, Inc.

SUBCONTRACTOR or **CONTRACTOR**

(Circle One)



(Authorized Representative)

For subcontractor notice of potential claim

*This notice of potential claim in acknowledged, certified and forwarded by*

PRIME CONTRACTOR

(Authorized Representative)

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUPPLEMENTAL NOTICE OF POTENTIAL CLAIM**  
 CEM-6201B (NEW 9/2002)

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Received by:	(For Resident Engineer)	Date:

To <b>Lourdes David</b> (resident engineer)	CONTRACT NUMBER <b>04-0120R4</b>	DATE <b>January 25, 2006</b>	IDENTIFICATION NUMBER <b>16</b>
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This is a Supplemental Notice of Potential Claim for additional compensation submitted as required under the provisions of Section 9-1.04 "Notice of Potential Claim" 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: 1/09/06

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

The current administration of this contract by Caltrans has materially changed the character of the work of the "Contractor's Design" item from that on which IAI based its bid on. Caltrans' subjective and arbitrary position regarding evaluating and accepting submittals (see IAI letter #59 dated March 14, 2005, State letter No. 05.03.01-000655 dated January 17, 2006), combined with Caltrans' lack of position regarding what it would take to "Satisfy the Engineer", along with the Engineer's repeated failure to review the design submittals within the time specified in the Contract has created a economic hardship for our firm.

(attach additional sheets as needed)

The basis of this potential claim including all relevant contract provisions are listed as follows:

According to Section 5-1.14, "CONTRACTOR DESIGN", subsection "Design Review Process" of the special provisions, once the Engineer has completed review of the final design submittal, and the review comments have been addressed by the Contractor to the satisfaction of the Engineer, the Contractor will be authorized to construct the elements depicted in the final design submittal. Significant effort has been spent to respond to Caltrans comments/questions but the task of "satisfying the Engineer" has become a very inefficient undertaking. IAI has spent considerable amount of resources and manpower, above and beyond what was considered at bid time, to satisfy the Caltrans representatives regarding the various aspects of the TBS design submittals. Additionally, the Engineer has repeatedly failed to review the design submittals within the time specified in the Contract and continues to ignore the severity of the circumstances by providing ambiguous and vague responses (see IAI Letter #154 dated October 4, 2005, State letter 05.03.01-000651 dated January 9, 2006 and State Letter 05.03.01-000651 dated January 11, 2006)

IAI is requesting for an equitable adjustment of time and compensation for an act or failure to act by the Engineer and the continued untimely review of the design submittals. Pursuant to Section 4-1.03, "Changes" and Section 8-1.09, "Right of Way Delays," of the Standard Specifications, and "Time Related Overhead," of the special provisions, IAI is requesting compensation for all the extra work and resulting consequential impacts.

(attach additional sheets as needed)

The estimated dollar cost of the potential claim including a description of how the estimate was derived and an itemized breakdown of the individual costs are attached hereto.

The extent of the costs and impacts can not be quantified at this time as the involvement of the State in the design continues to occur, and the task of satisfying the Engineer has not been completed. The costs and delays continue to be incurred.

(attach additional sheets as needed)

A time impact analysis of the disputed disruption has been performed and is attached hereto. The affect on the scheduled project completion date is as follows:

Complete verification of the impact through the project schedule is not possible at this time. An accurate cost impact analysis will be submitted when the extent of the delays can be quantified.

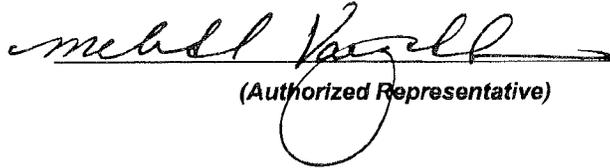
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Imbsen & Associates, Inc.

SUBCONTRACTOR OR CONTRACTOR

(Circle one)

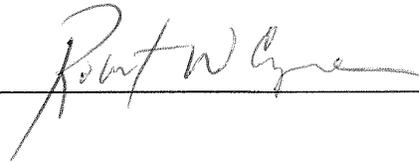
  
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