

CC MYERS INC.

October 07, 2004

Document No.: 215-STL.00044

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: East Tie-In Design Criteria

Dear Mr. David,

We are in receipt of your letter 137 regarding the above noted matter. In your letter, you state that you will be issuing a no cost change order to allow for the deviation of the contract to allow the implementation of our East Tie-In design concept. We do not believe that this is necessary. The reason for this is that the project specifications allow for the East Tie-In design to be something other than the roll out/roll in concept that was envisioned by the State in the contract. You also quote the portion of Section 10-1.15 of the Special Provisions that specifies that the design criteria shown on the plans is sufficient for the Contractor to develop the design. This clause contradicts the other portions of the specifications that allow us to use an alternate design. In essence, the contract allows for alternative design concepts, but the design criteria is only applicable to a simply supported double deck span.

Also in your letter, you indicate that our chosen design is more complex and must be supplemented with additional design criteria not already included in the contract plans and specifications. We acknowledge this and have spent a considerable effort to date in developing this additional criteria. Your statement that we have deviated from the specifications in producing a more complex design is not valid. The specifications do allow us to produce a more complex design. They do not, however, require that we develop and additional criteria from that shown in the plans to supplement it, as you suggest.

It is for the above discussed reasons that in our letter 215-STL.00030, we requested the issuance of a Contract Change Order to cover the cost of and time for the development of the design criteria to supplement the criteria shown in the plans. We again re-iterate that request. In the mean time however, based on the discussions and conclusions reached in our meeting with you on October 5, 2004, we are forwarding to you on behalf of our designer, Imbsen & Associates, Inc., a Notice of Potential Claim regarding this matter. Please find this notice attached.

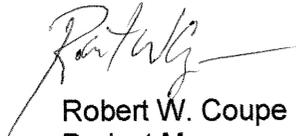
As stated in the Notice of Potential Claim from Imbsen, all parties agree that the new East Tie-In design criteria will be an ongoing effort through completion of the final design. As such, we are not able to ascertain what impact this new criteria will have on the cost and time for construction. We

RECEIVED
000305 OCT-8 2004

October 7, 2004
State Of California
Department of Transportation
Mr. Lourdes David, Resident Engineer
Document #215-STL.00044
Page 2

therefore, intend to further evaluate the matter once the criteria is complete and we reserve our right to make an additional request for a Contract Change Order to cover the cost and time required for implementing those aspects of the new design criteria that deviate from the current contract requirements.

Very Truly Yours,
C. C. MYERS, INC.

A handwritten signature in black ink, appearing to read "Robert W. Coupe", with a horizontal line extending to the right.

Robert W. Coupe
Project Manager

cc: BK, MO, JG, DH

File: 215-101, 215-9903

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

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

To Lourdes David (resident engineer)	CONTRACT NUMBER 04-0120R4	DATE 10/7/04	IDENTIFICATION NUMBER 3
---------------------------------------------------	-------------------------------------	------------------------	-----------------------------------

This is an Initial 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: 10/5/04

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

The Caltrans Design Criteria as included in the Contract Plans and Special Provisions is not in conformance with the Contract between Caltrans and C.C. Myers. Caltrans encouraged potential bidders to submit alternatives to the roll-out/roll-in that they envisioned. Caltrans did not contractually require C.C. Myers to provide for a new design criteria for the alternative prior to accepting or as a condition for accepting the bid. This is a change to the contract for both cost and schedule.

Caltrans and IAI agree that the new East Tie-In design criteria needs to be an ongoing effort through the completion of the final design. This added requirement by Caltrans has a significant impact on our design cost and schedule. The nature of the costs incurred includes design time and costs.

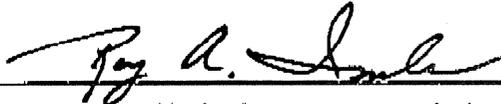
(attach additional sheets as needed)

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.

Imbsen & Associates, Inc.

SUBCONTRACTOR or CONTRACTOR

(Circle One)



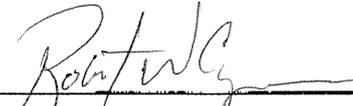
(Authorized Representative)

For subcontractor notice of potential claim

This notice of potential claim is known and forwarded by



PRIME CONTRACTOR



(Authorized Representative)

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814