C.C. MYERS, INC.
An Equal Opportunity / Affirmative Action Employer

51 MACALLA ROAD
SAN FRANCISCO, CA 94130
415-399-0175
FAX 415-399-0587

LETTER OF TRANSMITTAL

Document No:	215-STT.00145
Dated Dec 09 2004	**Job No.:** 215
Attention: Mr. Lourdes David	
Re: 04-0120R4	
Temporary Bypass Structure	

To: State of California
333 Burma Road
Oakland CA 94607

We are sending you: ☑ Attached ☐ Via Fax

☐ Drawing	☐ Plans	☐ Prog. Pmt
☐ Samples	☐ Certificates of compliance	☐ Calculations
☐ Payroll	☐ Specs	☐ Copy of Letter
☐ Change Order	☐ Schedule	☐ Invoice

Copies	Item	Date	Description
1	01	Dec 08 2004	Doc. No.: 215-LET.00090 DRB - Notice of Potential Claim No. 4
1	02	Dec 08 2004	Doc. No.: 215-LET.00089 DRB - Notice of Potential Claim No. 3

These are transmitted as checked below:

☐ For Approval	☐ For Review/comment	☐ Return For Correction
☑ For Your Use	☐ As Requested	☐ For Information

Remarks:

Copy To: Robert Coupe, Main Office
File: 215-101, 215-9900, 215-9903, 215-9904

RECEIVED
DEC 10 04
000924

Signed: Christine M Williams
Christine M Williams
Project Engineer

3286 Fitzgerald Road, Rancho Cordova, CA 95742, Tel No. 916-635-9370 Fax No. 916-635-1527

CC MYERS INC.

December 08, 2004

Document No.: 215-LET.00089

Dispute Review Board
511 Kortum Canyon Road
Calistoga, CA 94515

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

Attn: Mr. William Baker

Re: Notice of Potential Claim No. 3

Dear Mr. Baker,

We have submitted a Notice of Potential Claim to the State on behalf of ourselves and several of our subcontractors regarding the State's denial of our request for additional compensation for the East Tie-In design criteria submittal. Attached please find a compilation of all of the correspondence generated to date regarding this matter.

We hereby refer this matter to the Disputes Review Board in accordance with Section 5-1.12 of the project's Special Provisions.

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

Christine Williams
Project Engineer

Encl: STF.00008
FAX.00164
STT.00089
STL.00058
STL.00044
05.03.01.000156
STL.00048

cc: Matthew B. McGowan
Frederick Graebe
RWC
Lourdes David
MO

File: 215-9900, 215-9903

C.C. MYERS, INC.

51 MACALLA ROAD
SAN FRANCISCO, CA 94130

CCM Job # 215: Temporary Bypass Structure
San Francisco/Oakland Bay Bridge

FAX

Date: 07-Oct-2004

Document No.: 215-STF.00008

State of California
Department of Transportation
333 Burma Road
Oakland

Attention: Mr. Lourdes David

Fax#: 510-286-0550

From: Robert Coupe

Fax#: 415-399-0587
Phone#: 415-399-0175

Subject: East Tie-In Design Criteria

Message:

Our document 215-STL.00044.

Total pages sent including this one: 4

Original to follow: yes

cc: MO

File: 215-101, 215-9903

CC MYERS INC.

October 07, 2004

Document No.: 215-STL.O0044

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

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.

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	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Lourdes David (resident engineer)	04-0120R4	10/7/04	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 in knowledged and forwarded by

CC MYERS INC

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

C.C. MYERS, INC.

51 MACALLA ROAD
SAN FRANCISCO, CA 94130

CCM Job # 215: Temporary Bypass Structure
San Francisco/Oakland Bay Bridge

FAX

Date: 19-Oct-2004

Document #: 215-FAX.00164

To: Dr. Roy Imbsen
Imbsen & Associates, Inc.

Fax#: 916-366-1501

From: Robert Coupe

Fax#: 415-399-0587
Phone#: 415-399-0175

Subject: East Tie-In Design Criteria
Potential Claim No. 3

Message:

Please be reminded of your responsibility regarding the submittal of the supplemental notice of potential claim for the East Tie-In design criteria. If you wish to continue to pursue additional compensation for this matter, we must receive your supplemental notice no later than the end of the day on October 20, 2004.

We are sending along a copy of State letter 05.03.01-000156 regarding this same matter.

cc: MO

file:215-201, 215-9903

Total pages sent including this one: 2

Original to follow: no

STATE OF CALIFORNIA-BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program
333 Burma Rd.
Oakland, CA 94607
(510) 622-5660, (510) 286-0550 fax

CC Myers
51 Macalla Road
San Francisco, CA 94130

Attn: Mr. Bob Coupe

RECEIVED
OCT 18 2004
CC MYERS, INC.
JOB 215 TEMP BYPASS STRUCTURE

October 13, 2004

Contract No. 04-0120R4
04-SF-80-12.6, 13.2
Temporary Bypass Structure

Letter No. 05.03.01-000156

IC-818
215-103
215-990 3
IMBEN - FAX

Subject: NOPC No. 3

Reference: 215-STL.00044

Dear Mr. Coupe,

The Department has received your Notice of Potential Claim No. 3 on October 8, 2004 regarding the East Tie-In Criteria. Additional information is needed prior to making a determination of merit.

You are reminded of Section 9-1.04, Notice of Potential Claim, of the Special Provisions that within 15 days of submitting the initial notice of potential claim, you are required to provide a signed supplemental notice of potential claim that provides, among others, the following information:

1) The estimated cost of the potential claim, including an itemized breakdown of individual costs and how the estimate was determined.
2) A time impact analysis of the project schedule.

If the estimated cost or the effect on the scheduled completion date changes after you have submitted your supplemental notice, you shall then update this information as soon as the change is recognized and submit it to the Engineer.

If you have any comments or questions, please contact me at (510) 622-5660.

Sincerely,

Lourdes David

Lourdes David
Resident Engineer

cc: G. Lai

file: 05.03.01

C.C. MYERS, INC.
An Equal Opportunity / Affirmative Action Employer

51 MACALLA ROAD
SAN FRANCISCO, CA 94130
415-399-0175
FAX 415-399-0587

LETTER OF TRANSMITTAL

Document No:	215-STT.00089
Dated Oct 20 2004	**Job No.:** 215
Attention:	Mr. Lourdes David
Re:	04-0120R4
	Temporary Bypass Structure

To: State of California
333 Burma Road
Oakland CA 94607

We are sending you: ☑ Attached ☐ Via Fax

☐ Drawing	☐ Plans	☐ Prog. Pmt
☐ Samples	☐ Certificates of compliance	☐ Calculations
☐ Payroll	☐ Specs	☐ Copy of Letter
☐ Change Order	☐ Schedule	☐ Invoice

Copies	Item	Date	Description
1	01	Oct 07 2004	Notice of Potential Claim #3

These are transmitted as checked below:

☐ For Approval	☐ For Review/comment	☐ Return For Correction
☑ For Your Use	☐ As Requested	☐ For Information

Remarks:

Copy To: Main Office
File: 215-101, 215-9903

Signed: _____
Robert W. Coupe
Project Manager

3286 Fitzgerald Road, Rancho Cordova, CA 95742, Tel No. 916-635-9370 Fax No. 916-635-1527

IMBSEN & ASSOCIATES, INC.
Engineering Consultants
A TRC Company

Sacramento ☐
Fresno ☐

Facsimile Memo

To: Bob Coupe **Fax Number:** 635-8961

From: Ray Imbsen

Date: 10/7/04

Project No: 1295

☐ Confirmation Copy Mailed

SUBJECT: NOPC

Number of pages being transmitted including this cover sheet: 2

RECEIVED
OCT - 8 2004
CC MYERS, INC.

JOB 215 TEMP BYPASS STRUCTURE
IC-848
215-201
25-9903
STATE -

9912 Business Park Drive, Suite 130
Sacramento, CA 95827
Phone: (916) 366-0632 • FAX: (916) 366-1501

7395 N. Palm Bluffs Avenue, Suite 104
Fresno, CA 93711
Phone: (559) 449-6190 • FAX: (559) 449-4591

OCT-07-04 17:03 FROM-Imbsen & Associates, Inc.A TRC Company 19183661501 T-046 P.001 F-123

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

Roy A. Imbsen

(Authorized Representative)

For subcontractor notice of potential claim

This notice of potential claim in knowledged 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

CC MYERS INC.

October 22, 2004

Document No.: 215-STL.00048

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
Notice of Potential Claim No. 3

Dear Mr. David,

Attached please find Part B to our Notice of Potential Claim No. 3. We are forwarding this to you, on behalf of our designer, Imbsen & Associates, Inc., in accordance with Section 9-1.04 of the Standard Specifications, as amended by the Special Provisions.

As stated in the Notice of Potential Claim from Imbsen, and our previous correspondence regarding this matter, 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 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.

Robert W. Coupe
Project Manager

cc: MO, DH

File: 215-101, 215-9903

Faxing 3 pages to 510-286-0550 on October 22, 2004 at about 10 AM.

P.O. Box 2948, Rancho Cordova, CA 95741 • 3286 Fitzgerald Rd., Rancho Cordova, CA 95742 • 916•635•9370 • Fax 916•635•1527

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	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Lourdes David (resident engineer)	04-0120R4	October 20, 2004	3

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: October 5, 2004

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

The CC Myers/IAI design for the East Tie-In (ETI) is different than that represented in the Caltrans Notice to Contractors and Special Provisions for Contract No 04-0120R4. Caltrans did not prohibit an alternative to the roll-out/roll-in, nor the use of a multi-span, in fact they asked for innovative ideas. The CC Myers/IAI design for the ETI includes a steel rigid frame, which is supported at mid-span (i.e. Bent 53) and utilizes a portion of the upper and lower deck of existing Span YB4.

The Design Criteria included in the Caltrans Contract Plans specifically addresses the anticipated roll-out/roll-in option envisioned by Caltrans. As the design progressed beyond the bid and the preliminary submittal stage, Mr. Tom Ostrom of Caltrans requested that a site-specific criteria for the ETI be developed and submitted with the final plans. It was recognized at that time that the development of the criteria would be an ongoing partnering effort as the design progressed with continuous development by IAI and intermittent submittals to Caltrans for review. The magnitude of the design criteria development and its impact on our design was discussed at a partnering meeting held on October 5, 2004. We were also advised at this meeting that additional compensation along with the appropriate extension to the contract time would not be forthcoming.

(attach additional sheets as needed)

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

The basis for our claim is that the design effort has been affected by development of the "ETI Bridge Specific" criteria. C.C. Myers/IAI team is requesting that additional time and compensation be given since this has had a considerable impact on our progress to date.

At a pre-bid meeting in Oakland, Caltrans asked for innovative concepts. Question 232 of the Bidder Inquiry List asked if the span between Bents E1 and YB4 can be modified or retrofitted. Caltrans said this was acceptable as long as the Contractor met a number of criteria. Nowhere did it state a new criteria would be required. The Special Provisions state "The TBS is shown schematically on the plans with the required design criteria to enable the Contractor to develop the design and complete the construction." Nowhere did it state a new criteria would be required. Caltrans awarded the contract to CC Myers, thus accepting their alternative, which was represented with proposal drawings with the bid package.

(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.

We are not able to come up with a total cost for this NOPC until the ETI Bridge Specific Design Criteria is complete and it's impacts can be fully ascertained.. We have come up with the following tasks for cost and time of the design aspect of this NOPC:

a. Conduct analysis for sensitivity studies,

b. Verification of potential seismic design strategies,

c. Compliance with Caltrans' new requirements,

d. Final seismic design verification,

e. Develop and coordinate the review by Caltrans through the partnering,

f. Complete

Cost estimates for the engineering and support staff will include the following classifications:

- Project Engineer
- Project Engineer

- Design Engineer
- CADD Operator

(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:

Since the development of the design criteria is an ongoing effort, only an estimate of 5 months delay to date can be made at this time and complete verification of the impact through the project schedule is not possible at this time.

(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 in acknowledged, certified and forwarded by

C.C MYERS INC

PRIME CONTRACTOR

(Authorized Representative)

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P. 01

TRANSACTION REPORT

OCT-22-2004 FRI 09:52 AM

FOR: A 916 853 2638

DATE START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
OCT-22 09:51 AM	15102860550	40"	3	SEND	OK	456	

TOTAL : 40S PAGES: 3

CC MYERS INC.

October 22, 2004

Document No.: 215-STL.00048

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
Notice of Potential Claim No. 3

Dear Mr. David,

Attached please find Part B to our Notice of Potential Claim No. 3. We are forwarding this to you, on behalf of our designer, Imbsen & Associates, Inc., in accordance with Section 9-1.04 of the Standard Specifications, as amended by the Special Provisions.

As stated in the Notice of Potential Claim from Imbsen, and our previous correspondence regarding this matter, all parties agree that the new East Tie-In design criteria will be an ongoing

CC MYERS INC.

December 01, 2004

Document No.: 215-STL.00058

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 Submittal

Dear Mr. David,

We have submitted to you for your approval via our document 215-SUB.00061 the design criteria for the East Tie-In. Please understand that we believe that the required submittal of this document is beyond the scope of the contract. Further, there are requirements in this document that we believe are also beyond the scope of the contract. However, in the interest of moving ahead with the project, we have submitted this design criteria to you, for approval, as requested. Be advised that the submittal of this document in no way implies that we accept the cost for those requirements that we believe are beyond the scope of the contract and we hereby reserve our right to pursue additional compensation for the cost of developing and implementing these additional requirements.

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

Robert W. Coupe
Project Manager

cc: MO
JG
JM.V

File: 215-101
215-9903

P.O. Box 2948, Rancho Cordova, CA 95741 • 3286 Fitzgerald Rd., Rancho Cordova, CA 95742 • 916•635•9370 • Fax 916•635•1527

October 01, 2004

Document No.: 215-LET.00049

Dispute Review Board
511 Kortum Canyon Road
Calistoga, CA 94515

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

Attn: Mr. William Baker
Chairman

Re: Notice of Potential Claim No. 2

Dear Mr. Baker,

We have submitted a Notice of Potential Claim to the State on behalf of ourselves and several of our subcontractors regarding the State's denial of our request for additional compensation for changing the version of the bridge design specifications applicable to the design of bolted connections. Attached please find a compilation of all of the correspondence generated to date regarding this matter.

We hereby refer this matter to the Disputes Review Board in accordance with Section 5-1.12 of the project's Special Provisions.

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

Christine Williams
Project Engineer

Encl: STL.39
STT. 27
STL 16
IC 665
STL.40
STF.04
IC 463

cc: Matthew B.McGowan
Frederick Graebe
Lourdes David
RWC
MO

File: 215-9900, 215-9902

CC MYERS INC.

December 08, 2004

Document No.: 215-LET.00090

Dispute Review Board
511 Kortum Canyon Road
Calistoga, CA 94515

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

Attn: Mr. William Baker

Re: Notice of Potential Claim No. 4

Dear Mr. Baker,

We have submitted a Notice of Potential Claim to the State on behalf of ourselves and several of our subcontractors regarding the State's denial of our request for additional compensation for performing the dynamic monitoring of the driven pipe piles. Attached please find a compilation of all of the correspondence generated to date regarding this matter.

We hereby refer this matter to the Disputes Review Board in accordance with Section 5-1.12 of the project's Special Provisions.

Please note that CC Myers, Inc. has agreed with the State to postpone the presentation of the first two NOPCs that have been referred to the DRB. We will inform you when we will be ready to hold this meeting.

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

Christine Williams
Project Engineer

Encl: STL.00035 05.03.01-000161
STT.00092 STT.00110
05.03.01-000220

cc: Matthew B. McGowan
Frederick Graebe
RWC
Lourdes David
MO

File: 215-9900, 215-9904

P.O. Box 2948, Rancho Cordova, CA 95741 • 3286 Fitzgerald Rd., Rancho Cordova, CA 95742 • 916•635•9370 • Fax 916•635•1527

CC MYERS INC.

September 15, 2004

Document No.: 215-STL.00035

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: Pipe Pile Dynamic Monitoring

Dear Mr. Loncharich,

In accordance with your verbal direction, we have proceeded with performing the dynamic monitoring of the driven pipe piles at bent 49 left. The Supplemental Technical Special Provisions section regarding this matter requires that this work be performed by State forces. Section 5-1.14 of the Special Provisions requires that we utilize the State's Standard Special Provisions (SSP) in developing the Supplemental Technical Special Provisions. Further, there is no direction elsewhere in the project specifications that this SSP be edited to have anyone other than the State perform this monitoring work. Therefore, we request that you issue a Contract Change Order to compensate us for the monitoring work. We will provide the required support and access discussed in the SSP as part of our scope of work. We only seek reimbursement for the actual monitoring work required to be performed by the State forces. Also, as this is specialty work, we expect that payment will be made in accordance with Section 9-1.03B of the Standard Specifications.

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

Robert W. Coupe
Project Manager

cc: MB
CMW
MO

File: 215-101

P.O. Box 2948, Rancho Cordova, CA 95741 • 3286 Fitzgerald Rd., Rancho Cordova, CA 95742 • 916•635•9370 • Fax 916•635•1527

STATE OF CALIFORNIA-BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program
333 Burma Rd.
Oakland, CA 94607
(510) 622-5660, (510) 286-0550 fax

CC Myers
51 Macalla Road
San Francisco, CA 94130

Attn: Mr. Bob Coupe

RECEIVED
OCT 19 2004
CC MYERS, INC.
JOB 215 TEMP BYPASS STRUCTURE
IC-857
215-103
215-9904

October 18, 2004

Contract No. 04-0120R4
04-SF-80-12.6, 13.2
Temporary Bypass Structure

Letter No. 05.03.01-000161

Subject: Pipe Pile Dynamic Monitoring

Dear Mr. Coupe,

This Office is in receipt of CC Myers' letter 215-STL.00035 requesting payment for performing pipe pile dynamic monitoring work. At this time, no additional compensation will be forthcoming.

The pipe pile dynamic monitoring work is being required by CC Myer's design and not by the Special Provisions. PDA monitoring serves as a tool to verify design assumptions and therefore serves as quality control over the design. As the Contractor generated the design of the foundations, the responsibility for performing the design specified test shall also be borne by the Contractor.

Modifications to the Standard Special Provisions used to develop the Supplemental Technical Special Provisions (STSP's) are allowed under Special Provisions Section 5-1.14 "Contractor Design".

Sincerely,

Gary Lai
Structures Representative
for
Resident Engineer
Lourdes David

cc: E. Rufino
D. Quintana
A. Bata

file: 05.03.01

C.C. MYERS, INC.
An Equal Opportunity / Affirmative Action Employer

51 MACALLA ROAD
SAN FRANCISCO, CA 94130
415-399-0175
FAX 415-399-0587

LETTER OF TRANSMITTAL

Document No:	215-STT.00092
Dated Oct 21 2004	**Job No.:** 215
Attention: Mr. Lourdes David	
Re: 04-0120R4	
Temporary Bypass Structure	

To: State of California
333 Burma Road
Oakland CA 94607

We are sending you: ☑ Attached ☐ Via Fax

☐ Drawing ☐ Plans ☐ Prog. Pmt
☐ Samples ☐ Certificates of compliance ☐ Calculations
☐ Payroll ☐ Specs ☐ Copy of Letter
☐ Change Order ☐ Schedule ☐ Invoice

Copies	Item	Date	Description
1	01	Oct 21 2004	Notice of Potential Claim #4

These are transmitted as checked below:

☐ For Approval ☐ For Review/comment ☐ Return For Correction
☑ For Your Use ☐ As Requested ☐ For Information

Remarks:

Copy To: Main Office
File: 215-101, 215-9904

Signed: Robert W. Coupe
Project Manager

3286 Fitzgerald Road, Rancho Cordova, CA 95742, Tel No. 916-635-9370 Fax No. 916-635-1527

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	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Lourdes David (resident engineer)	**04-0120R4**	**October 21, 2004**	**4**

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: October 19, 2004

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

In accordance with the State's verbal direction, we proceeded with performing the dynamic monitoring of the driven pipe piles at bent 49. The Supplemental Technical Special Provisions section regarding this matter requires that this work be performed by State forces. Section 5-1.14 of the Special Provisions requires that we utilize the State's Standard Special Provisions (SSP) in developing the Supplemental Technical Special Provisions. Although said section allows the SSP's to be edited, there is no direction anywhere in the project specifications that this SSP be edited to have anyone other than the State perform this monitoring work. Therefore, we have requested that the State issue a Contract Change Order to compensate us for the monitoring work. This request was made via our letter 215-STL.00035.

On October 19, 2004, we received the State's letter 05.03.01-000161, which denied our request for a Contract Change Order to compensate us for the monitoring work.

We seek reimbursement for the cost of the dynamic monitoring for the driven piles at all locations on the project, not just bent 49.

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 knowledged 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

C.C. MYERS, INC.
An Equal Opportunity / Affirmative Action Employer

51 MACALLA ROAD
SAN FRANCISCO, CA 94130
415-399-0175
FAX 415-399-0587

LETTER OF TRANSMITTAL

Document No:	215-STT.00110
Dated Nov 04 2004	**Job No.:** 215
Attention:	Mr. Lourdes David
Re:	04-0120R4
	Temporary Bypass Structure

To: State of California
333 Burma Road
Oakland CA 94607

We are sending you:

☑ Attached ☐ Via Fax

☐ Drawing ☐ Plans ☐ Prog. Pmt
☐ Samples ☐ Certificates of compliance ☐ Calculations
☐ Payroll ☐ Specs ☐ Copy of Letter
☐ Change Order ☐ Schedule ☐ Invoice

Copies	Item	Date	Description
1	01	Nov 04 2004	Notice of Potential Claim #4

These are transmitted as checked below:

☐ For Approval ☑ For Review/comment ☐ Return For Correction
☐ For Your Use ☐ As Requested ☐ For Information

Remarks:

Copy To: Robert Coupe, Mark Beadleston, Main Office
File: 215-~~1004~~ 9004, 215-101

Signed: Christine M Williams
Christine M Williams
Project Engineer

3286 Fitzgerald Road, Rancho Cordova, CA 95742, Tel No. 916-635-9370 Fax No. 916-635-1527

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	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Lourdes David (resident engineer)	**04-0120R4**	**November 4, 2004**	**4**

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: October 19, 2004

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

In accordance with the State's verbal direction, we proceeded with performing the dynamic monitoring of the driven pipe piles at bent 49. The Supplemental Technical Special Provisions section regarding this matter requires that this work be performed by State forces. Section 5-1.14 of the Special Provisions requires that we utilize the State's Standard Special Provisions (SSP) in developing the Supplemental Technical Special Provisions. Although said section allows the SSP's to be edited, there is no direction anywhere in the project specifications that this SSP be edited to have anyone other than the State perform this monitoring work. Therefore, we have requested that the State issue a Contract Change Order to compensate us for the monitoring work. This request was made via our letter 215-STL.00035.

On October 19, 2004, we received the State's letter 05.03.01-000161, which denied our request for a Contract Change Order to compensate us for the monitoring work.

We seek reimbursement for the cost of the dynamic monitoring for the driven piles at all locations on the project, not just bent 49.

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

In preparing the Supplemental Technical Special Provisions in accordance with Section 5-1.14 of the Special Provisions, we are allowed to edit the Standard Special Provisions to suit this project provided that we provide an Engineering Basis for such edits. As the Contractor performing the design work, we have no Engineering Basis for editing the Standard Special Provision requirements that the Engineer perform certain tasks. There is no language that we have found in the contract that dictates that or provides an Engineering Basis for changing the scope of the Engineer's duties for this particular project. Specifically, in this case, there is no direction provided in the contract to edit the Standard Special Provision for piling, with regard to who performs the dynamic monitoring. Without such direction, we are not allowed by Section 5-1.14 to make this change and therefore believe that the responsibility to perform this task lies with the Engineer, as written in the Standard Special Provision.

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.

To date, the dynamic monitoring of the driven piles has only been performed at bent 49 of the Viaduct. The cost of this is estimated to be about $5,000. This only includes the cost of the dynamic analysis and the logging of the piles as they are driven. The support work provided during the pile driving operation to accomplish the dynamic monitoring is the responsibility of the Contractor in accordance with the Standard Special Provision, thus these costs are not included nor are they in contention.

The work remaining to be completed is at bents 47B, 48 and 52. We estimate that an additional $15,000 will be incurred to perform the pile dynamic monitoring at these locations, for a total potential claim amount of approximately $20,000.

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

To	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Lourdes David (resident engineer)	**04-0120R4**	**November 4, 2004**	**4** **Page 2**

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:

To date, there has been no effect on the completion date of the project as a result of this potential claim. We will monitor the future work remaining and submit the appropriate time impact analyses should schedule disruptions occur.

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

FACSIMILE COVER

ADM-0172 (REV. 9/96)

FM 92 1372 M

Attention: Bob Coupe	From: **DIVISION OF STRUCTURES** **OFFICE OF STRUCTURE CONSTRUCTION** **280 Beale St.** **San Francisco CA 94105**
Unit/Company CC Myers, Inc.	Name of Sender Erwin Rufino
	Date: 11-22-04 / Total Pages (Including cover sheet): 2
	FAX # (include area code): **415 356 6640** / ATSS FAX:
District/City **Yerba Buena Island, CA**	Phone # (include area code): 415 356 6508 / ATSS:
Phone # (include area code): 415 399 0175 / FAX # (include area code): **415 399 0587**	ORIGINAL DISPOSITION: ☐ DESTROY ☐ RETURN ☐ CALL FOR PICK-UP

Comment:

Re: Contract # 04-0120R4, Temporary Bypass Structure

Please find our response to NOPC 4 attached for your information. Official hard copy will follow shortly. Thanks.

E R Rufino

Erwin Rufino

RECEIVED

2004

CC MYERS INC.

IC-1083 ✓

215-103

215-9904

RC

STATE OF CALIFORNIA-BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program
333 Burma Rd.
Oakland, CA 94607
(510) 622-5660, (510) 286-0550 fax

November 22, 2004

CC Myers, Inc.
51 Macalla Road
San Francisco, CA 94130

Contract No. 04-0120R4
04-SF-80-12.6, 13.2
Temporary Bypass Structure

Attn: Mr. Bob Coupe

Letter No. 05.03.01-000220

Ref: 215-STT.00110

Subject: Response to NOPC 4

Dear Mr. Coupe:

The Department has completed its review of CCM's submitted Notice of Potential Claim No. 4 concerning Pile Dynamic Analysis.

As stated by Section 5-1.14 of the Special Provisions, the Contractor is responsible for designing the TBS in accordance with the design criteria shown on the plans and as specified in the Special Provisions. The design of the TBS also encompasses the design of its foundations. In substantiating the design analysis for the pile foundations, CCM/IAI's geotechnical engineer, Geomatrix, had written and compiled the Foundation Report. In the report, it was recommended that PDA be performed at each footing location in order to verify each respective pile driving conditions and pile capacities. Should there be any modifications to the design of the piles, such as changing the tip elevations, Geomatrix would have to make that determination.

In the STSP under "Wave Equation" of the "Piling" Section, it mentions that the Engineer is to revise tip elevations and to provide bearing acceptance criteria curves for a given control location. This statement contradicts Section 5-1.14 of the Special Provisions, as the State has no involvement in the design of the TBS. As the PDA recommendation has come from the part of Geomatrix, the State therefore assumes no liability to absorb any risk associated with the Contractor fulfilling the contract design requirement.

The Department finds no merit to NOPC 4 for the reasons stated above.

Please contact me at (510) 286-0511 for any additional questions.

Sincerely,

FOR Gary J. Lai
Structures Representative
for
Lourdes David
Resident Engineer

cc: DA, DQ, AB
file: 5.3.1, 62.4