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STATE CAPITOL
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California Legislature

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JUN 12 2013
MTC

June, 10 2013

Steve Heminger
Chair, Toll Bridge Program Oversight Committee
101 Eighth St
Oakland, CA 94607

Dear Mr. Heminger,

This letter is to request detailed and specific information about the financial incentives that exist for the Labor Day 2013 opening of the new east span of the San Francisco - Oakland Bay Bridge. We are requesting information about which companies benefit from incentives, a timeline of dates, amounts, and work completed that are tied to these incentives, as well as the reasons for the incentives and when the incentives were offered.

We have known for decades that the existing eastern span of the San Francisco - Oakland Bay Bridge must be replaced. Recognizing that need, the construction of the new span was initiated on a cutting edge seismic-safety design. When completed, this bridge is intended to make Bay Area commuters significantly safer. As the project is entering its final phases, it is important that opening the bridge is determined only for reasons related to safety.

It is paramount that the public is assured that the opening of the bridge is not being rushed. In order to build public confidence, the public must fully understand that incentives are not driving the targeted Labor Day opening.

Please provide this information as soon as possible. Thank you for your attention to this serious matter.

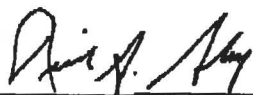
Sincerely,

Marc Levine

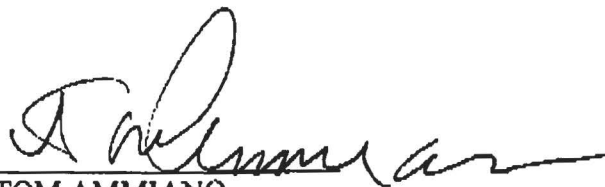
MARC LEVINE
Assemblymember, 10th District

Mark Desaulnier

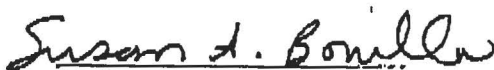
MARK DESAULNIER
Senator, 7th District



RICHARD S. GORDON
Assemblyman, 24th District



TOM AMMIANO
Assemblymember, 17th District



SUSAN A. BONILLA
Assemblymember, 14th District



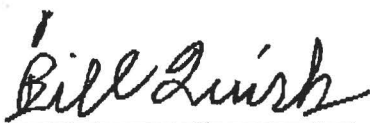
JOAN BUCHANAN
Assemblymember, 16th District



NORA CAMPOS
Assemblymember, 27th District



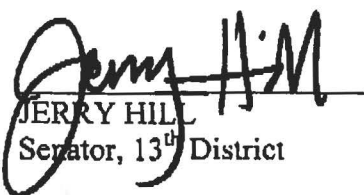
PAUL FONG
Assemblymember, 28th District



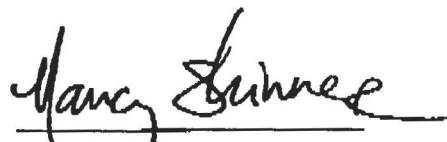
BILL QUIRK
Assemblymember, 20th District



PHILIP Y. TING
Assemblymember, 19th District



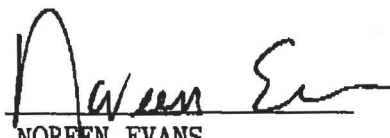
JERRY HILL
Senator, 13th District



NANCY SKINNER
Assemblymember, 15th District



Mark Leno
Senator, 11th District



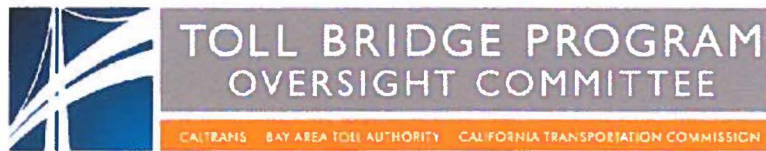
NOREEN EVANS
Senator, 2nd District

cc:

Malcolm Dougherty
Director, California Department of Transportation
1120 N Street
Sacramento, CA 95814

Andre Boutros
Executive Director, California Transportation Commission
1120 N Street, Room 2233 (MS-52)
Sacramento, CA 95814

Brian Kelly
Secretary, Business, Transportation and Housing Agency
980 9th Street, Suite 2450
Sacramento, CA 95814-2742



Toll Bridge Program Oversight Committee
Department of Transportation
Office of the Director
1120 N Street
P.O. Box 942873
Sacramento, CA 94273-0001

June 14, 2013

Dear Bay Area Legislators:

Thank you for your letter of June 10th. I welcome the opportunity to describe the positive role that financial incentives and disincentives have played in the timely delivery of a safe new east span for the San Francisco-Oakland Bay Bridge.

Prior to the statutory creation of the Toll Bridge Program Oversight Committee (TBPOC) in 2005, the east span project had experienced repeated cost overruns and significant schedule delays. In creating our committee, the Legislature established a new overall budget for the toll bridge seismic retrofit program that we have not exceeded through eight years of heavy construction on several bridge projects. In addition, following contract award of the self-anchored suspension (SAS) element of the new east span in 2006, the TBPOC established a target date of 2013 for opening the new bridge. As you know, we are now on the cusp of meeting that milestone and completing the entire seven-span toll bridge seismic retrofit program.

In order to manage the east span project in accordance with our delivery schedule, we have relied on a number of both conventional and innovative project delivery techniques, including the use of financial incentives and disincentives. Our use of these financial tools was specifically authorized by the same legislation that established the TBPOC – AB 144 (Hancock), Statutes of 2005. This bill added Section 30952.3 to the Streets and Highways Code which states:

“30952.3. Notwithstanding any other provision of law, the department may, from the resources provided in Sections 188.5 and 188.6, include incentives and disincentives, or both, to maximize the number of bidders participating in a bid process relative to toll bridge seismic retrofit and replacement projects, and to encourage the timely and thorough completion of contracts awarded for those projects.”

Pursuant to this provision, we offered a stipend to contractors bidding in the second procurement for the SAS project, which resulted in multiple bidders and improved price competition after the first procurement ended in the rejection of a single bid in 2004. We also have employed a variety of non-financial strategies to keep the project on track, such as the full-bridge weekend closures that have been necessary to build detours for live traffic while east span

construction continued. Some have likened this particular construction challenge to performing surgery on a patient while he is awake and walking around.

The financial incentive/disincentive package related to the potential Labor Day 2013 opening of the new east span was negotiated with the SAS contractor in September 2010, nearly three years ago and obviously well before the recent failure of anchor bolts on the SAS east pier. We briefed the Bay Area Toll Authority about this new financial package at a public meeting in September 2010, and we notified the Legislature in our regular progress report for the fourth quarter of 2010. The SAS contractor is a joint venture of American Bridge Company and Fluor Corporation known as ABF. The principal features of the incentive/disincentive package are as follows:

- For each day that “readiness for seismic safety opening (SSO)” is achieved by the contractor before October 20, 2013, the contractor is entitled to receive an incentive payment of \$385,000 per day, up to a maximum of \$20 million if readiness for SSO is achieved by August 28, 2013.
- The contractor shall pay the State of California the sum of \$100,000 per day as disincentive, for each day’s delay in achieving readiness for SSO after November 30, 2013, with a maximum possible disincentive of \$125 million.
- Neither an incentive nor a disincentive shall apply if the contractor achieves readiness for SSO between October 20 and November 30, 2013.
- Readiness for SSO is defined as a list of specified work items that must be completed by the contractor including, but not limited to, all major structural work, critical mechanical and electrical systems work, removal of all above deck and tower false work, and painting and paving activities.
- Work that is allowed to be completed post-SSO includes, but is not limited to, below deck false work removal, maintenance elevator installation, touch-up painting, and non-essential electrical and architectural lighting system connections.

As outlined above, “readiness for SSO” is defined as the completion of a defined set of construction tasks. It is not dependent on when the new east span is opened to traffic. That decision remains within the complete and sole discretion of the State of California acting through the TBPOC. To repeat, the incentive/disincentive package itself does not require a specific date upon which the bridge will open in order for an incentive or disincentive to be paid.

As of this writing, ABF has not completed all the work necessary to achieve “readiness for SSO”. No determination as to whether the contractor has earned any incentive payment will be made unless and until all the specified work is done. However, ABF already has earned an incentive of \$16.4 million for delivery of the last shipment of orthotropic box girders from the fabrication facility in 2011, and another \$7.5 million in 2012 for completion of the “Hinge K”

connection between the SAS and the Yerba Buena Island Transition Structure (YBITS) of the new span. MCM Construction – the YBITS contractor – also earned an incentive last year of \$9.3 million for timely completion of work related to the Hinge K closure. All of these incentive payments were designed to mitigate schedule or cost risks identified in our Risk Management Program, and are well within our existing program budget.

To use the language of your letter, I can unequivocally assure you and the public that “incentives are not driving the targeted Labor Day opening.” In fact, the truth is just the opposite. We are not striving to open the bridge in order to pay contractor incentives. We have offered contractors financial incentives in order to achieve seismic safety at the earliest responsible date for the 140,000 Bay Area residents who rely on this busy toll crossing every day.

Whether the new east span is opened to traffic on Labor Day or at a later date will be determined exclusively by whether it is safe to do so. In particular, that means the retrofit work at the location of the failed anchor bolts on the SAS east pier must be complete. It also means that the TBPOC must determine – and our independent peer review panel as well as the Federal Highway Administration must agree – that the remaining bolts on the SAS are performing as designed. We have scheduled a major briefing on these issues at the July 10th meeting of the Bay Area Toll Authority. We encourage your staff to attend that briefing in Oakland, or to monitor the briefing via webcast at www.mtc.ca.gov.

Please do not hesitate to contact me if the TBPOC can provide any additional information or assistance to the members of the Bay Area State Legislative Delegation on this vital seismic safety project.

Sincerely,



Steve Heminger
Chair, TBPOC
Executive Director,
Bay Area Toll Authority

cc: Malcolm Dougherty, Caltrans
Andre Boutros, CTC
Brian Kelly, Transportation Agency

