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2 MEDIATOR AND ARBITRATOR  
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8 Arbitrator

9 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
10 OF THE STATE OF CALIFORNIA

11 BAY CITIES PAVING & GRADING, ) CASE NO. A-0017-2018  
12 INC./C.C.MYERS JV )  
13 Petitioner, ) **FINAL AWARD**  
14 vs. )  
15 STATE of CALIFORNIA, DEPARTMENT OF )  
16 TRANSPORTATION, )  
17 Respondent. )  
18 CEMEX CONSTRUCTION MATERIALS )  
19 PACIFIC, LLC )  
20 Interested Party )  
21 \_\_\_\_\_ )

22 This is public works arbitration, conducted pursuant to Public Contract Code  
23 §10240, et seq. and §§1300-1393 of Title 1, Division 2, Chapter 4 of the California Code of  
24 Regulations. The undersigned is the duly-appointed arbitrator, serving pursuant to the Public  
25 Works Contract Arbitration Program, administered by the Office of Administrative Hearings,  
26 and pursuant to that letter of appointment, dated January 24, 2019.

27 Petitioner, Bay Cities Paving & Grading Inc./C.C. Myers JV filed its Complaint in  
28 Arbitration on October 25, 2018 and the State of California, Department of Transportation  
filed its Answer to Petitioner’s Complaint in Arbitration on November 20, 2018. Thereafter,  
Cemex Construction Materials Pacific, LLC joined as an Interested Party.

1 The arbitration hearing commenced at the Four Points Sheraton Hotel in Sacramento,  
2 California on September 28, 2020 and concluded on October 13, 2020. The arbitration  
3 hearing was recorded and transcribed in its entirety by a Certified Court Reporter.

4 Bay Cities Paving & Grading, Inc./C.C. Myers JV and Cemex Construction Materials  
5 Pacific, LLC (the JV) were represented by Steven Copeland, Esq., Marlo Manqueros, Esq.  
6 and Mary Salamone, Esq.

7 The State of California, Department of Transportation (Caltrans) was represented by  
8 Brandon Reeves, Esq. and Steven Kelly, Esq.

9 The JV presented percipient and expert witnesses and numerous exhibits in support of  
10 its claims in excess of 6 million dollars. For its part, Caltrans did likewise and presented  
11 percipient and expert witnesses and numerous exhibits in defense of its position that it was not  
12 liable for the claim of the JV.

13 Briefs were filed by both sides, both before and after the arbitration hearing. All  
14 documentary exhibits (with certain exceptions) were admitted into evidence. All arguments  
15 and briefs of the parties were read and considered by the arbitrator.

16 The Decision on the Merits was issued on January 4, 2021, a copy of which is attached  
17 hereto and incorporated by reference, as if fully set forth herein.

18 On February 10, 2021, the Order on Objections to the Decision on the Merits was  
19 issued, a copy of which is attached hereto and incorporated by reference, as if fully set forth  
20 herein.

21 On March 26, 2021, the Order on the Motion for Interest, Fees and Costs was issued, a  
22 copy of which is attached hereto and incorporated by reference, as if fully set forth herein.

23 NOW THEREFORE, the arbitrator issues this FINAL AWARD.

24 For the reasons stated in the Decision on the Merits and the Order on Objections to the  
25 Decision on the Merits, the JV IS AWARDED damages of: \$6,768,848 for PCR1 and  
26 damages of \$96,417 for PCR9, for a total award of damages of \$6,865,265.

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In addition and for the reasons stated in the Order on the Motion for Interest, Fees and Costs, the JV is AWARDED \$1,490,132 in pre-award interest (as of March 26, 2021), \$823,139 in attorneys' fees and \$104,405 in costs and for a total of \$2,417,676 for this motion.

Altogether, the JV IS AWARDED THE SUM OF \$9,282.941. Interest shall accrue at the rate of 6% per annum on this sum, starting 30 days from the date of this award, until paid.

All other claims are denied. This award is the final resolution of all disputes presented in this arbitration.

IT IS SO ORDERED.

DATED: March 26, 2021

  
KEN MALOVOS  
Arbitrator