

FOR STATE USE ONLY	
Received By	Date
(For resident engineer)	

TO	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Pedro Sanchez (resident engineer)	04-0120E4	12-08-04	01

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: Nov. 23, 2004

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

See attached

(attach additional sheets as needed)

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

See attached

(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 individual costs are attached hereto.

See attached

(attach sheets as required)

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:

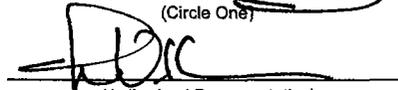
See attached

(attach time impact analysis as required)

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.

KFM, a JV

SUBCONTRACTOR or CONTRACTOR  
(Circle One)

  
(Authorized Representative)

For a subcontractor potential claim

This notice of potential claim is acknowledged, certified 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.

## Supplemental Notice of Potential Claim #1

### **Partial Joint Penetration Weld – Ultrasonic Testing Requirement**

**December 8, 2004**

Pursuant to Amended Standard Specification 9-1.04 – Notice of Potential Claim, KFM offers the following supplemental information to support KFM’s position regarding the PJP-UT dispute.

***A. The complete nature and circumstances of the dispute which caused the potential claim.***

KFM agrees that an Ultrasonic Testing (“UT”) examination of Partial Joint Penetration (“PJP”) welds is required as shown in the table in Special Provision Section 10-1.31 “Steel Structures,” under the heading “Shop Welding,” and under the sub-heading “Inspection and Testing,” but a procedure for this examination cannot be developed using the Contract Documents by themselves. KFM has requested direction from the State, but the State has been unwilling to provide the specific information required to develop an acceptable UT examination procedure. Without this information, KFM continues to expend additional effort to develop a UT procedure and it appears that implementation of an acceptable UT procedure will be more costly and more time-consuming than could have been reasonably anticipated from the Contract Documents.

- In June 2004, KFM’s fabricators, USI and OIW, were in the process of preparing their required Welding Quality Control Plans. During the course of preparation, a contradiction between the required UT Testing and Acceptance criteria for the PJP welds was discovered in the Special Provision Section 10-1.31. Caltrans clarified the requirements by correcting the Specification language. All references to “Tension” criteria were changed to “Compression” criteria for Shop Welding. A change order was issued to change the Specification language.
- With this direction in hand, the fabricators began the process of trying to understand the procedure required to test the PJP welds to the required “compression” criteria. As the facts unfolded, the referenced AWS D1.5 did not address UT testing of PJP welds and therefore did not assist the fabricators in their quest to understand the requirements as laid out in the Special Provisions.
- Multiple conversations were held between USI, OIW, KFM and Caltrans regarding the lack of information and specifics provided in the Contract Documents.
- OIW attempted to develop an acceptable UT procedure with the help of an outside consultant, which was subsequently transmitted to Caltrans for information. OIW found that the developed procedure was unreliable and the time required to perform the testing was not practical and could not have been contemplated at bid time. Therefore this procedure is not an acceptable

solution for production welding nor will it provide accurate and repeatable testing information.

- KFM determined that, at best, the contract documents were ambiguous since neither the specifications nor the referenced documents provided enough information to develop a procedure. Subsequently, both KFM and USI/OIW asked for direction from Caltrans and the issuance of a Contract Change Order to cover the cost of developing and implementing a UT procedure that fell outside the specifications of the contract and outside of normal industry practice.
- Caltrans and KFM met twice to come to an agreement regarding the Contract requirements to no avail. On Nov. 23, Caltrans suggested that KFM file an NOPC since agreement on this issue was not likely. KFM did so on the same day.

Attached is a chronological listing of verbal and written correspondence on the PJP-UT issue that led to the filing of the initial Notice of Potential Claim filed November 23, 2004 and this Supplemental information as required by Specification.

**B. *The contract provisions that provide the basis of the claim.***

- 4-1.03 – Changes (provides for entitlement)
- 10-1.31 – Steel Structures (provides UT examination requirements)
- AWS D1.5 – 2002 Edition (provides UT examination requirements for CJP Welds)

**C. *The estimated cost of the potential claim, including an itemized breakdown of individual costs and how the estimate was determined.***

Specific information is required to develop an acceptable procedure prior to determining the cost impact to the project.

**D. *A time impact analysis of the project schedule that illustrates the effect on the scheduled completion date due to schedule changes or disruptions where a request for adjustment of contract time is made.***

The nature and magnitude of the time impacts are currently unknown. As noted in 'C' above, specific information is required to develop an acceptable procedure prior to determining the schedule impact to the project.

As stated in the specification, "If the estimated cost or effect on the scheduled completion date changes, the Contractor shall update information in items C and D above as soon as the change is recognized and submit this information to the Engineer."

Date	Document						Comments
	Compression vs. Tension Criteria	OIW WQCP	OIW UT Procedure	Position Meetings	KFM CCO Requests	Fabricator's CCO Requests	
6/17/2004	USI RFI #38						Clarification request on "Compression vs. Tension Criteria" for Shop Welding Testing and Acceptance Criteria
6/18/2004	KFM RFI #41r0						Submit USI's RFI #38 - "Compression vs. Tension Criteria"
7/19/2004	CTL#92						Response to RFI#41r0 - Use "Compression Criteria"
8/18/2004	CT Trn#50						CCO#19 - Revised Welding Acceptance criteria from Tension to Compression
9/30/2004				OIW/KFM/CT Meeting			Meeting regarding PJP-UT Requirements
10/5/2004		KFM Trn.#40r0					OIW WQCP
10/7/2004				OIW/USI/TMF/NPI/KFM/CT Meeting			Meeting at OIW regarding PJP-UT Requirements
10/11/2004			OIW Trn.#47				OIW UT Procedure for PJP Welds
10/13/2004			KFM Trn.#40r1				KFM Transmitted OIW's Trn. #47 - PJP-UT Procedure FYI
10/13/2004					KFM Let#54		Request for CCO - not enough info provided in contract or codes
11/2/2004				Tuesday Owner's Mtg.			KFM requests timely response to KFM Let. #54 CT is working on response.
11/5/2004					KFM Let#58		2nd Request for CCO - not enough info provided in contract or codes
11/8/2004						USI Trn.#68	USI Request for CCO - not enough info provided in contract or codes
11/8/2004						OIW Let. #204	OIW Request for CCO - not enough info provided in contract or codes
11/9/2004				Tuesday Owner's Mtg.			KFM submitted follow-up letter #58. CT expects to forward response 11/9 - 10.
11/12/2004			CTL#292				Response to Trn.#40r1 - "Address comments, final approval contingent upon satisfactory mockup exam.results"
11/15/2004					CTL#298		Response to KFM Let. #54 - No CCO Forthcoming, specification language argument
11/16/2004						USI Trn.#81	USI Request for CCO/NPI Report - not enough info provided in contract or codes
11/16/2004				Tuesday Owner's Mtg.			KFM has not rcv'd response from CT on Letter #54 or 58. CT sent letter on Friday
11/18/2004					Position Matrix		C.Webb's attempt to understand Fab/KFM/CT's positions
11/19/2004		CTL#308					Response to Trn.#40r0 - Response to WQCP - Incomplete - (Note: CT is allowed 2 wk review period after 'complete' submittal rcv'd)
11/19/2004				Mngt. Roundtable			RWE/Sanchez/Locke discussion on PJP-UT Positions
11/20/2004		Nate Lindell Email					Comments on CT's response to OIW WQCP
11/22/2004						KFM Let.#64	Request for CCO on behalf of OIW/USI
11/23/2004				Tuesday Owner's Meeting			CTL#298 rcv'd 11/15 denying request for CCO
11/23/2004				Owner's Meeting Follow-Up Discussion			RWE/SHA/MSC/PS/NL/MV/SG - Conversation re: CCO Request - NLocke - "File NOPC"
11/23/2004					KFM Trn.#59r0		Initial NOPC#1
12/1/2004				OIW/USI/TMG/KFM/CT Conference Call Mtg.			Discussion re: NDE report findings
12/1/2004					CTL#326		Response to KFM Let. #58 - No CCO Forthcoming
12/3/2004					CTL#329		Response to KFM Trn.#59r0 - NOPC follow-up
12/7/2004						CTL#341	Response to KFM Let. #64 - No CCO Forthcoming, willing to consider alternatives.
12/8/2004					KFM Let.#65		Technical Response only to CTL#298
12/8/2004					KFM Trn.#59r1		Supplemental NOPC#1