

STATE OF CALIFORNIA- DEPARTMENT OF TRANSPORTATION

FOR STATE USE ONLY

SUPPLEMENTAL NOTICE OF POTENTIAL CLAIM

CEM-62018 (New 9/2002)

Received By

Date

(For Resident Engineer)

TO: Pedro Sanchez

CONTRACT NUMBER: 04-0120E4

DATE: December 10, 2004

NOPC NO.: ~~HSI~~ NOPC # 2 gha

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: December 6, 2004

The particular nature and circumstances of this potential claim are described as follows: SEE ATTACHED SECTION A

(attach additional sheets as needed)

The basis of this potential claim including all relevant provisions are listed as follows: SEE ATTACHED SECTION B

(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 SECTION C

(attach sheets as required)

A time impact analysis of the dispute and disruption has been performed and is attached hereto. The affect on the scheduled project completion date is as follows: SEE ATTACHED SECTION D

(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.

Universal Structural, Inc. / Thompson Metal Fab, Inc.

SUBCONTRACTOR or CONTRACTOR

(Circle One)

Signature of David R. Anderson (Authorized Representative)

For subcontractor notice of potential claim

This notice of potential claim is acknowledged and forwarded by

Kiewit - FCI - Mansen, ASV (Prime Contractor)

Signature of Gary H. Allman (Authorized Representative)

Supplemental Notice of Potential Claim #12 *efm***Partial Joint Penetration Weld – Ultrasonic Testing Requirement****December 21, 2004**

Pursuant to Amended Standard Specification 9-1.04 – Notice of Potential Claim, Universal Structural, Inc. (USI) and Thompson Metal Fab, Inc. (TMF) offers the following supplemental information to support USI's and TMF's position regarding the PJP-UT dispute.

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

USI and TMF 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 sub-heading "Inspection and Testing," but a procedure for this examination cannot be developed using the Contract Documents by themselves. USI, TMF, and OIW have 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, USI and TMF 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, USI and TMF were in the process of preparing the 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 Provisions 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, USI and TMF 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, TMF, OIW, KFM and Caltrans regarding the lack of information and specifics provided in the Contract Documents.
- USI, TMF, and OIW combined efforts and attempted to develop an acceptable UT procedure with the help of an outside consultant, which was subsequently transmitted to Caltrans for information. USI, TMF, and OIW found that the developed procedure was unreliable and the time required to perform the testing was not practical and could not have been

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T1 Foundation
12/21/2004

contemplated at bid time. Therefore this procedure is not an acceptable solution for production welding nor will it provide accurate and repeatable testing information.

- USI, TMF, and 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, USI and TMF 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, USI, TMF, OIW, and KFM met on several occasions to come to an agreement regarding the Contract requirements to no avail. On Dec. 10, KFM suggested that USI and TMF file an NOPC since Caltrans rejected USI's and TMF's request for Contract Change Order. USI and TMF did so on the same day.

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

- 4-1.03 – Change (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."