

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

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

TO Pedro Sanchez <small>(resident engineer)</small>	CONTRACT NUMBER 04-0120E4	DATE January 28, 2008	IDENTIFICATION NUMBER 07-011408
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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

January 14, 2008

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

See attached "NOPC 07-011408 -- Supplementary Notice of Potential Claim"

(attach additional sheets as needed)

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

See attached "NOPC 07-011408 -- Supplementary Notice of Potential Claim"

(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.

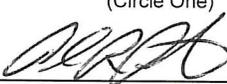
See attached "NOPC 07-011408 -- Supplementary Notice of Potential Claim"

(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 "NOPC 07-011408 -- Supplementary Notice of Potential Claim"

*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.*

*Kiewit / PCI / Manson AJV*  
 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)

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**NOPC 07-011408 -- Supplementary Notice of Potential Claim**

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**A. Nature and Circumstances of Dispute**

Kiewit/FCI/Manson AJV ("KFM") has performed work in accordance with issued but un-approved Contract Change Orders No. 58 and 58, Supplement 1 ("CCO 58" and "CCO 58 S1"). These change orders were executed by KFM on December 14, 2007 and returned to the State by transmittal that day. These changes were not approved by the Engineer as of January 14, 2008 and these change orders are still not approved by the Engineer.

CCO 58 originated with a Contractor submittal of Self Compacting Concrete ("SCC") for the bottom slab placement of the Pier T1 footing. The Contractor's request was approved by State Letter #2482 and a no-cost change order was initiated by the State to cover this work. After discussion and agreed revisions to the text, CCO 58 was presented to KFM for signature prior to approval by the Engineer. KFM executed the change order December 14, 2007 and returned it to the State.

CCO 58 S1 originated with a verbal request from the State for a cost proposal to utilize SCC in the Pier E2 bottom slabs. KFM provided cost information for the proposed change which was accepted by the State as confirmed by State Letter #3149. CCO 58 S1 was presented to KFM for signature prior to approval by the Engineer. KFM executed the change order December 14, 2007 and returned it to the State.

KFM has performed the work described in CCO 58 and CCO 58 S1.

KFM requests the Engineer's approval of CCO 58 and CCO 58 S1 and immediate compensation for this work in accordance with the Contract Change Orders as executed by KFM.

**B. Contract Basis of Claim**

Imminent completion of all contract work by KFM and Contract Acceptance by the Department without approval of these signed change orders gives rise to this NOPC.

Contract Change Order Nos. 58 and 58, Supplement 1, are changes under the contract consistent with Standard Specification 4-1.03, "Changes". CCO 58 revises the contract specifications to permit the Contractor to use Self-Compacting Concrete in specified locations and in accordance with requirements detailed in the change order. CCO 58 S1 directs use of SCC in specified locations in conformance with requirements described in CCO 58. Both change orders address additional compensation to the Contractor for the contemplated changed or additional work.

As allowed by Standard Specification 4-1.03A, "Procedure and Protest", change orders for this work were presented by the Engineer to the Contractor for consideration prior to approval. KFM signified its acceptance of the terms and conditions of the proposed contract change orders by executing and returning them to the State.

KFM returned the CCO's on December 14, 2007 for approval by the Engineer but they have not been approved and transmitted back to KFM. As stated in Standard Specification 4-1.03, second paragraph, "A contract change order will not become effective until approved by the Engineer." Accordingly, the subject work of CCO's 58 and 58 S1 continue to not be incorporated into the contract.

Following return of the CCO's to the State, Contract Work on the project continued towards January 18, 2008 and approached completion and Contract Acceptance without these change orders becoming effective and incorporated into the contract.

Amended Standard Specification 9-1.07B, "Final Payment and Claims", fifth paragraph, notes that claims made in response to the Proposed Final Estimate following Contract Acceptance will not be considered if the Contractor did not first comply with applicable notice or protest requirements of the contract including 9-1.04 "Notice of Potential Claim".

As CCO's 58 and 58, Supplement 1, were not effective as of January 14, 2008, and could not be reasonably anticipated to be approved and effective by KFM's anticipated completion date of January 18, 2008, KFM has made a Notice of Potential Claim to allow claims for this work in accordance with Amended Standard Specification 9-1.07B, "Final Payment and Claims".

C. Cost Estimate

KFM has signified its acceptance of the terms and conditions of CCO 58 and CCO 58 S1, including compensation, by their execution on December 14, 2007.

D. Time Impact Analysis

KFM has signified its acceptance of the terms and conditions of CCO 58 and CCO 58 S1, including no adjustments to contract time, by their execution on December 14, 2007.

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