

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 29, 2008	IDENTIFICATION NUMBER 11-011408
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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

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

See attached "NOPC 11-011408 -- Supplemental 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 11-011408 -- Supplemental 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.

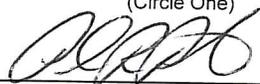
See attached "NOPC 11-011408 -- Supplemental Notice of Potential Claim".

(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 11-011408 -- Supplemental 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/FCI/Manson 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)

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NOPC 11-011408 -- Supplemental 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 Order No. 74 ("CCO 74"). This change order was not approved by the Engineer as of January 14, 2008, and this change order is still not approved by the Engineer.

CCO 74 is to provide compensation to the Contractor for installation of State-furnished anchor bolts in the Pier T1 footing as described by plans and information attached to the change order. KFM furnished a cost proposal to the State for the proposed work and agreement on a price was reached. Compensation for time related impacts was deferred. The change order was presented to KFM for approval on December 20, 2007. KFM reviewed the proposed change order and executed it on January 15, 2008. The executed copy was transmitted to the State by KFM Transmittal 689, dated January 21, 2008. A fully approved change order has not been transmitted by the State to KFM. KFM has performed the work described in the CCO.

KFM requests the Engineer's approval of CCO 74 and immediate compensation for this work in accordance with the Contract Change Order 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 this signed change order has given rise to this NOPC.

The work described under Contract Change Order No. 74 is directed work not included in the original contract scope of work and is a change under the contract consistent with Standard Specification 4-1.03D, "Extra Work".

As allowed by Standard Specification 4-1.03A, "Procedure and Protest", a change order for this work was 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 order by executing and returning it to the State.

KFM returned the CCO on January 21, 2008 for approval by the Engineer but it has 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 74 continues to not be incorporated into the contract.

Following presentation by the State of the CCO to KFM for acceptance, Contract Work on the project continued towards January 18, 2008 and approached completion and Contract Acceptance without this change order 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 74 was 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 for claims associated with 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 the terms and conditions of CCO 74, including compensation, by its execution on January 15, 2008.

D. Time Impact Analysis

KFM has signified its acceptance of the terms and conditions of CCO 74, including deferral of adjustment of contract time, by its execution on January 15, 2008. KFM does not propose an adjustment to the contract time of performance as a result of CCO 74.

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