

18-Sep-2009

ABF-CAL-LTR-001231

Mr. Gary Pursell  
Resident Engineer  
**California Department of Transportation**  
333 Burma Road,  
Oakland, CA 94607, USA

**PROJECT: San Francisco Oakland Bay SAS Bridge Superstructure**  
**Caltrans Contract No. 04-0120F4**  
**ABF Job No. 660110**

**SUBJECT: Request for Change Order (RFCO) No. 063**

**REFERENCE: Department's Letter No. 05.03.01-005384**  
**Request for Change Order – RFCO 063 Dated September 3, 2009**

Gentlemen:

American Bridge/Fluor Enterprises, Inc., A Joint Venture (ABFJV) is in receipt of the Department Letter No. 05.03.01-005384 dated September 3, 2009 provided in response to ABF-CAL-LTR-001095, dated August 25, 2009 regarding ABFJV's Request for Change Order (RFCO) No. 063. In this letter, the Department advises that it sees no basis for considering requests for repair approval to be Extra Work and finds no justification for issuing a Contract Change Order.

The reason the Department provides for not issuing a Change Order is that Special Provision Section 8-3, "Welding," subsection "Welding Quality Control," states in part:

*The Engineer shall be notified immediately in writing when welding problems, deficiencies, base metal repairs, or any other type of repairs not submitted in the WQCP are discovered and also of the proposed repair procedures to correct them. For requests to perform repairs, the Contractor shall include an engineering evaluation of the proposed repair. The engineering evaluation, at a minimum, shall include what is causing the defects, why the repairs will not degrade the material properties, and what steps are being taken to prevent similar defects from happening again in the future. The Contractor shall allow the Engineer 5 days to review these procedures. No remedial work shall begin until the repair procedures are approved in writing by the Engineer.*

The above referenced paragraph describes the process for the Critical Weld Repair (CWR). ABFJV first questioned the use of the CWR process in our original RFCO 63 letter, ABF-CAL-LTR-001000 dated August 3, 2009 however the use of the CWR process is not the basis of ABFJV's request.

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The basis for ABFJV's RFCO 63 is that the Department "Approved" a repair procedure, namely Item 6.2 (the out-of-tolerance of assembly gap of T-shaped joint and the repair of the gap when the gap is more than 5mm) in Submittal ABF-SUB-000200R02 on February 12, 2009. Subsequently, On July 1, 2009 the Department unilaterally elected to change the repair procedure and implement a new procedure. In this new procedure, ABFJV was ordered, not only to notify the Department of each case of repair, ABFJV was ordered to obtain the approval of the Department, prior to each case of repair. In furtherance of the changed repair procedure, on September 16, 2009 ABFJV was provided via email from the Department's representative in Shanghai, a new form, "Notification for Engineer's Review and Approval", and was instructed that the new form will to be required to be completed for each weld repair performed for the types of welds identified in the above referenced Submittal. This new weld repair approval procedure is not stipulated in the Contract and for this reason, ABFJV, in accordance with the Contract, notified the Department that we are reserving our rights to recover any cost and time impacts caused by implementing this new procedure.

As a result of the Owner-caused Delay in the East End, the Department has urged ABFJV to assist the Department in mitigating the Delay. Incongruously, this newly directed procedure and the additional time required for the Department to review and approve each weld repair, will have a negative impact on the Project Schedule and our joint efforts to mitigate Delays.

Standard Specification 4-1.03, Changes, provides that the Department has the right to alter the plans and specifications and when the Department does so, those changes will be set forth in a Contract Change Order. ABFJV requests that the Change Order, required pursuant to Standard Specification 4-1.03, be provided ABFJV by the Department or that the Department retract its change in the Plans.

If you have any questions, please contact our office.

Sincerely,

**AMERICAN BRIDGE/FLUOR ENTERPRISES, INC. A JOINT VENTURE**

<<< ORIGINAL SIGNED >>>

Michael D. Flowers  
Project Director

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