

19-Aug-2011

ABF-CAL-LTR-001619

Mr. Peter Siegenthaler
California Department of Transportation
333 Burma Road
Oakland, CA 94607

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

SUBJECT: Potential Claim Number 16 – Installation of Washers on Mechanical Piping Bolted
Connections Submission of Supplemental Notice of Potential Claim

REFERENCE: Department Letter Number 05.03.01-009789, Dated July 28, 2011

Gentlemen:

Pursuant to the Agreement, including Standard Specifications, Article 9-1.04, Notice of Potential Claim, as amended by the Special Provisions, American Bridge / Fluor Enterprises Inc., A Joint Venture (ABFJV) hereby submits on behalf of F.W. Spencer & Son, Inc. (FWS), ABFJV's mechanical subcontractor, the enclosed certified Form CEM 6201B, Supplemental Notice of Potential Claim, identified by the above number.

We look forward to receiving your prompt response to the above identified Notice of Potential Claim.

If you have any questions, or wish to discuss this matter further, please contact our office.

Sincerely,

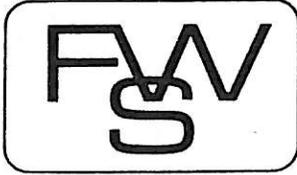
AMERICAN BRIDGE/FLUOR ENTERPRISES, INC. A JOINT VENTURE



Brian A. Petersen
Project Director

Encl: FWS cover letter and Form CEM 6201B with backup (9 pages)

File: 02.01
01.07.16
03.03.4



F.W. SPENCER & SON, INC.
MECHANICAL CONTRACTORS

— SINCE 1903 —

99 SOUTH HILL DRIVE • BRISBANE, CA 94005-1215
PHONE: (415) 468-5000 • FAX: (415) 468-4579
CALIFORNIA CONTRACTOR'S LIC. #112799

FWS-ABF-HARDWASH3

0609-86

8/4/11

Bob Kick
American Bridge / Fluor Enterprises A Joint Venture, Inc.
375 Burma Road
Oakland, CA 94607

Re: Letter No. 05.03.01-009789
Caltrans Contract # 04-0120F4 04-SF-80-13.2/13.9

Subject: Installation of Washers on Mechanical Piping Bolted Connections CEM6201B

Dear Bob,

As required by contract and the claims process F.W. Spencer is submitting the attached signed original of form 6201B Supplemental Notice of Potential Claim along with two pages supplying additional detail on the claim and further pages documenting a preliminary estimate of the potential costs. Please submit this package to CalTrans the required follow up to our Initial Notice of Potential Claim dated 8/4/11.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeremy J. Bafflett', is written over a horizontal line. The signature is stylized and includes a large circular flourish on the left side.

Jeremy J. Bafflett

Project Manager

Encl: CEM6201B – signed with attachments

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

TO Peter Siegenthaler <small>(resident engineer)</small>	CONTRACT NUMBER 04-0120F4 04-S-80-13.2/13.9	DATE 8/19/2011	IDENTIFICATION NUMBER 2 FWS 8-19-11
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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 **08/19/2011**

The particular nature and circumstances of this potential claim are described in detail as follows
 On August 2, 2011, Department of Transportation (DOT) in Letter No. 05.03.01-009789 required F.W. Spencer and Son, Inc. (FWS) to start installing hardened washers future bolted connections for pipe supports. Approved engineered details do not show such washers. Prior installations without such washers have been inspected and accepted as fit for purpose. See attached sheet for full details.

(attach additional sheets as needed)

The basis of this potential claim including all relevant contract provisions are listed as follows:
 FWS is being requested to supply and install material to an unclear extent in an arbitrary and contradictory manner according to criteria that are not clearly required by the specifications and in contradiction to approved engineered details. FWS maintains specifications, approved engineered details for bolted supports and RFI responses do not require hardened washers. The relevant contract provisions are the full Section 10-4.02 of the Special Provisions. See attached sheet for full details.

(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.
 The dollar amount of the claim is likely to be on the order of \$11,000. See attached sheets for full details of the current estimate.

(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:
 None. There does not appear to be a project completion date impact.

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.

SUBCONTRACTOR or CONTRACTOR
(Circle One)

 (Authorized Representative)

For a subcontractor potential claim

This notice of potential claim is acknowledged, certified and forwarded by

AMERICAN BRIDGE / FLUOR JV
 PRIME CONTRACTOR

 (Authorized Representative)

The Nature and Circumstances of this Potential Claim

On August 2, 2011, F.W. Spencer and Son, Inc. (FWS) received Letter No. 05.03.01-009789 (hereafter letter 9789) from the Department of Transportation (DOT) requiring, as of the July 28, 2011 date of that letter, that hardened washers be installed on all future bolted connections for pipe supports but not on previously installed connections which are accepted as fit for purpose. FWS had been installing inspected and approved bolted connections without hardened washers in accordance with approved engineered details and per engineer's and FWS personnel's reading of the specifications. DOT is now stating the specifications require installation of hardened washers at all bolted connections including those installed under "snug tightened" criteria. Although DOT states that hardened washers are not required to make the connections fit for purpose, DOT want them added from July 28, 2011 on. DOT claims the specifications required these hardened washers and therefore installation is to be performed at no cost as they should have been included in FWS's base scope of work. FWS considers the requested additional material and associated labor to be a change in scope that warrants compensation.

The Basis of Potential Claim including Relevant Contract Provisions

FWS is being requested to supply and install material to an unclear extent in an arbitrary and contradictory manner according to criteria that are not clearly required by the specifications and in contradiction to approved engineered details.

It is FWS's view that the requested change is DOT's responsibility for two reasons. The first reason is that letter 9789's direction contradicts approved, engineered details without clear engineering justification. The second reason is that letter 9789 reveals what turn out to be ambiguous specifications that did not make the design intent clear; ambiguity in contractual documents is the responsibility of the party developing the contract. FWS is being requested to supply and install material to an unclear extent in an arbitrary and contradictory manner according to criteria that are not clearly required by the specifications and in contradiction to approved engineered details.

From the technical perspective, the pipe supports were engineered in detail to finalize the general support designs presented in the contract documents. These engineered details do not contain washers and were reviewed and approved for installation. As requested in letter 9789, the state licensed engineer subcontracted by FWS to develop the approved pipe support details has supplied a letter confirming that none of the bolted connections require or include hardened washers. He has additionally stated that his professional reading of the specifications is that they were and are not required. Furthermore DOT accepts, in letter 9789 itself, that bolted connections installed without hardened washers are fit for purpose. Logically, if there were any engineering need for the washers, the

washerless connections could not have been accepted as "fit for purpose". From the technical perspective, Letter 9789 thus contradicts its own rationale. The lack of an engineering justification for the directed change makes the request technically arbitrary. There is no technical reason for the requested change.

With regards to the specifications, the direction in Letter 9789 is based on an incomplete, partial citation of Section 10-4.02 of the Special Provision for the project. The interpretation DOT now attaches to this cited portion of the specifications does not conform to the remaining portion of the cited section of the specification. At best the presented interpretation of the cited section reveals an ambiguity in the specifications if not an outright contradiction. The quoted section states "use ASTM A36 for fabrication of pipe supports and ASTM A325 heavy hex head bolts with hardened washers and heavy hex nuts for bolted connections". What has been crucially left out in Letter 9789 is that this is followed in the same paragraph by "Pipe supports shall be fabricated and installed according to MSS SP-58 and SP-69." In an entirely reasonable manner FWS reads the first quoted section as indicating the materials to be used and the second as the way the materials are to be installed; that is both the nature of the specifications referred to and the language used in the quoted sections ("use" and "installed"). As stated above, the state licensed engineer designing the pipe supports also read the specifications in this manner. The installation specification cited, MSS SP-58, refers to RCSC specifications that, for the type of connections made, state "washers are not required". This was reinforced by DOT's own response to RFI 0022454R00 wherein DOT confirmed the bolts be installed per RCSC "Snug Tight" specifications; these do not require washers. Until just before letter 9789 was issued it appears DOT personnel involved in the project also read the specifications this way; FWS installed bolted connections without hardened washers which were inspected and approved for payment without question by DOT personnel familiar with the specifications. DOT now states the specifications were intended to require installation of hardened washers at all bolted connections including these which are installed as directed using AISC/RCSC "snug tightened" criteria. At best this disagreement reveals DOT's specifications are not as clear as they are required to be to avoid responsibility for ambiguity. If hardened washers were required or desired at all bolted connections the specifications should have contained clear language such as "install hardened washers at all bolted connections regardless of MSS SP-58 specifications". DOT rather than FWS is responsible for DOT's failure to clearly communicate their contractual requirements. FWS is not liable for burdens imposed by ambiguous contractual language. There is no contractual reason for the change.

08/19/11

Fax (510) 808-4601

ATTENTION: Peter Siegenthaler

RE: SAN FRANCISCO SELF ANCHORED SUSPENSION SPAN (SAS)
Caltrans Contract # 04-0120F4 / ABF Agreement # 660110-SC-003
FWS #0609-86

SUBJECT: Addition of Hardened Washers at Pipe Supports - Estimate of Potential Claim

Dear Mr Siegenthaler:

Please find attached our preliminary labor and material estimates for installing hardened washers on the bolts to be used in the pipe supports required by form CEM6201B. The quantities are estimated for locations where installation has not yet occurred. Additional bolt quantities are required where current bolts do not have sufficient length to accomodate the added washers.

The preliminary estimate for
this work is \$11,368.47 .

Note: This change will require a time extension of 0 days.

Sincerely,

F.W. SPENCER & SON, INC.

Jeremy Bartlett
Project Manager

JB/ct

Attachments

*Identified costs, and components thereof, are estimates and may not be actual costs
FWS reserves our rights to assess / evaluate cumulative impact of this change.*

F.W. SPENCER & INC.
CHANGE ORDER SUMMARY
San Francisco / Oakland Bay Bridge
East Span Seismic Safety Project
04-0120F4

Change Order Cost Analysis	Estimate	FWS #0609-86	
Material	Total		
Plumbing Material Cost - Attachment A (1)	\$0.00		
Miscellaneous Cost - Attachment C	\$2,202.52		
Subtotal	\$2,202.52		
+ 9.5% Sales Tax	\$209.24		
Subtotal Material	\$2,411.76		
Labor Summary - Attachment A	Total	Hours	2011/2012 Hourly Rate
Plumber (38)	\$1,473.12	13.9	\$106.26
Plumbing Working Foreman (38)	\$464.76	4.0	\$116.19
Project Manager	\$4,783.20	40.0	\$119.58
Operator	\$0.00	0.0	\$89.47
Shop Burden @ \$48.00 per Shop Hour	\$0.00	0.0	\$48.00
Safety 2% of labor	\$0.00		
Subtotal Labor	\$6,721.08		
Other Direct Costs	Total		
5% Small Tools	\$0.00		
Tool/Equipment Rental - Attachment B	\$0.00		
Reproduction Costs	\$0.00		
Subtotal	\$0.00		
+ 9.5% Sales Tax (included in CalTrans Rates)	\$0.00		
Subtotal Other Direct Costs	\$0.00		
Total (Material, Labor, Other)	\$9,132.84		
+ 28% Markup (Labor)	\$1,881.90		
+ 10% Markup (Materials)	\$241.18		
+ 10% Markup (Equipment)	\$0.00		
Subtotal	\$11,255.91		
Subcontractor Costs			
+ Subcontractor's Cost	\$0.00		
+ 2.1% Subcontractor Insurance	\$0.00		
+ Subcontractor 7% Markup	\$0.00		
Subtotal	\$11,255.91		
+ 1% Bond	\$112.56		
+ 1.5% City Tax (Labor Only)	\$100.82		
Total	\$11,368.47		

*This Change Order does not include any amounts for changes in the work sequence, delays, disruptions, consequential cost impacts and/or impact costs due to the cumulative effect of this change order with other changes or for any other reasons. Identified costs, and components thereof, are estimates and may not represent actual costs.
FWS reserves our rights to assess / evaluate cumulative impact of this change.*

Company: F.W. Spencer & Son, Inc.

JobName: FWS #0609-86

Material Set: List

Labor Set: MCAA (MCAA)

Qty	Size	Description	Unit Price	Price Total	Adj Unit Hr	Adj Total Hr
16636		Add 20 seconds labor per washer			0.000833	13.863
		Project Management labor expended				40.0
		Foreman labor expended				4.0

(TOTAL)

\$ -

57.863

Company: F.W. Spencer & Son, Inc.
 JobName: FWS #0609-86

PS Type	PS Qty	Washer Type	Unit Bolt Qty (excl. PS-3 clamps)	Connection to Structure Bolts, Unit Qty	Unit Washer Qty (2 per bolt)	Number of Internal Support Washers	Number of Pipe Clamp Washers	Number of Connection to Structure Washers	Installed PS Qty	Uninstalled PS Qty	Approx. Installed Location Washers Qty	Approx. Uninstalled Location Washers Qty	Number of Longer Bolts Needed for Uninstalled
PS-1 6", 12"	3	1/2"	8		16	48			3	0	48	0	
PS-1 2 1/2", 4"	3	1/2"	8		16	48			0	3	0	48	
PS-1 10"	6	1/2"	4		8	48			4	2	32	16	
PS-1 6"	2	1/2"	4		8	16			0	2	0	16	
PS-2	4	3/4"	3		6	24			4	0	24	0	0
PS-2	6	7/8"	3		6	36			6	0	36	0	0
PS-3 Type 1 2 1/2"	32	1/2"	2		4	0	128		29	3	116	12	
PS-3 Type 1 4"	681	1/2"	2		4	0	2724		23	658	92	2632	
PS-3 Type 1 6"	138	7/8"	2		4	0	552		9	129	36	418	
PS-3 Type 1 10"	134	7/8"	2		4	0	536		22	112	88	448	
PS-3 Type 1 12"	130	7/8"	2		4	0	520		28	102	112	408	
PS-3 Type 2 2"	46	1/2"	2		4	0	184		41	5	164	20	
PS-3 Type 2 1 1/2"	883	1/2"	2		4	0	3532		32	851	128	3404	
PS-3 Type 2 3"	46	1/2"	2		4	0	184		26	20	104	80	
PS-3 Type 2 4"	439	1/2"	2		4	0	1758		31	408	124	1632	
PS-4	8	N/A	0		0	0			4	4	0	0	
PS-5, 12", 6", 4"	108	1/2"	12		24	2592			31	77	744	1848	
PS-5, 10", 4"	102	1/2"	8		16	1632			29	73	464	1168	
PS-5, 12", 6"	4	1/2"	8		16	64			0	4	0	64	
PS-5, 10"	4	1/2"	4		8	32			0	4	0	32	
PS-6, 2 1/2"	167	1/2"	2		4	668			78	69	312	356	
PS-6, 4"	141	1/2"	2		4	564			78	63	312	252	
PS-7	14	1/2"	8		8	112			4	10	32	80	
PS-8	1	3/4"	4		8	8			1	0	8	0	
PS-8	2	7/8"	4		8	16			2	0	16	0	
PS-9 tower	92	1/2"	2		4	368			0	92	0	368	
PS-9	44	N/A	0		0	0			44	0	0	0	
PS-10					0	0			0	0	0	0	
PS-11	27	3/4"	4		8	216			17	10	136	80	
PS-12	6	N/A	0		0	0			0	6	0	0	
PS-13					0	0			0	0	0	0	
PS-14 2 1/2" only	418	1/2"	2	4	4	1672		3344	123	295	492	1180	295
PS-14	276	1/2"	4	8	8	2208		3312	47	229	376	1832	229
PS-15 2 1/2"	7	?	3		6	42			7	0	42	0	
PS-15 4"	7	?	3		6	42			7	0	42	0	
PS-16	9	1/2"	4		8	72			0	9	0	72	
PS-17	1	1/2"	16		32	32			1	0	32	0	
PS-18	13	1/2"	8		16	208			13	0	208	0	
PS-19	3	N/A	0		0	0			3	0	0	0	
PS-20 same side	2	1/2"	8		8	16			0	2	0	16	
PS-20 opposing sides	9	1/2"	8		8	72			8	1	64	8	
PS-21					0	0			0	0	0	0	
PS-22	2	3/4"	1		2	4			0	2	0	4	
PS-22	2	7/8"	1		2	4			0	2	0	4	
PS-22	2	1"	1		2	4			0	2	0	4	
PS-23	2	3/4"	1		2	4			0	2	0	4	
PS-23	2	7/8"	1		2	4			0	2	0	4	
PS-23	2	1"	1		2	4			0	2	0	4	
PS-24	6	N/A	0		0	0			6	0	0	0	
PS-25	2	1/2"	1		2	4			0	2	0	4	
PS-26	2	1/2"	4		4	8			0	2	0	8	
PS-27	1	1/2"	4		4	4			0	1	0	4	
	1	1/2"	2		4	4			0	1	0	4	
	1	1/2"	2		4	4			0	1	0	4	

	27676	10904	10118	6656
Total Washers	27676	10904	10118	6656
1/2"	25744	10580	8508	6656
3/4"	256	256	0	0
7/8"	1668	60	1608	0
1"	8	8	0	0

Total # of 1/2"x1 3/4" bolts based on TOLCO shipped quantity	4680
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Total Uninstalled Washers - All	
1/2"	15568
3/4"	88
7/8"	972
1"	8
Total Longer Bolts, Uninstalled	524

	Installed Support Washers Internal	Uninstalled Support Washers Internal
Total Washers		
1/2"		
3/4"		
7/8"		

	Installed Clamp Washers	Uninstalled Clamp Washers
1/2"		
3/4"		
7/8"		

	Installed Support Washers External	Uninstalled Support Washers External
Total Washers		
1/2"		
3/4"		
7/8"		

