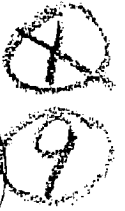




**SACRAMENTO
HOUSING AND REDEVELOPMENT
AGENCY**



June 7, 1989

Budget and Finance Committee
of the City Council
Sacramento, CA

Honorable Members in Session:

SUBJECT: Oak Park Child Care Center Construction Contract
Claim for Additional Cost Due to Delay in Performance

SUMMARY

The attached report is submitted to you for review and recommendation prior to consideration by the Redevelopment Agency of the City of Sacramento.

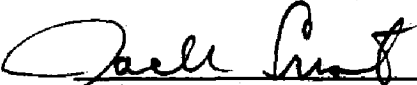
RECOMMENDATION

The staff recommends approval of the attached resolution approving payment to Sierra National Construction, Inc.

Respectfully submitted,


ANDREW J. PLESCIA
Acting Executive Director

TRANSMITTAL TO COMMITTEE:


JACK R. CRIST
Deputy City Manager

Attachment



**SACRAMENTO
HOUSING AND REDEVELOPMENT
AGENCY**



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June 5, 1989

Redevelopment Agency of the
City of Sacramento
Sacramento, California

Honorable Members in Session:

**SUBJECT: Oak Park Child Care Center Construction Contract
Claim for Additional Cost Due to Delay to Performance**

SUMMARY

Attached is a resolution authorizing the Executive Director to reimburse Sierra National Construction Inc., the Oak Park Child Care Center construction contractor, in the amount of \$25,032 for overhead costs due to delays beyond the contractors control in the performance of the construction of the Oak Park Child Care Center.

BACKGROUND

In September of 1987 Sierra National Construction Inc. was contracted with the Agency to construct the Oak Park Child Care Facility located on Martin Luther King, Jr. Boulevard and 8th Avenue in the Oak Park Redevelopment Project Area. The original contract was authorized based on a construction budget of \$537,240 which included a 10% contingency reserve fund of \$48,484. The project was completed in October 1988 and is presently operating at full participant capacity of 75.

In August of 1988 Sierra National Construction Inc. submitted a claim in the amount of \$37,840 for overhead costs due to delays in the performance of the construction which were beyond their control (Exhibit 1). The construction delays included the discovery during initial site excavations of a massive, reinforced concrete tank that had been abandoned and backfilled with substandard material. The removal of sections of the tank and replacement with compacted fill was time consuming and costly. Additional delays and extended construction schedules were due to sewer hook-up and exterior/interior modifications required by the City's Facility Management Division.

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SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

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Redevelopment Agency of the
City of Sacramento
June 5, 1989
Page Two

To verify the reasonableness and validity of the contractor's claim, Agency staff consulted CRS Service, Inc. (CRSS) to review the documentation and to give us an independent analysis of the amount claimed. As, CRSS pointed out a number of areas where the claim was probably valid and a number where it was not, with the typical ambiguities found in 'after the fact' contract disputes (see CRSS report - Exhibit 2) Their reasonable maximum was \$21,271, with a range of \$12,771 to \$21,271. Agency staff however, reviewed the claim independently and determined that an amount of \$25,032 was a just reimbursement for the construction delays based on extensive face to face negotiations with Sierra National. Staff concluded that Sierra National's claims regarding the job superintendent, site support, insurance, and increased sub-contractor costs are justifiable. Staff is of the opinion that the home office overhead costs claimed by the contractor are excessive and a majority of these costs are the responsibility of the contractor. A more reasonable amount of \$600.00 per month has been allocated for home office support for the four months the construction period was extended. A summary of these costs are summarized below.

ALLOWABLE REIMBURSEMENT COSTS

| | |
|-------------------------------------|---------------|
| Job superintendant (5000x4mos.) | 20,000 |
| Site Support | 2,228 |
| Insurance | 165 |
| Increased Subcontractor costs | 239 |
| Increased home office costs (600x4) | 2,400 |
| | <u>25,032</u> |

FINANCIAL DATA

The construction of the Oak Park Child Care Facility was funded by Oak Park Redevelopment Project Area 7 Tax Increment funds. The current balance remaining in this project is \$236.38 (cost center A00705). Additional funds in the amount of \$24,800 are needed to cover the cost overruns determined allowable by the Agency.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Redevelopment Agency of the
City of Sacramento
June 5, 1989
Page 3

ENVIRONMENTAL REVIEW

This project was previously reviewed under the California Environmental Quality Act (CEQA), and a Negative Declaration (Control number 86-SHA-1432) was adopted as adequate and complete. The present action is an administrative action which does not constitute a "project" and has no physical effect on the project. The prior Negative Declaration is still appropriate.

POLICY IMPLICATIONS

The action recommended in this staff report is consistent with Agency policy. The project was previously approved on September 15, 1987 (Resolution #87-074).

MBE/WBE EFFORTS

The project has been complete and any services needed to comply with the warranty will be provided by Sierra National Construction.

VOTE AND RECOMMENDATION OF THE OAK PARK PROJECT AREA COMMITTEE

At their April 5, 1989 general meeting the PAC considered the recommendations presented in this staff report. The PAC voted unanimously to accept the staff recommendations.

VOTE AND RECOMMENDATION OF COMMISSION

At its regular meeting of June 5, 1989 the Sacramento Housing and Redevelopment Commission adopted a motion recommending approval of the attached resolution. The votes were as follows:

AYES:

NOES:

ABSENT:

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

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Redevelopment Agency of the
City of Sacramento
June 5, 1989
Page 4

MBE/WBE Efforts

The projects has been completed and any services needed to comply with the warranty will be provided by Sierra National Construction.

RECOMMENDATION

Staff recommends adoption of the attached resolution authorizing the Executive Director to reimburse Sierra National Construction the sum of \$25,032 for cost overruns due to delays in construction beyond their control in the construction of the Oak Park Child Care Facility.

Respectfully submitted



ANDREW J. PLESCIA
Acting Executive Director

TRANSMITTAL TO COUNCIL

WALTER J. SLIPE
City Manager

Contact Person: Anne Moore
440-1315

0890Q

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RESOLUTION NO.

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
ON DATE OF

OAK PARK CHILD CARE CONSTRUCTION ADDITIONAL FUNDING

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY
OF SACRAMENTO:

Section 1: The Executive Director is hereby
authorized to reimburse Sierra National Construction the sum of
\$25,032 for additional overhead costs due to delays relating to
change orders approved by the Agency in the construction of the
Oak Park Child Care Center.

CHAIR

ATTEST:

SECRETARY

SIERRA NATIONAL CONSTRUCTION
DEVELOPERS — ENGINEERS — CONTRACTORS

**S
N
C**
INCORPORATED

2705 Sierra View Trail • Carmichael, CA 95608 • Lic. No. 464549 • (916) 481-6792

August 24, 1988

Mr. Norv Struckman
429 J Street
Sacramento, CA 95814

Re: Oak Park Child Care Center
Claim for Additional Costs Due to Delays to Performance

Dear Norv:

Please consider this letter a formal request for additional compensation due to work delays caused by five Change Orders (C.O.), two Memorandums of Understanding and one Contract Amendment (summary attached). These change orders resulted in the Agency extending the completion date from March 29, 1988 (Notice to Proceed attached) to July 27, 1988 (121 days). Although Sierra National Construction (SNC) was compensated for the direct costs associated with the C.O.'s the following overhead costs were not recovered:

Job Superintendent

Because of the nature and location of the job it was necessary to keep the construction superintendent (Michael Iverson) employed full time during the entire duration of the job. SNC had to pay Mr. Iverson four additional months of salary at \$5000 per month for a total of \$20,000.

Site Support

The following site support items were on-site for an additional four months.

| | | | | |
|----------------|------|-------|---|-------------|
| Storage bin | \$78 | X 4 | = | \$ 312 |
| Toilet | 47 | X 4 | = | 196 |
| Security fence | 400 | X 4 | = | 1600 |
| Phone | 30 | X 4 | = | 120 |
| | | | | <u>2228</u> |
| | | TOTAL | | \$ 2228 |

Insurance

SNC was required to continue its Builders Risk insurance an additional four months for a total cost of \$165 (invoice attached).

Increased Sub-Contract Costs

Designs Etc. II experienced a \$239 increase in material costs due to the delays in completion (invoice attached).

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Page 2
Norv Struckman
Additional Costs

Unabsorbed Home Office Overhead

Because the time of performance was extended due to causes outside the control of SNC, SNC incurred significant amounts of home office overhead. SNC is entitled to recover these costs since the delays encountered were beyond SNCs control. The amount of home office overhead allocated to this claim was calculated by dividing this contract by SNCs total 1987 billings and multiplying the result by SNCs total 1987 overhead and then multiplying that by four months.

Total Contract \$530,781

Total 1987 SNC Billings \$ 1,334,204

% of contract to total billings = 39.8%

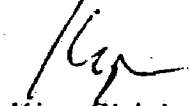
SNC monthly G & A expense for 1987 = \$ 9,553/month

\$9,553 (monthly G & A) X 39.8% X 4 months = \$15,208

Summary

As you can see SNC suffered damages due to job delays that were outside of SNC control. SNC hereby requests additional compensation in the amount of \$37,840 for these additional costs. Should you need additional documentation, records or information please call. I look forward to discussing this matter with you at your earliest convenience.

Sincerely,



Kip Skidmore

attachments

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9OAK PARK CHILD CARE CENTER
SUMMARY OF CHANGE ORDERSChange Order #1 (10/14/87)

Underground obstructions; time extension deemed not necessary at the time this C.O. was processed.

First Memorandum of Understanding (10/15/87)

Changed date of Notice to Proceed from Sept. 18, 1987 to Oct. 15, 1987 (27 days). New completion date April 18, 1988.

Change Order #2 (1/1/88)

Underground obstructions; time extension deemed not necessary at the time this C.O. was processed.

Second Memorandum of Understanding (3/24/88)

Extended completion date from April 18, 1988 to May 2, 1988 (14 days). Underground obstruction and rain delaying foundation.

Second Memorandum of Understanding (Amended) (4/5/88)

Extended completion date from April 18, 1988 to May 16, 1988 (28 days). Underground obstruction and rain delaying foundation.

First Amendment to Construction Contract (5/3/88)

Extended completion date from May 16, 1988 to May 25, 1988 (9 days). Additional work.

Change Order #4 (6/20/88)

Extended completion date from May 25, 1988 to July 20, 1988 (56 days). Additional work and underground obstructions and rain delaying foundation.

Change Order #5 (7/18/88)

Extended completion date from July 20, 1988 to July 27, 1988 (7 days). Additional work.

TOTAL DAYS = 127 days (use 121; actual calendar days from March 29, 1988 to July 27 1988)

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I BRIEF OVERVIEW

The "Sacramento Housing and Redevelopment Agency" hereafter referred to as "SHRA" entered into a contract with Sierra National Construction (SNC) to build a Child Care Center at the Oak Park Community Center Complex.

The contract amount was \$488,400. The construction duration was set a 180 calendar days.

The Notice to Proceed was issued September 25, 1987, establishing an original contract duration of 180 calendar days and an original completion date of March 22, 1988.

Several Change Orders and Memorandum of Understanding were issued during the course of the project granting time extensions. The last time extension, established in change Order #5 (7/18/88) extended the projects contractual completion date to July 27, 1988. The Notice of Substantial Completion was issued by SHRA determining August 10, 1988 as the projects Substantial Completion Date. This leaves the period between August 10, 1988 and July 27, 1988, 14 days as unjustified delay subject to assessment of liquidated damages, according to Section 04404 of the General Conditions of the construction contract.

II THE NOTICE OF CLAIM

A. Sierra National Construction Company' letters.

On August 24, 1988, "Sierra National Construction", referred to hereafter as the contractor, submitted a letter claiming "Additional Costs Due to Delays to Performance. The actual loss according to the contractor was \$37,840.00.

The loss is allegedly "due to work delays caused by five Change Orders (C.O.), two Memorandums of Understanding and one Contract Amendment." The Contractor acknowledges compensation for direct cost of the described changes, but requests unrecovered overhead costs for Site Superintendent, Site Facilities, Insurance, Increased Subcontractor direct costs and unabsorbed Home Office Overhead.

B. ESSENCE OF THE CLAIM

1. Site Supervision: The site superintendent's site presence was extended by four months resulting in an additional \$20,000 in cost.
2. Site Support: A storage bin, toilet, security fence and telephone were extended for four months resulting in an additional \$2228 in cost.
3. Insurance: SNC was required to continue its Builders Risk an additional four months for a total cost of \$165.
4. Increased Sub-Contract Costs: One subcontractor experienced a \$239 increase in material cost due to delay.
5. Unabsorbed Home Office Overhead: Delays outside the control of the Contractor caused him to increase home office overhead by \$15,208.
6. Impact Costs: The total delay impact cost claimed by the Contractor is \$37,840.

III CRSS COMMENTS

CRSS conducted a review of the project's general correspondence, change orders, contract and associated amendments. CRSS also interviewed Mr. Ken Stroth and Mr. Norv Struckman of the Sacramento Housing and Redevelopment Agency. The agency has acknowledged through Change Orders, Contract Amendments and Memorandums of Understanding that the project was delayed a total of 121 days. It has not determined if that the delays are compensable or excusable.

A delay is compensable if it can reasonably established that it occurred through no fault of the contractor because of the actions and/or inactions of another party to the contract. Delays of this type were found in the review of the records. They are (a) the discovery and necessary removal of an underground concrete structure, (b) numerous changes adding work to the base contract, and (c) a delay due to changes in the sewer connection location. Of the 121 contract extension days it was determined that (a) 43 days were due to the underground concrete structure, (b) 69 days were caused by changes in the work and (c) 9 days were caused by the sewer connection location.

The contractor was compensated by change order markups for all costs including, extended site overhead and home office overhead for the delays associated with the change orders to contract. He was not compensated for the cost impact associated with the delay of either the underground structure or the sewer connection location issue.

These delays constituted 43% of the total 121 delay claimed by the contractor. If one accepts without challenge that the contractors claimed impact cost are valid, SHRA would be liable for \$16,271 for delay impact. This amount should be reduced by \$3500 for the unassessed 14 days of liquidated damages resulting in a claim amount of \$12,771.

The \$12,771 would be the minimum due the contractor. There maybe some higher commercial value when one considers the cost of defending against the contractors allegations. I feel this could cost SHRA up to \$5,000. This then indicates a prudent negotiation range of \$12,771 to \$17,771. If the Agency wishes to not credit the liquidated damages the range should be increased by \$3500 to \$16,271 to \$21,271.