

# **Bond Case Briefs**

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## **PUBLIC CONTRACTS - CALIFORNIA**

### **Stronghold Engineering Incorporated v. City of Monterey**

**Court of Appeal, Sixth District, California - November 3, 2023 - Cal.Rptr.3d - 2023 WL 7291379**

Contractor under project to renovate city's conference center and adjacent plaza brought action against city seeking declaration of its rights and duties under contract and change order for unforeseen delays.

Trial court sustained city's demurrer with leave to amend. After contractor presented claims to city relating to delays and city denied claims, contractor filed amended complaint asserting causes of action for breach of contract. The Superior Court granted city's motion for summary judgment. Contractor appealed.

The Court of Appeal held that:

- Original complaint was solely for declaratory relief, such that presentment requirement of Government Claims Act did not apply, and
- Claim for anticipated and incurred delay damages exceeded \$375,000 limit for contractual dispute resolution procedure.

Contractor's complaint against city, seeking interpretation of contractor's agreement in change order for renovation project to "waive its rights to any due compensable or excusable delays in time and money for all known and unknown knowledge of the project conditions" and determination that under change order, city "must compensate" contractor "for due compensable or excusable delays in time and money for any changes" city caused to project was solely claim for declaratory relief, not damages, and thus, contractor was not statutorily required to present claim to city before filing complaint; declaratory judgment would only resolve parties' contractual duties but would not establish that any given delay was compensable, and no damages would flow solely from such relief.

Calculation of amount of contractor's breach-of-contract claim against city arising from delay in project to renovate city property, for purpose of contract's dispute resolution procedure generally applying to claims for payment of up to \$375,000 in money or damages "arising from work done by or on behalf of" contractor, included both damages already accrued and reasonably anticipated future damages, and thus, such claim was for \$826,569 as full amount of anticipated and incurred damages stated in contractor's proposed change order, not only for damages incurred by date of such change order, even if work was not yet done; contract required contractor to submit notice of potential claims before commencing performance and to bring disputes to city's attention at "earliest possible time."