



May 19, 2016

TO: *mfk* Marco Foster, PE MS 47354 / 360-705-7824
THRU: *for* Brian D. Nielsen, PE *for* NB82-230 / 206-805-5426
FROM: Andrew P. Walter, PE *AW* NB82-230 / 206-805-5452

SUBJECT: 007999 – SR99 Bored Tunnel Alternative Design-Build Project
Federal-Aid No. BR-NH-STP-STPF-0099(111)
Change Order #136 – Labor PCO 230B

Attached for HQ execution is Change Order #136 “Labor PCO 230B”.

DESCRIPTION:

This change order provides full and final resolution for all cost and time impacts associated with PCO#230B.

EVOLUTION OF CHANGE:

Unilaterally executed Change Order #128 “Labor PCO 230, 230B, 230D” provided the Design-Builder (STP) full and final compensation for all costs and time impacts based on the information STP had submitted as of November 23, 2015. Those cost and time impacts were associated with the following:

- PCO#230 Picket Line in August and September 2013
- PCO#230B Foss – Barging Cost
- PCO#230D Directive – Muck Loading of Barges and Labor

December 2, 2015 STP protested CO#128 based on the failure of WSDOT to award the full measure of quantum, costs and time, properly due STP.

December 9, 2015 WSDOT wrote STP a letter indicating within 30 days of STP’s protest letter, STP is required to provide its written statement in accordance with Section 24.1, subsection (c), 1-3.

December 31, 2015 STP submitted its written statement. WSDOT has evaluated the information submitted and has determined the subject Change Order #136 “Labor PCO 230B” can be issued which provides full and final resolution for all costs and time impacts associated with PCO #230B.

This change order does not address any additional cost and time impacts that may or may not be due regarding PCO #230 and #230D, both of which STP has protested. These issues will be handled separately and may or may not result in a future change order.

ENTITLEMENT:

WSDOT determined entitlement for PCO #230B and executed Change Order #128. As indicated in Change Order #128, should STP provide additional information requested by WSDOT and the information is found to establish entitlement for additional compensation and/or time under the Contract, WSDOT would address such additional compensation and/or time by a separate change order. WSDOT evaluated the additional information STP provided in its December 31, 2015 letter and determined STP is entitled to additional compensation for PCO#230B. STP's revised pricing is now based on executed agreements with Foss (STP & Foss Change Orders 5 & 6), rather than the estimated costs previously submitted.

PRICE:

WSDOT has agreed to compensate the Design-Builder for cost associated with PCO #230B which includes direct and indirect labor costs including the use of ILWU labor to load barges at T46 and for an assist tug used to position barges during barge loading operations.

This change order excludes any ILWU Labor rate escalation associated with the PCO#250 TBM Obstruction delay, if any, which will be addressed pursuant to PCO#250. As such, ILWU rates through June of 2014 and June of 2015 are applicable and are compensable under this change order. Because the actual work will be performed through June 2016 and June 2017, STP will mark up their invoices to reflect a 5% reduction in the Foss invoice for the ILWU labor. The 5% reduction accounts for the 2.5% yearly escalation in the ILWU rates, and a standard 21% markup will be paid for Specialty Services for Line handlers and 7% subcontractor markup will be paid for the assist Tugs. STP will track the cost difference in the current vs 2015 labor rates as part of PCO#250.

Existing Bid Item 126 "Foss/ILWU PCO#230 B" will be deleted, in the Lump Sum amount of \$4,792,912.00. Prior to deleting the item, the bid item will be reduced to zero paid.

As of the date of this Change Order there has been a total of \$428,309.43 paid under Bid Item 126 noted above. For WSDOT accounting purposes, this total will now be tracked in the new bid item CO#136, Foss/ILWU PCO#230B LS noted below.

The following bid items are added:

"CO#136, Foss/ILWU PCO#230B LS" in the agreed to lump sum amount of \$428,309.43.

The Lump Sum Payment for "CO#136, Foss/ILWU PCO#230B LS", shall be full pay for any work occurring prior to April 1, 2016 (paid previously under Bid Item 126).

The Force Account Payment for "CO#136, Foss/ILWU PCO#230B Labor FA" in the estimated amount of \$2,879,568.25 shall be full payment for all cost associated with ILWU Labor. This work is considered a specialized service.

The Force Account Payment for "CO#136, Foss/ILWU PCO#230B Tug FA" in the estimated amount of \$3,251,837 shall be full payment for all cost associated with an assist tug. This work is considered subcontractor work.

The Force Account Payments for “CO#136, Foss/ILWU PCO#230B Labor FA” and “CO#136, Foss/ILWU PCO#230B Tug FA”, shall be full pay for any work described above occurring after April 1, 2016.

The \$2,879,568.25 and \$3,251,837 FA amounts noted above are estimated amounts based on the tunneling schedule as of the date of this Change Order. Final payment under the bid items may be greater or lesser than the estimated amount.

CONTRACT TIME:

There are no changes to contract time as a result of this change order.

APPROVALS:

- Diane Berge, P.E., Asst. Contract Administrator approved the change March 2, 2016
- Brian D. Nielsen, P.E., SR99 Tunnel Director approved the change March 28, 2016
- Marco Foster, P.E. HQ Construction approved the change April 4, 2016
- Anthony Sarhan, FHWA gave change concurrence April 4, 2016 (Non-participation)
- Mario Mathisen, Program Management gave funding concurrence May 6, 2016

ATTACHMENTS TO THE MEMO:

- Change Order
- Change Order Checklist
- Cost Summary
- Approvals and Concurrences listed above
- Change Order Transmittal Letter and Attachments (excluding the transmitted Change Order)

If you have any questions, please contact Andy Walter at (206) 805-5452.

cc: Project File

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CONTRACT NO: 007999 FEDERAL AID NO: STP-BR-IM-0099(11)
CONTRACT TITLE: SR 99, BORED TUNNEL ALTERNATIVE - DESIGN BUILD PRO
CHANGE ORDER NO: 136 LABOR PCO 230B

PRIME CONTRACTOR: SW0080679 SEATTLE TUNNEL PARTNERS
999 THIRD AVE STE 2424
SEATTLE WA 98104-4044

() Ordered by Engineer under the terms of Section 1-04.4 of the Standard Specifications


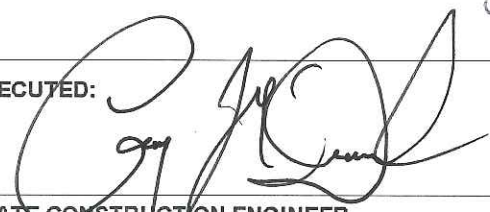

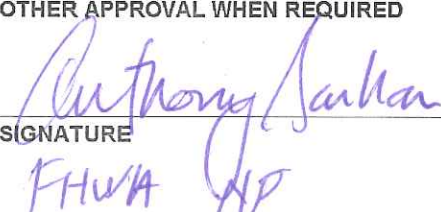
(x) Change proposed by Contractor

ENDORSED BY:  <hr/> CONTRACTOR 5/13/16 <hr/> DATE	SURETY CONSENT: <hr/> ATTORNEY IN FACT <hr/> DATE
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ORIGINAL CONTRACT AMOUNT: 1,089,700,002.00
 CURRENT CONTRACT AMOUNT: 1,125,373,274.42
 ESTIMATED NET CHANGE THIS ORDER: 1,766,802.68
 ESTIMATED CONTRACT TOTAL AFTER CHANGE: 1,127,140,077.10

Approval Required: () Region () Olympia Service Center () Local Agency

CAPSW
CCISV
418 5/23/16

<input checked="" type="checkbox"/> APPROVAL RECOMMENDED  Andrew P. Walter <hr/> PROJECT ENGINEER 5/19/2016 <hr/> DATE	<input type="checkbox"/> EXECUTED EXECUTED:  <hr/> STATE CONSTRUCTION ENGINEER 5/20/16 <hr/> DATE
<input checked="" type="checkbox"/> APPROVAL RECOMMENDED REGIONAL ADMIN:  Paul E. Johnson Deputy SR 99 Tunnel Director <hr/> BY: 5/19/16 <hr/> DATE	<input type="checkbox"/> EXECUTED OTHER APPROVAL WHEN REQUIRED  Anthony Sankar <hr/> SIGNATURE FHWA NP <hr/> REPRESENTING 5/20/16 <hr/> DATE

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All work, materials, and measurements to be in accordance with the provisions of the Standard Specifications and Special Provisions for the type of construction involved.

This contract is revised as follows:

The first paragraph above is deleted and replaced with:

All work, materials and measurements to be in accordance with the Contract Documents for this Project. Unless specifically modified herein, all provisions in the Contract Documents shall remain in full force and effect.

DESCRIPTION:

This change order revises the payment for PCO#230B established in Unilaterally executed Change Order #128, by deleting Bid Item 126 "Foss/ILWU PCO#230B", and establishes new bid items as described herein.

This change order clears any and all issues associated with PCO#230B - Foss Utilization of ILWU Labor for Line Handling and compensates the Design-Builder (D-B) for all direct and indirect costs associated with PCO#230B Foss Utilization of ILWU Labor for Line Handling.

This change order excludes any ILWU Labor rate escalation associated with the PCO#250 TBM Obstruction delay, if any, which will be addressed pursuant to PCO#250.

ILWU Labor rates escalate at 2.50% per year. Given that the ILWU Labor for Line Handling is occurring two years later than originally planned, 2015/2016 instead of 2013/2014, the Foss invoices for ILWU Labor for Line Handling during 2015/2016 will be reduced by 5% in the D-B's Monthly Progress Payment Invoices to WSDOT to remove this two years of ILWU Labor rate escalation, as discussed in the preceding paragraph.

These costs include use of ILWU labor to load barges at T46 and for an assist tug used to position barges during barge loading operations. Payments for these costs will be based on monthly invoices from Foss, who is paying the Pacific Maritime Association for providing the ILWU Labor described above, and an assist tug submitted through the Design-Builder.

No daily, weekly or monthly rate will be used as the basis for compensation for an assist tug since the Foss invoice has different daily rates for different tugs and there will be zero to three barges (with an assist tug for each barge) used on any given day. The D-B will be compensated at an average daily rate for each day that barges (with an assist tug for each barge) are used. The average daily rate for each day will be the average of the daily rates for the assist tug(s) used that day.

Each monthly invoice shall include the following:

- (1) Foss Invoice of ILWU Labor for Line Handling
- (2) invoice number

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(3) period covered by the invoice (specific beginning and ending calendar days)

MEASUREMENT:

No specific unit of measure shall apply to the new lump sum Bid Item "CO#136, Foss/ILWU PCO#230B".

PAYMENT:

Bid Item 126 "Foss/ILWU PCO #230B", in the Lump Sum amount of \$4,792,912.00, is deleted. Prior to deleting the item, the bid item will be reduced to zero paid.

As of the date of this Change Order there has been a total of \$428,309.43 paid under Bid Item 126 noted above. For WSDOT accounting purposes, this total will now be included in the new bid item "CO#136, Foss/ILWU PCO#230B LS" noted below.

The following bid items are added:

"CO#136, Foss/ILWU PCO#230B LS" in the agreed to lump sum amount of \$428,309.43. The Lump Sum Payment for "CO#136 Foss/ILWU PCO#230B LS, shall be full pay for any work occurring prior to April 1, 2016 (paid previously under Bid Item 126).

"CO#136, Foss/ILWU PCO#230B Labor FA" in the estimated amount of \$2,879,568.25 shall be full payment for all costs associated with ILWU Labor, for the Work described above occurring after April 1, 2016. This Work is considered a specialized service, as described in Section 11.9.5.

"CO#136, Foss/ILWU PCO#230B Tug FA" in the estimated amount of \$3,251,837.00 shall be payment for all costs associated with an assist tug, for the Work described above occurring after April 1, 2016. This work is considered subcontractor work, as described in Section 11.9.7.

The \$2,879,568.25 and \$3,251,837.00 FA amounts noted above are estimated amounts based on the tunneling schedule as of the date of this Change Order. Final payment under these bid items may be greater or lesser than the estimated amounts.

CONTRACT TIME:

There are no changes to contract time as a result of this change order.

MISCELLANEOUS:

The Design-Builder certifies the amount of time and/or compensation granted by this Change Order includes all known and anticipated impacts or amounts, direct, indirect and consequential, which may be incurred as a result of the event or matter giving rise to this change and that Design-Builder has no reason to believe and does not believe that the factual basis for this Change Order is falsely represented.

Execution and payment of this change order shall not be considered as an

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acceptance by WSDOT or Design-Builders of either party's position concerning direction to use ILWU Labor for Line Handling and an assist tug during barge loading operations.

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ITEM NO	GROUP NO	STD ITEM	ITEM DESCRIPTION	UNIT MEASURE	UNIT PRICE	EST QTY CHANGE	EST AMT CHANGE
0126	12		FOSS/ILWU PCO #230B	L.S.	0.00	0.00	-4,792,912.00 ✓
1122	12		CO#136, FOSS/ILWU PCO#230B LS	L.S.	0.00	0.00	428,309.43 ✓
1123	12		CO#136, FOSS/ILWU PCO#230B LABOR FA	EST.	1.00	2,879,568.25	2,879,568.25 ✓
1124	12		CO#136, FOSS/ILWU PCO#230B TUG FA	EST.	1.00	3,251,837.00	3,251,837.00 ✓

132 ✓
133 ✓
134 ✓

1,766,802.68
