



February 23, 2015

TO: Marco Foster, PE MS 47354 / 360-705-7824  
THRU: Matthew D. Preedy, PE NB82-230 / 206-805-2863  
FROM: Paul E. Johnson, PE NB82-230 / 206-805-2920

SUBJECT: 007999 – SR99 Bored Tunnel Alternative Design-Build Project  
Federal-Aid No. BR-NH-STP-STPF-0099(111)  
Interim CO# 0109 – PCO#230A Labor Harmony

Attached for HQ execution is Interim Change Order No. 109, “PCO#230A Labor Harmony”.

**DESCRIPTION:**

This change order provides interim compensation to the Design-Builder for certain costs resulting from past labor disruptions to tunneling. Negotiations are ongoing regarding a future change order to clear any or all issues associated with “Labor Harmony” and PCOs #230, #230B, #230C, and #230D. At such time that ongoing negotiations are completed and a settlement is reached between WSDOT and STP, this interim change order will become part of the total negotiated settlement.

**EVOLUTION OF CHANGE:**

The disruption to tunneling began with the longshoreman (ILWU) forming a picket line on August 20, 2013. Disruption ended with the longshoreman removing the picket line on September 17, 2013. STP incurred and submitted costs as a result of this disruption.

**ENTITLEMENT:**

Headquarters and the AWW Program agreed on November 21, 2013 that partial compensation is warranted.

**PRICE:**

WSDOT has agreed to compensate the Design-Builder for all cost associated with PCO #230A, which is partial compensation for the overall labor issue.

**CONTRACT TIME:**

Contract time is not affected by this change.

**APPROVALS:**

- Paul E Johnson, P.E., SR 99 Bored Tunnel Contract Administration, gave email approval to proceed on February 17, 2015
- Matt Preedy, P.E., AWW Deputy Program Administrator, approved the change February 18, 2015
- Jeff Carpenter, P.E. HQ Construction, approved the change February 23, 2015
- Anthony Sarhan, FHWA approved the change February 23, 2015
- Diana McCreery, Business Group Manager, gave email funding approval February 18, 2015.

Marco Foster, P.E.  
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**ATTACHMENTS TO THE MEMO:**

- Change Order
- Change Order Checklist
- Email Approvals listed above

If you have any questions, please contact Andy Walter at 206.805.5452.

apw

cc: Project File

# WASHINGTON STATE DEPARTMENT OF TRANSPORTATION CHANGE ORDER

DATE: 02/18/15  
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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:** 109 PCO#230A LABOR HARMONY

**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

<b>ENDORSED BY:</b> <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">Chuck</div> <hr/> <b>CONTRACTOR</b> <div style="text-align: center; font-size: 1.2em; margin-top: 10px;">2/18/15</div> <hr/> <b>DATE</b>	<b>SURETY CONSENT:</b> <hr/> <b>ATTORNEY IN FACT</b> <hr/> <b>DATE</b>
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**ORIGINAL CONTRACT AMOUNT:** 1,089,700,002.00  
**CURRENT CONTRACT AMOUNT:** 1,104,074,964.44  
**ESTIMATED NET CHANGE THIS ORDER:** 2,708,133.26  
**ESTIMATED CONTRACT TOTAL AFTER CHANGE:** 1,106,783,097.70

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

<input checked="" type="checkbox"/> APPROVAL RECOMMENDED      ( ) EXECUTED <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">Paul S. Jensen</div> <hr/> <b>PROJECT ENGINEER</b> <div style="text-align: center; font-size: 1.2em; margin-top: 10px;">2/18/15</div> <hr/> <b>DATE</b>	<b>EXECUTED:</b> <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">[Signature]</div> <hr/> <b>STATE CONSTRUCTION ENGINEER</b> <div style="text-align: center; font-size: 1.2em; margin-top: 10px;">2-23-2015</div> <hr/> <b>DATE</b>
<input checked="" type="checkbox"/> APPROVAL RECOMMENDED      ( ) EXECUTED <b>REGIONAL ADMIN:</b> <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">[Signature]</div> <hr/> <b>BY:</b> <div style="text-align: center; font-size: 1.2em; margin-top: 10px;">2/18/2015</div> <hr/> <b>DATE</b>	<b>OTHER APPROVAL WHEN REQUIRED</b> <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">Anthony Sarkian</div> <div style="text-align: right; margin-right: 20px;">2/23/15</div> <hr/> <b>SIGNATURE</b> <span style="float: right;"><b>DATE</b></span> <div style="text-align: center; font-size: 1.2em; margin-top: 10px;">FHWA - NP</div> <hr/> <b>REPRESENTING</b> <div style="text-align: right; font-size: 0.8em; margin-top: 10px;">       ✓ CAPS        ✓ ACS        ✓ KAC        2/23/15     </div>

**WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION  
CHANGE ORDER**

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**CONTRACT NO:** 007999

**CHANGE ORDER NO:** 109

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 compensates the Design-Builder (STP) for the direct and indirect cost incurred by STP to pay Total Terminal International (TTI) for the resolution and settlement for the termination of a Stevedore and Terminal Services Agreement between STP and TTI and clears any-and-all issues associated with PCO # 230A.

This Change Order is an interim settlement for "Labor Harmony" associated with PCOs #230, #230A, #230B, #230C, and #230D. Negotiations are ongoing regarding a future change order to clear any or all issues associated with "Labor Harmony" and PCOs #230, #230B, #230C, and #230D. At such time that ongoing negotiations are completed and a settlement is reached between WSDOT and STP, this interim change order will become part of the total negotiated settlement.

**MEASUREMENT:**

This change order compensates the Design-Builder and clears any-and-all issues associated with PCO # 230A.

**PAYMENT:**

Compensation for all cost associated with PCO# 230A shall be by the new lump sum bid item, "Interim Labor Harmony Settlement" in the agreed to lump sum amount of \$2,708,133.26.

**CONTRACT TIME:**

The Design Builder and WSDOT agree that this Change Order has no impact to Contract Time, and as such, no extension of Contract Time will be granted because of this Change Order.

**MISCELLANEOUS**

WSDOT's execution of this change order and payment of the lump sum bid item "Interim Labor Harmony Settlement" in the amount of \$2,708,133.26 shall not be considered agreement by WSDOT that STP is entitled to additional compensation and/or extension of contract time for any or all issues associated with "Labor Harmony" and PCOs #230, #230B, #230C, and #230D.

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<b>CONTRACT NO: 007999</b>				<b>CHANGE ORDER NO: 109</b>			
ITEM NO	GROUP NO	STD ITEM	ITEM DESCRIPTION	UNIT MEASURE	UNIT PRICE	EST QTY CHANGE	EST AMT CHANGE

1058	01		INTERIM LABOR HARMONY SETTLEMENT	L.S.	2,708,133.26	1.00	2,708,133.26
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*91*  
*1000*

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2,708,133.26  
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## Contract 7999 Design-Build Change Order Checklist

<b>Cont. #:</b> 7999	<b>Cont. Title:</b> SR 99 Bored Tunnel Alternative- Design Build Project	Approval from State Construction Office Required
<b>C.O. #:</b> 109	<b>C.O. Title:</b> PCO#230A Labor Harmony	
<input checked="" type="checkbox"/> <b>Design-Builder Initiated.</b> <input type="checkbox"/> <b>Agency Initiated.</b>		
<b>I. Executed by the State Construction Office</b> 1. Cost or credit equal to or exceeding \$200,000.*1 2. Change in the contract documents beyond the scope, intent or termini of the original contract.*2 3. Change in DBE conditions in Section 8 and Appendix 6 of the Conformed Contract including the DBE Goal of 8%. 4. Change in contract time greater than 30 working days. *1	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	X  X  X  X
<b>II. Executed by the Region</b> 5. Cost or credit greater than \$100,000 but less than \$200,000.*1 6. Change in contract time greater than 10 and less than or equal to 30 working days, must be related to changes implemented by change order.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	X  X
<b>III. Executed by the Project Engineer</b> 7. Determination of impacts and/or overhead. 8. Design or construction work that does not comply with the Mandatory Standards. 9. A change to Section 1 thru 26 and the Appendices of the Conformed Contract. 10. A change to a technical requirement in any of the following sections: Design Deviations, Geotechnical Design, Pavement, Project Documentation, Bridges and Structures, Control of Materials, QMP Requirements, or WSDOT Standard Specifications. 11. Determination of a Differing Site Condition (Section 5.7.3 of the Conformed Contract). 12. Settlement of a claim (Section 24.3 of the Conformed Contract). 13. Changes in work (Section 11 of the Conformed Contract). 14. Design Builder Initiated Changes (Section 12 of the Conformed Contract).	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	X  X  X  X  X  X  X  X

**Approvals obtained:**

Project Engineer:	<b>(REQUIRED)</b>	Paul E. Johnson	Date:	2/17/2015
Region:	<b>(REQUIRED if yes marked)</b>	Matt Preedy	Date:	2/18/2015
State Construction Office:		Jeff Carpenter	Date:	2/23/2015
FHWA:		Anthony Sarhan	Date:	2/23/2015
Other:(Funding/Maintenance/Local Agency/Surety)		Diana McCreery (Funding)	Date:	2/18/2015
CO Reason(s) (See CCIS Source/Outcome) :		AB 04 AP AF		
Change Order Prepared By:		Alex Warner	Date:	2/18/2015
Has change been entered as lesson learned?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A		
Has design documentation been updated?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A		
Is change approved by program management?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		

**To be completed by the Region :**

Is the change eligible for Federal participation? *1		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A		
Change Order Reviewed by:			Date:	2/23/15

This form represents the minimum information required by the State Construction Office.

\*1 Cost or Credit greater than \$200,000 or an extension in contract time over 30 working days on Projects under full Federal oversight requires FHWA approval (see Construction Manual - Ch.1-2.4C(3) and Ch. 1-3.4)

\*2 Per RCW 47.28.050, any change beyond \$7,500 that is beyond the original scope shall go through the competitive bidding process..