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


Attached for HQ review and execution is Change Order No. 094, "State Sales Tax".

DESCRIPTION:
This change order compensates the Design-Builders for Department of Revenue State Sales Tax Rule 170/171 determination.

EVOLUTION OF CHANGE:
During the RFP process and as stated in Contract sections 10.8.1 (rule 171) and 10.8.2 (rule 170) the Design-Builders was required to determine state sales tax percentages for rule 171/170 based on information provided in TR Appendix R-1 (right-of-way plans). During the RFP process WSDOT responded to a RFP question asking "How do we separate material cost for work through City versus WSDOT land?". WSDOT’s response indicated rule 171 would apply to 2/3 of the project and rule 170 would apply to 1/3 of the project, but the Proposer should prepare their own estimate based upon their design. The Design-Builders used this information to develop a percentage breakout of 65% for rule 171 and 35% for rule 170.

After award of the Contract, WSDOT worked with the Design-Builders to finalize the Rule 170/171 percentages for the Contract, based on updated design information with the Department of Revenue agreeing with a percentage breakout of 70% for rule 171 and 30% for rule 170. The Design-Builders based their bid on the best information available at the time and is due compensation for the change in rule 170/171 percentages as determined by the Department of Revenue.

ENTITLEMENT:
This change order is issued pursuant to Contract Section 11.4.

PRICING THE CHANGE:
The Design-Builders developed percentage breakout of 35/65, and the Department of Revenue 30/70 percent split, results in a 5% increase to Rule 171. Applying the 9.5% State Sales Tax rate, to the increased portion the Design-Builders is responsible for (5%), results in an additional $1,059,489 in taxes to be paid by the Design-Builders.
PRICE:
WSDOT has agreed to compensate the Design-Builder for all issues with State Sales Tax rule 170/171 percentages as applied to the base bid amount as provided by and applied by the Contractor, in one new lump sum item; “CO #94 – State Sales Tax” in the agreed to amount of $1,059,489.

CONTRACT TIME:
Contract time is not affected by this change.

APPROVALS:
- Paul E. Johnson, P.E., Contract Administrator approved the change May 8, 2014
- Anthony Sarhan, FHWA approved the change May 12, 2014
- Marco Foster, P.E. HQ Construction approved the change May 19, 2014
- Matt Preed, P.E., Deputy Program Administrator approved the change May 22, 2014
- Diana McCreery AWV Business Group gave funding approval May 22, 2014

ATTACHMENTS TO THE MEMO:
- Change Order
- Change Order Checklist
- Engineer’s cost estimate
- Email Approvals listed above

If you have any questions, please contact Paul E. Johnson at (206) 805-2920.

pej

cc: Project File

CO# 094 – State Sales Tax
WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION
CHANGE ORDER

DATE: 05/22/1
Page 1 of 3

CONTRACT NO: 007999
CONTRACT TITLE: SR 99, BORED TUNNEL ALTERNATIVE - DESIGN BUILD PRO
CHANGE ORDER NO: 94 STATE SALE TAX

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
( ) Change proposed by Contractor

ENDORSED BY: [Signature]
CONTRACTOR
5/27/14

SURETY CONSENT:

ATTORNEY IN FACT

DATE

ORIGINAL CONTRACT AMOUNT: 1,089,700,002.00
CURRENT CONTRACT AMOUNT: 1,100,790,385.06
ESTIMATED NET CHANGE THIS ORDER: 1,059,489.00
ESTIMATED CONTRACT TOTAL AFTER CHANGE: 1,101,849,874.06
Approval Required: ( ) Region ( ) Olympia Service Center ( ) Local Agency

( ) APPROVAL RECOMMENDED
PROJECT ENGINEER
5/27/14

( ) EXECUTED
EXECUTED:
STATE CONSTRUCTION ENGINEER
6-4-14

DATE

( ) APPROVAL RECOMMENDED
REGIONAL ADMIN.
5/28/2014

( ) EXECUTED
OTHER APPROVAL WHEN REQUIRED

SIGNATURE

DATE

REPRESENTING

C002514 (revised Feb 2005)
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 provides full and final compensation and clears any and all issues associated with State Sales Tax rule 170/171 percentages as defined by section 10.8.1 and 10.8.2 as it applies to the base bid amount as provided by and applied by the Contractor.

Contract Section 10.8 is revised as follows:

On page 63, after line 14, insert the following header, paragraph, and three bullet points:

10.8.3 State Sales Tax Rule 170/171 Percentages

The work on this contract is to be performed upon lands whose ownership obligates the Contractor to pay State sales tax on portions of the project work and obligates the Contractor to collect State sales tax from the Contracting Agency on other portions of the project as follows:

The provisions of Section 10.8.1 apply to 70% of the project base bid. The provisions of Section 10.8.2 apply to 30% of the project base bid. All Change Orders Rule 170/171 percentages will be determined on a case by case basis.

This change order is issued pursuant to Contract Section 11.4.

PAYMENT:
Compensation for all issues associated with State Sales Tax rule 170/171 percentages as applied to the base bid amount as provided by and applied by the Contractor, by the new lump sum bid item, "CO #94 State Sales Tax" in the agreed to lump sum amount of $1,059,489.

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 as a result of this Change Order.
<table>
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<th>ITEM NO</th>
<th>GROUP NO</th>
<th>STD ITEM</th>
<th>ITEM DESCRIPTION</th>
<th>UNIT MEASURE</th>
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<th>EST QTY CHANGE</th>
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<td>L.S.</td>
<td>1,059,489.00</td>
<td>1.00</td>
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10.8.2 State Sales Tax: Work on State-Owned or Private Land

State Department of Revenue Rule 170 and its related rules apply to this Section. TR Appendix R-1 identifies those parts of the Project that require Work on State-owned or private land.

For Work performed on State-owned or private land, Design-Builder shall collect from WSDOT, retail sales tax on the portion of its compensation allocable to such Work. WSDOT will automatically add this sales tax to each payment to Design-Builder. For this reason, Design-Builder represents that it has not included and shall not include such retail sales tax on Work performed on State-owned or private land in the Total Proposal Price, Change Order requests, or any other amounts included in the Total Compensation.

However, WSDOT will not add in sales tax Design-Builder or Subcontractor pays on the purchase or rental of tools, machinery, equipment, or consumable supplies not integrated into the Project. Regardless of whether the Work is performed on State-owned or private land, such sales taxes shall be deemed included in the Total Compensation, and shall be accounted for in Change Order pricing.

10.8.3 State Sales Tax Rule 170/171 Percentages

The work on this contract is to be performed upon lands whose ownership obligates the Contractor to pay State sales tax on portions of the project work and obligates the Contractor to collect State sales tax from the Contracting Agency on other portions of the project as follows:

- The provisions of Section 10.8.1 apply to 70% of the project's base bid.
- The provisions of Section 10.8.2 apply to 30% of the project's base bid.
- All Change Orders Rule 170/171 percentages will be determined on a case by case basis.

CO#094 – State Sales Tax