



RECEIVED

SEP 09 2019

August 16, 2019

*Craig McDaniel*  
 TO: / Derek Case, MS-47354  
 THRU: P. Johnson / Z. Urvina, NB82-230  
 FROM: Patrick Fuller, NB82-66  
 SUBJECT: Contract 9160  
 SR99, AWV-Replacement South  
 Access SR99 Connections  
**CHANGE ORDER #089R2**  
**Obstruction Impacts**

*It should be noted - for clarity: These references to "delay" do not apply to decisions made outside this contract, specifically those associated with the closure of the viaduct.*

*[Signature]*  
9/9/19

Attached for your execution and further processing is State Construction office executed change order No. 89R2 "Obstruction Impacts". This change order has been processed in accordance with the attached change order checklist.

Description of Change

This change order includes the following items:

1. Provides compensation to the Contractor for direct and indirect costs caused by the re-sequencing and redesign of work to accommodate unforeseen conflicts with the Contract utility and drainage work.
2. Provides compensation for direct costs to construct the signal and illumination conduit system across Railroad Way and 1<sup>st</sup> Avenue at Dearborn Street.
3. Negotiates a settlement for costs related to the installation of butyl rubber sheeting at Walls 30/31 and 34/35.
4. Negotiates a settlement for costs related to the construction of the redesigned roadway slab at Walls 34/35 due to the gap between the fascia panel and the geosynthetic wall.
5. Provides compensation for the equitable adjustment for the decreased quantity of the Contract Item Roadway Excavation Incl. Haul.

Contract time and extended overhead associated with the PVC delay and the 1<sup>st</sup> Avenue conduit crossing delay are addressed separately in Change Order 084.

**Development of the Change**

**Production Delays Due to Obstructions**

The Contractor encountered numerous unforeseen obstructions during construction of the Contract Work. The work to remove the obstructions was covered by force account Contract items, but the total force account work performed was a far greater scope than originally anticipated in the Contract. This scope increase impacted the sequence of work for the remaining Contract scope of work. After completing the Force Account work, the Contractor was forced to work overtime to complete the original Contract scope of work. The premium time for labor costs was not captured in the Force Account payments for the removal of the obstructions as this work was done during normal shift hours.

The additional work also increased the Contractor's overhead costs as they were onsite for a longer duration than what was anticipated in their original approved Contract schedule. When the Permanent Viaduct Closure (PVC) date was delayed by WSDOT, the Contract was not put into suspension as originally intended by the Contract Provisions. This occurred because the Contractor was still on site, performing Contract work that was delayed by earlier work impacted by the obstructions. To account for the cost of this added project duration, the amount of time for each impact was totaled and converted into additional days that the extra force account work added to the Contract. This calculated amount of time was not added to the Contract as working days in CO084. The Contractor overhead rates were applied to this quantity of time.

In addition, the delays associated with the unforeseen underground obstructions caused several redesign efforts by WSDOT. This redesigned work often had to be reviewed and approved by the various utilities affected. The whole sequence of events associated with redesigned work and then procurement of the new material caused delays to the Contract critical path and the Contractor was unable to progress the original or redesigned work until all approvals were obtained and new materials procured. Consequently, the Contractor was forced to keep their fleet of equipment on site for a longer duration than originally anticipated and a portion of this time was idle. This is the source of the change order cost item "Underutilization of Equipment".

The original Contract included provisions for an anticipated shutdown between the completion of South Access work and the start of Permanent Viaduct Closure PVC related work in late fall 2018. The Contractor's original schedule anticipated this shutdown opportunity. The critical path delays and added work resulting from the unforeseen obstructions forced the Contractor to remain on site with all their equipment and the originally anticipated shutdown never occurred. WSDOT's subsequent decision to delay the PVC date until January 4, 2019 provided additional time for the Contractor to

complete the added work at South Access without affecting the PVC critical path, but the Contractor was unable to take advantage of the originally anticipated shutdown.

The original amount of force account in the Contract was not included in these impact calculations because the Contractor was already required to anticipate this level of effort. Only the amounts exceeding the original scope were used to estimate the impact. Because the impact cost for these changes is not adequately captured by the Force Account payments originally made, this change order now addresses them completely and the FA markup payments already made were deducted in CO 084. This ensured that overhead costs were not paid twice.

#### **1<sup>st</sup> Avenue Conduit Trenching**

The Contractor brought to our attention that due to the number of underground utilities in 1<sup>st</sup> Avenue they would not be able to direct bore across the road to install the conduit for Signal System 4 and the illumination system across 1<sup>st</sup> Avenue and Railroad Way at Dearborn Street. They also identified a quantity of 470 LF for directional boring on 1<sup>st</sup> Avenue in the Summary of Quantities. WSDOT's response was that the Plans that showed the conduit installation did not call out the conduit was to be installed by directional boring and that the quantity in the Summary of Quantities was for an interconnect system on 1<sup>st</sup> Avenue between Dearborn and Royal Brougham that was deleted from the Contract prior to advertisement. The Contractor responded that the Standard Specification 8-20.3(5)E requires conduit shall be placed under existing pavement by approved directional boring methods unless allowed in the Plans. Since the work of installation of the conduit would have been paid under the Contract Item Directional Boring they did not include the costs of that work in the associated signal system or illumination bid items. WSDOT agreed with their position and agreed to pay the cost of the installation of the conduit.

#### **Butyl Rubber Installation**

During installation of the geofoam fill for Walls 30/31 and 34/35 it was noted by the inspector that the Contractor had not installed the butyl rubber sheeting between the fill and the existing bridge abutment installed by another Contract. WSDOT believed that the installation of the rubber sheeting was to be provided by this Contract. The Contractor stated that it should have been installed by the previous Contract. The proper sheeting was installed, but the issue remained in dispute. This change order resolves that outstanding dispute.

#### **Fascia Panel Wall Gap**

During installation of the fascia panels for Walls 34/35 it was noted by the inspector that the gap between the geosynthetic wall face and the fascia panel did not meet the Contract requirements. WSDOT considered the issue to be a Contractor error. The Contractor disagreed, taking the position that it was the result of a conflict in two different plan

tolerances. The work was repaired to the satisfaction of the engineer, but the item remained in dispute. This change order resolves that item.

#### **Roadway Excavation Equitable Adjustment**

The quantity of Roadway Excavation performed on the job was 69.5% of the Plan quantity. The Contractor asked for an equitable adjustment of the Contract item in accordance with Standard Specification 1-04.6 because the underrun of quantity did not adequately compensate for unallocated fixed costs.

#### **Approvals**

- PE Approval – Patrick Fuller gave approval on June 27, 2019 (*Attachment B*).
- Region Approval – Paul Johnson gave approval on April 29, 2019 (*Attachment B*).
- HQ Approval – Craig McDaniel gave approval on June 28, 2019 (*Attachment B*).
- AWW Program Management – Mario Mathisen gave approval on July 10, 2019 (*Attachment B*).

#### **Entitlement**

Due to the delays caused by the underground obstructions and the redesign efforts by WSDOT, the Contractor was required to keep their fleet of equipment and personnel on site for a longer duration than was originally anticipated. This is the basis for entitling the Contractor to additional compensation.

The Contractor is also entitled for compensation for the trenching of conduit across 1<sup>st</sup> Avenue. The Contract required this work to be directional bored which the Contractor was not able to perform due to utility obstructions. Since this work was to be paid under the Directional Boring Contract item, it was not included in the lump sum bid for electrical items. It was then considered added work and is eligible for an equitable adjustment.

The Contractor has protested the decisions made by WSDOT in regards to the issues with the butyl rubber and the fascia panel wall gap described previously. Given the relatively small values of these issues and the risk of presenting these issues to the Disputes Review Board, WSDOT has negotiated a settlement to resolve them in this change order.

The Contractor is entitled to an equitable adjustment for the underrun of the Contract item Roadway Excavation Incl. Haul in accordance with Section 1-04.6. Due to the obstructions encountered during construction of the project the work of excavation was inefficient. The Contractor's costs to complete the Roadway Excavation exceeded the amount they were paid for the Contract item. The item underran 30.5% and the

Derek Case  
C9160 CO089R2  
August 16, 2019  
Page 5

Contractor is entitled to payment up to 75% of the item, which is an additional \$10,204.50.

**Price**

WSDOT's independent estimate contains the following:

- premium costs for the labor for the additional hours of force account worked
- overhead costs for the total impacted time due to each of the obstructions encountered
- direct costs to trench the conduit across Railroad Way and 1<sup>st</sup> Avenue at Dearborn Street
- negotiated settlement of two disputed issues as described above
- equitable adjustment for the underrun of Contract item Roadway Excavation Incl. Haul

The comparison of the overhead calculation for the duration of the additional force account and the overhead for the 50 working days between September 28, 2018 and December 7, 2018 showed the costs were equivalent.

The Contractor proposed a price of \$1,436,137.44 for the change. Our estimate for the work was \$1,351,729.80. We accepted a negotiated price of \$1,390,722.65.  
(Estimate - Attachment C)

**Contract Time**

Contract time is not adjusted by this change order. No changes to the Contract interim milestones are made as a result of the change order.

PF: dhc  
Attachments  
File: C9160 5(089R2)

## CHANGE ORDER-CHECKLIST

Cont. #: <u>9160</u> Cont. Title: <u>SR99 AWV-Replacement South Access-SR99 Connections</u> C.O. #: <u>89R2</u> C.O. Title: <u>Obstruction Impacts</u>	If yes, State Construction Office Approval Required.
<b>I. Executed by the State Construction Office</b>	
1. Cost or credit equal to or exceeding \$500,000. *1, *3	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Change in the contract documents beyond the scope, intent or termini of the original contract. *2	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Any proposed revision or deletion of work that affects the condition of award requirements. (Must be coded "CO" in CCIS, Includes changes to goal or commitment)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Change in contract time greater than 30 working days, or a change in contract time not related to any change order. *1	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>II. Executed at the Region (Per Delegation) value less than \$500,000 and up to 30 days</b>	
5. Determination of impacts and/or overhead.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6. Change to Contract Provisions or Standard Plans.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7. Material or product substitution. (Excludes materials associated with Std. Specification Sections 6-07, 8-01, 8-02, 8-12, 8-18 & 8-20)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8. Structural design change in the roadway section. (Requires concurrence from designer)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9. Determination of changed condition. (Section 1-04.7 of the Standard Specifications)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Settlement of a claim. (Section 1-09.11(2) of the Standard Specifications)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Repair of damage regarding "acts of God" or "acts of the public enemy or of government authorities". (Section 1-07.13 of the Standard Specification)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12. Structural change to structures.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

NOTE: PE delegated authority to execute value less than \$100,000 and up to and including 10 days

**Approvals obtained:** Project Engineer: Patrick Fuller Date: 6/27/2019  
 Region: Paul Johnson Date: 4/29/2019  
 State Construction Office: Craig McDaniel / Derek Case Date: 6/28/2019  
 Other (Local Agency, FHWA, Surety, etc.): \_\_\_\_\_ Date: \_\_\_\_\_

**To be completed by the Project Engineer :**

CO Reason(s) (See "2008 Codes & Definitions" on State Construction Office web page): AB - 01 UC & AW

Change Order Prepared By: Dave Clarke Date: 4/23/2019

Is this project under full FHWA stewardship oversight (Project Of Division Interest)? \*1  Yes  No

**To be completed by the Region :**

Is the change eligible for Federal participation where applicable?  Yes  No

Change Order Reviewed By: Zane Umura Date: 8/21/2019

\*1 Change (Cost or Credit) greater than \$200,000 or greater than 30 days on Projects Of Division Interest (PODI) requires FHWA approval. (see Construction Manual - Chapter 1-00.10, Chapter SS1-04.4, and State Construction Office web page)

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

\*3 Engineering error changes over \$500,000 requires reporting (See reporting instructions & template on State Construction Office web page)

This form represents the minimum information required by the State Construction Office. If you wish to supplement this information, you may do so on a separate sheet of paper.

NWR Change Order Checklist (Rev. July 2010)

Cont. No. : 9160  
C.O. No.: 89R2

Cont. Title: SR99, AWV-Replacement South Access - SR99 Connections  
C.O. Title: Obstruction Impacts

**Clearances:**

Funding	Name: <u>Mario Mathisen</u>	Date: <u>7/10/2019</u>
Is Sales Tax Included?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Design/Technical Lead	Name: _____	Date: _____
Maintenance	Name: _____	Date: _____
Agreements?	Name: _____	Date: _____
Local Agency Coordination?	Name: _____	Date: _____
Other? _____	Name: _____	Date: _____

Checklist Prepared by (Project Field Office): Zoie Urina Date: 7/15/2019

Change Order Reviewed by (Project Field Office): Dave Clarke Date: 8/16/2019


**WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION  
CHANGE ORDER**

DATE: 07/23/19  
Page 1 of 4

CONTRACT NO: 009160 FEDERAL AID NO:  
CONTRACT TITLE: SR 99, ALASKAN WAY VIADUCT - REPLACEMENT SOUTH ACC  
CHANGE ORDER NO: 89 R2 OBSTRUCTION IMPACTS




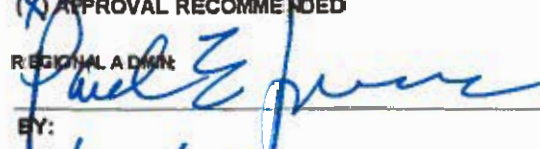
PRIME CONTRACTOR: [REDACTED] SCARSELLA BROS., INC.  
P O BOX 68697  
SEATTLE WA 98168-0697

- Ordered by Engineer under the terms of Section 1-04.4 of the Standard Specifications  
 Change proposed by Contractor

<p>ENDORSED BY: </p> <hr/> <p>CONTRACTOR <u>7/24/19</u></p> <hr/> <p>DATE</p>	<p>SURETY CONSENT:</p> <hr/> <p>ATTORNEY IN FACT</p> <hr/> <p>DATE</p>
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ORIGINAL CONTRACT AMOUNT: 22,583,904.00  
CURRENT CONTRACT AMOUNT: 25,633,585.47  
ESTIMATED NET CHANGE THIS ORDER: 1,390,722.64  
ESTIMATED CONTRACT TOTAL AFTER CHANGE: 27,024,308.11

Approval Required:  Region  Olympia Service Center  Local Agency

<p><input checked="" type="checkbox"/> APPROVAL RECOMMENDED</p> <p></p> <hr/> <p>PROJECT ENGINEER</p> <p><u>8/19/19</u></p> <hr/> <p>DATE</p>	<p><input type="checkbox"/> EXECUTED</p> <p></p> <hr/> <p>STATE CONSTRUCTION ENGINEER</p> <p><u>8/27/2019</u></p> <hr/> <p>DATE</p>	<p></p>
<p><input checked="" type="checkbox"/> APPROVAL RECOMMENDED</p> <p></p> <hr/> <p>REGIONAL ADMIN</p> <p>BY: <u>8/26/2019</u></p> <hr/> <p>DATE</p>	<p><input type="checkbox"/> EXECUTED</p> <p>OTHER APPROVAL WHEN REQUIRED</p> <hr/> <p>SIGNATURE _____ DATE _____</p> <hr/> <p>REPRESENTING _____</p>	



**WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION  
CHANGE ORDER**

DATE: 07/23/19  
Page 2 of 4

CONTRACT NO: 009160

CHANGE ORDER NO: 89 R2

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:

**DESCRIPTION OF WORK**

This change order compensates the Contractor for the following:

1. Direct and indirect costs caused by the re-sequencing and inefficiencies due to redesign of work to accommodate unforeseen conflicts with the Contract utility and drainage work. These changes were caused by underground obstructions that caused redesign of work due to conflicts between existing and proposed infrastructure.
2. Costs related to the installation of butyl rubber sheeting at Walls 30/31 and 34/35.
3. Costs related to the design change for the roadway slab above Walls 34/35 in relation to the gap between the top of the fascia panels and the geosynthetic retaining wall.
4. The installation of conduit across 1st Avenue and Railroad Way at Dearborn Street for Signal System #4 and the illumination system.

Contract time and extended overhead related to the PVC delay and the 1st Avenue conduit crossing delay are addressed separately in Change Order 084.

This Change Order also compensates the Contractor for equitable adjustment to Contract Item Roadway Excavation Incl. Haul due to the final quantity being under 75% of the planned quantity.

**MATERIALS REQUIREMENTS**

There are no additional material requirements as a result of this change order.

**CONSTRUCTION REQUIREMENTS**

There are no new construction requirements as a result of this change order.

**MEASUREMENT**

Measurement of the new lump sum item "CO089 Obstruction Impacts" shall be in accordance with Standard Specification 1-09.1, Measurement of Quantities of Lump Sum Items.

**PAYMENT**

This change order creates a new Lump Sum Item, "CO089 Obstruction Impacts" in the amount of \$1,390,722.64. This amount shall be full payment for all direct and indirect costs related to any re-sequencing of work and inefficiencies due to conflicts with construction of the Contract items.

WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION  
CHANGE ORDER

DATE: 07/23/19  
Page 3 of 4

CONTRACT NO: 009160

CHANGE ORDER NO: 89 R2

This lump sum amount also shall be full payment for an equitable adjustment for Contract Item 17 Roadway Excavation Incl. Haul in accordance with Standard Specification 1-04.6.

RELEASE:

By signing this Change Order the Contractor, Scarsella, agrees and certifies that any and all claims, disputes, costs, requests for additional compensation/time and/or other matters identified in the Description Section of this Change Order above are hereby satisfied in full from all said claims, disputes, costs, requests, and/or identified matters.

CONTRACT TIME:

No working days are added to the Contract time as a result of this change order. No changes to Contract interim milestones are made as a result of this change order.

**WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION  
CHANGE ORDER**

DATE: 07/23/19  
Page 4 of 4

CONTRACT NO: 009160				CHANGE ORDER NO: 89 R2			
ITEM NO	GROUP NO	STD ITEM	ITEM DESCRIPTION	UNIT MEASURE	UNIT PRICE	EST QTY CHANGE	EST AMT CHANGE
341 1054	01		C0089 OBSTRUCTION IMPACTS	L.S.	0.00	0.00	1,390,722.64

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1,390,722.64  
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CONTRACT 009160

DISTRICT 1

CHANGE ORDER NUMBER 089

TYPE OF CHANGE ORDER CONSTRUCTION

DATED 09-09-2019

TIME 16:27:06

ITEM	GROUP	STD ITEM	UNIT OF MEAS	UNIT PRICE	QUANTITY CHANGE	AMOUNT CHANGE
347	01		L.S.	\$1,390,722.6400	.00	\$1,390,722.64
CCIS TEMP ITEM NUMBER: 1054						

DESC...: CO089 OBSTRUCTION IMPACTS

TOTAL NET CHANGE

\$1,390,722.64