

**CONTRACT CHANGE ORDER**

Change Requested by: Engineer

**CCO: 160    Suppl. No.                      Contract No. 04 – 0120F4    Road SF-80-13.2/13.9    FED. AID LOC.:**

To: **AMERICAN BRIDGE/FLUOR ENTERPRISES INC A JOINT VENTURE**

You are directed to make the following changes from the plans and specifications or do the following described work not included in the plans and specifications for this contract. **NOTE: This change order is not effective until approved by the Engineer.**

Description of work to be done, estimate of quantities and prices to be paid. (Segregate between additional work at contract price, agreed price and force account.) Unless otherwise stated, rates for rental of equipment cover only such time as equipment is actually used and no allowance will be made for idle time. This last percentage shown is the net accumulated increase or decrease from the original quantity in the Engineer's Estimate.

**1) Resolution of East End Delay Impacts**

**Adjustment of Compensation at Agreed Lump Sum**

The Contractor agrees to accept the lump sum compensation of \$99,856,000.00, in addition to the adjustment of contract time and increase in Contract Item No. 5, "Time Related Overhead," provided under this contract change order (CCO), as full and complete settlement for all East End OBG Elements (i.e., Lifts 12 through 14) and Tower Element claimed costs and Time Impact Analyses. The agreed lump sum compensation provided herein, in addition to the other provisions of this CCO, comprises all time-related indirect costs and the following direct costs:

- Changes in the character of the work associated with East End OBG Elements as indicated in Appendix No. 2;
- All detailing costs associated with the development of working drawings, fabrication, and delivery of East End OBG and Tower Elements to the project site;
- Modifications to or the replacement of the OBG lifting frame;
- One additional ship
- A second additional ship, if deemed necessary by the Contractor

The adjustment of compensation provided herein resolves the time and the time-related indirect cost components for all CCOs executed as of August 26, 2010, in each case associated with the fabrication of East End OBG Elements and with "Readiness for Seismic Safety Opening" (as defined under No. 3, below), except for those CCOs indicated in Appendix No. 2 of this CCO.

**Adjustment of Compensation at Agreed Lump Sum ..... \$99,856,000.00**

**Adjustment of Contract Time**

In accordance with Section 8-1.07, "Liquidated Damages," of the Standard Specifications, this CCO provides an additional contract time extension of 304 working days, extending the "Contract Completion Date" to August 24, 2014. The "Contract Completion Date," extended under this CCO to August 24, 2014, is the date upon which the entire work (i.e., all remaining work after "Readiness for Seismic Safety Opening," as provided under this CCO) has been completed in all respects in accordance with the plans and specifications and any modifications approved prior to August 26, 2010.

This CCO resolves all claimed request for information (RFI) delays, claimed submittal delays, delays resulting from CCOs, claimed Time Impact Analysis (TIA) delays, claimed Notices of Potential Claim (NOPC) delays, and all other claimed delays, as of August 26, 2010, in each case associated with the fabrication of East End OBG Elements and with "Readiness for Seismic Safety Opening" (as defined under No. 3, below) , with the exception of those CCOs for which the Department has yet to finalize the scope, as indicated in Appendix No. 2.

**Increase in Contract Item at Contract Item Price**

Pursuant to "Adjustment of Contract Time" under this CCO, the quantity of Contract Item No. 5, "Time Related Overhead," is increased by an additional 304 days.

**Increase in Contract Item No. 5, "Time Related Overhead,"  
at Contract Item Price (304 days x \$86,000/day) = ..... \$26,144,000.00**

The payment of \$26,144,000.00, in addition to the other provisions of this CCO, provides full and complete payment to compensate the Contractor and its steel fabricator for all time-related indirect cost impacts to fabrication and the overall project.

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The parties agree that total compensation made under Provision No. 1 of the CCO 160 shall comprise the Contractor's total time-related indirect costs associated with 304 days of project delay and direct costs as indicated specifically in Provision 1 above and Appendix No. 2..

**2) Acceleration of the OBG Lifts 13 and 14****Adjustment of Compensation at Agreed Lump Sum**

The Contractor agrees to accept the agreed lump sum payment of \$11,000,000.00, along with the potential incentives earned in accordance with this CCO, as full and complete compensation for accelerated fabrication of OBG Lifts 13 and 14 at the Contractor's structural steel fabrication facility (i.e., ZPMC), as necessary to achieve a shipping date of OBG Lifts 13 and 14 on or before July 11, 2011. Accelerated fabrication measures and associated costs in the agreed-to lump sum payment comprise providing storage of OBG Lift 12 for a 9 month period, providing additional labor, subcontractor, superintendence, and management for a 24 hour a day, 7 days work week, additional labor transportation, housing, and incentives provided to secure additional labor.

All costs incurred by the Contractor associated with OBG Lifts 13 and 14 fabrication acceleration shall be considered to be included in this CCO, except for measures specifically provided under other approved CCOs, including, but not limited to, the following Department compensated schedule mitigation measures: CCO No. 127, "Constructability Models," CCO No. 131, "Welder Training," CCO No. 139, "Fabrication Delay Mitigation," CCO No. 164, "ESAB Weld Wire."

All conditions of acceleration imposed by ZPMC, as forwarded under ABFJV's Letter ABF-CAL-LTR-001450 dated August 5, 2010, shall be met by the Department, as committed to in State Letter 05.03.01-008036 dated August 13, 2010.

The Contractor's ability to achieve shipping of OBG Lifts 13 and 14 on or before July 11, 2011, is contingent upon no adverse impacts or changes to the project caused by the Department (this includes, but is not limited to, design changes and the Department's ability to perform all its required obligations, especially inspection and acceptance, fully and in a timely manner). The Contractor reserves its right to seek further extensions of time and compensation for any impacts caused by the Department with respect to the accelerative efforts, or for any events or impacts subsequent to August 26, 2010, not relating to these acceleration efforts.

The Contractor reserves its rights to further extensions of time and compensation for any unknown future Departmental impacts to "Readiness for Seismic Safety Opening," and any other impacts caused by the Department on the accelerative efforts, or for any events or impacts subsequent to August 26, 2010, not relating to these acceleration efforts.

**Adjustment of Compensation at Agreed Lump Sum ..... \$11,000,000.00**

**Incentive Provisions**

The Contractor will receive a maximum incentive payment of \$20,000,000 if OBG Lifts 13 and 14 depart the ZPMC fabrication facility on or before July 11, 2011. For each and every day that OBG Lifts 13 and 14 depart the fabrication facility before September 22, 2011, the Contractor will receive an incentive payment of \$200,000.00 per day. For each and every day that OBG Lifts 13 and 14 depart the fabrication facility before August 22, 2011, the Contractor will receive an additional (i.e., in addition to the incentive payment of \$200,000.00 per day) incentive payment of \$150,000.00 per day. The total incentive payment provided herein for departure of OBG Lifts 13 and 14, including taxes and duties, will not exceed \$20,000,000.00. US sales tax and customs duties and fees shall be added to earned incentive payments, as this cost will be part of the total value of the structural steel purchase order; however, the maximum incentive payable for departure of OBG Lifts 13 and 14, including taxes, duties and fees, will not exceed \$20,000,000.

In the event that after August 26, 2010, the Department, through any act or omission, causes a delay in the fabrication of OBG Lifts 12, 13 or 14, or to the departure of OBG Lifts 13 or 14, or if such a departure is otherwise delayed for reasons which give rise to an extension of time entitlement under the Contract, each of the dates referred to in the previous paragraph (i.e. July 11, August 22 and September 22, 2011) shall be adjusted accordingly.

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**3) Readiness for Seismic Safety Opening**

**Order of Work**

Section 10-1.01, "Order of Work," subsection "Designated Portions of Work," of the Special Provisions, is hereby revised as provided below:

"The definitions of work specified as subsection 'Designated Portion of Work – Phase 1,' subsection 'Designated Portion of Work – Phase 2,' and subsection 'Designated Portion of Work – Phase 3' are deleted. A new definition of work specified as 'Readiness for Seismic Safety Opening' shall be added and shall include only the items of work specified in Appendix No. 1 to this Contract Change Order (CCO 160, and for such items, only to the extent such work is identified as "MINIMUM WORK THAT MUST BE COMPLETED AT SEISMIC SAFETY OPENING". Appendix No. 1 to the CCO 160 specifies the work that shall be completed prior to opening in each direction of traffic, and work that the Contractor may elect to perform after traffic opening in each direction. It is understood that the placement of traffic in the eastbound direction is also dependent upon work contracted to others by the Department. Readiness for eastbound traffic placement, as provided under 'Readiness for Seismic Safety Opening,' encompasses work which is only under the direct control of the Contractor."

Section 5-1.18, "Areas for Contractor's use" of the Special Provisions, is revised as provided in this paragraph. The two references to "completion of Phase 1 activities" in relation to the turnover of Area "FP" will be updated based upon mutually agreed date(s) between the parties, and will be issued in a future CCO, and the text, "as described in Section 10-1.01, "Order of Work," and Section 4 "Beginning of Work, Time for Completion and Liquidated Damages of these special provisions" is deleted.

**Adjustment of Compensation at Agreed Lump Sum**

The Contractor will plan and execute the work with the intent to achieve "Readiness for Seismic Safety Opening" as provided in "Order of Work," outlined above, in the shortest reasonably possible time as the Contractor deems necessary and appropriate, and agrees to accept the agreed lump sum payment of \$8,000,000.00, along with potential incentives earned in accordance with this CCO, as full and complete compensation for all costs associated with the shortening of time for such work, comprising the following:

- Early installation of the catwalk and tramway
- Early installation of Crossbeam 19, except for Caltrans directed changes to the erection method to account for longitudinal misalignments at the field drilled splice between Lift 14W and CB19, as covered under CCO 162
- Barrier installation prior to load transfer
- Install and operate increased cable wrapping and compaction capacity (furnished equipment is included in CCO 142)
- Furnish and install increased load transfer jacking points
- Portable milling machines, if deemed necessary and appropriate by the Contractor
- Environmental cover for painting, if deemed necessary and appropriate by the Contractor
- Additional steel orders to cover any eventual shortages
- Other means that the Contractor deems necessary and appropriate to achieve the shortest reasonably possible time to departure from the fabrication facility of OBG Lifts 13 and 14, and "Readiness for Seismic Safety Opening"

**Adjustment of Compensation at Agreed Lump Sum ..... \$8,000,000.00**

**Incentives, Disincentive, and Liquidated Damage Provisions**

For each and every day that "Readiness for Seismic Safety Opening" is achieved by the Contractor before October 20, 2013, the Contractor will receive an incentive payment of \$385,000.00 per day. A maximum incentive of \$20,000,000 will be earned if "Readiness for Seismic Safety Opening" is achieved on or before August 28, 2013. The total incentive payment provided herein for achieving "Readiness for Seismic Safety Opening," including taxes and duties, will not exceed \$20,000,000.00. The Contractor shall pay the State of California the sum of \$100,000.00 per day as a disincentive, for each and every day's delay in completing "Readiness for Seismic Safety Opening" after November 30, 2013. Neither an incentive nor a disincentive shall apply if the Contractor achieves "Readiness for Seismic Safety Opening" between October 20, 2013, and November 30, 2013. The total amount of 1) disincentives payable by the Contractor, and 2) liquidated damages payable by the Contractor for delay in completing the "Contract



