

B-36229 45th St – Change Order No. 034 (Cost Adjustment for Claim Resolution – Wall 3 Over-Excavated Backfill Material)

Background

The construction of 45th St included the installation of retaining walls at the underpass corners. The contract plans included the construction of Wall 3 (T-Wall) adjacent to CN Railroad. The contract plans included a plan and profile for each wall segment and a wall detail sheet, for bidding purposes only. The contractor was required per the Contract Information Book (CIB) to design the precast walls for construction, including backfill of the T-Wall and over-excavated areas.

Methodology

Per the CIB, and CN direction, Walsh Construction was required to use T-Wall for the construction of Wall 3. Per the Unique Special Provision (USP) for Retaining Walls, select granular backfill was required within the precast wall segments. A pre-bid Q&A item within the contract documents inquired about the backfill material to be used for the over-excavated area of Wall 3 within the CN embankment, which stated that the existing material excavated from the railroad embankment or T-Wall areas may be reused to backfill the over-excavated areas provided it meets the requirement of INDOT Standard Specification section 211 (B Borrow and Structure Backfill) and the USP. Existing excavated material was used to backfill the over-excavated area behind Wall 3. CN took exception to reuse the existing excavated material within the railroad embankment due to potential settlement. The EOR was involved in discussions with CN and INDOT. CN instructed the use of a better material to reduce the potential settlement. With guidance from the EOR, and approval from CN, it was agreed to use IN-8 crushed stone as backfill behind Wall 3 within the over-excavated limits of the CN embankment. IN-8 crushed stone was selected to assist with the accelerated schedule for completion in 2020. Walsh filed a claim in accordance with INDOT Standard Specification section 105.16, to include re-excavation and backfill of the over-excavated area behind Wall 3, at a cost of \$41,621.04, under the premise that existing material was allowed at the time of bidding per the CIB but disallowed by CN during construction. Walsh's claim was denied at the project and district levels citing backfill was a component of the final design to be resolved by the Walsh's designer. Walsh requested that the claim be elevated to INDOT District Claim Review Board. Per INDOT District Review Board ruling dated 10/12/21, Walsh was awarded compensation for only the difference in material cost from existing material to IN-8's, including markup, used to backfill the over-excavated area behind Wall 3.

The total cost of this change order is \$18,529.38 (1,105.94 Tons of IN-8 CS at \$14.75 per Ton) and will be participating since the work is necessitated by the contract. The total quantity of IN-8 CS has been adjusted based on delivered material used solely for the over-excavated area behind Wall 3. 466.67 SYS of geotextile fabric was placed below the IN-8 CS and paid under the existing contract item for a total of \$989.34.

If approved, this change order would be 0.095% of the original contract price and the total changes to date would be \$2,022,076.15 or a 9.845% increase of the total project cost.

This change order has been reviewed and approved by our construction engineering firm DLZ as well as INDOT.

Recommendation

By motion and roll-call vote, approve Change Order No. 034 for INDOT Contract B-36229 in the amount of \$19,518.72.