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Walsh Construction  
9250 Columbia Ave, Suite C1  
Munster, IN 46321

ATTN: Mr. Mike Herz, Project Manager  
  
Date: December 22, 2020  
Contract: B-36229  
Subject: Letter #030, T-Wall No. 3 Re-excavation and Backfill

Dear Mr. Herz,

This letter serves as confirmation of receipt and project level review to your written notice of claim for the above-mentioned contract and subject dated 12/02/20 in accordance with INDOT SS 105.16(b)1 and 105.16(c)1, respectively.

An email response to the backfill of Wall 3 was provided on 11/04/20. As mentioned in the previous response, retaining wall construction includes all labor, materials, equipment, tools and incidentals necessary to complete this item. Furthermore, the contract document pre-bid Question and Answer response states that the reuse of material excavated from the railroad embankment or T-Wall areas shall meet the requirements of INDOT SS 211, as indicated in the email correspondence dated 9/16/20 from the EOR (attached). The Contract Information Booklet (CIB) for Retaining Wall require the limits of all excavation necessary to construct the walls be included with the submittal. Excavation limits shall be defined by the Contractor not the Contract.

In response to your claim request for additional compensation, your request is being denied at the project level in accordance with INDOT SS 105.16(c)1.

Respectfully,

Lee Randell, PE  
Project Engineer  
DLZ Indiana, LLC

cc: Dustin Anderson  
Jon Kruger, PE  
Dave Barich, PE  
Cortney Beale, PE  
Brad Dailey, PE  
Marc Arena

## Lee Randell, P.E.

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**From:** Lee Randell, P.E.  
**Sent:** Wednesday, September 16, 2020 4:01 PM  
**To:** Mike Herz (mherz@walshgroup.com)  
**Cc:** Arena, Marc; Brad Dailey, P.E.; Cortney Beale (cbeale@indot.in.gov); danderson@munster.org  
**Subject:** FW: B-36229, 45th Street Grade Separation with CNRR  
**Importance:** High

Mike,

Please see correspondence below from the EOR in regard to railroad embankment backfill as discussed earlier in today's progress meeting. Please provide the aggregate material type and size intended for use as railroad embankment backfill, in accordance with INDOT SS 211, and the scheduled date to begin backfill. It may be best to schedule a meeting to discuss resuming acceleration to meet a CN cutover date of 10/5/20.

In the meantime, we will continue discussions with CN/Knight on this matter. I expect they will be interested to know the aggregate material expected for use in backfill of the roadway embankment. I would expect a pretty quick turn around on their part.

Please let me know if you have any questions.

Thanks,

**Lee Randell, P.E. | Civil Engineer**

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**From:** Herring, Dan <dherring@hwlochner.com>  
**Sent:** Wednesday, September 16, 2020 12:21 PM  
**To:** John D. Hilsen <jhilsen@reltd.com>  
**Cc:** Christopher King <cking@reltd.com> (cking@reltd.com) <cking@reltd.com>; Dustin Anderson (danderson@munster.org) <danderson@munster.org>; Lee Randell, P.E. <lrاندell@dlz.com>; Brad Dailey, P.E. <bdailey@dlz.com>; Cortney Beale (cbeale@indot.in.gov) <cbeale@indot.in.gov>; Kenneth Rippy <krippy@geoconcompanies.com>  
**Subject:** B-36229, 45th Street Grade Separation with CNRR  
**Importance:** High

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Hello John.

As you requested earlier this week, please see the below for Lochner's position on the issue related to reuse of the clayey fill in the railroad embankment. In general, we recommend the contract be followed. Walsh's proposal to reuse material not meeting the requirements on SS 211 in the embankment construction is declined. This was asked and answered as part of the Q&A which is contractual. All non-conforming material already placed must be removed. This includes in areas where Walsh has over excavated beyond the pay limits as part of their means and methods of installing the works. Regarding the T-Wall, this pay item is all inclusive and payment is made only on the SFT of wall installed complete and in-place - this includes but is not limited to all incidentals, materials, labor, over excavation, etc..

Regarding the settlement of the embankment which is normal and customary for this type and complexity of project, it is our understanding that CN owns the responsibility to maintain their track under the agreement with the Project Owner. With this in mind we would expect CN to inspect and monitor the track on a regular basis for conformance to their track standards to the class of track that they desire to run on thru this area. These standards are defined in their own (CN) Engineering Track Standards which are included in the original contract.

Best Regards, Dan

***Daniel W. Herring, P.E., S.E.***

*Operations Manager*

*Vice President*

LOCHNER

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