



# INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue  
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Indianapolis, Indiana 46204

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**Eric Holcomb, Governor**  
**Joe McGuinness, Commissioner**

February 19, 2021

Mr. Mike Herz  
Project Manager  
Walsh Construction  
1260 E. Summit Street  
Crown Point, IN 46307

Subject: RE: INDOT Contract B-36229  
District Office Review Response for Claim submitted 12/2/2020, District Office Review requested 1/5/2021 (Letter #032: T-Wall No. 3 Re-excavation and Backfill)

Mr. Herz,

INDOT has performed a District Office Review on the claim submitted by Walsh Construction on 12/2/2020 in regards to contract B-36229 in accordance with INDOT specification 105.16 (c ) 2. The Project level response was dated 12/22/2020.

INDOT agrees with the Project Level Ruling after the District Office Review. The Special Provision on page 181 of the CIB (Contract Information Book) states, "The pay item" (Retaining Wall) "shall include payment for all portions of wall complete in place including, but not limited to, engineering design, analysis, working drawing preparation, drainage, connections, testing, reports, quality control, as-builts, and all related materials, labor, equipment, inspection, construction, and installation except for the monitoring program."

The CIB on page 177 under the heading of "Retaining Wall" says, "After completion of wall installation, remove construction debris and restore any adjacent finished areas affected by wall construction to their preconstruction state or as required by the contract documents." This would include the material required between the T-wall and the Railroad. The CIB on page 178, under "Field Quality Control" says "The Contractor shall employ the services of an independent engineering firm to monitor soil testing and perform daily quality assurance and inspection to monitor soil testing and perform daily quality assurance and inspection for wall construction and soils work. Contractor shall provide quality control testing or inspection. Contractor shall be responsible for proper installation and quality control of all wall components and appurtenant materials. Quality Assurance shall include, but not be limited to foundation soil inspection, backfill compaction testing, verification of geotechnical design parameters and compliance with approved working drawings, retaining wall system construction Manual and Project Specifications." The material, per the Q&A, that becomes part of the contract before letting, must meet the requirement of section 211 (INDOT specifications) and project special provisions. It can also be used outside the railroad embankment if it meets the requirements of section 206.07. The results of the original existing material to be left in place had not been proven to meet these requirements. The material should never have been placed in this area if it did not meet project specifications, and the inspection and responsibility would be that of the contractor. Per Specification 105.03, "If the Engineer finds the materials or the finished product in which the materials are used or the work performed are not in reasonably close conformance with the plans and specifications and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected with no additional payment." The material was removed by Walsh and replaced with acceptable material.



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INDOT believes the responsibility fell on the contractor to determine the limits of excavation necessary to build the T-Wall in accordance with the CIB and specifications in this claim submittal. All materials and excavation were to be included in the price of the retaining wall per the special provisions. Therefore, the ruling of the District Office Review is to uphold the decision of the Project Level Review.

This is the ruling of the District office review per INDOT specification 105.16 (c )2. Per this specification, you may accept or reject this ruling. Please follow 105.16 (c )2. for procedures and timeframes.

Regards,

Jonathon Kruger  
INDOT LaPorte District Construction Director

Cc: Cortney Beale, INDOT Area Engineer  
Dave Barich, Acting INDOT Area Engineer on B-36229  
Lee Randell, DLZ Project Engineer  
Jessica Spiess, INDOT Project Manager  
Tom Harris, INDOT Field Engineer