



TO: Indiana Department of Transportation
315 East Boyd Boulevard
LaPorte, IN 46350

ATTN: Mr. Jonathon Kruger

Date: March 18, 2021
Contract: 45th Street Grade Separation
Subject: District Office Review Response for Claim; T-Wall No. 3 Re-excavation and Backfill Contractor Response

Mr. Kruger:

In accordance with INDOT specification 105.16 (c)2 Walsh Construction is rejecting the ruling provided in a letter dated February 19, 2021 and is requesting a final hearing before a District Claim Review Board.

The ruling provided on February 19th states several points that the Contractor is responsible for during design and construct and Walsh is not disputing that. Walsh did perform design as directed on page 170 of the CIB (Contract Information Book) and construction per page 175 of the CIB.

However, your ruling fails to address the issues of the Canadian National (CN) railroad alignment or CN embankment standards. As address in our claim submission the limits for railroad embankment are not defined in the contract documents or the CN Guidelines in order to establish a limit of restricted backfill material. In addition, even if it was assumed to be 45 degrees off of the end of the railroad tie the majority of this excavation would have been outside to the railroad embankment and therefore meets the requirements of the backfill material.

Furthermore, you reference SP 105.03 Conformance with Plans and Specifications, the last paragraph which refers to "work not in reasonably close conformance with the plans and specifications and resulting in inferior and unsatisfactory produce". In fact, you should be referring the paragraph before which states, " If the Engineer finds the material or finish product in which the materials are used are not within reasonably close conformance with the plans and specification but that reasonable acceptable work has been produced, the Engineer will determine if the work will be acceptable to remain in place". The area in question was install and tested by an outside testing firm and was placed within all compaction requirements. Also, this material was in place for 3 months and performing as intended prior to its removal.

Walsh feels that this removal was directed even with passing compaction results and the unknown limits of the CN railroad embankment. We feel that this work should be paid for as addressed in our claim. At a minimum depending the results of this claim Walsh feels that the cost difference between original bid backfill material and the cost of #8 stone at INDOT's request should be paid for as it has been throughout the project.

Walsh is willing to discuss these and other concerns pertaining this claim with INDOT, prior to a District Claim Review Board if INDOT would be willing.



Respectfully,

A handwritten signature in black ink, appearing to read "Marc Arena". The signature is fluid and cursive, with a prominent 'M' and 'A'.

Marc Arena
Senior Project Manager
Walsh Construction

Cc: Cortney Beale, INDOT
Jessica Spiess, INDOT
Tome Harris, INDOT
Lee Randell, DLZ