



October 21, 2014

TO: Fred Tharp *FT*  
HQ Construction, MS: 47354

THRU: Mike Morishige *MM*  
OR Construction, MS: 47440

FROM: *JD* Jon Deffenbacher, WT-12  
(253) 365-6700

SUBJECT: C-8607 I-5, M St to Portland Ave - HOV  
**Change Order No. 009 – NW Pond Contaminated Material**

**Requested Action:**

Review     Review and Region Execution     Review and HQ Execution

**Approvals Obtained:**

|   | <b><u>Change Approval</u></b> | <b><u>Approval to Proceed</u></b> |
|---|-------------------------------|-----------------------------------|
| <b>Project Engineer:</b> Jon Deffenbacher | 9/2/2014                      | N/A                               |
| <b>OR Construction:</b> Mike Morishige    | 9/9/2014                      | N/A                               |
| <b>HQ Construction:</b> Fred Tharp        | 9/8/2014                      | 9/11/2014                         |

**Description of the Change**

This change order addresses a differing site condition as specified in Section 1-04.7 of the Specifications. The Contract requires excavating and disposing of material from the NW Pond. After initiating excavation work for the pond, the soil was discovered to contain concentrations of contaminants exceeding the Model Toxics Control Act (MTCA) Method A ULU Cleanup Levels. Therefore, soil from the NW Pond must be disposed at a Subtitle D Landfill.

The Contract Plans identify two locations on the project as containing contaminants that require disposal at a Subtitle D Landfill. Accordingly, there are Special Provisions and unit bid items to provide for excavation, haul, and disposal of contaminated material at an approved landfill. However, the NW Pond is not within either of the designated locations, and was not considered in the development of the original contract. This change order designates a Subtitle D Landfill for disposal of the NW Pond excavation and compensates the Contractor for added costs associated with excavating, hauling and disposing of the contaminated material.

### **Evolution of the Change**

On August 25<sup>th</sup>, 2014 the Project Office was notified by the Contractor of a petroleum odor coming from the excavated material at one location in the NW Pond. The Project Office ordered the Contractor to stop working at that location and contacted HQ Environmental Services to assist in sampling and testing the soil to determine the type and level of contaminants. Five samples were collected on August 26<sup>th</sup>; one from the location where petroleum was suspected, one from a location that displayed visual cues of potential contaminants, and three from the Contractor's stockpile that had been constructed adjacent to the haul route to expedite truck loading and haul. Three of the five samples indicated the presence of polycyclic aromatic hydrocarbons (PAH's) exceeding the MTCA threshold.

Thirty-two additional samples were taken beginning on September 2<sup>nd</sup>, to further characterize the excavation material and attempt to isolate contaminants to discreet locations. The results showed the presence of contamination above MTCA at 13 locations throughout the NW Pond. In particular, test results revealed that PAH's ranged from 0.0003 to 1.44 mg/kg.

The Contractor notified the Project Office that their typical disposal sites are not permitted to accept material with detectable amounts of PAH in the soil. The Project Office confirmed that there are no permitted disposal facilities that could accept soil with detectable levels of PAH's other than Subtitle D landfills, as evidenced by written and oral communication with Health Department representatives from Pierce, King, Clallam, Jefferson, Kitsap, Whatcom, Snohomish, Skagit, and Thurston counties. The nearest site in the area with the capabilities to dispose of this level of contamination is the LRI landfill located in Graham, WA, approximately 25 miles from the jobsite.

On September 2<sup>nd</sup>, 2014, the Contractor provided written notification to the Project Office purporting that the NW Pond contaminated soils was a Changed Condition per Section 1-04.7. The Olympic Region and HQ Construction Offices agreed that the changed condition was substantiated because the NW Pond contains contaminated soil which was materially different than that indicated in the Contract.

It was determined that any material that exceeded the MTCA threshold must be disposed at a Subtitle D landfill. In coordination with the Olympic Region Environmental and Hydraulic Services Office (EHS), the Project Office evaluated the feasibility of re-using the remainder of the excavated material that tested below the MTCA threshold. Although this option was deemed feasible, it would require additional sampling, testing, selective excavation, and added environmental permitting. It was estimated that this option would require up to 6 weeks to secure the necessary approvals which would have impacted the schedule and increased the delay cost. To avoid further delay to the work, it was

determined that disposing all of the NW Pond excavation at a Subtitle D landfill was the preferred alternative.

The Project Office secured a new Waste Disposal Authorization (WDA) 1821, from the Pierce County Health Department to dispose of the NW Pond contaminated material at the LRI Landfill in Graham, WA.

On September 8, 2014, Fred Tharp of HQ Construction, granted change approval for this change order and on September 11, 2014, he granted approval to proceed. See **Attachment A**.

On September 9, 2014, Mike Morishige of OR Construction, granted change approval for this change order. See **Attachment B**.

On September 2, 2014, Jon Deffenbacher, Fife Project Engineer, granted change approval. See **Attachment C**.

#### **Entitlement**

Contaminated material was not identified in the NW Pond excavation, nor did the contract require disposal of that material at a Subtitle D landfill. The Contractor is entitled to compensation for added work associated with the excavation, haul and disposal of contaminated material resulting from this Changed Condition, in accordance with Section 1-04.7.

***Excavation and Haul:*** The unit bid item for NW Pond excavation is no longer applicable to this work due to the location and operating hours of the LRI landfill. The landfill is located further from the project than the contractor's chosen disposal site, and the route follows heavily congested arterials instead of limited access freeway. This results in increased haul times from the project site. Additionally, LRI has limited hours of operation that result in reducing the volume of material that the Contractor can haul each day. The Contractor is entitled to additional compensation for the increased hauling time and the added labor and equipment associated with lower daily production.

***Disposal:*** The unit bid item for NW Pond excavation included excavation, haul, and disposal. In addition to entitlement for changes to the excavation and haul, this change order requires disposal of the pond excavation at the LRI landfill. The tip fee at LRI is significantly higher than the Contractor's chosen disposal site. Therefore, the Contractor is entitled to the added cost to dispose at LRI.

**Price**

The total estimated net change to the contract is \$1,187,720.00.

An Independent Engineer's Estimate was completed by the Project Office to demonstrate that the agreed upon pricing is appropriate. The prices for the new items were estimated using independent quotes, past project cost data, and time analysis. **See Attachment D.**


Two new items were added to replace unit bid price for NW Pond Excavation. One "ton" item compensates for excavation and haul to the disposal facility. The other "ton" item compensates for disposal at LRI.

This change order deleted the quantity of BI# 32 from the Contract.

**Contract Time**

Contract time will be addressed in a separate change order.

JD:eg

PC 

**Attachments to Memorandum**

Change Order No. 009 – NW Pond Contaminated Material

Attachment A: HQ Change Approval.

Attachment B: OR Change Approval.

Attachment C: PE Approval to Proceed.

Attachment D: Independent Engineer's Estimate.

Change Order Checklist

cc: 8607, 4 – Change Orders;  
C/O; Electronic File

**WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION  
CHANGE ORDER**

DATE: 09/30/14  
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**CONTRACT NO:** 008607  
**CONTRACT TITLE:** I-5, M ST TO PORTLAND AVE - HOV  
**CHANGE ORDER NO:** 9 NW POND CONTAMINATED MATERIAL

**FEDERAL AID NO:**

**PRIME CONTRACTOR:** [REDACTED] MAX J. KUNEY COMPANY  
120 N RALPH ST  
SPOKANE WA 99202-4744

Ordered by Engineer under the terms of Section 1-04.4 of the Standard Specifications

Change proposed by Contractor

|  |  |
|--|--|
| <p><b>ENDORSED BY:</b><br/><br/>_____<br/><b>CONTRACTOR</b></p> <p><u>10-6-14</u><br/>_____<br/><b>DATE</b></p> | <p><b>SURETY CONSENT:</b><br/>_____<br/><b>ATTORNEY IN FACT</b></p> <p>_____<br/><b>DATE</b></p> |
|--|--|

**ORIGINAL CONTRACT AMOUNT:** 98,175,443.97  
**CURRENT CONTRACT AMOUNT:** 98,179,476.22  
**ESTIMATED NET CHANGE THIS ORDER:** 1,187,720.00  
**ESTIMATED CONTRACT TOTAL AFTER CHANGE:** 99,367,196.22

Approval Required:       Region       Olympia Service Center       Local Agency       PE

|  |   |
|--|---|
| <p><input type="checkbox"/> APPROVAL RECOMMENDED      <input type="checkbox"/> EXECUTED</p> <p><br/>_____<br/><b>PROJECT ENGINEER</b></p> <p><u>10/20/14.</u><br/>_____<br/><b>DATE</b></p> | <p><b>EXECUTED:</b> </p> <p>_____<br/><b>STATE CONSTRUCTION ENGINEER</b></p> <p><u>10-23-14</u><br/>_____<br/><b>DATE</b></p> |
| <p><input checked="" type="checkbox"/> APPROVAL RECOMMENDED      <input type="checkbox"/> EXECUTED</p> <p><b>REGIONAL ADMIN:</b><br/><u>Kevin J. Dayton</u><br/>_____<br/><b>BY:</b> <u>Michael M...llize</u><br/>_____<br/><b>DATE</b> <u>10/23/14</u></p>                    | <p><b>OTHER APPROVAL WHEN REQUIRED</b></p> <p>_____<br/><b>SIGNATURE</b>      <b>DATE</b></p> <p>_____<br/><b>REPRESENTING</b></p>  |

**WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION  
CHANGE ORDER**

DATE: 09/30/14  
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**CONTRACT NO:** 008607

**CHANGE ORDER NO:** 9

All work, materials, and measurements to be in accordance with the provisions of the Standard Specifications and Special Provisions for the type of construction involved.

This contract is revised as follows:

**Description:**

This change order compensates the Contractor for excavating, hauling and disposing of contaminated material discovered in the NW Pond excavation.

**Construction Requirements:**

The Contractor shall remove and dispose of all excavation material from the NW Pond as staked by the Engineer.

The excavation shall be disposed of at the following location unless otherwise approved by the Engineer in writing:

IRI Landfill  
30919 Meridian Street East (SR161)  
Graham, WA 98338  
(253) 875-1976

**Measurement:**

The new item "CO# 009 NW POND CONTAM. EXCAV. INCL. HAUL" will be measured per ton in accordance with Section 1-09.2.

The new item "CO# 009 NW POND CONTAM. MATL. DISPOSAL" will be measured per ton in accordance with Section 1-09.2.

**Payment:**

Payment will be made in accordance with Section 1-04.1 for the following new items:

"CO# 009 NW POND CONTAM. EXCAV. INCL. HAUL", per ton. This unit price shall be full pay for all costs associated with excavation, handling and hauling of the NW Pond contaminated material to the disposal site as described in this change order.

"CO# 009 NW POND CONTAM. MATL. DISPOSAL", per ton. This unit price shall be full pay for all costs associated with disposing of the NW Pond contaminated material described in this change order.

The existing bid item #32 Roadway Excavation Incl. Haul - Area NW Pond is deleted.

**Contract Time:**

Contract time will be addressed in a separate change order.

**WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION  
CHANGE ORDER**

DATE: 09/30/14  
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| <b>CONTRACT NO: 008607</b> |          |          |                  | <b>CHANGE ORDER NO: 9</b> |            |                |                |
|----------------------------|----------|----------|------------------|---------------------------|------------|----------------|----------------|
| ITEM NO                    | GROUP NO | STD ITEM | ITEM DESCRIPTION | UNIT MEASURE              | UNIT PRICE | EST QTY CHANGE | EST AMT CHANGE |

|      |    |      |   |      |       |            |              |
|------|----|------|---|------|-------|------------|--------------|
| 0032 | 01 | 0330 | ROADWAY EXCAVATION INCL. HAUL - AREA NW P | C.Y. | 16.50 | -17,720.00 | -292,380.00  |
| 1003 | 01 |      | CO#009 NW POND CONTAM. EXCAV. INCL. HAUL  | TON  | 15.00 | 31,160.00  | 467,400.00   |
| 1004 | 01 |      | CO#009 NW POND CONTAM. MATL. DISPOSAL     | TON  | 32.50 | 31,160.00  | 1,012,700.00 |

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1,187,720.00  
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