

January 23, 2026

Patrick Prendergast, P.E.

Vice President

Skanska USA Civil

18911 North Creek Parkway, Suite 300

Bothell, WA 98011

WSDOT SL No. 9727-248

Reference: **Contract No. 9727**
I-405, Brickyard to SR 527 Improvement Project

Subject: **RE: Skanska Letter No. 308, RE: WSDOT SL No. 9727-224 - Contaminated
Soil at Old Burlington Northern ROW**

Mr. Prendergast:

WSDOT has reviewed Skanska Letter No. 308 (Skanska SL-308), RE: WSDOT SL No. 9727-224 – Contaminated Soil at Old Burlington Northern ROW, dated December 30, 2025.

Based on its review of Skanska SL-308, and further consideration of the Contract, WSDOT has determined that the contaminated soil encountered at the King County Parks / former BNSF railroad right-of-way does not qualify as a Differing Site Condition (DSC).

WSDOT's re-evaluation accounts for the information provided in RFP Appendix E, including HazMat Addendum E09a2 and HazMat Update E09a5, together with the requirements of RFP Section 2.8.5.8, Hazardous Materials, which states:

“Known contamination has been identified within the ROW. The Design-Builder shall refer to the Hazardous Materials Report in Appendix E. All identified contamination shall be addressed in the RFC Documents.

The Design-Builder shall refer to Appendix E for the specific site information included in the Hazardous Materials Reports - SR 522 to SR 527 ETL Project. The Work shall include inspection, mitigation, handling, and disposal of any known or suspected contamination. ...”

WSDOT therefore agrees with Skanska that a DSC does not exist under GP 1-04.7 for the contaminated soil encountered in Area 5.

However, WSDOT does not agree with the Contract basis for Force Account payment as presented under Skanska SL-308. In short, the removal of Hazardous Materials encountered in

Area 5 is Contract Work and therefore not compensable under Force Account. RFP Section 2.8.5.8 describes the Work as including inspection, mitigation, handling, and disposal of any known or suspected contamination. General Provision 1-04.1(1), Work Included in the Contract, states:

“The Design-Builder acknowledges and agrees that, subject only to the Design-Builder’s rights under Section 1-04.4 and its rights to receive Change Orders as expressly provided herein, the Contract Price includes (a) all designs, permits, equipment, materials, labor, insurance and bond premiums, home office, jobsite and other overhead, profit, and services relating to the Design-Builder’s performance of its obligations under the Contract Documents (including all Work, equipment, materials, labor, and services provided by Subcontractors and intellectual property rights necessary to perform the Work); (b) performance of each and every portion of the Work; ...”

Skanska’s performance of Work, as required per RFP Section 2.8.5.8, is included in the Contract Price per General Provision 1-04.1(1), Items (a) and (b).

Under SL-308, Skanska cited RFP Appendix B3, Special Provisions, General Special Provision (GSP) 2-02.5.OPT7.GR2 in support of Force Account compensation for removing the Hazardous Materials encountered in Area 5. The citation of GSP 2-02.5.OPT7.GR2 is unfortunate insofar as it pertains to the measurement and payment for Hazardous Material removal. General Provision 1-03.3, Integration of Standard Specifications and Cited References into Contract, states:

“The Standard Specifications Divisions 2 through 9, excluding measurement and payment, are incorporated by reference into the Contract.”

General Special Provisions pertinent to measurement and payment, as established under the Standard Specifications, are therefore not applicable to this Contract. This is also stated under General Provision 1-01.3, Definitions, which defines Standard Specifications as:

“Standard Specifications – Divisions 2 through 9 of the WSDOT *Standard Specifications for Road, Bridge, and Municipal Construction* M 41-10, subject to the modifications set forth in Section 1-03.3 and modifications contained in the Special Provisions. Division 1 of said publication is superseded in its entirety by these *General Provisions*.

General Provision 1-03.3 takes precedence over and precludes the application of GSP 2-02.5.OPT7.GR2.

If there is a question regarding RFP Section 2.8 and the list of Mandatory Standards under Section 2.8.2, wherein Special Provisions are shown to take precedent over the Standard Specifications, General Provision 1-03.2, Order of Precedence, states:

“Notwithstanding the order of precedence listed above:

- ...
2. *In the event of a conflict among any Mandatory Standards, the order of precedence designated in the Technical Requirements regarding said standards shall prevail. The Technical Requirements shall take precedence over all Mandatory Standards listed within the Technical Requirements."*

In addition, General Provision 1-03.2 places greater precedence on Chapter 1 General Provisions relative to Chapter 2 Technical Requirements which brings the issue back to previously cited General Provision 1-03.3. Contractual layers of precedence preclude the application of GSP 2-02.5.OPT7.GR2.

The Work to remove contaminated soil encountered at the King County Parks / former BNSF railroad right-of-way does not qualify as a Differing Site Condition (DSC), is included within both the Contract scope of Work and Contract Price, and is not eligible for additional compensation.

If Skanska does not agree with WSDOT's determination, Skanska shall follow the protest procedures per General Provision 1-04.5.

If you have any questions, please contact me at (425) 495-1577.

Sincerely,



Evelyn Pao, P.E.
Project Director
EP:js

cc: D. Case, D. Holmquist, J. Slavicek, S. Berriz, B. Kane, J. Zimmerman, N. Bergeman, R. Gehrlein, E-File