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JAN 23 2003
District Construction

Mr. Frank J. O'Dea, P.E.
Florida Department of Transportation
719 S. Woodland Blvd. MS 3-56
Deland, Florida 32720-6834

Rob Brown
Hubbard Construction Company
P.O. Box 547217
Orlando, Florida 32854-7217

Re: I-4 Auxiliary Lanes Design/Build
Financial Project No. 2424991-1-52-01

Subject – Soil Replacement Claim

Gentlemen:

On January 6, 2003 at the request of the Contractor, Hubbard Construction Company, the Dispute Review Board (DRB) conducted a hearing to consider a dispute concerning the removal and replacement of in-situ sub grade soils. Both Hubbard and the Department of Transportation submitted documents to the DRB prior to the hearing and presented testimony during the hearing.

Dispute:

The Contractor has requested entitlement for what he believes was the unnecessary replacement of in-situ sands that exceeded the minimum permeability requirements of S+ soils.

Contractor's Position:

On a Design Build Job, the Design-Build Firm designs the structural components, using sound engineering judgment and experience. The FDOT did not allow the Design Build Team to perform its duties; reverting to traditional role of designer.

Hubbard determined that the in-situ soils would meet the criteria for soils beneath the concrete pavement. Hubbard anticipated that the vast majority of in-situ soils would be left in place based on an engineering evaluation.

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Departments Position:

The requirements for the A-2-4 material were clear in the Specifications. The Contractor took the risk when he assumed that any deviation would be approved. A-2-4 materials exceeding 12% fines have not consistently produced the desired level of performance.

Findings:

The RFP required Asphalt-Treated permeable base, however, at the Question and Answer session, prior to submission of the priced proposals, the DOT allowed either option stated in Standard Index 505, for sub grade.

The Design/Build Team conducted intensive research that indicated the in-place material, even with up to 15% fines passing the 200 sieve, had very high permeability numbers.

It was the FDOT position that when more than 12% fines are in a material used for sub grade it will affect the pavement performance and additional problems can occur now or in the future.

The Design/Build Team felt some leeway should be given because the existing pavement is performing well.

The FDOT countered that more than one Project has been let to replace failed slabs on I-4 so there is concern about pavement durability.

The FDOT concluded that the requirements for the A-2-4 material in the Specifications and Standard Index were clear.

The FDOT provided studies that concluded that the Special Select soil criteria on Index 505 are the minimal standards required to produce the desired level of rigid pavement sub grade performance.

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The Design/Build Team stated that the Department did not adhere to the processes outlined in the RFDPM to fairly evaluate the use of special select soils with greater than 12% fines.

FDOT stated that their decision was based on the potential future maintenance cost and travelers inconvenience.

The Roadway and Traffic Design Standard Index 505 states that to be acceptable as (S+) soils must meet the permeability requirements, be non-plastic, and not exceed 12% passing the No. 200 sieve.

Recommendation:

After FDOT allowed either option provided in Index 505, (only Treated Permeable Base was allowed in RFP) the DOT was fully justified in adhering to all the requirements in Index 505. Therefore, it is our recommendation that the D.O.T. is not liable for any claim related to soil replacement.

The Board appreciates the co-operation by all parties involved and the information provided to make this recommendation.

Please remember that failure to respond to the DRB and other party concerning your acceptance or rejection of the DRB recommendation within fifteen (15) days will be considered acceptance of the recommendation.

Respectfully submitted

Dispute Review Board

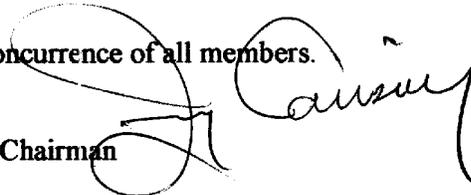
Jimmy Lairscey, Chairman

Sam Thurman, DRB Member

Peter A. Markham, DRB Member

Signed for and with the concurrence of all members.

Jimmy B. Lairscey, DRB Chairman

A handwritten signature in black ink, appearing to read "Jimmy B. Lairscey", is written over the typed name of the chairman. The signature is fluid and cursive.