

October 16, 1998

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Mr. Emillo, F. Mascaro
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Re: State Project No.: 97870-3313
Contract No.: 19,727
Description: Bird Road Toll Plaza Replacement Florida Turnpike
County: Dade

SUBJECT: Recommendation of Disputes Review Board
Conflict Between Proposed 3" Sanitary Sewer Force Main and Existing Trees

Florida Rock and Sand Co. Inc. (FRS) is a subcontractor to the Contractor, RECCHI America, Inc., (RECCHI) on this project. Construction of a 3" Sanitary Sewer Force Main is among the work to be done by FRS on the project. FRS disputes rejection by DOT of their request for payment for additional costs allegedly incurred by them due to an unanticipated conflict between the sanitary sewer force main and trees that existed along the alignment of the force main and RECCHI has authorized them to bring the dispute before the project Disputes Review Board (DRB).

FRS submitted a written statement supporting their position on the issue in dispute to the DRB and to the Department of Transportation (DOT). ICF Kaiser Engineers submitted a written rebuttal stating the position of DOT in regard to the disputed issue to the DRB and the Contractor.

The DRB held a hearing on October 6, 1998 to consider the positions of the parties to the contract. Verbal testimony was received. The DRB is to consider only matters of entitlement at this time.

ISSUE:

While laying a 3" PVC Sanitary Sewer Force Main from South to North near the West Turnpike Right of Way line, FR&S encountered a conflict with a line of existing trees, relocated from other areas of the project, which were on the same alignment as the proposed sanitary sewer force main. FR&S submitted a request for compensation for time lost and the value of labor and equipment costs incurred based on an alleged delay in DOT resolving the alignment of the sanitary sewer force main. DOT rejected this claim.

State Job No. 97879-3313 DRB Hearing on Conflict of Proposed Sanitary Sewer Force Main with Existing Trees

CONTRACTOR'S POSITION

On April 22, 1998, FR&S encountered a conflict between 3" sanitary sewer force main construction and a line of existing trees that stopped our operation until DOT issued instructions on realignment of the force main. We gave notice of this conflict to RECCHI on April 30, 1998 and also requested a plan revision to resolve the problem. On May 1, 1998, ICFK responded to our request stating, "It is permissible to re-align the service force main to the east a distance to avoid a conflict with the existing tree line". This response was vague and incomplete so we pursued the matter with RECCHI. On May 22, 1998 we received from ICFK a plan showing the revised location of the force main.

We extended the pipe trench, on an alignment closer to the project centerline, to a point beyond the beginning of the trees, However, we did not want to install the pipe until we had received a specific location from DOT.

It was not until June 3, 1998 that DOT advised us that we had been constructing the force main on an incorrect alignment.

We incurred work stoppages due to this unanticipated conflict for which we are due additional compensation. Our construction schedule was impacted while awaiting definitive instructions from DOT.

DOT POSITION

The plans indicate that the force main in question is to located parallel to and at a distance of 41 feet from baseline construction for S.W. 118th Ave. (See Plan Sheet C-113 (Mainline Plaza Southbound-Site Plan) which is referenced on Plan Sheet No. C-102 (Project Utility Plan)). FR&S laid out and was installing the force main at a distance of 36.5 feet from the base line. If they had laid out the force line correctly, there would have been no conflict with the trees.

It is noted that, in accordance with a photo taken on 4/22/98, FR&S excavated a section of the pipe trench opposite the trees on a deflected alignment for a distance of 185 feet before stopping work on the force main.

Regardless of responsibility, the work required to realign this pipe was incidental in nature.

State Job No. 97879-3313 DRB Hearing on Conflict of Proposed Sanitary Sewer Force Main with Existing Trees

ICFK gave a timely response to the FR&S request for information, but FR&S drug this matter out by insisting on more specific written direction on how to "relocate" the force main. The response given on May 1, 1998 was adequate for the work to proceed. It should be noted that FR&S encountered the conflict on April 22, 1998, but did not give notice of this to RECCHI until April 30, 1998.

ICFK checked the location of the previously laid pipe only after FR&S continue to pursue the matter of insufficient detail being furnished.

DRB FINDINGS

FR&S laid out and was placing the force main on an incorrect alignment. If the lay out had been correct, there would have been no conflict with the trees.

The instructions issued by ICFK on May 1, 1998 appear to be adequate to allow placing of the force main to proceed.

No evidence was introduced to explain why FR&S waited from April 22, 1998 to April 30, 1998 to notify RECCHI.

DRB RECOMMENDATIONS

There is inadequate justification for additional compensation to the Contractor or extension of the allowable contract time.

I certify that all members of the DRB participated in all meetings of the DRB regarding this dispute and that all DRB Members concur with the findings and recommendations contained herein.

10/16/98
Date


H. Eugene Cowger, P. E.
Chairman