STATE ARBITRATION BOARD

ORDER NO. 1-2014

RE:

Request for Arbitration by Highway Safety Devices (Ajax Paving)

Job No. 419330-1-52-01
Counties Highlands, Sarasota, Okeechobee

The following members of the State Arbitration Board participated in the disposition of this matter:

Don Henderson, P.E., Chairman
John C. Norton, P. E., Member
Tom Byron, P.E., Member

Pursuant to a written notice, a hearing was held on a request for arbitration commencing at 9 AM. on 17 February 2014.

The plans call for a 12" Prepared Soil Layer to be constructed in accordance with Index 105, Treatment II, option 2 shown on plan sheets 3, 4, & 5.

The basic issue is should the Contractor be compensated for the borrow material used to bring the shoulders up to meet line and grade be paid as borrow (pay item 120-2.2) or is it paid as part of Prepared Soil Layer 12" (pay item 162-1.2)?

Section 162 of the Specifications address's the requirements for the Prepared Soil Layer. The description of 162-1.2 Finish Soil Layer states in part : *Unless otherwise called for on the plans, prepare a 6 inch thick layer of existing soil mixed with imported material, if necessary, to achieve the pH and organic matter levels required in Section 987,...*

The Contractor argued that this Specification does not include the borrow material required to bring the slope up to line and grade. Therefore, any borrow required to meet line and grade should be paid under the 120-2.2 pay item in the contract. The argument was that this is two separate operations.

The Department argues that all compensation for the Prepared Soil Layer is included in the pay item 162-1.2.

Index 105 notes state in part:

B. Borrow may be used in lieu of excavated turf and topsoil...meet the requirements of Section162 "Finished Soil Layer". ***There will be no additional payment for substituting borrow for excavated turf and topsoil.***

In the Board's review of all the contract documents regarding the Prepared Soil Layer operation we find, in the Specifications under Section 162 Prepared Soil Layer, the following:

162-7 Basis of Payment. *Prices and payment will be full compensation for completing all work specified in this Section, including* ***furnishing, hauling, and placing materials to the line and grades*** *as shown in the plans.*

This specification clearly states that all operations required to construct the Prepared Soil Layer is included in the *Item No. 162-1- Prepared Soil Layer-per square yard.*

The Board Members, having fully considered the evidence presented at the hearing, now enter their Order No. 1-2014 in this cause.

ORDER

There is no additional compensation due the Contractor.

The Contractor is ordered to reimburse the Court Reporters fee of $598.20 to the Board.

Dated: 7 March 2014

Certified Copy:

John C. Norton, P. E.
Member

Chairman & Clerk SAB

Tom Byron, P.E.
Member