

**August 12, 2000**

**Mr. Rick Roberts  
FDOT District 1 Construction Engineer  
PO Box 1249  
Bartow, FL. 33831-1249**

**Mr. John Hardy  
Atlantic Civil, Inc. (f/k/a FRS)  
9350 S. Dixie Highway  
Miami, FL. 33034**

**Re: Project: SR 951 from Marco Island Bridge to South of New York Dr.  
State Project No. 03030-3509  
WPI No. 1114091  
FN 195320-1-52-01  
First District  
Issue # 4**

**Dear Sirs:**

The Florida Department of Transportation (Department) and Atlantic Civil, Inc. (ACI) requested a hearing concerning entitlement and quantum associated with the installation of the concrete sheet piling on the above project. Summaries of the Department's and ACI's positions were forwarded to the Disputes Review Board (DRB), and a hearing was held on August 1, 2000. Representatives of FDOT, LBA, and ACI were present at the hearing. GCI chose not to attend the hearing.

**ISSUE: Is the Contractor entitled to additional compensation for indirect costs associated with the impacts incurred and if so, the Contractor desires for the Board to determine quantum.**

**Contractor's Position**

ACI submitted a package from his subcontractor, Gimrock Construction, Inc. (GCI), containing what they believe the impacts and costs incurred to be.

Two schedules entitled "Baseline Construction Schedule" and "Concrete Sheet Piling Impact" were included. The latter schedule indicates a 56 day extended duration required to install the sheet piling. The total amount of the claim is \$417,104.98 and is summarized as follows:

Concrete Sheet Piling Production	\$267,522.01
Credit for Existing Pay Items	(\$66,596.70)
Cost of Extended Duration	<u>\$216,179.67</u>
<b>Total</b>	<b>\$417,104.98</b>

**Department's Position**

On September 15, 1999 Florida Rock & Sand, Inc. signed and agreed to \$245,244.66 and (0) zero additional days as full and final settlement of the claim by Mr. Steve Torcise, Jr., President of FRS.

Contract Subarticle 8-13.1 states that Incentive/Disincentive will only be extended in the event of a hurricane or declared state of emergency. It also states that any and all costs and impacts whatsoever to overcome any such delays or events are the sole responsibility of the Contractor.

The Approved CPM Activity 1100 -Form, Rebar and Pour Deck was completed on 15May99, nine days ahead of the Early Finish Date of 24MAY99 for the Bay Bridge. The Late Finish Date was 14JUN99 for both bridges in the approved FRS CPM Submittal, and both bridges were completed before this with the Phase 11 Traffic Switch completed on June 17, 1999.

Therefore, since the contract documents do not allow for any delays or costs associated with alleged delays except due to Hurricane or state of emergency; and since the Contractor accepted a Supplemental Agreement as full and final settlement; and the bridges were completed in accordance with the Contractor's approved CPM schedule, there is no delay and no additional compensation or time is due to the Contractor.

**DRB Findings**

- The schedules submitted by GCI do not appear to be the same schedules approved by the Department.
- In a letter from the Department to Mr. Robert Murphy, and signed by Mr. Steve Torcise, President, ACI agreed to compensation in the amount of \$245,244.66 as full and final settlement for the extra work involved with the concrete sheet piling.

**DRB Recommendation**

In light of the above the Board finds no entitlement to the Subcontractor's position and recommends in favor of the Department.

The Board appreciates the cooperation by all parties involved and the information provided to make this recommendation. Please remember that failure to respond to the DRB and the other party concerning your acceptance or rejection of the DRB recommendation within 15 days will be considered acceptance of the recommendation.

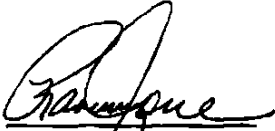
I certify that I participated in all of the meetings of the DRB regarding the Dispute indicated above and concur with the findings and recommendations.

Respectfully Submitted,

Disputes Review Board

Rammy Cone, DRB Chairman  
John Duke, DRB Member  
Charlie Sylvester, DRB Member

SIGNED FOR AND WITH THE CONCURRENCE OF ALL MEMBERS:



Rammy Cone  
DRB Chairman

CC: Steve Torcise, Atlantic Civil, Inc.