

May 11, 2008

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KCCS  
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RE: Regional Dispute Review Board Hearing  
SR 55 (US 19) Citrus County Line to Ten Mile Creek  
FIN 210376-2-52-01/210376-5-52-01

The Regional Dispute Review Board held a hearing April 30, 2008 at the request of the Contractor. The issues involve excavation required to meet the Plan Template, restoration and/or maintenance of turf on reworked shoulders.

#### CONTRACTOR'S POSITION

The Contractor relied on the cross sections shown in the plans in preparation of their bid. The only excavation indicated on the plans was loaded directly on the trucks by milling machine and hauled off site. The excavated soil at issue is generated after removal of all excavation shown on the drawings. The Contractor claims there is a Plan Error in the cross sections that does not accurately reflect the conditions encountered in the field. The cross sections depicted an embankment condition that indicated very little excavation other than required for Base Widening. They are requesting compensation for all cost and time incurred for the removal of excavated soil that was not shown on the plans, as well as for all cost and time incurred for restoration and/or maintenance of turf caused by the work indicated on the plans.

#### DEPARTMENT'S POSITION

The Department references Specification 2-3.1 - Lump Sum Contracts: The Bidder is responsible for the determination of the quantities of those items constructed within the authorized plan limits or dimensions. The Department does not assume responsibility for any incidental information in bid documents that may be construed as a quantity of work and/or materials. Plan cross sections only provide existing elevations at centerline of construction.

Specification 2-4 requires the Contractor to examine the site carefully before submitting a proposal for the work contemplated. Investigate the conditions to be encountered, as to the character, quality, and quantities of the work to be performed. The Department maintains that the work is not unforeseen. The shoulder slopes should have been examined during the site visit prior to bidding. There was no Pre-bid mention of the cross section issue raised.

Contractor's and Designer's survey data was compared by the Engineer of Record. Minor elevation differences occurred which are considered acceptable. The maximum deviation found was -0.27 feet, which occurred at three of the sections. The Department maintains that Supplemental Specification 104-6 directs the Contractor to incorporate permanent erosion control features into the project. Index 104 clearly identifies the areas to be turf.

## BOARD'S SITE VISIT

The Board visited the project site prior to holding the Hearing. We observed areas at stations 352, 418, and 432 that had been graded for sod. We were able to see that excavation was required in excess of boxing out for base work, in order to maintain cross slopes and positive drainage.

## BOARD FINDINGS

The Board has carefully reviewed all materials furnished by the Parties, visited the project site, listened to oral presentations and rebuttals by both parties. In regard to Grassing the Departments presentation said "spilling of excess material over the shoulder slopes will meet the intent of the Performance Turf specification if the existing sod re-establishes itself sufficiently in this area prior to final acceptance." If the existing sod does not re-establish itself, then the Contractor is entitled to additional compensation for whatever work he has to do to bring the area up to specification 570-1. Section 570-4 clearly states that the limits of grassing are to be indicated on the plans. The only grassing limits shown on the plans is the sod placed adjacent to the new shoulders. Lump Sum contracts require that all work required to be clearly shown on the plans. The Board finds entitlement for any grassing required other than the sod shown on the plans.

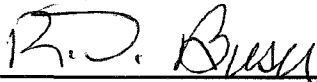
## ADDITIONAL EXCAVATION

The cross sections are shown at 1,000 feet intervals. This distance is too great to be of any benefit for quantity take-off. The distance should not exceed 100 feet for earthwork calculations to be reliable for quantity estimates. Therefore, the Contractor should have used the actual ground conditions on the project for his estimation (by the use of a smart level, or survey data, or other methods) of the amount of excavation he would encounter. The Specifications for Lump Sum projects specifically assign all quantity determination to the Contractor. The Contractor stated that he used a milling machine to excavate for the new shoulders. He also stated that the milling head was wider than the plan width thus generating more excavation than was required. It would be impossible to determine what quantity of additional excavation was generated by the over sized milling heads and what quantity (if any) was generated by any supposed deviation from the original ground line. Therefore, the Board finds no entitlement to additional compensation for earthwork.

Respectfully Submitted,

Regional Dispute Review Board  
Robert Buser, RDRB Chairman  
Peter Markum, RDRB Member  
Bill Downs, RDRB Member

Signed by Board Chairman with Consent of All



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