

DISPUTE REVIEW BOARD RECOMMENDATION

March 8, 2012

Robert Tanksley
Project Manager
Costello Industries, Inc.

Greg Dutton, P.E.
Senior Project Engineer
CDMSmith

RE: SR9 (I-95) FIPN 213217-2-52-01
Contract No. T2359
FAP No. 09552831

SUBJECT: Hearing Conducted March 1, 2012

ISSUE: I-95 TCC Use in Lane Closures

Dear Sirs,

The Contractor, Costello Industries, Inc., has advised that "In summary CII is requesting blue lights police officers for lane closures be paid for by the department as stipulated in the plans and preparation manual and confirmed "precedence" from project #213113-2-52-01."

The Florida Department of Transportation and their consultant, CDMSmith position is that the contractor is not entitled to separate payment for any officers of any kind (i.e. Traffic Control (TCC), Law Enforcement(LEO), etc..used for lane closures.

THE BOARD FINDINGS:

Both parties used the Plans Preparation Manual (PPM) and comp book to support their positions. This Board can only make recommendations based on the contract documents. The PPM and comp book are not part of the contract documents.

- o SPECIFICATION SECTION 102-7 Traffic Control Officer states: Provide uniformed law enforcement officers including marked law enforcement vehicles, to assist in controlling and directing traffic in the work zone when the following types of work is necessary on projects:
 1. Traffic in a signalized intersection when signals are not in use.
 2. When Standard Index No.619 is used on Interstate at nighttime, and required by the plans
 3. When pacing/rolling blockade specification is used.
- o Supplemental spec was added to include when pulling overhead wires etc., above an open lane when shown in plans

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- o CII bid price was \$50.00/per hour for 152 hours under pay item 102-14, for Traffic Control Officers.
- o CII references to a DRB recommendation on another DOT project does not create a "confirmed precedence" where there is a non-similar circumstance that led to payment on that job.
- o Item 999-102-2 is shown in the summary of pay quantities as a non-bid item for use of state-furnished Speed and Law Enforcement Officers, not as Traffic Control Officers which are included in Item 102-14. There is a distinct difference between the use of the two items.

The item 999-102-2 is not listed in the bid tabulations that was submitted by each bidder. This clearly indicates that there is no funding in this contract for that item. There are two other do not bid items in this contract with funding provided in the bid tabs.

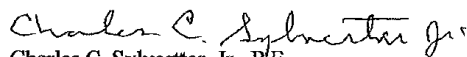
RECOMMENDATION OF THE BOARD:

Based on the findings of materials presented to the Board and presented at the hearing by both parties the Board recommends no payment for use of Traffic Control Officers for lane closures.

The Board appreciates the cooperation of all parties to this action. Please remember that acceptance or rejection of this recommendation is required within 15 days. Failure to respond within that time frame constitutes an acceptance by the non-responding parties.

I certify that I have participated in all meetings and discussions concerning the issues and concur with the findings and recommendation.

Dallas L. Wolford
 Don Henderson
 Charles C. Sylvester, Jr., P.E.


 Charles C. Sylvester, Jr., P.E.
 Chairman, DRB