

Florida Department of Transportation
Brannon Chatwood, Project Administrator
17 Commerce Blvd.
Midway, FL 32343

Seminole Equipment, Inc.
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February 5, 2010

**RE: BOARD FINDINGS - Regional Dispute Review Board Hearing
Cleaning and Painting All Steel Columns & Partial Concrete Pile Jacket Removal on
Bridges No. 550050 and 550089, S.R 8 (I-10) over the Ochlocknee River in Leon County
FPID 420161-1-52-01; Contract No. E3G67**

Date of Hearing: January 25, 2010

Hearing Venue: Midway Operations Center, Midway, FL

Issue Summary

According to the FDOT denial letter dated January 4, 2010 the Contractor ceased work on the project because of a difference in the interpretation of how the Pile Jacket repair was to be made. A meeting was held on May 7, 2010 in the FDOT Midway Operations offices with the FDOT and the contractor in an attempt to resolve their differences. The contractor subsequently completed the work per department instructions and filed a claim for compensation for extra work due to the fact they claimed that the wording "partial removal" and "remove the damaged areas" meant that they did not have to remove and replace the entire pile jacket at a location containing damaged concrete, but could only remove the side of the jacket that was damaged, leaving the undamaged concrete on the other three sides of the jacket.

The parties were unable to resolve the issue and requested the Regional Dispute Review Board to schedule a hearing, which was held January 25, 2010 at the Midway Operations center. The Parties submitted position papers and rebuttals to the Board prior to the hearing. Both parties made oral presentations to the Board.

Owner's Position

The method for pile jacket removal is prescribed in the Pile Jacket Removal Detail on Sheet No. B-6 in the Plans. This detail illustrates sawcutting to the face and around the entire perimeter of the pile. The contractor's initial removal efforts consisted of chipping away concrete from the pile jacket by the use of manual, hand-held chipping hammers, leaving non-uniform irregular shapes and surfaces on the flanges of the steel H-piles, which is in direct violation of the Contract Documents. The Contract documents require the contractor to "sawcut pile jacket to base of pile."

The Contract Documents establish the maximum pile jacket removal of two feet unless the damaged area exceeds two feet, in which case, the contractor is instructed (Sheet B-6 Bent Details, Note 1) to "remove all damaged areas in excess of the limit shown in this sheet as directed by the Project Administrator."

The wording "repair of concrete pile encasements and bents will be performed by others" does not imply that another contractor will perform the work that this contractor was contracted to perform.

The department disputes the allegation by the contractor that "Contract Documents should have been revised with more accurate information prior to letting."

Contractor's Position

The Contract Documents do not require the contractor to remove undamaged portions of the pile jackets. The contract Documents (TSP T560-1) provide only for the cleaning and painting of steel H-piles. The documents state that "repair of concrete pile encasements and bents will be performed by others."

The Contract Documents do not require the contractor to cut the concrete pile jackets below the maximum of two feet in the absence of direction from the Project Administrator prior to the start of the work. Drawings for this project were prepared in 2007 – two years have elapsed until the project was bid – and FDOT should have revised these drawings with more accurate information.

“The removal of undamaged concrete and removal of concrete beyond the maximum area of two feet, as directed by FDOT and satisfactorily completed by Seminole, was beyond the scope of the work in the Contract Documents and should constitute extra work for which additional compensation should be paid in full.”

Board Findings

Sheet 24 of 135 of the original plans, provided in the plans for this project as Sheet BX1-3 defines the term “pile jacket” to mean a complete encasement of the pile, either the entire circumference of a round pile, or all four sides of a square pile (see Section ‘B-B’). This, along with the Pile Jacket Removal Detail on Sheet B-6, clearly indicates what a Pile Jacket is and what is to be removed and does not support the contractor’s position that his company could only repair one face of a square pile.

The issue regarding the contract wording “repair of concrete pile encasements and bents will be performed by others” is inconsequential since it is in the Technical Specifications on Maintenance Painting, not concrete jacket removal. The instructions for concrete jacket removal are clear. The contractor stated during questioning by the Board that his company undertook no action or inaction based upon the wording “repair of concrete pile encasements and bents will be performed by others”.

The issue of the two feet maximum cutting / repair height with a requirement to cut more if more concrete was damaged was judged to be a non-issue because the contractor said during questioning that although there was some misunderstanding and confusion on both sides regarding this issue, the confusion and misunderstanding was short-lived and was settled before the contractor undertook any action or inaction based upon any instruction given by the department during the time of the misunderstanding.

Under questioning by the Board, the contractor could not give any examples of how the contract documents could have been improved before letting the contract, except a reference to a table (not the Pile Jacket Removal Detail) on Sheet B-6 as being confusing and that the project that should not have been let as a Lump Sum contract. The contractor stated that his company undertook no action or inaction based upon the table in question and the contract type is not an issue that the Board can change.

Based on the information presented, the Board finds no entitlement to additional compensation for the contractor.

Respectfully Submitted,

Regional Dispute Review Board, District Three

R. Edward Minchin Jr., RDRB Chairman
Glenn N. Ivey, RDRB Member
Louis W. Songer, RDRB Member

Signed by the Board Chairman with Agreement and Consent of all


