

DISPUTES REVIEW BOARD RECOMMENDATION

HEARING DATE: March 13, 2012

Bill Waddell, P.E.

Greenhorne & Omara, Inc.

703 E. Hwy. 90

Bonifay, Fl. 32425

Lysle Tower

Anderson Columbia Co., Inc.

2316 Hwy. 71

Marianna, Fl. 32448

RE: Financial Project No. 407167-1-52-01

Contract No. T-3089

FAP No. 1011047P

SR79 Holmes Creek Bridge Replacement

Gentlemen:

The Florida Department of Transportation (FDOT) and Anderson Columbia Co., Inc (ACCI) requested that the Disputes Review Board (DRB) meet to hear both parties' position regarding six issues on the referenced project in Vernon, Fl. Issues #1-4 related to entitlement. Issues #5 and #6 related to quantum.

The DRB received Position Papers and Rebuttals within the time frames spelled out in the DRB Operating Procedures and on March 13, 2012, at 1:30 PM local time, the Board heard both sides discuss the issues.

## **FDOT's Position**

### **Issues # 1-3:**

The Department's Position on Issues #1-3 is that the Contractor noticed the Department that delays and additional costs for each of the three issues may occur; however, the Contractor did not provide delay and cost documentation within 30 days after the completion of each work item as required by Contract.

Further, the Department's position is that the piles were damaged by the Contractor's operations at no fault of the Department and should be replaced at no cost to the Department.

### **Issue #4:**

The Department's Position on Issue #4 is that the Contractor did not provide delay and additional cost documentation within 30 days after the completion of the work affected.

The Department contends the work was done with no loss of time or work effort.

### **Issue #5:**

The Department's Position on Issue #5 is that the Contractor did not provide required documentation within 30 days after the completion of the work.

**Issue #5 (cont.):**

The Position is that due to shaft wall collapse on 8L-2 the Department added 11 feet of depth which ultimately took 2 ½ days longer and was paid for at Contract rates as an overrun.

**Issue #6:**

The Department contends that the Contractor is paid for both the abandoned shaft work and the pilings at contract prices. Since the shaft had to be abandoned and replaced with a piling foundation, the Contract duration should be increased 1 day for plugging the shaft and 12 days for driving the pilings.

The Department's Position Paper is attached in its entirety, but without attachments, which are part of the job file.

## **Contractor's Position:**

### **Issues # 1-3:**

The Contractor's Position is that they were directed to remove 3 piles with damaged tips which allowed entry of sediment and silt. This work and other work required to replace these pilings was unplanned, extra work. ACCI contends that damage to the pilings was caused because they were required to overdrive the pilings.

### **Issues #4:**

ACCI contends that plan revisions to correctly show inserts and difficulties coordinating utility conduits in the approach slab caused delays and additional work, for which they should be compensated.

### **Issue #5:**

ACCI and their sub Case Atlantic were delayed and faced extra cost due to changed subsurface conditions. The Department directed adding 11 feet to the shaft at 8L-2 and an inordinate amount of sand was in the bottom. Also, ACCI did not receive timely direction from the Department.

Due to experiences at 8L-2, the foundation at 8L-1 was changed to require pilings. This caused added work, delay, an increased material cost.

Timelines and costs are presented showing 31 days of reduced efficiency – 5 days performing additional work and 26 days idle. Nineteen working days were used for figuring cost.

At 8L-1, 27 days were required instead of 3; so 24 additional days are requested. But, 17 working days are used for figuring cost.

Total cost for this issue is \$147,365.15.

**Issue #6:**

At 7L-1, conditions were encountered which required the shaft to be abandoned and an alternate foundation system was used which increased time and cost. A timeline is presented showing an increase of 42 days.

The additional cost for this issue is \$109,276.99.

**Overall:**

Contractor requests that 92 additional days be added due to Issues #5 and #6. Additional time to be requested for Issues #1-4.

Contractor requests total additional compensation for Issues #5 and #6 including allowable markup to be \$301,554.52. Additional compensation to be requested for Issues #1-4.

**Overall (cont):**

The Contractor's Position Paper is attached in its entirety; but, without attachments, which are available on request.

**FDOT's Rebuttal:**

The Contractor waived any entitlement by not complying with 8-7.3.2.

**Issues #1,2, and 3:**

The contractor is responsible for the failure and repair, because the piling were never driven in excess of driving criteria.

**Issue #4:**

The Contractor was able to set inserts in a timely fashion even as plan revisions were taking place. The Department is not aware of or party to any agreement between the Contractor and Gulf Power.

**Issue #5:**

The Contractor was able to perform other productive work while this issue was being worked out, except for 2 ½ days that it took to plug, ream and recover on 8L-2.

The Department is willing to pay for the additional piling at 8L-1. If this piling is at an increase to Contract prices, the increased cost will be paid when the Contractor provides valid documentation.

**FDOT's Rebuttal (cont):**

**Issue #6:**

The Contractor is due 7 days for the abandoned shaft; but, is also paid for all the work performed both shaft and piling. The Department will pay increased costs due to the additional piling paid when the Contractor provides valid documentation.

**Summary:**

Contractor has waived entitlement by not following 8-7.3.2.

Contractor is responsible for piling failures due to weld failures at tips.

Gulf Power problems caused no delays.

Three days should be added for 8L and seven days added for 7L.

Productivity increased during the period. The largest delay was caused by hammer problems.

The Department's Rebuttal is attached.

**Contractor's Rebuttal:**

The Contractor disagrees with the CEI/FDOT interpretation of the specifications, specifically 8-7.3.2, in that "the delay has not been fully realized." In all 6 issues controlling items of work were affected and the critical path was delayed.

ACCI believes that 5-12 requires the Contractor to provide "full and complete claim documentation" within 180 days after final acceptance.

**Contractor's Rebuttal (cont):**

ACCI provides schedule analyses to show that foundation operations were delayed.

**Issues #1-3:**

ACCI takes no issue with the driving criteria but believes they were required to “overdrive” causing the pile damage.

The Contractor is allowed up to 180 days after final acceptance to meet the requirements for claim documentation.

**Issue #4:**

ACCI spent months trying to get correct insert layout drawings. There were multiple iterations of revisions to plans. “ACCI traded numerous emails and telephone conversations ... and proceeded cautiously and with reduced productivity...”. Also, FDOT does not address that “ACCI ultimately furnished and installed ... electrical utility conduit” which was supposed to have been ordered by Gulf Power, as discussed months earlier.

ACCI “ are still within allowable timeframe for ...submittals.”

**Issue #5:**

The contractor is within timeframe for submittals for time and money.



**Contractor's Rebuttal (cont):**

**Issue #5 (cont):**

ACCI was delayed by indecision on the part of the CEI/FDOT. ACCI did work to mitigate the effect of the delay, but, "in an unproductive manner."

Plan sheet B1-21, note 7, gives ACCI the option to choose the foundation system, an option they were not allowed. Pipe pile prices had increased dramatically since bid time. The change in foundation system took nearly a month longer.

**Issue #6:**

FDOT does not account for how the design change affected ACCI's schedule progress. First, a time lapse occurred with no direction given. Then, the design change caused difficult conditions which took over a month longer to install.

Plan sheet B1-21, note 7 gives ACCI an option they were not allowed. Steel pipe prices had dramatically increased from the time of bid. ACCI was assured that increased material cost would be compensated.

The Contractor's Rebuttal is attached.

**FDOT's Verbal Rebuttal to Contractor's Rebuttal:**

The FDOT is waiting for valid invoice documentation and they are prepared to pay increased costs incurred since bid prices. Documentation provided so far is not from the correct time period.

Note 7 on Sheet BL-21 states that permission must be granted by the District Geotechnical Engineer.

The FDOT representative stated they just wanted to be fair, but, when they finally got something in writing it became apparent they could not agree, and therefore decided to go to DRB.

**Contractor's Verbal Rebuttal to FDOT's Rebuttal**

Several meetings have been held to discuss these issues and no one said anything about the time issue of 30 days vs. 180 days from final acceptance.

With delays, one thing depends on the next. These delays have not been fully dealt with yet, and continue to be critical.

The Contractor and Department were in conversations about time and money and when ACCI put something in writing they "are being told it's all out the window."

Contractor is due 92 days. Drilled shaft foundations take about 3 day, while pile foundations take in excess of 30 days.

The delay has not yet been fully mitigated. ACCI should have until 180 days after final acceptance to document.

**DRB Findings:**

Specification Sub-article 8-7.3.2 reads in part: “the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work... [and] a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit...[he] waives any entitlement...”

The full sub-article is attached.

The Contractor did give timely notice to the Department that all six issues would require additional time and compensation as required.

However the Contractor did not submit to the Department a request for a Contract Time extension in writing within 30 days after the elimination of the delay of the controlling item of work in any of the six issues as required.

Although the Contractor did not fulfill his contractual obligation with regards to Article

8-7.3.2 in issues 5 and 6, the Department had previously agreed to additional time and compensation for issue 5 and additional time for issue 6.

DRB Recommendations

Issues 1-4: No entitlement

Issue 5: Additional Sub-contractor cost: \$24,434.36

|                       |             |
|-----------------------|-------------|
| Additional pile cost: | \$14,410.73 |
|-----------------------|-------------|

|             |             |
|-------------|-------------|
| Sub-Total : | \$38,845.09 |
|-------------|-------------|

|                   |           |
|-------------------|-----------|
| Allowable Markup: | \$6797.89 |
|-------------------|-----------|

|                                |             |
|--------------------------------|-------------|
| Total Additional Compensation: | \$45,642.98 |
|--------------------------------|-------------|

Time: 5 days

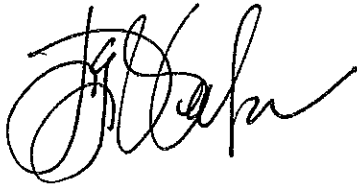
**Issue 6:** Additional time: 7 days

This recommendation was arrived at by unanimous agreement of the Board members.

Please remember that a response to the DRB and the other party of your acceptance or rejection of this recommendation is required within 15 days. Failure to respond constitutes an acceptance of the recommendation by the non-responding party.

I certify that I participated in the Hearings of the DRB regarding the Dispute indicated above and concur with the findings and recommendation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jim Weeks". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jim Weeks, P.E., Chairman

Edward Minchin, P.E., Member

Tom Shafer, P.E., Member

CC: Mack Waters, P.E.

Zac Wigginton

SPECIFICATION SUB-ARTICLE 8-7.3.2 reads:

“8-7.3.2 Contract Time Extensions: The Department may grant an extension of Contract Time when a controlling item of work is delayed by factors not reasonably anticipated or foreseeable at the time of bid. The Department may allow such extension of time only for delays occurring during the Contract Time period or authorized extensions of the Contract Time period. When failure by the Department to fulfill an obligation under the Contract results in delays to the controlling items of work, the Department will consider such delays as a basis for granting a time extension to the Contract.

Whenever the Engineer suspends the Contractor’s operations, as provided in 8-6, for reasons other than the fault of the Contractor, the Engineer will grant a time extension for any delay to a controlling item of work due to such suspension. The Department will not grant time extensions to the Contract for delays due to the fault or negligence of the Contractor.

The Department does not include an allowance for delays caused by the effects of inclement weather or suspension of Contractor’s operations due to holidays as defined in 8-6.4, in establishing Contract Time. The Engineer will continually monitor the effects of weather and, when found justified, grant time extensions on either a bimonthly or monthly basis. The Engineer will not require the Contractor to submit a request for additional time due to the effects of weather.

The Department will grant time extensions, on a day for day basis, for delays caused by the effects of rains or other inclement weather conditions, related adverse soil conditions or suspension of operations due to holidays that prevent the Contractor from productively performing controlling items of work resulting in:

(1) The Contractor being unable to work at least 50% of the normal work day on pre-determined controlling work items due to adverse weather conditions, holiday suspension; or

(2) The Contractor must make major repairs to work damaged by weather, provided that the damage is not attributable to the Contractor’s failure to perform or neglect; and provided that the Contractor was unable to work at least 50% of the normal workday on pre-determined controlling work items.

No additional compensation will be made for delays caused by the effects of inclement weather.

The Department will consider the delays in delivery of materials or component equipment that affect progress on a controlling item of work as a basis for granting a time extension if such delays are beyond the control of the Contractor or supplier. Such delays may include an area-wide shortage, an industry-wide strike, or a natural disaster that affects all feasible sources of supply. In such cases, the Contractor shall furnish substantiating letters from a representative number of manufacturers of such materials or equipment clearly confirming that the delays in delivery were the result of an area-wide shortage, an industry-wide strike, etc. No additional compensation will be made for delays caused by delivery of materials or component equipment.

The Department will not consider requests for time extension due to delay in the delivery of custom manufactured equipment such as traffic signal equipment, highway lighting equipment, etc., unless the Contractor furnishes documentation that he

placed the order for such equipment in a timely manner, the delay was caused by factors beyond the manufacturer's control, and the lack of such equipment caused a delay in progress on a controlling item of work. No additional compensation will be paid for delays caused by delivery of custom manufactured equipment.

The Department will consider the affect of utility relocation and adjustment work on job progress as the basis for granting a time extension only if all the following criteria are met:

(1) Delays are the result of either utility work that was not detailed in the plans, or utility work that was detailed in the plans but was not accomplished in reasonably close accordance with the schedule included in the Contract Documents.

(2) Utility work actually affected progress toward completion of controlling work items.

(3) The Contractor took all reasonable measures to minimize the effect of utility work on job progress, including cooperative scheduling of the Contractor's operations with the scheduled utility work at the preconstruction conference and providing adequate advance notification to utility companies as to the dates to coordinate their operations with the Contractor's operations to avoid delays.

As a condition precedent to an extension of Contract Time the Contractor must submit to the Engineer:

A preliminary request for an extension of Contract Time must be made in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. If the Contractor fails to submit this required preliminary request for an extension of Contract Time, the Contractor fully, completely, absolutely and irrevocably waives any entitlement to an extension of Contract Time for that delay. In the case of a continuing delay only a single preliminary request for an extension of Contract Time will be required. Each such preliminary request for an extension of Contract Time shall include as a minimum the commencement date of the delay, the cause of the delay, and the controlling item of work affected by the delay; and

Further, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay.

Upon timely receipt of the preliminary request of Contract Time from the Contractor, the Engineer will investigate the conditions, and if it is determined that a controlling item of work is being delayed for reasons beyond the control of the Contractor the Engineer will take appropriate action to mitigate the delay and the costs of the delay. Upon timely receipt of the request for a Contract Time extension the Engineer

will further investigate the conditions, and if it is determined that there was an increase in the time or the cost of performance of the controlling item of work beyond the control of the Contractor, then an adjustment of Contract Time will be made, and a monetary adjustment will be made, excluding loss of anticipated profits, and the Contract will be modified in writing accordingly.

The existence of an accepted schedule, including any required update(s), as stated in 8-3.2, is a condition precedent to the Contractor having any right to the granting of an extension of contract time or any monetary compensation arising out of any delay. Contractor failure to have an accepted schedule, including any required update(s), for the period of potential impact, or in the event the currently accepted schedule and applicable updates do not accurately reflect the actual status of the project or fail to accurately show the true controlling or non-controlling work activities for the period of potential impact, will result in any entitlement determination as to time or money for such period of potential impact being limited solely to the Department's analysis and identification of the actual controlling or non-controlling work activities. Further, in such instances, the Department's determination as to entitlement as to either time or compensability will be final, unless the Contractor can prove by clear and convincing evidence to a Disputes Review Board that the Department's determination was without any reasonable factual basis."



**FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)  
POSITION PAPER**

**DISPUTE REVIEW BOARD HEARING**

**February 27, 2012, Vernon Field Office**

**Board Members**

**Mr. Steve Potter, P.E. – Chairman  
Dr. Edward Minchin, P.E.  
Mr. Tom Shafer, P.E.**

**Project Description:** State Road 79 Holmes Creek Bridge Replacement-  
Bridge #610008 in Washington County

**Financial Project Number:** 407167-1-52-01

**Federal Aid Project Number:** 1011047P

**Contract Number:** T-3089

**County:** Washington

**Contractor:** Anderson Columbia Company, Inc.

**Sub-Contractor:** Case Atlantic

Anderson Columbia, the Contractor, has submitted a Notice of Intent to Claim for the following issues:

1. Damaged Pipe Pile No. 8, Group 10L-1
2. Damaged Pipe Pile No 16, Group 5L-2
3. Damaged Pipe Pile No. 3, Group 8L-1
4. Gulf Power utility conduit system on the left bridge
5. Alternate Installation Method, Drilled Shafts at Bent 8L
6. Alternate installation method, Drilled Shafts at Bent 7L

The Contractor, Anderson Columbia Company, Inc, has requested compensation in the amount of \$ 468,033.56 and seventy-five (75) additional contract days as a settlement of the above noted items (reference Tab E). Greenhorne & O'Mara, Inc. and the Department, agree that resolution with the Contractor for the requested amount(s) cannot be granted.

The FDOT requests the Board to make an entitlement ruling on the first four issues (1 - 4) and a quantum ruling on the last two issues (5 - 6).

#### **General Discussion of Major Points in Contractor's Notice of Intent to Claim Package**

Under Article 8-7.3.2 of specifications, A preliminary request for an extension of Contract Time must be made in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. The Contractor met this requirement. The same article states further, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay. The Contractor did not comply with this. We request that the Dispute Review Board find that the Contractor is "**Not Entitled**" to additional compensation for any of these Notice of Intents to Claim.

Even if the Contractor had met this criteria, the majority of his Notice of Intent to Claim is invalid. The analysis of the Contractor's original schedule and his revised schedule on October 15, 2009 shows that he completed his foundation work closely to what he had planned on. Also, looking at the Tab A, B, C and D, it is apparent there was no delays in the foundation work.

- ISSUE: Entitlement for:**
1. **Damaged Pipe Pile No. 8, Group 10L-1**
  2. **Damaged Pipe Pile No 16, Group 6L-2**
  3. **Damaged Pipe Pile No. 3, Group 8L-1**

Reference Tab E: Contractor's Intent to Claim dated October 18, 2010; November 1, 2010; December 23, 2010

The Contractor contends that the failure of pipe piles in piers 10L-1, 8L-1 and 6L-2 were due to the Department's directed driving efforts. This driving criterion was based upon the foundation borings and the driven test piling data. This criterion was developed with the approved hammer the contractor was using and the required foundation requirements. Of all of the piling driven, only three failed. Also when these piling were removed and redriven, the replaced piling in the same location experienced no difficulty. All the steel pipes required steel end and stiffener plates welded in place to produce a watertight joint. Whether from a faulty weld or some other reason, the tips failed. As per **455-11.2.7** of the Special Provisions the Contractor is responsible for the correction of this problem. See Tab E for Contractor's request for time and additional compensation.

**CEI Position: (Summary)**

Due to the Contractor not submitting his request for Contract Time extension additional Entitlement, pursuant to **Special Provisions 5-12.2.2 and Specifications 8-7.3.2**) we request that the Dispute Review Board find that the Contractor is "**Not Entitled**" to additional compensation for the removal and replacement of the damaged piles.

The Contractor feels he is due compensation for the damaged pipe piles that had to be removed and replaced. This is based on his assumption that the damage was caused by the driving criteria. The driving criteria was based upon the approved pile hammer he was using. Therefore any failure and resulting repair was his responsibility per Special Provision **455-11.2.7 Replacing Piles**. We request that the Dispute Review Board find that the Contractor is "**Not Entitled**" to additional compensation for the removal and replacement of the damaged piles.

**Applicable Specifications:**

**5-12.2.2 Claims For Delay (Special Provisions):** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay.

**8-7.3.2 Contract Time Extensions:** As a condition precedent to an extension of Contract Time the Contractor must submit to the Engineer:

A preliminary request for an extension of Contract Time must be made in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. If the Contractor fails to submit this required preliminary request for an extension of Contract Time, the Contractor fully, completely, absolutely and irrevocably waives any entitlement to an extension of

Contract Time for that delay. In the case of a continuing delay only a single preliminary request for an extension of Contract Time will be required. Each such preliminary request for an extension of Contract Time shall include as a minimum the commencement date of the delay, the cause of the delay, and the controlling item of work affected by the delay; and

Further, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay.

**455-11.2.7 Replacing Piles (Special Provisions):** In the event a pile is broken or otherwise damaged to the extent that the damage is irreparable, in the opinion of the Engineer, the Contractor shall extract and replace the pile at no additional expense to the Department. In the event that a pile is mislocated by the Contractor, the Contractor shall extract and replace the pile at no expense to the Department except when a design change proposed by the Contractor is approved by the Department as provided in 455-5.15.5.

**ISSUE: Entitlement for:            4.        Gulf Power utility conduit system on the left bridge**

Reference Tab E: Contractor's Intent to Claim dated April 26, 2011 and June 17, 2011

The Contractor placed the Department on notice on two occasions pertaining to the Gulf power utility conduit. In the first notice, the Contractor claims he was being held up due to the inserts for the conduit hangers not being correctly located and he wanted a plan change showing the insert locations. The Contractor was furnished the revised plan sheet even though the work was complete. In the second notice the contractor was concerned that the materials to be placed under the approach slab had not been delivered.

**CEI Position: (Summary)**

Due to the Contractor not submitting his request for Contract Time extension and additional compensation pursuant to **Special Provisions 5-12.2.2 and Specifications 8-7.3.2)** we request that the Dispute Review Board find that the Contractor is "**Not Entitled**" to additional compensation for the concerns with the Gulf Power utility.

The Contractor feels additional compensation is due for delays related to the Gulf Power conduit work on the bridge. When the letter was received, the field personnel had already installed the inserts in the correct locations with no loss of time or work effort. When the letter was received, the field personnel had already installed the inserts in the correct locations with no loss of time or work effort. We request that the Dispute Review Board find that the Contractor is "**Not Entitled**" to additional compensation associated with the Gulf Power Utility.

**Applicable Specifications:**

**5-12.2.2 Claims For Delay (Special Provisions):** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay.

**8-7.3.2 Contract Time Extensions:** As a condition precedent to an extension of Contract Time the Contractor must submit to the Engineer:

A preliminary request for an extension of Contract Time must be made in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. If the Contractor fails to submit this required preliminary request for an extension of Contract Time, the Contractor fully, completely, absolutely and irrevocably waives any entitlement to an extension of Contract Time for that delay. In the case of a continuing delay only a single preliminary request for an extension of Contract Time will be required. Each such preliminary request for an extension of Contract Time shall include as a minimum the commencement date of the delay, the cause of the delay, and the controlling item of work affected by the delay; and

Further, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay.

**ISSUE: Quantum: 5. Alternate Installation Method, Drilled Shafts at Bent 8L**

Reference Tab E: Contractor's Intent to Claim dated September 14, 2010 and October 22, 2010

The Contractor claims that a changed subsurface condition was encountered during the installation of the drilled shaft foundation at 8L-2. Due to collapse of the shaft wall during the initial drilling, the shaft depth was extended an additional 11 LF at the direction of the Department. The pour for the shaft was postponed due to the additional drilling. Upon beginning the final cleanout process, an inordinate amount of sand was found in the bottom of the rock socket. This continued for two days. The subcontractor asked for directions from the Department. The Contractor was informed it was his means and methods and to present a solution. A proposal was given and approved by the Department.

Also the Contractor is claiming additional compensation for changing 8L-1 to a pipe pile foundation.

**CEI Position: (Summary)**

Due to the Contractor not submitting his request for Contract Time extension and additional Compensation, pursuant to **Special Provisions 5-12.2.2 and Specifications 8-7.3.2**), we request that the Dispute Review Board find that the Contractor is "**Not Entitled**" to additional compensation for the concerns with the Drilled Shafts and changing to pipe pile foundation.

The subcontractor started work on 8L-2 October 12, 2010. On October 16 the Department added 11 feet to the permanent casing due to shaft wall collapse. Just because the drilled shaft responded differently than was expected does not mean there was a changed subsurface condition. The fact is the shaft socket was collapsing due to an existing subsurface condition. Original borings showed existing artesian flow, voids and fluid loss conditions in this area. As allowed by the specifications (**455-15.6 Excavations and 455-15.10.2 Unclassified Shaft Excavation**), the Department directed the subcontractor to extend the shaft 11 feet. This did not stop the problem and the contractor moved to 7L-2, without any lost time. While he was at 7L-2, the subcontractor proposed a solution that was accepted and approved. After completing the remainder of the drilled shafts, the subcontractor returned on November 12, 2010. To do the repair work necessary to get to the point where he could finish the drilled shaft took 2 days and 4 hours. On November 15, 2010, the Subcontractor completed the drilled shaft. On November 16, the subcontractor demobilized and left the job since the left bridge drilled shafts were finished. Due to the conditions encountered on 8L-2, the Department changed 8L-1 to pipe pile foundation. Since this type foundation already existed on the project, the Contractor was paid for this work by overrunning the existing items in the contract.

The Contractor and their Subcontractor feel they are due additional compensation for additional work at 8L-2. The Subcontractor left 8L-2 and moved to 7L-2 on October 19, 2010. The time to move would have been necessary whether there was a problem or not. On November 11, 2010 the Subcontractor finished 9L-2 at 6:00 p.m. At 7:00 a.m. on November 12, 2010 the Subcontractor returned to 8L-2 to do the repair work. This repair work took 2 days and 4 hours. Therefore the Department request that the Dispute Review Board find that the Contractor and Subcontractor are **due compensation for the equipment and man-hours, plus allowable add ons, for the 2 days and 4 hours** involved in the repair work. Since the contractor did not provide the subcontractor's certified claim, the Department was unable to provide a dollar value. Once this is done, a dollar value can be placed on the 2 days and 4 hours of work effort. They are also due **3 calendar** days for the work.

The work involved in changing 8L-1 from a drilled shaft to a pipe pile bent is allowed by the specifications since similar construction is included in the contract. This is covered under **4-3 Alteration**

of Plans or of Character of Work.4-3.1 General. Therefore the Department requests that the Dispute Review Board find that the Contractor is “Not Entitled” to additional compensation for this issue.

**Applicable Specifications:**

**5-12.2.2 Claims For Delay (Special Provisions):** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor’s work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay.

**8-7.3.2 Contract Time Extensions:** As a condition precedent to an extension of Contract Time the Contractor must submit to the Engineer:

A preliminary request for an extension of Contract Time must be made in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. If the Contractor fails to submit this required preliminary request for an extension of Contract Time, the Contractor fully, completely, absolutely and irrevocably waives any entitlement to an extension of Contract Time for that delay. In the case of a continuing delay only a single preliminary request for an extension of Contract Time will be required. Each such preliminary request for an extension of Contract Time shall include as a minimum the commencement date of the delay, the cause of the delay, and the controlling item of work affected by the delay; and

Further, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay.

**455-15.6 Excavations:** When pilot holes and/or load tests are performed, the Engineer will use the pilot hole and/or load test results to determine the authorized tip elevations and/or the authorized installation criteria of the drilled shafts. Drilled shaft construction shall not begin until pilot hole and/or load test reports are approved by the Engineer. Shaft tip elevations based on pilot hole results and/or load tests may vary from the Tip Elevations presented in the plans. Extend drilled shaft excavations deeper by extra depth excavation when the Engineer determines the material encountered while drilling the shaft excavation is unsuitable and/or is not the same as anticipated in the design of the drilled shaft.

**455-15.10.2 Unclassified Shaft Excavation:** Unclassified Shaft Excavation is defined as all processes required to excavate a drilled shaft of the dimensions shown in the Contract Documents to the depth indicated in the plans plus 15 feet or plus 3 shaft diameters, whichever is deeper, completed and accepted.

Include in the work all shaft excavation, whether the material encountered is soil, rock, weathered rock, stone, natural or man-made obstructions, or materials of other descriptions.

**4-3 Alteration of Plans or of Character of Work.4-3.1 General:** The Engineer reserves the right to make, at any time prior to or during the progress of the work, such increases or decreases in quantities, whether a significant change or not, and such alterations in the details of construction, whether a substantial change or not, including but not limited to alterations in the grade or alignment of the road or structure or both, as may be found necessary or desirable by the Engineer. Such increases, decreases or alterations shall not constitute a breach of Contract, shall not invalidate the Contract, nor release the Surety from any liability arising out of this Contract or the Surety bond. The Contractor agrees to perform the work, as altered, the same as if it had been a part of the original Contract.

The term "significant change" applies only when:

(A) The Engineer determines that the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction, or

(B) A major item of work, as defined in 1-3, is increased in excess of 125% or decreased below 75% of the original Contract quantity. The Department will apply any price adjustment for an increase in quantity only to that portion in excess of 125% of the original Contract item quantity, or in case of a decrease below 75% to the actual amount of work performed, such allowance to be determined in accordance with 4-3.2, below.

In the instance of (A) above, the determination by the Engineer shall be conclusive and shall not subject to challenge by the Contractor in any forum, except upon the Contractor establishing by clear and convincing proof that the determination by the Engineer was without any reasonable and good-faith basis.

**ISSUE: Quantum:** 6. Alternate installation method, Drilled Shafts at Bent 7L

Reference Tab E: Contractor's Intent to Claim dated November 1, 2010

The Contractor contends he is due compensation for additional work due to the shaft being abandoned at 7L-1. While the shaft was abandoned, the contractor was paid for all of the work he had accomplished under existing contract bid items. The Contractor is also requesting additional compensation because 7L-1 was changed to a pipe pile bent.

**CEI Position:** (Summary)

The Contractor and their Subcontractor feel they are due additional compensation for the abandoned drilled shaft at Bent 7L-1. The subcontractor left this shaft on a Friday (10/29/2010) and started on 9L-1 the following Monday (11/1/2010) without any lost time. They were paid for each item of work that was accomplished in constructing the drilled shaft up to the point it was abandoned. The Contractor returned on December 12, 2010 and placed 36 cu. Yds. of miscellaneous concrete to seal the abandoned shaft. The Department changed the bent to a pipe pile bent. This did not require any new items and the existing quantities were overrun. This did take 14 calendar days less two days for holidays that was not anticipated. Therefore the Department requests that the Dispute Review Board find that the Contractor is due **12 calendar days** for driving the piling and **1 calendar day** for plugging the abandoned shaft for a total of **13 days** to be added to his contract. The Contractor is requesting compensation due to changing 7L-1 to a pipe pile bent. Since this type foundation already existed on the project, the Contractor was paid for this work by overrunning the existing items in the contract. This is covered under **4-3 Alteration of Plans or of Character of Work.4-3.1 General**. We request that the Dispute Review Board find that



the Contractor is "**Not Entitled**" to additional compensation associated with changing the drill shaft foundation to a pipe pile foundation.

**Applicable Specifications:**

**5-12.2.2 Claims For Delay (Special Provisions):** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay.

**8-7.3.2 Contract Time Extensions:** As a condition precedent to an extension of Contract Time the Contractor must submit to the Engineer:

A preliminary request for an extension of Contract Time must be made in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. If the Contractor fails to submit this required preliminary request for an extension of Contract Time, the Contractor fully, completely, absolutely and irrevocably waives any entitlement to an extension of Contract Time for that delay. In the case of a continuing delay only a single preliminary request for an extension of Contract Time will be required. Each such preliminary request for an extension of Contract Time shall include as a minimum the commencement date of the delay, the cause of the delay, and the controlling item of work affected by the delay; and

Further, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay.

**4-3 Alteration of Plans or of Character of Work.4-3.1 General:** The Engineer reserves the right to make, at any time prior to or during the progress of the work, such increases or decreases in quantities, whether a significant change or not, and such alterations in the details of construction, whether a substantial change or not, including but not limited to alterations in the grade or alignment of the road or structure or both, as may be found necessary or desirable by the Engineer. Such increases, decreases or alterations shall not constitute a breach of Contract, shall not invalidate the Contract, nor release the Surety from any liability arising out of this Contract or the Surety bond. The Contractor agrees to perform the work, as altered, the same as if it had been a part of the original Contract.

The term "significant change" applies only when:

(A) The Engineer determines that the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction, or

(B) A major item of work, as defined in 1-3, is increased in excess of 125% or decreased below 75% of the original Contract quantity. The Department will apply any price adjustment for an increase in quantity only to that portion in excess of 125% of the original Contract item quantity, or in case of a decrease below 75% to the actual amount of work performed such allowance to be determined in accordance with 4-3.2, below.

## **TABS**

- A. Drill Shaft and Pipe Pile production schedule
- B. Work Schedule Charts
- C. Pipe Pile daily driving information
- D. Drill shaft daily diaries
- E. Contractor's request for Time and Compensation dated October 5, 2011  
Contractor's intent to claim letters

### **Department Attendees**

Harold "Mac" Waters  
Dennis Thomason  
Billy Robinson  
Bill Waddell  
Larry Mayne  
Paul Pettijohn



## ANDERSON COLUMBIA CO., INC.

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February 27, 2012

Disputes Review Board Members  
Mr. James G. Weeks, P.E., Chairman  
146 W. Woodruff Ave.  
Crestview, FL 32536

RE: **Contractor Position on Delay Issues**  
SR 79 Over Holmes Creek  
Contract No.: T3089  
FPN: 407167-1-52-01  
Washington County

Mr. Weeks:

In a January 16<sup>th</sup>, 2012 letter, Mr. Waddell of Greenhorne & O'Mara requested of the Board a recommendation on the 6 separate disputed issues mentioned below on the above referenced project. For purposes of review, Mr. Waddell has asked the board to consider the subject of entitlement for the first four issues and the subject of quantum for the last two. The issues as they have been described are as such:

- Damaged Pipe Pile No. 8, Group 10L-1
- Damaged Pipe Pile No. 16, Group 6L-2
- Damaged Pipe Pile No. 3, Group 8L-1
- Gulf Power utility conduit system on the left bridge
- Alternate installation method, Drilled Shafts at Bent 8L
- Alternate Installation method, Drilled Shafts at Bent 7L

Anderson Columbia Co. agrees with Mr. Waddell's assessment of what issues need attention and for which a hearing has been requested. This paper will discuss each of these issues separately and in the context that they are to be evaluated but will also include a discussion of how the cumulative impact of these issues has affected the project schedule as a whole.

### **Damaged Pipe Pile No. 8, Group 10L-1:**

#### *Background:*

The above mentioned pile was originally driven on August 12, 2010 at the direction of FDOT / Greenhorne and O'Mara. While performing a routine investigation to check depth and volume of said pile Anderson Columbia Co. discovered a damaged tip which allowed silt and other sediment to enter the piling and fill approximately 2/3 of the total pile volume. This damaged pile section was a result of Department directed driving efforts and resulted in the unplanned removal and replacement of Pile No. 8. A portion of the CL-III seal slab also had to be removed and replaced in order to facilitate replacement of this pile section.

*Discussion of Entitlement:*

In accordance with section 5-12 of the governing specifications, timely notice of intent to seek additional time and compensation was made to the department when Anderson Columbia Co. became aware of the issue. The pair of letters dated October 18, 2010 are attached in the appendix section (B1, B2). This pile was driven to refusal / bearing at the direction of the Department and thus any tip damage would be a direct result of the specified driving criteria, attached in the appendix (B-4). In review of the pile driving logs for this pile, which are attached in the appendix (B-6, B-7), Anderson Columbia would like to highlight the following: In pursuit of 55 blows per foot at 8.5 feet which was specified for this bent, crews were directed to driving 9 consecutive feet from 52' to 61', in which stoke was in excess of 7.5' and blow counts were in excess of 70. There was 3 consecutive feet of driving in this stretch which saw blow counts of over 80' with a stoke height over 7.75'. At this point, the stoke height should have been increased or a request made for driving criteria to account for a lower stroke. Requests associated with this delay are for time and costs incurred as result of the extra work involved.

**Damaged Pipe Pile No. 16, Group 6L-2:***Background:*

The above mentioned pile was originally driven from October 4, 2010 to October 5, 2010 at the direction of FDOT / Greenhorne and O'Mara. While performing an investigation to check depth and volume of said pile, Anderson Columbia Co. discovered a damaged tip which allowed approximately 15' – 20' of silt and other sediments to enter the piling. This damaged pile section was a result of Department directed driving efforts and resulted in the unplanned removal and replacement of Pile No. 16.

*Discussion of Entitlement:*

In accordance with section 5-12 of the governing specifications, timely notice of intent to seek additional time and compensation was made to the department when Anderson Columbia Co. became aware of the issue. The pair of letters dated November 1, 2010 are attached in the appendix section (B-8, B-9). The pile was driven to refusal / bearing at the direction of the Department and thus any tip damage would be a direct result of the specified driving criteria, attached in the appendix (B-11). In review of the pile driving logs, which are attached in the appendix section (B-13, B-14), Anderson Columbia would like to highlight the following: while in pursuit of the 50 blows per foot at a 7' stoke driving criteria, the first 76' of driving offered little to no resistance. A very hard layer was then encountered and at the direction of FDOT / Greenhorne & O'Mara, Anderson Columbia crews drove the next foot in 103 blows at 8.23 ft stroke which is more than double the specified driving criteria. The next foot of driving saw 132 blows at 8.68' stroke. Prior to damaging the pile, the stoke height should have been lowered. In addition, Anderson Columbia had achieved all criteria for driving this pile at the point when blow counts reached 104 but were directed to keep driving for another 28 blows in the final foot of driving. Requests associated with this delay are for time and costs incurred as a result of the extra work involved.

**Damaged Pipe Pile No. 3, Group 8L-1:***Background:*

The above mentioned pile was originally driven on the afternoon of December 12, 2010. While performing a routine investigation to check depth and volume of said pile, Anderson Columbia Co. discovered a damaged tip pile which allowed silt and other sediment to enter the piling and fill approximately 1/5 of the total pile volume. This damaged tip section was a result of Department directed driving efforts and resulted in the unplanned removal and replacement of Pile No. 3.

*Discussion of Entitlement:*

In accordance with section 5-12 of the governing specifications, timely notice of intent to seek additional time and compensation was made to the department when Anderson Columbia Co. became aware of the issue. The pair of letters dated December 23, 2010 are attached in the appendix section (B-15, B-16) The pile was driven to refusal / bearing at the direction of the Department and thus any tip damage would be a direct result of the specified driving criteria, attached in the appendix (B-18). In review of the pile driving logs, which are attached in the appendix section (B-20, B-21), Anderson Columbia would like to highlight the following: The Department had specified 52 blows per foot at 7.5' stroke as driving criteria (B18). Blow count criteria had been met with 61 blows at 7.75 foot stroke but criteria further requires that two consecutive feet of increasing blow counts are needed for acceptance. The next two feet of driving were 53 blows at 7.5' and 76 blows at 8'. All criteria had been met and driving should have stopped. Instead, Anderson Columbia was directed to drive another two feet in which bearing had decreased and it was discovered that the pile had been damaged. Requests associated with this delay are for time and costs incurred as a result of the extra work involved.

#### **Gulf Power Utility Conduit System on the Left Bridge:**

##### *Background:*

Sheet B-3 of the SR 79 Over Holmes Creek plan set contained a General Note which required that *For construction of the Gulf Power Company Conduits, the contractor shall install inserts in the bridge deck sized and positioned either as shown on these plans or in accordance with plans supplied by Gulf Power Company.* The plans however did not provide the direction needed to layout and install these inserts. Anderson Columbia began coordinating with Gulf Power in February 11' with requests for this information and brought the topic up for discussion at several weekly progress meetings. In an April 26 email, Anderson Columbia notified FDOT / Greenhorne & O'Mara of the potential delay situation and requested approved layout and installation procedures for the Utility System inserts. At this point, ACCI had to postpone placement of superstructure reinforcing steel by our rebar subcontractor awaiting direction. In the next 7 days, 2 layouts were issued with conflicting information and which did not provide information necessary for layout. All concerns were addressed in a 5/2/2010 email from G&O with a functioning plan set for the layout. These 7 days in which Anderson Columbia was unable to proceed with efficient placement of deck steel contributes to Anderson Columbia's request for time. Anderson Columbia again experienced delays associated with the Gulf Power Utility system on June 8, 2011 at which point Gulf Power had not yet produced utility materials which were to be installed under the Left Bridge, North Approach Slab. Per plan notes, 6 utility conduits were to run underneath the approach slab and were to be installed by Gulf Power. In a June 17, 2011 phone conversation with Gulf Power, Anderson Columbia was informed that the materials had not yet been ordered. At this point, timely notice of intent to seek additional time and compensation was made to the Department / Greenhorne & O'Mara. Ultimately, Anderson Columbia furnished and installed the conduit to mitigate the delay. We have received no compensation for this additional work.

##### *Discussion of Entitlement:*

In accordance with section 5-12 of the governing specifications, timely notice of intent to seek additional time and compensation was made to the department when Anderson Columbia Co. became aware of each of these issues. Due to circumstances out of our control, in both cases mentioned above, Anderson Columbia was delayed in the pursuit of work which was on our critical path and which delayed progress on the project. As required by the plans, Anderson Columbia notified the Department and Gulf Power of our schedule and when materials would be needed and controlling work items were delayed while before we received them. Requests associated with this delay are for time and costs incurred as a result of the extra work involved.



### Alternate Installation Method: Drilled Shafts at 8L:

#### *Background:*

During the installation of the drilled shaft foundation at 8L-2, a changed subsurface condition was encountered. Anderson Columbia's Drilled Shaft subcontractor, Case Atlantic, began drilling at the above mentioned shaft location on October 13, 2010. The pour for said shaft was schedule to take place on the afternoon of October 14, 2010 but was postponed due to a Department directed additional 11 LF of drilling. The additional drilling was directed because of undesirable material excavated from the rock socket. After the shaft was drilled the additional depth, the concrete placement had to be rescheduled until the following week. Upon beginning the final cleanout process, it was discovered that there was an inordinate amount of sand in the bottom of the rock socket. The day was spent cleaning and the pour postponed until the following day. Again, a heavy collection of sand was present in the bottom of the excavation the following morning. After 5 days of receive no direction for how to proceed, Anderson Columbia proposed a solution that involved the pouring of an excavateable flowable fill in the bottom section of shaft which was drilled out after achieving a specified strength thus sealing off the sand intrusion. Claims associated with this delay are for time and cost associated with claims from the drilling subcontractor and support services and added work associated with the delay.

In addition, the data gathered during the investigative coring phase of this project prompted a plan revision for the 8L-1 shaft location. The revision called for a change between foundation systems at this adjacent location and a bent of 24" Steel Pipe Pile was constructed in lieu of the drilled shaft. Claims associated with this delay are for time and costs associated with claims from the drilling subcontractor, added work associated with the delay, and construction of the alternate foundation system as well as increased material cost for furnishing this system.

#### *Discussion of Quantum:*

Anderson Columbia subcontracted Case Atlantic Company to install drilled shafts on this project and provided shaft support resources for their installation. The delays resulting from the changed subsurface conditions encountered at Shaft 8L2 directly affected both Case Atlantic and Anderson Columbia shaft support resources. The timeline of events surrounding this shaft will help illustrate impacts to the operation.

| Timeline |                                                                                                                                     |
|----------|-------------------------------------------------------------------------------------------------------------------------------------|
| 12-Oct   | Case Atlantic moved equipment to said shaft                                                                                         |
| 13-Oct   | Drilling commenced at shaft 8L-2                                                                                                    |
| 14-Oct   | Case Atlantic was instructed by G&O to drill additional 11'<br>G&O correspondence to AC notifying of direction to continue drilling |
| 16-Oct   | Shaft lost 20' overnight, casing advanced additional 11'                                                                            |
| 18-Oct   | Shaft lost 8' overnight / unsuccessful attempts to clean shaft                                                                      |
| 19-Oct   | Shaft lost 8' overnight<br>AC submits notices of delay and request for compensation to G&O                                          |
| 22-Oct   | AC requests direction from G&O on how to proceed                                                                                    |
| 27-Oct   | AC submits letter outlining procedure to mitigate problems @ 8L-2                                                                   |
| 29-Oct   | Letter from Mr. Waddell requesting modification to DSIP to reflect proposed method                                                  |
| 3-Nov    | AC submits addendum to DSIP to G&O                                                                                                  |
| 12-Nov   | Poured grout in 8L-2                                                                                                                |
| 13-Nov   | Drilled out grout                                                                                                                   |
| 15-Nov   | Shaft lengthened from .47 to -55 and poured to grade.                                                                               |
| Time     | 31 days * Represents time from when Case was ready to pour to such time that pour took place.                                       |



If the delay had not been encountered, Case Atlantic would have been ready to pour the shaft at this location on October 14, 2010 which would have left Anderson Columbia in a position to proceed with forming a column. The point in time when the delay had been fully resolved and Anderson Columbia was able to proceed with forming a column was not until November 15, 2010 which was 31 days later. This number contributes to Anderson Columbia's request for time. During these 31 days of dramatically reduced efficiency, 5 days were spent in pursuit of additional work and 26 days are shown in the summary as idled time for Anderson Columbia equipment affected by this operation. The time in pursuit of additional work is confirmed with G&O Engineering Daily Reports and Case Atlantic Daily Reports which have been summarized in Table 2. Because all 26 of the additional days were in an effort to get back to square one (ready to form a column), Anderson Columbia incurred 26 days of additional cost maintaining our equipment at this project. These are 26 calendar days which becomes 19 working days for figuring the cost. A summary of this equipment cost which has been charged at the "idled" rate as allowed by section 4-3.2.1 of the job specifications and are summarized in Table 3 Case Atlantic has requested additional compensation from Anderson Columbia as a result of this delay which has also been included in Section C of the appendix.

At the 8L-1 location, it was determined during the investigative coring phase of the project that a pile foundation had to be constructed and as a result, Anderson Columbia had to purchase pipe pile to do so at a much higher cost than when the job was originally bid. We have requested compensation for the increased material cost from time of bid to when it was purchased to construct this foundation. In addition, crews worked from 12/8/10 to 12/15/10 on piling and from 1/4/11 to 1/24/11 on substructure concrete on this bent in order to be at a point where we were ready to form a column. This was 27 days in pursuit of work. If the drilled shaft foundation was constructed in this location as the plans had originally called for, it would have taken 3 days from the start of foundation to be at this point. The 24 additional days contributes to Anderson Columbia's request for time. The equipment involved in these operations was also required to be onsite for this additional time. A summary of this equipment cost can be found in Table 4 of the appendix and has been charged at the "idled" rate as allowed by section 4-3.2.1. The 24 calendar days becomes 17 working days for figuring cost.

The cost incurred by Anderson Columbia is summarized below. The table represents impacts resulting from claims against Anderson Columbia, impacts to Anderson Columbia support crews, and impacts due to reduced efficiency resulting from the discontinuous nature of the foundation work at this location. The backup documentation for arriving at each of the numbers referenced is summarized in the Appendix. All equipment rates have been charged as allowed by section 4-3.2.1 of the specifications for "active" and "idle" and Blue Book rates for each machine can be found in Section D of the Appendix.

| Description                                     | Cost                 |
|-------------------------------------------------|----------------------|
| Request for Compensation by Case Atlantic - 8L2 | \$ 24,434.46         |
| Additional Work - 8L2                           | \$ 14,191.74         |
| Reduced Efficiency - 8L2                        | \$ 52,843.86         |
| Increased Piling Cost - 8L1                     | \$ 14,410.73         |
| Reduced Efficiency - 8L-1                       | \$ 41,484.35         |
| <b>Total Cost</b>                               | <b>\$ 147,365.15</b> |

#### **Alternate Installation Method: Drilled Shafts at 7L:**

During the cleanout and inspection of Shaft 7L-1, an undesirable soil condition was encountered. At the engineer's direction, the tip elevation was advanced below the plan specified tip in an attempt to expose desirable soil. No change in soil strata was encountered. A plan revision was ultimately issued and the shaft was abandoned with an alternate pile foundation called for in the revised drawings. Claims associated with



this delay are for time and costs associated with claims from the drilling subcontractor, added work associated with abandoning the shaft, and construction of the alternate foundation system as well as increased material cost for furnishing this system.

*Discussion of Quantum:*

The delays resulting from the changed subsurface conditions encountered at Shaft 7L1 directly affected both Case Atlantic and ACCI Shaft Support crews. The timeline of events surrounding this shaft will help illustrate impacts to the operation.

| Timeline of Events Pertaining to 7L-1 Delay                                                                                                                                |                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| 29-Oct                                                                                                                                                                     | Changed subsurface condition encountered                         |
| 1-Nov                                                                                                                                                                      | Preliminary request for time and compensation sent.              |
| 11-Nov                                                                                                                                                                     | AC received direction for the Department to leave shaft in place |
| 12-Nov                                                                                                                                                                     | CL IV Drilled Shaft mix poured to elevation -25                  |
| 21-Dec                                                                                                                                                                     | Drove Test Pipe at 7L-1                                          |
| 3-Jan                                                                                                                                                                      | Drove Production Piling at 7L-1                                  |
| 17-Jan                                                                                                                                                                     | Placed fill material in drilled shaft @ 7L-1                     |
| 18-Jan                                                                                                                                                                     | Poured Cap inside of drilled shaft casing                        |
| 21-Jan                                                                                                                                                                     | Poured seal slab for footer @ 7L-1                               |
| 2-Feb                                                                                                                                                                      | Pile cutoffs and drilled shaft can cutoff to grade.              |
| 5-Feb                                                                                                                                                                      | Poured mass footer @ 7L-1                                        |
| 11-Feb                                                                                                                                                                     | Removed footer forms                                             |
| Time                                                                                                                                                                       | 42 days *                                                        |
| * Represents 14 days from onset of delay to such time that 56 lf of drilled shaft poured, 4 days of piling, plus 24 days associated with finishing footer to column grade. |                                                                  |

If the delay had not been encountered, Case Atlantic would have poured the shaft at this location on October 29, 2010 which would have left Anderson Columbia in a position to proceed with forming a column. The point in time when the delay had been fully resolved and Anderson Columbia was again at a point where we could proceed with forming a column at this location was not until February 11, 2011. In this timeframe, 14 days were in pursuit of the additional work associated with the drilled shaft and abandoning it as described in Plan Revision No. 14 (October 29, 2010 to November 12, 2010), 4 days were spent driving pile (December 21, 2010 to December 23, 2010; January 3, 2011), and an additional 24 days were spent in pursuit of forming, pouring and monitoring a mass footer (January 17, 2010 – February 11, 2011). This information can be verified in the Greenhorne & O'Mara Engineering Daily Reports. This totals 42 additional days in all. This number contributes to Anderson Columbia's request for time as foundation work is on the critical path as are the activities dependent on finishing foundation work i.e. forming the column at this location. This number can be reduced by the day spent on January 17, 2010 (shaft abandonment procedures) in talking about idle equipment cost because this time will be discussed differently. The remaining 41 calendar days represent a period of dramatically reduced efficiency for Anderson Columbia personnel and equipment. Because all 41 days were in an effort to get back to square one (ready to form a column), Anderson Columbia incurred 41 days of additional cost maintaining our equipment at this project. A summary of the equipment involved with the additional operations necessary to get back to the point we would have been had a delay not been encountered is attached in the appendix and referenced as Table 8. The 41 calendar days become 29 working days for figuring cost. This equipment has been charged at the "idled" rate as allowed by section 4-3.2.1 of the specifications. The day which was spent performing the additional work outlined in plan revision 14 for abandoning the shaft has been summarized in the appendix as Table 7 for the labor, equipment and materials involved.





In addition, when it was determined that the drilled shaft had to be abandoned and a pile foundation was necessary at foundation location 7L-1, Anderson Columbia had to purchase pile to do so at a much higher cost than when the job was originally bid. Also included in our request for compensation is the difference in material cost from bid time to when the pipe pile was purchased to accommodate the plan change. A summary of this cost is included in this appendix, as well as a quote from bid time establishing a baseline price and the invoice from the material which was purchased to accommodate the revised foundation detail (Section E)

A summary of the cost incurred by Anderson Columbia is summarized below. The table represents impacts resulting from claims against Anderson Columbia, impacts to Anderson Columbia support crews, increased material cost incurred resulting from the revised foundation detail and impacts due to reduced efficiency resulting from the discontinuous nature of the foundation work at this location. The backup documentation for arriving at each of the numbers referenced is summarized in the appendix.

| Description                   | Cost                 |
|-------------------------------|----------------------|
| Additional Work - 7L1         | \$ 3,232.41          |
| Reduced Efficiency - 7L1      | \$ 93,568.56         |
| Increased Material Cost - 7L1 | \$ 12,478.02         |
| <b>Total Cost</b>             | <b>\$ 109,276.99</b> |

#### Overall Discussion of Request for Time:

Anderson Columbia has suffered lost time as a result of delays mentioned above, but also as result of reduced productivity from having to jump back and forth from one foundation location to another. Foundation operations for Left Bridge took over 3 months longer than we had anticipated in our CPM schedule. Anderson Columbia Co. and our drilling subcontractor intended to work the foundations from one end to the other but due to circumstances beyond our control, instead were forced to mitigate a state of delay by working in an unproductive manner. Anderson Columbia is due the total contract time extension requested below because of the delays as they have been discussed for foundation locations 7L1 and 8L1. Additional time will be requested for pipe pile and Gulf Power Utility System delays. We request:

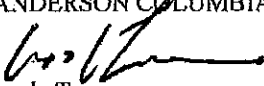
- 92 Additional Days of contract time.

#### Overall Discussion of Request for Compensation:

Anderson Columbia Company has incurred additional cost as a result of the delays as they have been discussed. This summary represents delays at 7L1 and 8L1. Additional compensation will be requested for pipe pile and Gulf Power Utility System delays. We request:

| Summary of Delay Cost                  |               |
|----------------------------------------|---------------|
| <i>Delay Cost From Foundation @ 7L</i> | \$ 109,276.99 |
| <i>Delay Cost From Foundation @ 8L</i> | \$ 147,365.15 |
| <i>Total</i>                           | \$ 256,642.14 |
| <i>Allowable Markup (17.5%)</i>        | \$ 44,912.37  |
| <i>Total compensation claimed</i>      | \$ 301,554.52 |

Sincerely,  
ANDERSON COLUMBIA CO., INC.

  
Lysle Tower  
Project Manager



# FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) REBUTTAL

## DISPUTE REVIEW BOARD HEARING

March 13, 2012, Vernon Field Office

### Board Members

Mr. Jim Weeks, P.E. – Chairman

Dr. Edward Minchin, P.E.

Mr. Tom Shafer, P.E.

|                                    |                                                                                       |
|------------------------------------|---------------------------------------------------------------------------------------|
| <b>Project Description:</b>        | State Road 79 Holmes Creek Bridge Replacement-<br>Bridge #610008 in Washington County |
| <b>Financial Project Number:</b>   | 407167-1-52-01                                                                        |
| <b>Federal Aid Project Number:</b> | 1011047P                                                                              |
| <b>Contract Number:</b>            | T3089                                                                                 |
| <b>County:</b>                     | Washington                                                                            |
| <b>Contractor:</b>                 | Anderson Columbia Co., Inc.                                                           |
| <b>Sub-Contractor:</b>             | Case Atlantic, Inc.                                                                   |

## REBITTAL TO ANDERSON COLUMBIA'S POSITION PAPER

Using Article 8-7.3.2 of the specification the Contractor has waived any entitlement to an extension of contract time and additional compensation. Not only did the Contractor not send in his request within 30 days after the elimination of the delay to the controlling item of work, he did not send in the request until 90 days after the south bound bridge was opened to traffic.

**8-7.3.2 Contract Time Extensions:** As a condition precedent to an extension of Contract Time the Contractor must submit to the Engineer:

A preliminary request for an extension of Contract Time must be made in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. If the Contractor fails to submit this required preliminary request for an extension of Contract Time, the Contractor fully, completely, absolutely and irrevocably waives any entitlement to an extension of Contract Time for that delay. In the case of a continuing delay only a single preliminary request for an extension of Contract Time will be required. Each such preliminary request for an extension of Contract Time shall include as a minimum the commencement date of the delay, the cause of the delay, and the controlling item of work affected by the delay; and

Further, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay.

In the event the Contractor had met this specification the following analysis of his position paper would be:

### **1. DAMAGED PIPE PILE NO. 8, GROUP 10L-1**

The Contractor stated what was and should have been done in driving the piling. The fact is the Contractor did not meet the driving criteria until 120 and 121. Also, the piling was not driven to refusal. Refusal would have been 180 blows per foot at a nine foot stroke. The maximum was 89 blows per foot at an 8.81 foot stroke. Therefore, the Contractor is responsible for the failure and repair.

**455-11.2.7 Replacing Piles (Special Provisions):** In the event a pile is broken or otherwise damaged to the extent that the damage is irreparable, in the opinion of the Engineer, the Contractor shall extract and replace the pile at no additional expense to the Department. In the event that a pile is mislocated by the Contractor, the Contractor shall extract and replace the pile at no expense to the Department except when a design change proposed by the Contractor is approved by the Department as provided in 455-5.15.5

**2. DAMAGED PIPE PILE NO. 16, GROUP 6L-2**

The Contractor stated that the last two feet were driven in excess of the driving criteria and was driven to refusal. Refusal for the piling was 240 blows per foot at 7.5 feet. The piling was driven at a maximum of 132 blows per foot at 8.68 feet. The Contractor did not reach the driving criteria until the last two feet were driven. Therefore, the Contractor is responsible for the failure and repair.

**455-11.2.7 Replacing Piles (Special Provisions):** In the event a pile is broken or otherwise damaged to the extent that the damage is irreparable, in the opinion of the Engineer, the Contractor shall extract and replace the pile at no additional expense to the Department. In the event that a pile is mislocated by the Contractor, the Contractor shall extract and replace the pile at no expense to the Department except when a design change proposed by the Contractor is approved by the Department as provided in 455-5.15.5

**3. DAMAGED PIPE PILE NO. 3, GROUP 8L-1**

The Contractor stated that he had met the driving criteria and the Department's representative required them to drive two additional feet. The driving criteria states "Driving may be stopped if the required blow count versus its respective hammer stroke is achieved for two consecutive feet, with blow count increasing and less than ¼ inch of pile rebound, and the minimum penetration requirements are met". Between 82 and 83 the blows decreased. Between 84 and 85 the blows decreased. From 85 to end of 86 the blows increased which met the criteria. Therefore, the Contractor is responsible for the failure and repair.

**455-11.2.7 Replacing Piles (Special Provisions):** In the event a pile is broken or otherwise damaged to the extent that the damage is irreparable, in the opinion of the Engineer, the Contractor shall extract and replace the pile at no additional expense to the Department. In the event that a pile is mislocated by the Contractor, the Contractor shall extract and replace the pile at no expense to the Department except when a design change proposed by the Contractor is approved by the Department as provided in 455-5.15.5

**4. GULF POWER UTILITY CONDUIT SYSTEM ON THE LEFT BRIDGE**

There was no delay associated with installing the inserts for the Gulf Power Company's conduits. The Contractor requested a plan sheet for the location of the inserts. The bridge is on a curve and the plan sheet showed the inserts on a cord. The Contractor's surveyor realized this and laid out the inserts on the curve. After the inserts were in place, the Contractor requested a revised plan sheet. This was provided even though the work had been done. Also there was no delay associated with Gulf Power's materials installed under the approach slab. The Contractor agreed with Gulf Power to furnish and install the materials. The payment is a contractual problem between the Contractor and Gulf Power. The Department is not aware of the nature of this agreement or a party to this agreement.

#### **5. ALTERNATE INSTALLATION METHOD, DRILLED SHAFTS AT BENT 8L**

The Contractor states that he is due additional time and money for the additional work and delays at Bent 8L. From October 12 until October 19 the work being performed was normal drill shaft construction. When the Subcontractor failed to stop the sand inflow on the 19<sup>th</sup> he moved his equipment to Pier 7L and continued working. After Drill Shaft 7L-1 failed the SID test on October 29 (Friday) the Subcontractor moved to Bent B-9. He could have returned to Bent 8L to finish 8L-2 but instead skipped it. He then returned to 8L-2 on November 12. During this time period the Subcontractor and Contractor continued to work. The Subcontractor continued to do his normal work with no delays, as can be seen from the work effort plan sheet for drilled shaft. The equipment support the Contractor was providing to the Subcontractor continued as normal. If the equipment was idle, it was due to normal production. Also during that time, there were no delays to the pile driving as seen from the work effort plan sheet for piling. In addition during this time period the Contractor continued normal operations of forming and placing concrete (see daily diaries under Tab D for examples). If 8L-2 had been so critical, the Contractor would have directed the Subcontractor to return to 8L-2. The Contractor is due compensation for the 2 1/2 days it took the Subcontractor to pour the plug in 8L-2, ream it out and begin production. Everything else was paid per the contract. Also, the Contractor is requesting additional time and money for the change to piling. All items to construct the reviled 8L-1 foundation were paid for under the contract items. This covered manpower, equipment, and materials to construct this pier. The Contractor is requesting additional money for increased piling cost. This should not be part of the claim. The Department has agreed to this but has been waiting for the Contractor to submit the necessary invoices to document the increase. At that time, the Contractor will be compensated for any increased costs. The invoice included in the Contractor's position paper dated 5/4/11 is outside the time this work

was performed. Therefore, the Department is still waiting for documentation of increased prices.

**6. ALTERNATE INSTALLATION METHOD, DRILLED SHAFTS AT BENT 7L**

The Contractor is requesting additional time and money for abandoning the drilled shaft at 7L-1. As originally stated in the Department's position paper the Contractor was paid for all work performed on the abandoned drilled shaft. The Contractor is due 7 contract days involved in the abandoned drill shaft. The Contractor was also paid for all work performed to construct the pile supported foundation, which includes manpower, equipment and materials. It would appear from the time line analysis the job was not progressing and the time was spent getting back to "square one". Actually all other operations were progressing and the project was moving forward. The Contractor is requesting additional money for increased piling cost. This should not be part of the claim. The Department has agreed to this has been waiting for the Contractor to submit the necessary invoices to document the increase. At that time the contractor will be compensated for any increased costs. The invoice included in the Contractor's position paper dated 5/4/11 is outside the time this work was performed. Therefore the Department is still waiting for documentation of increased prices.

**SUMMARY**

The Contractor did not follow **8-7.3.2 Contract Time Extensions** has waived any entitlement to an extension of contract time and additional compensation. If the Contractor had complied with the specification he would not have due entitlement for the damaged piles since it appears that the pile failures were due to weld failures at the tip. Also no entitlement is due to the Gulf Power utility since there were no delays. For Bent 8L he would be due 2 1/2 days for the subcontractor's manpower and equipment, with allowable markups. This is the time period where the plug was poured, reamed out and production resumed. The Contractor would be due 7 days for the time used in constructing the abandoned drill shaft. Three days would be added to the contract for 8L and 7 days for 7L or a total of ten days. When the theoretical delay started the contract was 41.28% money and 44.50% time. At the end the Contractor was 52.76% money and 51.80% time. So during this time production increased. Also during this time the contractor was awarded 33 weather and holiday days. This chart is enclosed. The largest delay is due to the Contractor's slow pile driving start. In his revised schedule of November 2009, the time for driving piling was 73 days. Due to hammer problems, the first three bents took 92 days to drive. Based upon this information the Contractor is due no time or money for reduced production.



## ANDERSON COLUMBIA CO., INC.

2316 Highway 71 • Marianna, FL 32448

(850) 526-4440 • Fax (850) 526-7106

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March 8, 2012

Disputes Review Board Members  
Mr. James G. Weeks, P.E., Chairman  
146 W. Woodruff Ave.  
Crestview, FL 32536

RE: **Contractor Rebuttal to FDOT / G&O**  
SR 79 Over Holmes Creek  
Contract No.: T3089  
FPN: 407167-1-52-01  
Washington County

Mr. Weeks:

Anderson Columbia Co., Inc. (ACCI) has reviewed the position paper submitted by the CEI / FDOT and provides the following rebuttal. Rebuttal statements will be made for each of the issues we are discussing and as they have been categorized by Mr. Waddell.

### **General Discussion of Major Points in Contractor's Notice of Intent to Claim Package**

In the general discussion section of the position paper submitted by the CEI / FDOT, Article 8-7.3.2 of the specifications was cited and it was suggested that although ACCI had submitted timely notice of request for time and compensation for each of the (6) separate delay issues we are discussing, a formal request for Compensation and Contract Time extension was not made within 30 days after the elimination of the delay and therefore we are not entitled to additional compensation for any of these requests.

It is important first and foremost to recognize that, still at this time, the delay has not yet been fully realized. In each of the (6) issues we are discussing, a controlling item of work was affected and the critical path of the project was delayed. This leaves us at a point today far from where we would be had these delays not been encountered. Relevant to right now, had time not been lost as a result of these delays, ACCI would be finished with foundation operations for Right Bridge and would not be attempting to do so in a rainy season which in the past week has left our work area under 3+ feet of water. Furthermore, ACCI does not agree with the section CEI / FDOT has referenced as governing for required submittals surrounding these delays. Article **5-12 Claims by Contractor** deals specifically with situations where the Contractor deems that additional compensation or a time extension is due on account of delay. We do feel that we are due more than agreed to by the Engineer. The article requires timely notice of intent to claim which was made and requires that full and complete claim documentation be submitted within 180 calendar days after final acceptance. We are still well within this timeframe.

The CEI / FDOT position also goes on to analyze the ACCI schedule. I have attached in the appendix a copy of the July, 2010 update which was submitted prior to pursuit of foundation operations and the most current schedule update for the project. In comparing the two schedules, you will find the following:

| <b>SR 79 Foundation Operations</b> |                   |                           |                              |
|------------------------------------|-------------------|---------------------------|------------------------------|
|                                    | <b>Start Date</b> | <b>Date of Completion</b> | <b>Total Time in Pursuit</b> |
| Prior to Delays                    | 7/19/2010         | 11/15/2010                | 3 Months, 27 Days            |
| Actual Const.                      | 7/29/2010         | 2/18/2011                 | 6 Months, 20 Days            |
| <b>Delay Time</b>                  |                   |                           | <b>2 Months, 24 Days</b>     |

In this simplified sense of looking at the cumulative impacts of these delays, the dates do not support the CEI / FDOT assertion that foundation work was completed close to what we had planned on. The position goes on to say that it is apparent there were no delays in foundation work; clearly this is not the case.

**ISSUE: Entitlement for:**

1. **Damaged Pipe Pile No. 8, Group 10L-1**
2. **Damaged Pipe Pile No. 16, Group 6L-2**
3. **Damaged Pipe Pile No. 3, Group 8L-1**

The position paper submitted by CEI / FDOT seems to suggest that the aspect of Department directed driving efforts which caused delay in each of the above mentioned issues was the driving criteria itself. ACCI understands that driving criteria is based on the approved pile hammer and is established through a WEAP equation outlined in the specifications. We take no issue with the criteria provided. The delays came about due to direction to "overdrive" each of the mentioned pile causing damage in each of the three cases. ACCI foundation crews adjust hammer settings for pile driving and cease driving based entirely on direction by representatives of the Department. As was pointed out in the position submitted on February 27, 2012, in all three of delay issues, adjustments to stroke height, revised criteria or an accurate account of when criteria had been met would have prevented the damage caused by excessive driving.

The position of the CEI / FDOT again visits article 8-7.3.2 to suggest that a submission of complete claim documentation was not submitted as required. **Article 5-12.2.2** has been included below for reference which shows the requirements for claim documentation allowing up to **180 calendar days** after final acceptance for this submittal. Also, **Special Provision 455-11.2.7 Replacing Piles** was referenced but does not include the paragraph which discusses replacing piles deemed to be the "Departments responsibility". Under this condition, payment is to be made for pile replacement. The specification has been included for reference below.

*Applicable Specification:*

**5-12.2.2 Claims For Delay (Special Provisions):** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written

notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay. On projects with an original Contract





amount of \$3,000,000 or less within 90 calendar days after final acceptance of the project in accordance with 5-11, and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project in accordance with 5-11, the Contractor shall submit full and complete documentation as described in 5-12.3 and duly certified pursuant to 5-12.9.

**455-11.2.7 Replacing Piles (Special Provisions):** In the event a pile is broken or otherwise damaged by the Contractor to the extent that the damage is irreparable, in the opinion of the Engineer, the Contractor shall extract and replace the pile at no additional expense to the Department. In the event that a pile is mislocated by the Contractor, the Contractor shall extract and replace the pile at no expense to the Department except when a design change proposed by the Contractor is approved by the Department as provided in 455-5.15.5.

In the event that a pile is driven below cut-off without obtaining the required bearing, and the Engineer elects to have the pile pulled and a longer pile substituted, it will be paid for as Unforeseeable Work. In the event a pile is damaged or mislocated, and the damage or mislocation is determined to be the Department's responsibility, the Engineer may elect to have the pile extracted, and it will be paid for as Unforeseeable Work. If the extracted pile is undamaged and driven elsewhere the pile will be paid for at 30% of the Contract unit price for Piling. When the Department determines that it is responsible for damaged or mislocated pile, and a replacement pile is required, compensation will be made under the item for Piling, for both the original pile and replacement pile.

**ISSUE: Entitlement for:                      4.            Gulf Power utility conduit system on the left bridge**

As the position papers submitted by both ACCI and the CEI / FDOT describe, delays were encountered throughout the entire installation of the Gulf Power Utility Conduit system. The Departments position mentions that inserts were in place at the time the final revised layout sheets were provided. It is important to understand several things regarding layout of the inserts: First, although layout information had been requested for 2 months prior to this delay in the presence of project personnel, nothing as yet had been provided and when layout was provided, it was not correct. The plan sheets provided by Gulf Power on three instances instructed ACCI to layout inserts based on an offset from girders. In the curved bridge we have in Vernon, this would have resulted in tangent sections of hangers that would require the conduit to make a sharp "corner" at each intermediate bent. This is not acceptable to ACCI / FDOT. ACCI did ultimately make assumptions for layout but was adamant about an approved layout from Gulf Power because once the inserts were cast into the Deck, there is no opportunity to move them. The first layout iteration was supplied in an April 19, 2011 email. After review of these drawings by the EOR, a revised set of drawings were issued on April 25, 2011. After review of these drawings another revised set of drawings was issued on May 2, 2011 which still referenced an offset from centerline of beam. The final revised set of drawings were issued the same day. The Department suggests that no lost time resulted from this delay. This is not correct. These inserts had to be installed below superstructure reinforcing steel. At the time the April 26, 2011 email had been sent, steel placement crews had already been demobilized waiting on layout information. ACCI traded numerous emails and telephone conversations to determine the intent of the layout and proceeded cautiously and with reduced productivity to lay out inserts based these conversations over the next 7 days. This was in anticipation of receiving correct layout information to ensure inserts had been installed properly.

The CEI / FDOT position does not address the other aspects of delays associated with the Gulf Power Utility system. To reiterate, ACCI ultimately furnished and installed (6) 4" electrical utility conduit runs for Gulf Power at the approach slab locations after learning that, although months of discussion regarding our schedule for this installation and previous delays had already been encountered, materials had not even been ordered at the time they were supposed to be done with their work at these locations.

The CEI / FDOT position focuses on a failure to submit requests for time and compensation. The applicable specification has been included below for reference which shows that we are still within allowable timeframe for these submittals.



*Applicable Specification:*

**5-12.2.2 Claims For Delay (Special Provisions):** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay. On projects with an original Contract amount of \$3,000,000 or less within 90 calendar days after final acceptance of the project in accordance with 5-11, and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project in accordance with 5-11, the Contractor shall submit full and complete documentation as described in 5-12.3 and duly certified pursuant to 5-12.9.

**ISSUE: Quantum:            5.            Alternate Installation Method, Drilled Shafts at 8L**

The CEI / FDOT position first focuses on a failure to submit requests for time and compensation. The applicable specification has been included below for reference which shows that we are still within allowable timeframe for these submittals.

The dates discussed in the CEI / FDOT position are accurate (which can be verified in the timeline included in the ACCI position) but not in the context of how time was passing. ACCI was in a state of delay due to circumstances beyond our control. Article 455-15.10.2 does allow the Department to direct additional drilling but it could not be reasonably assumed at bid time that the same portion of shaft would have to be excavated several different times due to a raveling soil condition. The specifications address this situation and states that "upon timely receipt of the preliminary request for Contract Time from the Contractor, the Engineer will investigate the conditions, and if it is determined that a controlling item of work is being delayed for reasons beyond the control of the Contractor the Engineer will take appropriate action to mitigate the delay and the costs of the delay." In addition to no appropriate action being taken, the CEI / FDOT informed ACCI that it was not their responsibility to help solve this delay issue. We respectfully disagree. The timeline provided does a good job of showing how indecision by the CEI / FDOT resulted in excessive delays at this shaft location.

As the ACCI position explains, every day beyond reaching bottom of excavation is time and cost which ACCI incurred as a result of this delay which ACCI was forced to mitigate by working in an unproductive manner

The CEI / FDOT contest that the change in foundation systems at 8L-1 should not be compensated. First, sheet BI-21 contains the following note:



7. TWO FOUNDATION SYSTEMS ARE SHOWN IN THE PLANS - DRILLED SHAFT SUPPORTED PIERS OR STEEL PIPE PILE FOUNDATIONS. AFTER COMPLETION OF THE CORING/PILOT HOLE AT EACH FOOTING OR SHAFT LOCATION AND AFTER THE REVIEW OF THE CORING RESULTS BY THE DISTRICT GEOTECHNICAL ENGINEER, THE CONTRACTOR MAY SELECT TO INTERCHANGE THE FOUNDATION SYSTEM SHOWN IN THE PLANS AT PIER 4 THRU PIER 10 ONLY WITH THE ALTERNATE FOUNDATION SYSTEM. IF THE INTERCHANGE IS DESIRED, THE CONTRACTOR SHALL REQUEST FOR APPROVAL FROM THE DISTRICT GEOTECHNICAL ENGINEER. IF PERMISSION IS GRANTED, THE DISTRICT GEOTECHNICAL ENGINEER WILL PROVIDE THE FOLLOWING: MINIMUM PILE TIP ELEVATION, TEST PILE LENGTH, PILE CUTOFF ELEVATION, TOP OF FOOTING ELEVATION, SHAFT TIP ELEVATION, MINIMUM SHAFT TIP ELEVATION, MINIMUM ROCK SOCKET LENGTH FOR THE SHAFT, TOP OF DRILLED SHAFT ELEVATION AS REQUIRED AND ALL OTHER PERTINENT INFORMATION AS APPROPRIATE. ALL COSTS ASSOCIATED WITH INTERCHANGING FOUNDATION SOLUTIONS AS SHOWN IN THE PLANS ARE TO BE BORNE BY THE CONTRACTOR.

This note clearly gives ACCI the option to choose the foundation system at this location, an option which we were not afforded. The decision to install pipe pile at this location was made by the CEI / FDOT which forced ACCI to incur additional cost. This decision came at a time long after steel pipe pile prices at bid time had dramatically increased for a foundation system that originally showed drilled shafts at this location. In addition, the position paper submitted by the CEI / FDOT was the first time not compensating ACCI for this change had been discussed. All conversations prior to submission of their position had all reassured ACCI that increased material cost would be compensated.

The time requested also is justified because a decision that was made for ACCI, and for which a plan change was issued, forced us to install a foundation system that took nearly a month longer.

*Applicable Specification:*

**5-12.2.2 Claims For Delay (Special Provisions):** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay. On projects with an original Contract amount of \$3,000,000 or less within 90 calendar days after final acceptance of the project in accordance with 5-11, and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project in accordance with 5-11, the Contractor shall submit full and complete documentation as described in 5-12.3 and duly certified pursuant to 5-12.9.

**ISSUE: Quantum:      6.      Alternate Installation Method: Drilled Shafts at 7L:**

ACCI does not agree with the position of the CEI / FDOT regarding how this design change affected the progression of our schedule. The timeline included in the ACCI position does a good job of accurately showing the progression of time at this location. First, 10 days had elapsed prior to any direction at all having been given. Also, the design change, for which a plan revision was issued, did require additional work associated with abandoning the shaft but also required a tremendous amount of additional time in constructing an alternate foundation system that took over a month longer to install. Installation at this location also required dewatering and extra measures necessary for its installation.

The CEI / FDOT contest that the change in foundation systems at 7L-1 should not be compensated. First, sheet B1-21 contains the following note:



7. TWO FOUNDATION SYSTEMS ARE SHOWN IN THE PLANS - DRILLED SHAFT SUPPORTED PIERS OR STEEL PIPE PILE FOUNDATIONS. AFTER COMPLETION OF THE CORING/PILOT HOLE AT EACH FOOTING OR SHAFT LOCATION AND AFTER THE REVIEW OF THE CORING RESULTS BY THE DISTRICT GEOTECHNICAL ENGINEER, THE CONTRACTOR MAY SELECT TO INTERCHANGE THE FOUNDATION SYSTEM SHOWN IN THE PLANS AT PIER 4 THRU PIER 10 ONLY WITH THE ALTERNATE FOUNDATION SYSTEM. IF THE INTERCHANGE IS DESIRED, THE CONTRACTOR SHALL REQUEST FOR APPROVAL FROM THE DISTRICT GEOTECHNICAL ENGINEER. IF PERMISSION IS GRANTED, THE DISTRICT GEOTECHNICAL ENGINEER WILL PROVIDE THE FOLLOWING: MINIMUM PILE TIP ELEVATION, TEST PILE LENGTH, PILE CUTOFF ELEVATION, TOP OF FOOTING ELEVATION, SHAFT TIP ELEVATION, MINIMUM SHAFT TIP ELEVATION, MINIMUM ROCK SOCKET LENGTH FOR THE SHAFT, TOP OF DRILLED SHAFT ELEVATION AS REQUIRED AND ALL OTHER PERTINENT INFORMATION AS APPROPRIATE. ALL COSTS ASSOCIATED WITH INTERCHANGING FOUNDATION SOLUTIONS AS SHOWN IN THE PLANS ARE TO BE BORNE BY THE CONTRACTOR.

This note clearly gives ACCI the option to choose the foundation system at this location, an option which we were not afforded. The decision to install pipe pile at this location was made by the CEI / FDOT which forced ACCI to incur additional cost. This decision came at a time long after steel pipe pile prices at bid time had dramatically increased for a foundation system that originally showed drilled shafts at this location. Again, the position paper submitted by the CEI / FDOT which feels additional compensation is not warranted for this change was a change from earlier discussions. All conversations prior to submission of their position had all reassured ACCI that increased material cost would be compensated.

The time requested also is justified because a decision that was made for ACCI, and for which a plan change was issued, forced us to install a foundation system that took over a month longer to install.

*Applicable Specification:*

**5-12.2.2 Claims For Delay (Special Provisions):** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay. On projects with an original Contract amount of \$3,000,000 or less within 90 calendar days after final acceptance of the project in accordance with 5-11, and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project in accordance with 5-11, the Contractor shall submit full and complete documentation as described in 5-12.3 and duly certified pursuant to 5-12.9.

**Conclusion:**

ACCI appreciates the consideration of the Board and requests that the Board render its opinion on these issues.

Sincerely,  
ANDERSON COLUMBIA CO., INC.

Lysle Tower  
Project Manager

