**DRB Recommendation**

**May 13, 2018**

**Ranger Construction Industries, Inc. & FDOT District Four**

**For Project**

**I-75 Express Lanes Project Segment "C"**

FPID: 421707-4-52-01, 421707-4-52-02

Federal Aid Project Number: 0754-175-1

Contract No. E-4N98

County: Broward

**Issue Statement NOI-30**

The RCI Team (RCI/WGI/PDE) is seeking entitlement for additional compensation for the design and construction of Mast Arm A at the NW corner of the W intersection at Miramar Pkwy.

ATC #7 was approved in order to allow the design of the bridge at Miramar Pkwy to accommodate maintenance of traffic.  The original RFP did not account for this.

ATC #7 therefore shifted the alignment of Miramar Pkwy south, and eliminated construction conflicts with mast arms on the N side of Miramar Pkwy.  ATC #7 changed the requirements of the original RFP for the bridge, roadway and signalization.

Mast Arm A was determined to not have an engineering reason for replacement, and its replacement was allegedly not included in Bid.  The written technical proposal also allegedly informed the Department of the intention to salvage mast arms that are not in conflict with roadway improvements.

**Project Information**

**Type:** Design Build **Contractor:** Ranger Construction Ind., Inc. (Ranger)

**Original Duration:** 1385 days **Original Contract amount:** $85,270,000.00

**Project Scope**

This contract was for the design and construction of I-75 Express Lane improvements to be constructed within the existing 166-foot wide median which generally consists of a barrier wall, a divided 4-lane tolled roadway (two 12-foot travel lanes in each direction), 6-foot paved inside shoulders, and a 12-foot (10 feet paved) outside shoulders. The Segment C Project also includes construction of the Pembroke Road Overpass Bridge and reconstruction of the Miramar Parkway Interchange, including the Miramar Parkway Bridge over I-75. Other improvements include new I-75 Express Lanes over the C-4 Canal bridged with twin-96” concrete culverts; replacement of the existing SB and NB I-75 bridges over the C-4 Canal bridged with twin-96” concrete culverts; milling and resurfacing of the I-75 General Purpose Lanes adjacent to the proposed ingress/egress lanes connecting to the Express Lanes; temporary and permanent retaining walls; drainage; sound barrier walls; permanent traffic

monitoring sites; two (2) tolling gantries and associated infrastructure including buildings; Intelligent Transportation System (ITS); signing and pavement markings; signalization; lighting; and landscaping.

**Members of the Dispute Review Board**

Robert Cedeno, Member

David Donofrio, Member

Ronnie Klein, Chairman

**Table of Contents**

**1.0 Summary of the Issue**

**1.1 Summary of the Contractors Position**

**1.2 Summary of the Departments Position**

**1.3 Summary of the Contractors Rebuttal**

**1.4 Summary of the Departments Rebuttal**

**2.0 Key findings of Fact Material to the Issue**

**3.0 Findings from the Hearing Material to the Issue**

**4.0 DRB Understandings**

**5.0 DRB Recommendation**

**1. Summary of the Parties Positions**

The DBF (RCI/CGI/WGI/PDE) is seeking entitlement for additional compensation for the design and construction of Mast Arm A at the NW corner of the West intersection at Miramar Pkwy.

The DBF stated their intent to salvage the two mast arms was clearly spelled on page three of their Technical Proposal under Signalization. Also, that ATC No. 7 allowed for the adjustment of the horizontal alignment of Miramar Parkway which would provide the geometry required to salvage the mast arms.

The Department disagrees, noting that the RFP requires

"The Design Build Firm shall prepare signalization plans in accordance with Department criteria. The Design Build Firm shall reconstruct existing mast arm signals at the I-75/Miramar Parkway Interchange (both east and west of I-75) with all new mast arms, controller cabinets, video detection, signal head per lane (centered on each intended lane physically as possible), back plates with yellow reflective borders for all signal heads, LED countdown type pedestrian signals and associated pedestrian signal signs"

The Department contends ATC #7 as submitted by the DBF was to address minimizing traffic control phasing and traffic impacts. This ATC, and all supporting documentation, did not include or made any reference to eliminate the installation of a new mast arm at the location in question. When the Contractor submitted the ATC #7 proposal, the RFP specifically requires that any deviations from the RFP be explained and an analysis provided justifying the deviation from the requirements of the RFP. Since this was not done, the Department had no knowledge of any intent by the Design-Build Firm to salvage this mast arm.

**1.1 Summary of the Contractors position**

The existing signal mast arm on the northwest corner of the intersection at Miramar Parkway and the I-75 southbound exit ramp was constructed in May 2012 under FPID No. 414561-1-52-01. That project provided interim improvements for Miramar Parkway at I-75.

The RCI Team (RCI/WGI/PDE) did not include the replacement of this existing signal mast arm as part of our bid, which the Department had later directed the team to replace during construction. This is clearly evident in the team’s Technical Proposal. The existing signal mast arm was a dual-arm structure that provided signal control for westbound movement of Miramar Parkway and for the southbound-to-westbound movement of the ramp exiting southbound I-75. The reconstruction of Miramar Parkway under FPID No. 421707-4-52-01 (this project) under the RCI Team’s alternate technical concept at this location neither impacts the upright pole nor affects the ability for this structure to provide signal control as per FDOT’s Design Standards, Standard Specifications, and Plans Preparation Manual.

The RFP requirement to replace the signals at I-75 and Miramar is directly attributable to impacts to these signals by the RFP concept roadway design. The RFP language that states to “reconstruct existing mast arm signals… with all new mast arms, controller cabinets, video detection…” is not to require reconstruction, as reconstruction is inherent to the RFP roadway concept. Instead it is to ensure full system replacement when the existing signal structures are impacted by the roadway design instead of salvaging certain system components and to require the use of mast arms in lieu of span wire.

The RCI Team’s technical proposal specifically called out for these two mast arms to be salvaged (Pg. 3 of our technical proposal, Signalization section, see excerpt next page). This was made possible through our alternate technical concept (ATC #7) to shift the horizontal alignment of Miramar Parkway. With this shift, the existing signal mast arm was no longer impacted by construction, no longer requiring replacement. The statement in the team’s technical proposal has been misinterpreted by the Department in recent discussions pertaining to a zero-cost CSI. The Department contends that the technical proposal statement is intending to salvage existing signal mast arms at the intersections of SW 160th Avenue and SW 148th Avenue and not at the ramp intersection. However, this is not true due to the fact that the RFP was never impacting those intersections. All RFP documents show proposed improvements and project limits no closer than 300 feet to either intersection. Therefore, within the context of the RFP requirements and technical proposal, discussions of salvaging existing signals do not apply to those intersections outside of the project limits.

**Basis for Entitlement:**

The item of work relative to this dispute, resulted from direction by the Department to furnish and install a new mast arm at a location that was identified by the Design Build Firm (DBF) to remain in the Technical Proposal. The Department was not charged for a new mast arm at this location in the DBF bid; therefore, upon direction by the Department to furnish and install a new mast arm without compensation, the DBF was damaged.

**Conclusion:**

The RFP allows for and the Department encourages innovation and ways of cost savings in the Design-Build concept for projects designated Design-Build. This innovation is presented by way of Alternative Technical Concepts (ATC’s) which enable the DBF to present alternatives to design with the intended purpose to build a better project and save the taxpaying public money. With saving the taxpayer money in mind, the DBF identified a mast arm that at the time of bid was only two (2) years old and in new condition. The DBF received no monetary benefit from designing this particular mast arm to remain. In the case of this dispute, the DBF saved the taxpayer money in the design and then suffered loss upon the Department directing a replacement of the mast arm structure that by every other account was unequivocally acceptable to remain.

**1.2 Summary of the Departments Position**

The DBF submitted Notice of Intent to Claim #30 dated January 18, 2017 requesting entitlement for additional payment for the design and construction of a new mast arm at the northwest corner of the I-75/Miramar Parkway interchange to replace the existing. The DBF alleges that their design did not require

this mast arm to be replaced.

The Department’s position is that the RFP is very clear that the DBF was to reconstruct all existing mast arm signals at the I-75/Miramar Parkway interchange with all new mast arms and no additional payment should be made to the DBF.

Below please find the relevant contract requirements and supportive position statements.

Contract Requirement #1

RFP Part VI Design and Construction Criteria, R – Signalization Plans – Page 84 of 94 states the following:

“The Design-Build Firm shall prepare Signalization Plans in accordance with Department criteria. The Design-Build Firm shall reconstruct existing mast arm signals at the I-75/Miramar Parkway Interchange (both east and west of I-75) with all new mast arms, controller cabinets, video detection, signal head per

lane (centered on each intended lane physically as possible), back plates with yellow reflective borders for all signal heads, LED countdown type pedestrian signals and associated pedestrian signal signs.”

Supportive Position Statement #1

The RFP is very clear with the “shall” requirement that all existing mast arms are to be replaced with new ones no matter their condition.

Contract Requirement #2

Technical Proposal submitted by the Design-Build Firm, Signalization Section - Page 3 of 15 states the following:

“Improvements at the I-75/Miramar Pkwy interchange modify the entrance and exit ramps and require new signal control in accordance with Broward County Traffic Engineering Division (BCTED) requirements. Based on our proposed geometry, no signalization improvements or modifications are needed at SW 148th Ave. or SW 160th Ave. By maintaining the existing ramp alignments and widening the ramps, the immediate intersections on Miramar Pkwy (East and West of I-75) are the only effected

intersections.” Additionally, “All mast arms will be standard galvanized steel. Additionally, the communications system along Miramar Pkwy will extend from the existing controller at SW 160th Ave. to the controller at SW 148th Ave. Two mast arms at these locations can be salvaged;”

Supportive Position Statement #2

In this section of the technical proposal, the DBF mentions, “Based on our proposed geometry, no signalization improvements or modifications are needed at SW 148th Ave. or SW 160th Ave.” Further down in the same technical proposal section, the DBF mentions that “Two mast arms at these locations can be salvaged”. One at SW 160th Ave. and the other at SW 148th Ave. and no other locations.

Contract Requirement #3

Technical Proposal submitted by the Design-Build Firm, Horizontal Alignments/Stopping Sight Distance Section - Page 3 of 15 states the following: “Approved ATC No. 7 allowed for a horizontal alignment adjustment on Miramar Pkwy, to minimize traffic control phasing and traffic impacts. The alignments for

the Miramar Pkwy ramps were all refined to make greater use of the existing ramp pavement and to reduce environmental impacts.” (Excerpt from Exhibit 2 and 3)

Supportive Position Statement #3

ATC #7 as submitted by the DBF was to address minimizing traffic control phasing and traffic impacts. This ATC, and all supporting documentation, did not include or made any reference to eliminate the installation of a new mast arm at the location in question. When the Contractor submitted the ATC #7 proposal, the RFP specifically requires that any deviations from the RFP be explained and an analysis provided justifying the deviation from the requirements of the RFP. Since this was not done, the Department had no knowledge of any intent by the Design-Build Firm to salvage this mast arm.

Contract Requirement #4

The DBF submitted a Cost Savings Initiative (CSI) on July 20, 2016 to leave in place the existing mast arm at the northwest corner of the I-75/Miramar Pkwy interchange with Zero dollars cost savings. There would be no need for this CSI if the Contractor included and explained the deviation that the mast

arm in question would be salvaged in the ATC #7.

Supportive Position Statement #4

The DBF submitted the signalization plans for review and approval by the Department leaving in place the existing mast arm at the northwest corner of the I-75/Miramar Pkwy interchange. The Department requested that the DBF follow the RFP requirement that calls for all existing mast arms to be replaced. The DBF asked if a CSI could be submitted that would leave the existing mast arm in place. The Department requested that the mast arm must have a galvanized finish coating and not the current black powder coating. The DBF proposed a solution that would strip the existing black powder coating and then

the mast arm would be galvanized. The Department mentioned that this proposal could be entertained. In order not to delay the signalization plans from being Released for Construction (RFC), the Department suggested to submit the plans for RFC but to cloud the mast arm in question until the CSI was submitted

and approved. The DBF submitted the plans and the plans were RFC on 08/24/15.

The CSI proposal was submitted almost a year later on July 20, 2016 with Zero dollars cost savings. The Department rejected the CSI proposal on July 22, 2016 and requested that the DBF construct the mast arm as required by the RFP. A plan revision was submitted and approved on 05/08/17, which depicted the installation of a new mast arm.

Action Requested

Based upon the contract requirements and supportive position statements shown above, the Department respectfully requests the DRB to find no entitlement for additional compensation for the design and construction of a new mast arm at the northwest corner of the I-75/Miramar Parkway interchange.

**CONCLUSION**

DBF is not entitled to any compensation. Nor any portion thereof, based on the following summation of facts:

1. RFP states *“The Design-Build Firm shall prepare Signalization Plans in accordance with Department criteria. The Design-Build Firm shall reconstruct existing mast arm signals at the I-75/Miramar Parkway Interchange (both east and west of I-75) with all new mast arms, controller cabinets, video detection, signal head per lane (centered on each intended lane physically as possible), back plates with yellow reflective borders for all signal heads, LED countdown type pedestrian signals and*

*associated pedestrian signal signs.”*

2. The DBF’s Technical Proposal signalization section states that based on their design two mast arms can be salvaged at SW 160th Ave. and SW 148th Ave. and no other locations.

3. ATC #7 as submitted by the DBF was approved by the Department to address minimizing traffic control phasing and traffic impacts and not to eliminate the installation of a new mast arm at the northwest corner of the I-75/Miramar Pkwy interchange.

4. The DBF clearly understood the RFP requirements and that is the obvious reason that they requested to submit a CSI to leave in place the existing mast arm. Once the CSI was submitted for

Zero dollars cost savings and rejected by the Department, the DBF proceeded with the installation of a new mast arm.

**1.3 Summary of the Contractors Rebuttal**

POSITION AND ACTION REQUESTED

Supportive Position Statement #1

The RFP requirement to replace the signals at I-75 and Miramar is directly attributable to impacts to these signals by the RFP concept roadway design. The RFP language that states to “reconstruct existing mast arm signals… with all new mast arms, controller cabinets, video detection…” is not to require reconstruction, as reconstruction is inherent to the RFP roadway concept. Instead it is to ensure full system replacement when the existing signal structures are impacted by the roadway design instead of salvaging certain system components and to require the use of mast arms in lieu of span wire.

Supportive Position Statement #2

The technical proposal statement that “Two mast arms at these locations can be salvaged” is referring to mast arms at the ramp intersections. It goes on to state that the existing controller boxes will be replaced. This again refers only to the ramp intersections and they were replaced.

Supportive Position Statement #3

As stated above, the intent of the DBF to salvage the existing mast arm was clearly stated in the technical proposal. As stated above, the RFP language to replace the existing mast arms is a description of certain requirements to be met in the event of geometry impacts. Therefore, the ATC did not deviate from the RFP with respect to the mast arms since the geometry would no longer impact the signal and the RFP language does not address existing mast arms to remain.

Supportive Position Statement #4

The plan revision to include and subsequent construction of a replacement mast arm was at the direction of the Department and does not serve as evidence that the mast arm was included in the DBF’s bid. The CSI was intended to consider the Department’s desires for consistent aesthetics and maintenance concerns by providing a galvanized finish at the DBF’s cost. Although no cost for this mast arm was included in the bid, the zero-cost CSI was submitted in the spirit of partnership with the Department.

**1.4 Summary of the Departments Rebuttal**

**Position Statement**

The existing signal mast arm on the northwest corner of the intersection at Miramar Parkway and the I-75 southbound exit ramp was constructed in May 2012 under FPID No. 414561-1-52-01. That project provided interim improvements for Miramar Parkway at I-75. The RCI Team (RCI/WGI/PDE) did not include the replacement of this existing signal mast arm as part of our bid, which the Department had later directed the team to replace during construction. This is clearly evident in the team’s Technical Proposal.

***The Design-Build Firm (DBF) did not “clearly” demonstrate their intent to salvage the mast arm at the location in question. The DBF did not present an Alternative Technical Concept (ATC) during procurement to salvage the mast arm as required by Section I of the RFP (page 8 of 94), which states, “Any changes to requirements of the RFP by a Design-Build Firm must be approved by the Department through the ATC Proposal process…” Therefore, the Department requested that the DBF follow the RFP requirement and replace this mast arm in kind.***

The existing signal mast arm was a dual-arm structure that provided signal control for westbound movement of Miramar Parkway and for the southbound-to-westbound movement of the ramp

exiting southbound I-75. The reconstruction of Miramar Parkway under FPID No. 421707-4-52-01 (this project) under the RCI Team’s alternate technical concept at this location neither impacts the upright pole nor affects the ability for this structure to provide signal control as per FDOT’s Design Standards, Standard Specifications, and Plans Preparation Manual.

***The submitted and approved Alternative Technical Concept (ATC) #7 did not mention anything regarding salvaging the mast arm in question, which is a requirement of the ATC process. The RFP, Part V Project Requirements and Provisions of Work, Article B – Innovative Aspects, Section 2 – Submittal of ATC***

***Proposals, Subsections c and d, specifically requires that any deviations from the RFP be explained and an analysis provided justifying the deviation from the requirements of the RFP. Since this was not done, the Department had no knowledge of any intent by the Design-Build Firm to salvage this mast arm.***

The RFP requirement to replace the signals at I-75 and Miramar is directly attributable to impacts to these signals by the RFP concept roadway design. The RFP language that states to “reconstruct existing mast arm signals… with all new mast arms, controller cabinets, video detection…” is not to require reconstruction, as reconstruction is inherent to the RFP roadway concept. Instead it is to ensure full system replacement when the existing signal structures are impacted by the roadway

design instead of salvaging certain system components and to require the use of mast arms in lieu of span wire.

***The Conceptual Plans were provided as a Reference Document and were not incorporated into and are not part of the RFP or contract documents. The RFP clearly states, “the Design-Build Firm shall reconstruct existing mast arm signals at the I-75/Miramar Parkway Interchange (both east and west of***

***I-75) with all new mast arms…” Any deviation to this RFP, Part VI Design and Construction Criteria, Article R – Signalization Plans – Page 84 of 94, requirement requires an approved ATC, during procurement, or approved Cost Savings Initiative (CSI), after award.***

The RCI Team’s technical proposal specifically called out for these two mast arms to be salvaged (Pg. 3 of our technical proposal, Signalization section, see excerpt next page). This was made possible through our alternate technical concept (ATC #7) to shift the horizontal alignment of Miramar Parkway. With this shift, the existing signal mast arm was no longer impacted by construction, no longer requiring replacement. The statement in the team’s technical proposal has been misinterpreted by the

Department in recent discussions pertaining to a zero-cost CSI. The Department contends that the technical proposal statement is intending to salvage existing signal mast arms at the intersections of SW 160th Avenue and SW 148th Avenue and not at the ramp intersection. However, this is not true due to

the fact that the RFP was never impacting those intersections. All RFP documents show proposed improvements and project limits no closer than 300 feet to either intersection. Therefore, within the context of the RFP requirements and technical proposal, discussions of salvaging existing signals do not

apply to those intersections outside of the project limits.

***Alternative Technical Concept (ATC) #7 as submitted by the DBF was to address minimizing traffic control phasing and traffic impacts. This ATC, and all supporting documentation, did not include or made any reference to eliminate the installation of a new mast arm at the location in question. When the Contractor***

***submitted the ATC #7 proposal, the RFP specifically requires that any deviations from the RFP be explained and an analysis provided justifying the deviation from the requirements of the RFP. Since this was not done, the Department had no knowledge of any intent by the Design-Build Firm to salvage this mast arm.***

***The submitted Technical Proposal Signalization section (page 3 of 15) mentions that “Based on our proposed geometry, no signalization improvements or modifications are needed at SW 148th Ave. or SW 160th Ave. By maintaining the existing ramp alignments and widening the ramps, the immediate intersections on Miramar Pkwy (East and West of I-75) are the only effected intersections.” Further down on the same Signalization section, the DBF mentions “All mast arms will be standard galvanized steel. Additionally, the communication system along Miramar Pkwy will extend from the existing controller at SW 160th Ave. to the controller at SW 148th Ave. Two mast arms at these locations can be salvaged.” It is obvious that the only mast arms that the DBF considered salvaging were the ones at SW 160th and SW 148th***

***Avenues. The Conceptual Plans were provided as a Reference Document and were not incorporated into and are not part of the RFP or contract documents. They are a starting point for the Design-Build Firm (DBF) to begin their design. It is obvious the DBF in their design analyzed the impacts on the SW 160th and SW***

***148th Avenues intersections. They adjusted their design not to impact either of the previous mentioned intersections, as mentioned in their Technical Proposal Signalization section (page 3 of 15) “Based on our proposed geometry, no signalization improvements or modifications are needed at SW 148th Ave. or SW***

***160th Ave.” and thus were able to salvage the mast arms at these two intersections.***

**Basis for Entitlement:**

The item of work relative to this dispute, resulted from direction by the Department to furnish and install a new mast arm at a location that was identified by the Design Build Firm (DBF) to remain in the Technical Proposal. The Department was not charged for a new mast arm at this location in the DBF bid;

therefore, upon direction by the Department to furnish and install a new mast arm without compensation, the DBF was damaged.

***The Department requested the Design-Build Firm (DBF) to install a new mast arm at this location in accordance with the RFP requirement. The DBF mentioned to the Department that the price of this mast arm was not included in their bid. In order to minimize costs, the DBF discussed with the Department the***

***possibility of a Cost Savings Initiative (CSI) to use the existing mast arm but removing the black powder coating and galvanizing the mast arm. In order to mitigate delays to the project, the signalization plans were released for Construction with this mast arm clouded in the plans pending the CSI approval. The DBF submitted a Zero cost savings to the Department on 07/20/2016. On 07/22/2016, the Department directed the DBF to adhere to the RFP requirements and provide a new mast arm.***

**Conclusion:**

The RFP allows for and the Department encourages innovation and ways of cost savings in the Design-Build concept for projects designated Design-Build. This innovation is presented by way of Alternative Technical Concepts (ATC’s) which enable the DBF to present alternatives to design with the intended purpose to build a better project and save the taxpaying public money.

***The Alternative Technical Concept (ATC) is made part of the RFP to allow the Design-Build Firm (DBF) to submit innovative solutions, but the recipient of the ATC must know what is the full intent of the submitted ATC. The Department was not made aware during the ATC process by the DBF of their intention of salvaging a mast arm at this location. The Department knew clearly that the mast arms at SW 160th and SW 148th Avenues intersections were going to be salvaged based on the DBF’s write-up and submitted roadway geometry.***

With saving the taxpayer money in mind, the DBF identified a mast arm that at the time of bid was only two (2) years old and in new condition. The DBF received no monetary benefit from designing this particular mast arm to remain. In the case of this dispute, the DBF saved the taxpayer money in the design and then suffered loss upon the Department directing a replacement of the mast arm structure that by every other account was unequivocally acceptable to remain.

**2. Key findings of Fact Material to the Issue**

\* The dispute at hand is a design issue that resulted in potential additional costs during the construction phase.

\* RCI contends the Department was not charged for a new mast arm at the location in question in the DBF bid, therefore upon direction by the Department to furnish and install a new mast arm without compensation, the DBF was damaged

\* The RFP Part VI Design and Construction Criteria, R – Signalization Plans – Page 84 of 94 states the following:

“The Design-Build Firm shall prepare Signalization Plans in accordance with Department criteria. The Design-Build Firm shall reconstruct existing mast arm signals at the I-75/Miramar Parkway Interchange (both east and west of I-75) with all new mast arms, controller cabinets, video detection, signal head per

lane (centered on each intended lane physically as possible), back plates with yellow reflective borders for all signal heads, LED countdown type pedestrian signals and associated pedestrian signal.

\* There was a total of four mast arm signals govern by the RFP and the responsive Technical Proposal warranting any design consideration. These were all mast arm signals

\* RCI proposed ATC #7, to adjust the horizontal alignment of Miramar Parkway laterally by approximately 50 ft. within the project limits to accommodate their specific approach to traffic control for minimization of traffic control phases. There were no specific description, unambiguous usage, no mention of any deviations from the RFP, or analysis, quality, maintenance or anticipated life regarding the intent to salvage the existing Mast Arm located on the NW quadrant of the I-75/Miramar Parkway Interchange as required in the RFP, Addendum 5, pages 19 and 20 of 94.

\* On page 3 of the DBF's Technical Proposal under Signalization they state in part

"Based on our proposed geometry, no signalization improvements or modifications are needed at SW 148th Ave. or SW 160th Ave. By maintaining the existing ramp alignments and widening the ramps, the immediate intersections on Miramar Pkwy (East and West of I-75) are the only effected intersections."

In addition they express,

"All mast arms will be standard galvanized steel, Additionally, the communication system along Miramar Pkwy will extend from the existing controller at SW 160th Ave to the controller at SW 148th Ave. Two mast arms at these locations can be salvaged."

This narrative applies only to the mast arms at SW 160th Ave and SW 148th Ave the way it is worded with the first part referring to “signalization improvements” and the later part to “communication system.”

**3.0 Findings from the Hearing Material to the Issue**

1. The original design PM for the DBF during the design development was no longer employed by WGI, and was therefore unavailable to articulate the intent of the “SIGNALIZATION” language in the RFP that was ambiguously worded regarding salvaging any of these four mast arm signals;
2. The Subconsultant to WGI, Progressive Design & Engineering, Inc., responsible for generating both the “SIGNALIZATION” language and the initial exclusion Mast Arm A from the plans appeared by phone. Based on those discussions, there was an intent to salvage both mast arm signals at the I-75/Miramar Parkway Interchange. It was stated that the initial “SIGNALIZATION” language was more extensive than what eventually made it into the Technical Proposal clearly reflected this intent.

**4.0** **DRB Understandings**

The key issue in this dispute is whether the DBF gave sufficient information in their Technical Proposal, or in ATC no. 7 to advise the Department of their intent to salvage two Mast Arms adjacent to the Miramar interchange.

The DBF stated their intent to salvage the two mast arms was clearly spelled in the language on page three of their Technical Proposal under Signalization (after it was reduced to allegedly fit the page limit requirement of the RFP). Also, that ATC No. 7 allowed for the adjustment of the horizontal alignment of Miramar Parkway, which would impliedly provide the geometry required to salvage the mast arms and factually without a separate ATC submittal for such.

However, it would be unreasonable to expect the Department to understand the DBF's intent to salvage the two Mast Arms based on the description used in their Technical proposal or impliedly in ATC No. 7 without the appropriate information required for all separately identified ATCs submittal under the RFP, Addendum 5, pages 19 and 20 of 94.

Therefore it is understandable why this issue was not raised during the Q&A since it was not a known issue at that time. Reciprocally, it would not have automatically been raised as an issue involving ATC No. 7. unless you were aware of the DBF's unstated intent to salvage the two mast arms at the time of the ATC proposal. On the other hand, Had the DBF clearly defined their intention in the Technical Proposal, or separately identified in ATC No. 7 that these two mast arms “can” or more definitively will be salvaged, then the Department would have been given the required opportunity to accept or reject. Unfortunately this was not the case.

**DRB Recommendation**

RFP, Addendum 5, Section R, page 84 of 94 clearly states that the DBF “shall reconstruct existing mast arm signals at the I-75/Miramar Parkway Interchange ….” There was insufficient notice in the Technical Proposal and vague or no separately identified information in ATC No. 7 regarding salvaging mast arm signals at this interchange location. Based on the forgoing the Board finds no entitlement on this issue.

**Submitted by and for** Date of Determination: May 13, 2018

**Ronnie Klein, Chairman**

Robert Cedeno, Member

David Donofrio, Member