

Ultimate I-4 Project
FDOT Contract No. E5W13
FIN No. 432193-1-52-01

Dispute Review Board Recommendation
Location of Opaque Visual Barriers Issue
August 8, 2017

INTRODUCTION:

I-4 Mobility Partners (I4MP) is the Concessionaire for the Florida Department of Transportation's (Department) Ultimate I-4 Project (Project). Skanska-Granite-Lane, a Joint Venture (SGL), is I4MP's contractor for the Project.

The Concessionaire Agreement states that where concrete barrier is separating opposing directions of the Express lanes, barrier shall incorporate a concrete opaque visual barrier (OVB) per Design Standards. I4MP/SGL and the Department disagree as to the locations and limits of OVB as required by the Contract Documents.

The difference between the quantity of OVB I4/SGL proposed is to be installed and what the Department contends should be installed is approximately 30,000 LF more or less.

I4MP and SGL requested a Dispute Review Board (DRB) Hearing and DRB recommendation regarding the limits of OVB as required by the Contract Documents.

The question put forth to the DRB for a recommendation is:

Is I4MP/SGL entitled to a Change resulting from an increase in the quantity of OVB the Department directs I4MP/SGL to install which is greater than the quantity of OVB required by the Concessionaire Agreement?

The DRB hearing was held on August 1, 2017, at the Project office of I4MP in Maitland, Florida. Representatives of the Department, I4MP, and SGL in attendance were:

Department:

Loreen C. Bobo, I-4 Ultimate Construction Program Manager - FDOT
Michael Gwynne – HNTB-COS
Keith Brockman – RS&H-Design

I4MP/SGL:

Jan van de Meene, Chief Executive Officer – I4MP
J.K. (Brook) Brookshire, III, Project Director – SGL
James M. Wedding, Commercial Manager – SGL
Doran Bosso, Commercial Director - SGL

POSITIONS OF THE PARTIES:

I4MP / SGL POSITIONS

- I4MP/SGL has complied with the Technical Requirements by providing a design incorporating the OVB elements in accordance with the Department’s Design Standards and at locations where concrete barrier directly separates the opposing direction of Express Lanes.
- The Department’s position of installation of OVB across the entire Project leads to several illogical and inefficient outcomes.
- The Department’s position is not supported by the Concession Agreement or Design Standards.
- The only Department Design Standard related to OVB is Index 461. There is no other guidance in the Design Standards or the Plans Preparation Manual.
- OVB is not required where the Express Lane barrier is adjacent to an open median, drainage swale, or open air in situations where a bridge may exist, i.e., anything other than an opposing Express Lane.
- If the median barrier is not separating the Express Lanes, then there is no obligation under the Concession Agreement to provide an OVB.
- OVB standard Index cannot to be used to install OVB at bridges and MSE walls with a customized project specific design.

- Index 461 makes several distinct points associated solely with ‘barrier walls’, not with bridges or other walls.
- Index 461 references Type “F” shape and Jersey shape barrier walls.
- Type “F” shape and Jersey shapes are in Index 410 on sheet 1 of 27 and are labeled as standard barrier wall sections.
- There is no reference in Index 461 for anything other than standard barrier wall on a roadway surface.
- Index 461 does not apply to bridges, but instead provides guidance at approaches which have the barrier on opposite sides of centerline, and does not address any lateral transitions or overlaps between the different barriers.
- The requirement for OVB as stated in the Concession Agreement is unambiguous.
- There is no aesthetic criteria for providing OVB when it does not separate Express lanes or is required by Design Standard.
- There is no contractual requirement for a continuous look to the corridor.
- Index 461 does not apply to Traffic Railing.
- Concrete barrier and traffic railing are not synonymous by nomenclature or design.
- I4MP/SGL stated during the hearing that concrete barrier wall and concrete traffic railing is a concrete barrier, but concrete MSE wall would not be a concrete barrier.

DEPARTMENT’S POSITIONS:

- The Contract Documents (Vol II, Section 3-H.2.b) and the Governing Regulations (Department Design Standards) provide clear requirements for which I4MP is to base its work.
- OVB is required when concrete barrier is present between the EB and WB directions of the Express Lanes with the only exception being at the ends of the Project, where the Express Lanes terminate into General Use Lanes.
- Index 461 of the Department’s Design Standards provides guidance as to how OVB is to be installed onto concrete barriers.

- All applications for installation of OVB within the associated limits on the Project are covered by Index 461.
- OVB use is not only for headlight glare, but also to prevent slowdowns associated with driver distraction from secondary crashes in the opposite direction of travel.
- The word ‘separating’ as used in Volume II, Section 3-H.2.b, is synonymous with the word ‘between’.
- In an effort to partner with I4MP, the Department elected to reduce the requirements to install OVB in certain instances where I4MP’s geometric design resulted in: (1) a major bifurcation of the opposing express lanes through horizontal alignment changes, (2) other visual barriers that negate the need for the OVB such as direct connect ramp locations, and (3) significant elevation differentials between the EB and WB directions.
- The Department stated during the hearing that the term ‘concrete barrier’ as used in Vol II, Section 3-H.2.b could include concrete barrier wall, concrete traffic railing, and concrete MSE wall.

DRB ANALYSIS:

The Department stated OVB use for this Project is not only for headlight glare, but also to prevent slowdowns associated with driver distraction from secondary crashes in the opposite direction of travel. However, the Department acknowledged at the hearing that the Contract Documents did not specify nor indicate that OVB was to prevent slowdowns associated with driver distraction from secondary crashes in the opposite direction of travel.

Volume II – Technical Requirements – Section 3 – Design and Construction Requirements, Article b-7 states:

“Where concrete barrier is separating opposing directions of the Express Lanes, barrier shall incorporate a concrete opaque visual barrier per design standards.”

Webster’s New World Dictionary defines the words ‘separating’ and ‘between’ as being synonymous. Thus, the meaning of Volume II – Technical Requirements – Section 3 – Design and Construction Requirements, Article b-7 can be OVB is to be installed per design standards where concrete barrier is between opposing directions of the Express Lanes and does not preclude other items from also being between the opposing directions of the Express Lanes such as open median, drainage swale, etc.

The Department’s Design Standard Index 461 – Opaque Visual Barrier, shows the design of the OVB and how the OVB is to be installed on a barrier wall below. The index shows the barrier wall to be either a Type F safety shape or a New Jersey safety shape.

Both parties acknowledged that Design Index 461 provides guidance as to how OVB is to be installed onto a concrete barrier and that applications for installation of OVB within the associated limits on the Project are covered by Index 461.

Even though both parties acknowledged that concrete traffic railing is a concrete barrier, Index 461 does not show or indicate OVB being installed on concrete traffic railing nor do Design Standard Indexes for Traffic Railing (Index Nos. 420, 421, 422, 423, 424, and 425) show or indicate OVB being installed on concrete traffic railing.

Thus, even though concrete traffic railing may be a concrete barrier, neither party presented any Design Standards for incorporating a concrete opaque visual barrier on concrete traffic railing or on any concrete barrier other than a Type F safety shape or a New Jersey safety shape concrete barrier wall.

Both parties acknowledged there are no specified Department Design Standards related to incorporating or not incorporating concrete OVB between opposing directions of the Express Lanes for:

- (1) bifurcation of the opposing express lanes through horizontal alignment changes,
- (2) other visual barriers that negate the need for OVB such as direct connect ramp locations, or (3) significant elevation differentials between EB and WB directions.

Both I4MP/SGL and the Department independently developed such criteria on their own. The difference in the criteria resulted in the Department and I4MP/SGL noting different locations requiring OVB and different quantities of OVB.

The criteria developed by either the Department or I4MP/SGL, however, are not a Design Standards per Volume II – Technical Requirements – Section 3 – Design and Construction Requirements, Article b-7.

In accordance with the provisions of Volume II – Technical Requirements – Section 3 – Design and Construction Requirements, Article b-7, OVB is only required where opposing directions of the Express Lanes are separated by a concrete barrier and that barrier is to be installed in accordance with the Department's Design Standards.

The only Department Design Standards for OVB is for the OVB to be installed on a concrete barrier wall with a profile of Type F safety shape or New Jersey safety shape. There is not a Department Design Standard for installing OVB on any other concrete barrier.

Although it may have been the intent of the Department to have OVB be installed on all concrete barriers, including concrete traffic railing, etc., that are between opposing directions of the Express Lanes, that intent was not clearly stated in the provisions of the Concessionaire Agreement.

DRB RECOMMENDATION:

This DRB recommendation is based upon the information presented to the DRB by both parties in their position papers, by their testimony at the DRB Hearing, and the DRB's analysis of that information. This DRB recommendation is a unanimous recommendation of the DRB members; Bill Deyo, DRB Chairman, William E. Waddell, DRB Member, and Matthew L. Michalak, DRB Member.

The DRB recommendation is that in accordance with Volume II – Technical Requirements – Section 3 – Design and Construction Requirements, Article b-7, the Department's Design Standard Index 461 – Opaque Visual Barrier and the lack of a Department Design Standards for (1) bifurcation of the opposing express lanes through horizontal alignment changes, (2) other visual barriers that negate the need for OVB such as direct connect ramp locations, or (3) significant elevation differentials between EB and WB directions, OVB is only required where concrete barrier wall with a profile Type F safety shape or New Jersey safety shape separates or is between opposing directions of the Express Lanes whether or not other items, i.e. open median, drainage swale, etc., are also between the opposing directions of the Express Lanes. OVB is not required where the Express Lanes terminate into General Use Lanes.

The DRB recommendation is I4MP/SGL is entitled to a Change resulting from an increase in the quantity of OVB the Department directs I4MP/SGL to install which is greater than the quantity of OVB required by the Concessionaire Agreement.

Submitted by and for the DRB

/s/ Bill Deyo

Bill Deyo, DRB Chairman