

Mr. Frank J. O'Dea, P.E.
Florida Department of Transportation
719 S. Woodland Blvd. MS 3-506
Deland, Florida 32720-6834

SCANNED
JAN 23 2003
District Construction

Rob Brown
Hubbard Construction Company
P.O. Box 547217
Orlando, Florida 32854-7217

Re: I-4 Auxiliary Lanes Design/Build
Financial Project No. 2424991-1-52-01

Subject: Median Edge Drains

Gentlemen:

On January 6, 2003 at the request of the Contractor, Hubbard Construction Company, the Dispute Review Board (DRB) conducted a hearing to consider a dispute concerning the placement of Edge Drains in median. Both Hubbard and the Department of Transportation submitted documents to the DRB prior to the hearing and presented testimony during the hearing.

Dispute:

The Contractor has requested entitlement for the placement of edge drains near the median when pavement is widened on the inside. The FDOT required the edge drains as a standard feature of concrete pavement.

Contractors Position:

On a Design Build Job, the Design-Build Firm designs the structural components, using sound engineering judgment and experience, the FDOT did not allow the Design Build Team to perform its duties; reverting to traditional role of designer.

Standard index 505 does not depict the exact condition found on I-4 when widening is next to the median. The determination was also made that the edge drains would not function on the high side given the condition of the existing roadway and soils.

Departments Position:

Standard Index 287 states that concrete pavement sub drainage shall be constructed adjacent to the low of the roadway pavement, and indicates this sub drainage may be on either outside or inside, depending on pavement slope.

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There is no provision that allow for an engineering analysis to supercede the requirement for edge drain. The Department also believes that this requirement was foreseeable at the time of bid.

Findings:

The Design Build Team conducted intensive research which strongly indicated that edge drains would not function on high side widening. Therefore, in their opinion edge drains were not necessary.

The Design/Build Team on their Technical Proposal typical section showing the high side widening placed a note calling for edge drain. (Sheet no. 5). Sheet no. 4 did not have this note nor was edge drain indicated on drawings.

(This indicated that the Contractor was aware that edge drain might be required on high side but had hoped that good soil material might make it unnecessary.)

The FDOT did advise the Design/Build Team on November 28, 2001 they would consider eliminating edge drain. After reviewing geo-technical data submitted by D/B Team and FDOT Design Standards for concrete pavement the FDOT directed the Contractor to place edge drains in all areas to assure pavement performance.

Letter from Tom Caffery (Bowyer-Singleton) on June 14, 2001 to Hubbard Construction; (six days prior to Price Proposal opening); indicated what areas should not need edge drain based on Geo Technical Report.

(This strongly suggests that Design/Build Team probably based their price on reduced amount of edge drain. However, they were aware that there was a risk because FDOT might not approve.)

D.O.T. did not show exact Cross-Section depicting edge drain on high side. However, it was shown in several other similar situations, and notes on indexes referenced by RFP required edge drain in all situations. FDOT Rigid Pavement Design Manual also requires edge drains.

On Design Build Projects the D/B Team is given latitude in Design schemes, but they MUST adhere to all DOT Manuals, Specifications, and Indexes. The R.F.P. also may contain certain additional restrictions or directives in some areas such as Pavement Design.

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The Design/Build Team made a strong case for eliminating the edge drain; but FDOT was justified in adhering to RFP and Concrete Design procedures because this is one of the most traveled highways in Florida and any failure that caused lane closures during the lifetime of the Project would be disastrous for the traveling public.

The DRB believes that the RFP did provide enough guidance to ascertain that D/B Team should provide for edge drain on both high and low side.

Recommendation:

Based upon the submittals supplied by both sides, the oral presentations and our findings above, the Dispute Review Board determined that the FDOT was justified in requiring an edge drain on the high side of the pavement. Also, the RFP and other DOT documents required the edge drain under all concrete pavements. Therefore, it is our recommendation that FDOT is not liable for any claim relating to edge drain.

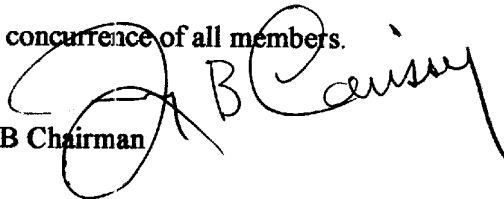
The Board appreciates the co-operation by all parties involved and the information provided to make this recommendation.

Please remember that failure to respond to the DRB and other party concerning your acceptance or rejection of the DRB recommendation within fifteen (15 days will be considered acceptance of the recommendation.

Respectfully submitted
Dispute Review Board
Jimmy Lairscey, Chairman
Sam Thurman, DRB Member
Peter A. Markham, DRB Member

Signed for and with the concurrence of all members.

Jimmy B. Lairscey, DRB Chairman

A handwritten signature in black ink, appearing to read "J B Lairscey", is written over the printed name of Jimmy B. Lairscey. The signature is fluid and cursive.