

January 23, 1996

Mr. Gary M. Granata, P.E.  
PBS & J Construction Services, Inc.  
5430 West Tyson Avenue  
Tampa, Florida 33611

Mr. John D. Glass  
Misener Marine Construction, Inc.  
5440 West Tyson Avenue  
Tampa, Florida 33611

RE: WPI NO.: 7113770  
State Project No.: 10130-3544  
F.A.P. NO.: ACBRF-295-1(36)-[FO]  
Contract No.: 18734  
Description: SR 600 (US 92), Gandy Bridge  
Counties: Pinellas/Hillsborough

**Subject: Gandy Bridge Project Disputes Review Board Findings of Fact Pertaining to Claims Relating to Removal of Obstructions from Drilled Shafts**

At the request of PBS & J Construction Services, Inc. (PBS & J) and Misener Marine Construction, Inc. (Misener) hereafter referred to as the parties, the Gandy Bridge Project Disputes Review Board (DRB) was furnished written documentation relating to the aforesaid referenced claims on the subject project for its review and consideration and an informal hearing was held January 23, 1996. The written documentation provided by the parties included Misener's claim packages with backup documentation, pertinent correspondence relating to the claims at issue, and written statements by both parties regarding their respective interpretations of DRILLED SHAFT GENERAL NOTE 3 on Plan Sheet A-4 of the contract documents.

In arriving at its decision the DRB reviewed in detail the Contract Plans, and in particular as requested by the parties, referenced DRILLED SHAFT GENERAL NOTE 3 on contract Plan Sheet A-4; Contract Specifications, Contract Supplemental Specifications, Contract Special Provisions, Contract Technical Specifications, Contract Supplemental Special Provisions, and in particular Supplemental Special Provisions (Fourth Supplement) Provision 1. REMOVAL AND DISPOSAL OF EXISTING PILING; the written documentation relating to the claims furnished by the parties; testimony provided by both parties' representatives at the informal hearing; and the supplemental documentation referenced during testimony including notes, Engineer's Daily Reports, drilled shaft drill logs, and personal diaries of project personnel.

referenced during testimony including notes, Engineer's Daily Reports, drilled shaft drill

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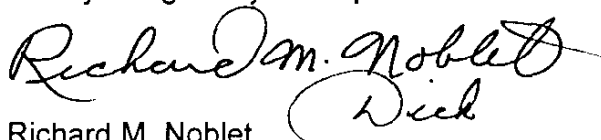
At the conclusion of testimony and presentation of facts at the informal hearing, the parties both requested that the DRB consider only the merit of the presented claims as they pertain to interpretation of DRILLED SHAFT GENERAL NOTE 3 on Contract Plan Sheet A-4, it was requested that the DRB not issue any findings of fact relating to merit of any or all claims pertaining to proper notice or value of the claim.

After reviewing facts presented through written documentation and testimony, the DRB deliberated and has reached the following findings of fact and conclusions:

- both parties agree that the debris encountered while installing casings and drilled shafts which prompted these claims at Piers 2, 3 and 75 was not from the previously "removed old bridge"
- Plan Sheet A-4 DRILLED SHAFT GENERAL NOTE 3 is ambiguous as it pertains to definition of other obstacles encountered, and by reliance on an ambiguous note in determining the correct party in a dispute, the DRB concludes that the findings would go against the party who drafted the ambiguous note
- Supplemental Special Provision (Fourth Supplement) added the pay item "110-81 Removal and Disposal of Piling - each" referenced in DRILLED SHAFT GENERAL NOTE 3 addresses only existing piling and makes no reference to other obstacles or debris

It is therefore the conclusion of the DRB that Misener's claims for obstacles encountered in the construction of drilled shafts at Piers 2, 3 & 75 are proper as they relate to merit of entitlement based solely on interpretation of Plan Sheet A-4 DRILLED SHAFT GENERAL NOTE 3. No findings of fact or decisions have been rendered regarding the referenced claims relating to value of each claim, legal entitlement relating to proper notice or any other legal entitlement afforded under the contract between the parties.

Gandy Bridge Project Disputes Review Board

A handwritten signature in black ink that reads "Richard M. Noblet" with a stylized flourish underneath.

Richard M. Noblet  
Chairman

cc: Marc Knapp