



OHIO DEPARTMENT OF TRANSPORTATION
1980 W. Broad Street, Columbus, Ohio 43223

June 10, 2002

Miller Brothers Construction, Inc.
1613 S. Defiance Street
P.O. Box 30
Archbold, OH 43502

Attn: Mr. Dean Miller

Re: ODOT Project 141(99)
Lucas SR2 - Navarre Avenue
Dispute 02-0141(99) -0901-01

Dear Mr. Miller:

Reference is made to our letter dated May 29, 2002. That letter is hereby revised as follows:

The referenced dispute was heard by the Deputy Directors Board on May 20, 2002. The board met with Miller Brothers Construction, Inc. (MBCI) in an effort to settle the dispute.

The Deputy Directors Board acting in Step 3 of the Department's dispute resolution process made the following offer to MBCI to settle the dispute:

1. The Board concurs with the District's payment of \$373,848.00 outlined in their letter on January 4, 2002 to MBCI.
2. The Department will pay an additional amount of \$99,000.00 to MBCI for Issue 15, Extra Pavement Planing.
3. The Department will pay an additional amount of \$99,000.00 to MBCI for Issue 16, Unaddressed 304 Quantity.
4. The Department will pay interest on the above three items for a period from December 28, 2001 to May 28, 2002 according to Section 123.60 ORC. This calculates to an amount of \$17,964.80 payable to MBCI.
5. The Department will pay an amount of \$34,035.20 to compensate MBCI for additional home office overhead realized as part of this dispute.
6. Acceptance of the Board's step 3 offer will constitute full settlement of all disputes previously submitted. MBCI agrees to waive all rights to any additional Home Office Overhead for the remainder of the project. MBCI also waives all rights for additional compensation for any previously performed work on project 141-99, with the exception of :

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- a.) An unresolved issue concerning the performance and liability of asphalt pavement showing distress in various areas of the project.
 - b) Resolution of the hand railing and associated items at the Navarre Diner.
7. MBCI will continue to work with the District regarding the pavement replacement issue. MBCI retains their rights to claim this issue should this item not be resolved on a mutual basis. MBCI agrees to waive all rights to any additional Home Office Overhead for this work.

Mr. Dean Miller, MBCI, contacted Walid Gemayel, of our office, on May 23, 2002 to officially accept the Board's Step 3 offer.

The District will be instructed to process a change order to memorialize the settlement and authorize the payment of an additional \$250,000 equitable adjustment.

Respectfully,

Vernon Dunlap P.E., Secretary
Deputy Directors Board

c: W. Gemayel
M. Kelsey
C. Bishop
R. Martinko - District 2
M. Gramza - District 2
Dispute File