

November 3, 2008

Joseph F. DonAruma

Mr. David Weintraub

APAC-Southeast, Inc.
First Coast Division
P.O. Box 5007
Gainesville, FL 32627

JEA Construction Engineering Services
101 Lake View Trail
Interlachen, FL 32148

RE: SR 20 Widening Project, Interlachen to Hollister, FIN No.: 209969-1-52-01 and 209969-1-56-01, Contract No.: T2097

Hearing Dated October 24, 2008
Disputes Review Board Recommendation

The Contractor, APAC-Southeast, Inc., requested a hearing to determine entitlement on one issue. All parties prepared detailed position papers and rebuttals. The Board has reviewed the material and heard oral presentations at the hearing on Friday October 24, 2008 at the conference room in the Gainesville Construction Office.

The issue submitted to the Board was:

The contractor believes that he is entitled to the additional contract and compensable time for the additional unforeseen drainage work in drainage basin pond 1 and drainage pond 3 (approx. 23 side drains and approx. 5100' of ditch grading) added by the FDOT.

Contractor's Position

The contractor's position is summarized partially, paraphrased and partially quoted. As stated by the contractor in their position paper of October 3, 2008.

“APAC and FDOT agree that this was additional work, but the FDOT does not agree with APAC that this drainage work is on the Critical Path of the project and that APAC should receive compensable days for this additional work.”

“The FDOT has issued a Unilateral Payment (SA No. 34) ----- for \$192,563.35 and no additional contract or compensable days.”

“APAC has submitted a Critical Path Schedule Analysis for this additional drainage work in drainage basin pond 1 and drainage basin pond 3 based on the prior approved schedule by the FDOT (on 6/02/080. This analysis showed that the impact to drainage basin pond 1 was 36 working days.”

Department’s Position

The Department’s position is summarized below. It is partially paraphrased and partially quoted as follows:

The Department’s position is that in accordance with the Standard Specifications for Road & Bridge Construction, Section 8-7.3 which states in part:

Adjusting Contract Time: Increased Work: “The Department may grant an extension of Contract Time when it increases the Contract Amount due to overruns in original Contract items, adds new work items, or provides for unforeseen work. The Department will base the consideration for granting an extension of Contract Time on the extent that the time normally required to complete the additional3designated work delays the Contract completion scheduled.”

The Department also indicated that Special Provision 8-3.2.3, which states in part:

“Float is not for the exclusive use or benefit of either the Department or the Contractor. The Engineer will grant time extensions only to the extent that time adjustments to the affected activities exceed the total float along the affected paths of the currently accepted Contract Schedule at the time of delay. Submit a network diagram, total float report and a narrative report to support any request for additional Contract time.”

The Department maintains that the additional work was not on the critical path therefore the Contractor is not entitled to additional time. Further the work was completed and the schedule had more total float at the end of the work than it had before the work was added.

Dispute Review Board Recommendation

The Board concurs with the position of the Department. The work was not on the critical path and did not appear to delay the completion of the work.

The Board appreciates the cooperation by all parties involved and information provided to make this recommendation. Please remember that failure to respond to the DRB and the other party concerning your acceptance or rejection within 15 days will be considered acceptance of the recommendation.

I certify that I participated in all of the meetings of the DRB regarding the dispute above and concur with the findings and recommendations.

Respectfully Submitted,

Disputes Review Board

Jim Mac Laughlin, DRB Chairman

Pete Markham, DRB Member

Greg Xanders, DRB Member

SIGNED FOR AND WITH THE CONCURRENCE OF ALL MEMBERS;

Jim Mac Laughlin, DRB Chairman