

FLORIDA
LAWSON CURTIS
GOVERNOR



DEPARTMENT OF TRANSPORTATION

600 South Howard Street, Tallahassee, Florida 32309-0000

JOHN G. WATSON
SECRETARY

July 9, 1996

MEMORANDUM

TO: John Temple, Director of Operations

FROM: J. B. Latreacy, Director, Office of Construction

COPIES TO: Freddie Simmons, Bruce Seiler

SUBJECT: CLAIMS REVIEW COMMITTEE
STATE PROJECT NO. 10190-3428
ASPHALT BASE PAYMENT CLAIM

The Claims Review Committee met on July 3, 1996 to review the asphalt base claim on the above referenced project.

The plan notes are clear as to where black base was to be constructed. However, it is not clear as to how it was to be paid. The Contractor could reasonably assume that because a pay item number was in the note, the intention was to pay for the black base under that number. Also, it is not Department policy to request an activity with a pay item number and then in the contract include the work under a different pay item. The bidding process is difficult as it is without complicating matters.

In addition, other projects in the district had Supplemental Agreements written to add an item and increased prices for situations not unlike the I-4 project. The I-4 Contractor was aware of these changes and assumed he would get a Supplemental Agreement on this project.

Every job should stand by itself. However, the Department has made every effort to be uniform as far as specifications, plans and policy is concerned. In any case when vagueness occurs or there is a possibility of misinterpreting the plans, the owner is at risk.

It is the Claims Review Committee's decision that the District prepare a Supplemental Agreement with an item for black base. The recommended price is \$12.50 per square yard. This price is based on a review of statewide averages and like quantities.

JBT/vc

RECEIVED
DIRECTOR OF OPERATIONS
96 JUL 11 PM 1:08

POST-IT Fax Note 7671		Date	7/12/96
To	Bob Graham	From	MIKE TEMPLE
Co./Dept.	CONE CORP.	Co.	FDOT
Phone #		Phone #	975-6216
Fax #	(904-1160)	Fax #	975-6278

OPERATIONS

TEL: 813-9756278

Jul 12.96

7:57 No.002 P.01

0-1

FLORIDA
LAWRENCE
GOVERNOR



DEPARTMENT OF TRANSPORTATION

605 Suwannee Street Tallahassee, Florida 32304 0400

DET. G. MATTHEW
SECRETARY

July 9, 1996

MEMORANDUM

TO: John Temple, Director of Operations

FROM: J. R. Lairdsey, Director, Office of Construction

COPIES TO: Freddie Simmons, Bruce Heiler

SUBJECT: CLAIMS REVIEW COMMITTEE
STATE PROJECT NO. 10190-3428
ASPHALT BASE PAYMENT CLAIM

The Claims Review Committee met on July 3, 1996 to review the asphalt base claim on the above referenced project.

The plan notes are clear as to where black base was to be constructed. However, it is not clear as to how it was to be paid. The Contractor could reasonably assume that because a pay item number was in the note, the intention was to pay for the black base under that number. Also, it is not Department policy to request an activity with a pay item number and then in the contract include the work under a different pay item. The bidding process is difficult as it is without complicating matters.

→ A...
W... V... C...

In addition, other projects in the district had Supplemental Agreements written to add an item and increased prices for situations not unlike the I-4 project. The I-4 Contractor was aware of these changes and assumed he would get a Supplemental Agreement on this project.

2. Past
err...
Ignor...

Every job should stand by itself. However, the Department has made every effort to be uniform as far as specifications, plans and policy is concerned. In any case where vagueness occurs or there is a possibility of misinterpreting the plans, the owner is at risk.

It is the Claims Review Committee's decision that the District prepare a Supplemental Agreement with an item for black base. The recommended price is \$12.50 per square yard. This price is based on a review of statewide averages and like quantities.

REC'D
DIRECTOR'S
36 JUL 11

April 26, 1996

Faxed April 26, 1996

Mr. William S. Ciudad-Real, P.E.
MK/Centennial
6701 Muck Pond Road
Seffner, Florida 33584

Mr. Rammy Cone
The Cone Corporation
P. O. Box 310167
Tampa, Florida 33680

Re: WPI No: 7143198
State Project No: 10190-3428/6428
F.A.P. No.: ACDPI-ACNH-0043-(6)
Contract: Interstate 4, Segment 2
Description: State Road 400 (I-4) from I-75 East to McIntosh Road
Counties: Hillsborough

Subject: Disputes Review Board
Findings of Fact Pertaining to Asphalt Base Payment Dispute

On April 19, 1996, at the request of MK/Centennial (MK) and The Cone Corporation (Cone), hereafter referred to as the parties, the I-4 Project Disputes Review Board (DRB) was furnished written documentation, as well as oral presentation, relating to the referenced claim on the subject project.

Issue: The Contractor has requested that a pay item be added to the contract for that portion of the Optional Base Group required to be constructed of Asphalt per notes 7 and 8 on Plan Sheet 5. He contends that neither the Plans or Specifications clearly address the issue of compensation for two separate bases in one pay item. He stated that he selected the limerock alternate in his proposal, and that the bid price reflected the limerock option only based on their experience with how the FDOT had handled similar problems on other jobs.

The Department believes that the notes on Plan Sheet 5, Plan Sheet 7 and Index Drawing 514, Sheet 1 of 2, clearly indicate that the contractor should factor the cost of Black Base into its bid price for Optional Base.

The Standard Specifications 285-3 Selection of Base Option states (in part)

“The Contractor shall select the typical cross section actually to be constructed. Only one typical cross section will be permitted. The Contractor will be required to utilize the selected typical cross section for the entire project.”

The applicable notes read as follows:

Plan Sheet. 5.

7. Construct Item 285-712-447 (Black Base) from Sta. 1326+80 - 1334+50 Lt. & Rt. as Base Group for Mainline Pavement.

8. Construct Item 285-706-207 (Black Base) from Sta. 1326+80 - 1334+50 Lt. & Rt. as Base Group for Mainline Outside shoulder pavement.

Plan Sheet 12

285-706 See Note 8 on Sheet 5

285-712 See Note 7 on Sheet 5

Florida Department of Transportation Roadway and Traffic Design Standards

Index 514 - Optional Base Group and Structural Numbers

General Note

- 4. The designer may require the use of a single base option, for instance ABC-3 in a high water condition. This will still be bid as optional base.

The Contractor signaled the Department at bid time of his intention to construct 12.5" of limerock base by including the suffix -441 for this pay item:

285-712-441 Base Optional (Base Group 12)

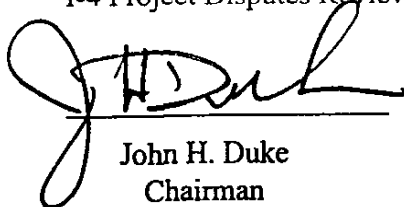
The Board agrees with the Contractor that compensation for both limerock base and asphalt base is not included in the pay item Optional Base Groups 6 and 12. This recommendation is substantiated by the following:

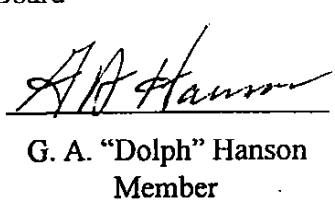
- a. Article 285-3 of the Standard Specifications states that only one typical cross section will be permitted and the contractor will be required to utilize the selected typical cross section for the entire project.
- b. Interpretation of contract documents must be based on what is said in those documents without consideration of the intent of the designer. A bidder has no way of knowing the intent of the designer. Even if consideration is given to the September 27, 1993, memorandum from the State Pavement Design Engineer, it should be apparent that the purpose of that memorandum is to provide a mechanism within the computerized DOT contract Reporting System to handle the situation where a specific type of base is desired for portion of the base covered by a certain Base Group. The instructions contained in the memorandum were not followed in designing this project.
- c. The note on Plan Sheet 12 might be construed to say that asphalt base is to be paid for under Bid Item Nos. 285-706 and 285-712, but this is, at best, ambiguous.
- d. Note No. 4 on Roadway and Traffic Design Standard Index No. 514 addresses only selection of a single type of base material for an entire Optional Base Group item.
- e. Contracts containing the same type of ambiguity, have been modified by the Department to provide separate payment for Asphalt Base.

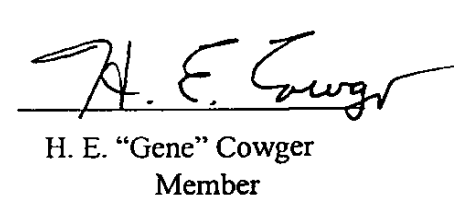
The Board therefore rules in favor of the Contractor.

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

I-4 Project Disputes Review Board


 John H. Duke
 Chairman


 G. A. "Dolph" Hanson
 Member


 H. E. "Gene" Cowger
 Member

// John H. Duke

G. A. "Dolph" Hanson

H. E. "Gene" Cowger