

**RECOMMENDATION****Recommendation of Dispute Review Board**

**Dispute No. 1**  
Hearing Date - Dec. 9, 1999  
Contractor - Cone Constructors

**District - Turnpike**  
Project - Suncoast Parkway 1 - Sect. 2A&2B  
Contract No. 20186

**DISPUTE**

During the removal of existing S.R. 54, Cone Constructors encountered widening strips with a 6" asphaltic concrete base. Cone stopped work and filed notice of claim. The claim was immediately denied by the Department, and Cone was directed to resume work. Cone requested a time extension and compensation for any additional time and cost involved in removing the asphalt base material.

**CONTRACTOR'S POSITION**

The asphalt base material encountered on S.R.54, which was not shown on the plans, is a site condition of an unusual nature which differs materially from those ordinarily encountered, and could not have been foreseen by Cone at bid time.

**DEPARTMENT'S POSITION**

The Plans and Contract Documents did not specify what type of base material existed along S.R.54 to be removed in the clearing and grubbing operation. Asphalt base is one of the optional base materials provided to contractors, and is commonly used throughout Florida as a widening material.

**RECOMMENDATIONS**

The Contract Documents did not specify the type of base material under S.R.54, so the Contractor has to make his own estimate of the type and depth of pavement to be removed. Paragraph 4-3.4 Differing Site Conditions of The Florida Department of Transportation Standard Specifications states, in part, "... if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party....." In peninsula Florida the roadway bases most utilized are limerock, asphalt, soil cement, and shell. Limerock is the most prevalent base material, but asphalt is used quite extensively under widening strips. It is the Board's opinion that the asphalt base beneath the widening strips did not constitute an unusual condition.

The Board therefore finds in favor of the Department.

Dolph Hanson, P.E.  
Chairman

John P. Roebuck  
Member

Matthew L. Michalak  
Member