

10 October 2004

Mr. Mike Wilson
KCCS
8529 So. Park Circle
Orlando, FL 32819

Mr. Danny Carr
Southland Constr. Co.
172 W. Fourth St.
Apopka, FL 32703

RE: State Road 434 Seminole/Orange County
FAPs 4311015 & 4311014P
Contract No. 21447

ISSUE

The Florida DOT/CEI-KCCS [owner] and Southland Construction Company [contractor] requested a hearing before the Dispute Review Board to determine entitlement of the contractor for compensation for cutting and patching 85 open cut locations encountered with installation of new water mains and force mains.

CONTRACTOR'S POSITION

The contractor contends that the plans are of an incomplete and uncoordinated design as the traffic control plans indicate cutting and patching [no unit quantities tabulated] at 44 locations but there is no reference to cutting and patching at 85 [by his count] locations required for underground utility construction.

The contractor contends that the callout of specific cut and patch locations in the traffic control plan was a representation that all work of this nature was included in the plans.

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KCCS, INC

KCCS, Inc.	
RES. ENG	_____
PROJ. ENG	<i>[Signature]</i>
OFC. ENG	_____
SR. INSP	_____
INSP	<i>[Signature]</i>
<i>[Handwritten: 4311015]</i>	

4-90-10

OWNER'S POSITION

The owner recognizes that only 44 locations where cut and patch operations were identified were shown in the traffic control plans however this was not a required sequence of operations - only a method by which traffic could be maintained during construction operations.

The contract does not require construction of the utility system(s) in a specific MOT phase, the planning of this work is an option of the contractor.

The Technical Special Provisions in all JPA agreements are specific in relation to pavement replacement and repair (1) the contractor shall bear any costs associated with these special conditions (2) The TSP indicate that open cuts and restoration of pavement is incidental and shall be included in the pay items for the associated work. (3) The cost of meeting requirements of this section shall not be paid separately and shall be included in the associated items of work.

Approximately 60 work orders have been processed to address JPA issues not shown on the plans. In all work orders the necessity to perform cut and patch operations was considered and approved and costs for these operations was included in the associated items of work.

DRB RECOMMENDATIONS

Based on the information sent to the Board and the oral presentations to the Board at the DRB Hearing , the Board finds no entitlement to the contractor's position relative to this claim.

The Board appreciates the cooperation of all parties involved in this matter and for the information presented for it's review in making this recommendation.

Please remember that a response to the DRB and the other party of your acceptance or rejection of this recommendation is required within 15 days. Failure to respond constitutes an acceptance of this recommendation by both parties.

I certify that I have participated in all the meetings of this DRB regarding this issue and concur with the findings and recommendations.

Respectfully submitted
Dispute Review Board

Sam W. Thurmond, DRB Chairman
Robert D. Buser, DRB Member
George W. Seel, DRB Member

SIGNED FOR AND WITH CONCURRENCE OF ALL
MEMBERS


Sam. W. Thurmond,
DRB Chairman