

DISPUTE REVIEW BOARD CLARIFICATION

July 09, 2005

E-Mailed July 09, 2005

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RE: SR 688 (ULMERTON RD) from A PT E OAKHURST RD to A PT E 119TH ST
FIN No.: 257050-1-52-01
Contract No. T7033
County: Pinellas

Issues: 1. Payment for Fitting Glands & Bolts
2. Payment for Long Body Fittings

Dear Sirs:

The Owner, Florida Department of Transportation (Department) and Contractor, Central Florida Excavating and Fill Dirt, Inc. (CFEFD) requested a hearing to determine **entitlement** of CFEFD to **additional compensation for two (2) issues** on the above referenced project. Should entitlement be established, the Dispute Review Board (Board) was not to decide the quantum of such entitlement at this time, as the parties would attempt to negotiate the value of entitlement.

Pertinent issues, correspondence and other information relating to the Department's and the Contractor's positions were forwarded to this Board for review and discussion at the hearing that were held on May 31st 2005.

On June 12th 2005 the Dispute Review Board issued its Findings and Recommendations on the issues.

BOARD FINDINGS:

• As to Issue 1:

The specifications state:

SECTION III BID ITEMS FOR SANITARY SEWERS AND WATER MAINS

ITEM - 1090 & 1100 Pipe

Description: The work consists of furnishing all labor, equipment and materials and installing pipe. All ductile iron pipe shall have polyethylene encasement. The unit price shall include all costs necessary to install the pipe including survey layout (based upon property monuments established by others), material, polyethylene wrap on ductile iron pipe, tracer wire on PVC pipe, pavement cutting, extra pipe fitting material, sheeting, bracing, utility crossings, backfilling, pressure testing, disinfection, field layout, etc. Restoration of pavement, sidewalk, curb and gutter, and grass shall not be paid for as separate pay items but shall be included in the cost of laying pipe.

*Measurement: The quantities of pipe to be **paid for** under this Item **shall be the length in feet of pipe measured along the centerline of the pipe through valves and fittings in place**, completed and accepted.*

Sleeved Connections:

*Description: The work consists of furnishing all labor and equipment and constructing sleeved connections to existing water mains. The unit price shall include notification of shutdown to property owners, dewatering, establishing alignment, moving and aligning old and new pipe, cleaning and cutting old pipe, sterilization and all other operations required to make the connection. **Valves and fittings shall be paid for under separate pay items.***

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Restrained Joints:

Description: The work consists of furnishing all labor, equipment and materials, including retaining glands, bolts, special flanges, etc. and installing restrained joints on pipe and fitting not included in other items.

Note: **Payment** for sleeved connections, **restrained joints** and all appurtenances shall be **included in price of meter of pipe.**

- Sheet 44 of PCU plans details Restrained Joint Requirements.

PIPE SIZE	TYPE FITTING					
	90°	45°	22 1/2°	11 1/4°	DEAD-END	TEE
102mm (4")	3	1	1	1	4	1
152mm (6")	4	2	1	1	6	1
203mm (8")	5	2	1	1	9	2
254mm (10")	6	3	1	1	10	3
305mm (12")	7	3	2	1	11	5
406mm (16")	8	4	2	1	14	8
508mm (20")	9	4	2	1	18	11
610mm (24")	10	4	2	1	22	13
762mm (30")	12	5	3	2	26	17
914mm (36")	13	6	3	2	30	21
1067mm (42")	14	6	3	2	34	25
1219mm (48")	15	7	3	2	38	29
1372mm (54")	16	7	4	2	40	32

TABLE APPLIES TO 6.1m (20) FOOT PIPE LENGTHS @ 11.03 M.P.C. (150 P.S.I.G.) TEST PRESSURE WITH 762MM (30) INCHES OF COVER OVER PIPE. NUMBERS SHOWN IN TABLE ARE THE NUMBER OF JOINTS FOR EACH SIDE OF FITTING.

EFFLUENT AND POTABLE WATER MAIN RESTRAINED JOINT REQUIREMENTS

This table does refer to the joints **each side of a fitting.**

The above specification refers to pipe and restrained joints required **on the pipe.**

- Therefore, the Board finds that the cost of the restrained joints **on the pipe** is included in the item for pipe.

Section 1.3.5.1 requires fittings to be restrained

SECTION I CONSTRUCTION AND WORKMANSHIP SPECIFICATIONS

Section 1.2 PIPE

1.2.5 PRESSURE AND LEAKAGE TESTS

1.2.5.2 LEAKAGE TEST (WATER MAINS)

1.2.5.2.5 PIPE LAYING

...
Restraining joints or concrete thrust blocks shall be **placed at all bends, tees, plugs, and other fittings** to provide lateral and/or vertical support. Thrust blocks shall conform to the details shown on the plans.

1.3 FITTINGS

1.3.1 DESCRIPTION

1.3.1.1 The work covered under this section is intended to describe the required work to be performed in the installation of fittings for the different kinds of pipe as described in these Technical Special Provisions.

1.3.3 INSTALLATION

1.3.3.1 Fittings shall be set and joined to the pipe and each type of joint as described in **Section 1.2 "Pipe"** of these Technical Special Provisions.

1.3.5 ANCHORING, THRUST BLOCKING AND RESTRAINING

1.3.5.1 All fittings shall be restrained by means of restraining devices such as retainer glands, restraining gaskets, or other acceptable restraints.

The pay item for fittings states:

ITEM - 1610 -Ductile Iron Fittings

Description: The work consists of furnishing **all** labor and equipment and **materials** and installing ductile iron fittings **not included in other items.** The unit price shall cover the cost of furnishing the fittings, transportation, **jointing materials**, bolts, gaskets, polyethylene wrap and all necessary labor. Wherever

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reaction backing is necessary, the cost of furnishing and installing thrust blocks shall be included in the unit price for Ductile Iron Fittings.

Measurement: The quantities of ductile iron fittings to be paid for under this Item shall be the **weight of the fitting** required as **per manufacture's specified weight per fitting, including bolts and glands**, in tons measured in place, completed and accepted. The weight of gaskets, **jointing materials**, etc., **shall not be included in the computation of ductile iron tonnage.**

Payment shall be made under:

Item No. 1610-140 -- Ductile Iron Fittings (F&I)
(CL.150) per ton

- Therefore, the Board finds that the cost of the restrained joint at the fitting is included in the item for fitting.
- There is however, the possibility that since the payment for the number of restrained joints is included in the price of the pipe or fitting resulting in a "blended" cost for the item, that the Contractor or the Owner might be entitled to an equitable adjustment. This is even more provable since the project has been redesigned several times and the tonnage of fittings reduced substantially. There was insufficient information furnished at the hearing for the Board to determine if this may be true.

- **As to Issue 2:**

The Contract Specifications state:

S E C T I O N II MATERIAL TECHNICAL SPECIFICATIONS

2.3 FITTINGS

2.3.1 DUCTILE IRON/CAST IRON FITTINGS

2.3.1.1 DUCTILE IRON FITTINGS

2.3.1.1.1 Shall be standard design equivalent to Class 150 minimum, **short body**, conforming with **AWWA C-110** (ANSI Specification A21.10). Fittings shall have a cement-mortar lining with seal coating in compliance with AWWA Standard C-104 (ANSI Specification A21.4). Exterior coating shall be standard bituminous coating of one (1) mil thickness.

- This is an error in that **AWWA C-110 refers to a long body fitting.**

Huges Supply Inc.'s quote, dated 11/12/2003, which was prior to the bid date of 12/03/2003, states:

1610-140

FITTINGS WATER	15.00	TN	\$	3,762.00	\$	56,430.00
TOTAL TONS AND DOLLARS FOUND	22.085	TN	\$	3,762.00		

NOTE: WE ARE ONLY ENTERING IN OUR TOTAL THE TONS THAT THE BID FORM CALLS FOR AS WE FOUND MORE THAN THE BID CALLS FOR. **SPEC'S CALL FOR C110 FITTINGS.**

NOTE: **ALL FITTINGS ARE C110 MJ CEMENT LINED PER TECHNICAL SPECS.**

- Therefore, the Board finds that the Contractor reasonably bid and furnished long body fittings.

...It is sometimes argued that a DRB will provide a recommendation that ignores the contract or is somewhere in between the positions taken by each party; in effect, a compromise. **It is not the DRB's prerogative to substitute its own ideas of fairness and equity for the provisions of the contract. ...¹**

BOARD RECOMMENDATION:

Based on the materials supplied to the Board and presentations to the Board at the DRB hearing the Board finds that the Contractor **may be due an equitable adjustment for the number of restrained joints on the pipe/fittings. Further, the Contractor is entitled to payment for long bodied fittings.**

¹ DRBF Practices and Procedures Section 1 – Chapter 6

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On June 27th 2005, CFEFD e-mailed a letter dated June 24th 2005 to the Board:

Central Florida Excavating & Fill Dirt, Inc.'s "Response" (interpretation) is as follows and addresses the two parts of the Issue Statement:

"Part 1) Our Position Is That The Weight Of Glands And Bolts Are To Be Included With The Fitting Weight For Payment."

- ***Based on the board's finding (page 7 of 8) that "the restrained joint at the fitting is included in the item for fitting", our position, per the specification, is that the weight of glands and bolts are to be included with (added to) the fitting weight for payment.***

"Part 2) Due To The C-110 Issue In The Specifications (C-110 used in bid), and Pinellas County Utilities' Requirement To Use Only C153 Fittings After January 10th, 2005, CFEFD Is Entitled To An Equitable Adjustment In The Pay Item."

- ***The Board found (page 7 of 8) that CFEFD "reasonably bid and furnished long body fittings", and "is entitled to payment for long bodied fittings". Therefore, since Pinellas County Utilities has changed the type of fitting (now C153) specified for the project, CFEFD is entitled to an equitable adjustment in the pay item.***

BOARD CLARIFICATION:

As to "Part 1"

- The Board recommended that:

Based on the materials supplied to the Board and presentations to the Board at the DRB hearing the Board finds that the Contractor may be due an equitable adjustment for the number of restrained joints on the pipe/fittings.

- There was insufficient information provided to the Board to find entitlement for the bolts and glands to be included (added to) the weight of the fitting. This includes but not necessarily limited to:
- The Specifications read in part

Measurement: The quantities of ductile iron fittings to be paid for under this Item shall be the weight of the fitting required as per manufacture's specified weight per fitting, including bolts and glands, in tons measured in place, completed and accepted. The weight of gaskets, jointing materials, etc., shall not be included in the computation of ductile iron tonnage.

- Specification 2.3.1.1.2 defines "joint material":

All fittings shall be furnished with all joint material (bolts, nuts, gaskets and glands) complete, ready for installation....

No other contractual or "definition within the industry" otherwise defining "jointing materials" was included in the position papers or presented at the hearing.

While there was an anecdotal statement that bolts and glands were paid for on other Pinellas County projects, no hard information supporting such statement was included in the position papers.

The above does not foreclose the fact that such information exists.

Based on the specification that "*The weight of gaskets, jointing materials, etc., shall not be included in the computation of ductile iron tonnage*", the Board does not find that "*the weight of glands and bolts are to be included with (added to) the fitting weight for payment.*"

As to "Part 2",

- The Board finds that the Contractor's interpretation is correct.

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This Board sincerely appreciates the cooperation of all parties and the information presented for its review in making this recommendation.

Please remember that a response to the DRB and the other party of your acceptance or rejection of the recommendation is required within 15 days. In light of this clarification, the 15 day time should commence upon receipt of this letter. Failure to respond constitutes an acceptance of this recommendation by the non-responding party.

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

Respectfully Submitted

Disputes Review Board

John H. Duke, Sr.; DRB Chairman

Lester Furney; DRB Member

Jimmy Lairscey; DRB Member

SIGNED FOR AND WITH THE CONCURRENCE OF ALL MEMBERS:

A handwritten signature in black ink, appearing to read "JH Duke", with a stylized flourish at the end.

John H. Duke, Sr.
DRB Chairman