SECTION 109 - MEASUREMENT AND PAYMENT

Make the following amendment to said Section:

(I) Amend **Subsection 109.05 Allowances for Overhead and Profit** by revising lines 101 to 110 to read as follows:

> "**(1)** 20 percent of the direct cost for any work performed by the Contractor's own labor force.
>
> **(2)** 20 percent of the direct cost for any work performed by each subcontractor's own labor force.
>
> **(3)** For the Contractor or any subcontractor for work performed by their respective subcontractor or tier subcontractor, 10 percent of the amount due to the performing subcontractor or tier subcontractor."

(II) Amend **109.08(A) Monthly Payment** by adding the following after line 411:

> "**(1) Retainage.** If the Engineer finds that the Contractor is progressing satisfactorily in completing the project work and:
>
> **a.** Less than 50% of the whole contract cost is complete, the Engineer shall retain 5% of the value of the work done until the Engineer makes final payment;
>
> **b.** More than 50% of the whole contract cost is complete, the Engineer may make the remaining progress payments in full.
>
> **c.** After satisfactory completion of work other than landscaping items, the Engineer may adjust the amount of retainage to 15% of the landscaping items or 2½% of the total contract amount whichever is less. Do not use this subsection if the contract is only landscaping."

(III) Amend **Subsection 109.08(B) Payment for Material On Hand** by revising lines 421 to 423 to read as follows:

> "**(2)** The materials shall be stored and handled in accordance with Subsection 105.14 – Storage and Handling of Materials and Equipment."

(IV) Amend **Subsection 109.11 Final Payment** by revising lines 568 to 576 to read as follows:

"**(3)** A current "Certificate of Vendor Compliance" issued by the Hawaii Compliance Express (HCE). The Certificate of Vendor Compliance is used to certify the Contractor's compliance with

(a) Section 103D-328, HRS (for all contracts $25,000 or more) which requires a current tax clearance certificate issued by the Hawaii State Department of Taxation and the Internal Revenue Service;

(b) Chapters 383, 386, 392, and 393, HRS; and

(c) Subsection 103D-310(c), HRS. The State reserves the right to verify that compliance is current prior to the issuance of final payment. Contractors are advised that non-compliance status will result in final payment being withheld until compliance is attained.

Sums necessary to meet the claims of any governmental agencies may be withheld from the sums due the Contractor until said claims have been fully and completely discharged or otherwise satisfied."

END OF SECTION 109