

1 **SECTION 109 - MEASUREMENT AND PAYMENT**

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3 Make the following amendment to said Section:

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

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8 **“(1)** 20 percent of the direct cost for any work performed by the
9 Contractor’s own labor force.

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11 **(2)** 20 percent of the direct cost for any work performed by each
12 subcontractor’s own labor force.

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14 **(3)** For the Contractor or any subcontractor for work performed
15 by their respective subcontractor or tier subcontractor, 10 percent
16 of the amount due to the performing subcontractor or tier
17 subcontractor.”

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19 **(II)** Amend **109.08(A) Monthly Payment** by adding the following after line
20 411:

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22 **“(1) Retainage.** If the Engineer finds that the Contractor is
23 progressing satisfactorily in completing the project work and:

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25 **a.** Less than 50% of the whole contract cost is complete,
26 the Engineer shall retain 5% of the value of the work done
27 until the Engineer makes final payment;

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29 **b.** More than 50% of the whole contract cost is
30 complete, the Engineer may make the remaining progress
31 payments in full.

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33 **c.** After satisfactory completion of work other than
34 landscaping items, the Engineer may adjust the amount of
35 retainage to 15% of the landscaping items or 2½% of the
36 total contract amount whichever is less. Do not use this
37 subsection if the contract is only landscaping.”

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39 **(III)** Amend **Subsection 109.08(B) Payment for Material On Hand** by
40 revising lines 412 to 453 to read as follows:

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42 “Payment for material-on-hand will not be allowed.”

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44 **(IV)** Amend **Subsection 109.11 Final Payment** by revising lines 568 to 580
45 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