

SECTION 104 – SCOPE OF WORK

Make the following amendment to said Section:

(I) Amend **Section 104.01 Contract** to read as follows:

“104.01 Intent of Contract, Duty of Contractor. The intent of the contract is to provide for the design and construction, complete in every detail, of the work described at the accepted bid price and within the time established by the contract. The Contractor has the duty to furnish all professional engineering services, labor, materials, equipment, tools, transportation, incidentals and supplies and to determine the means, methods and schedules required to complete the work in accordance with the contract documents.”

(II) Amend **Section 104.06 Methods of Price Adjustment** as follows:

“104.06 Methods of Price Adjustment. Any adjustment in the contract price pursuant to a change or claim shall be made in one or more of the following ways:

(1) By written agreement on a fixed price adjustment before commencement of the pertinent performance.

(2) By unit prices or other price adjustments specified in the contract or subsequently agreed upon before commencement of the pertinent performance.

(3) The Engineer may base the adjustment for a lump sum item on a calculated proportionate unit price. The Engineer will calculate the proportionate unit price by dividing the original contract lump sum price by the actual or original estimated quantity established by the contract documents.

(4) In any other lawful manner as the parties may mutually agree upon before commencement of the pertinent performance.

(5) At the sole option of the Engineer, work may be paid for on a force account basis in accordance with Subsection 109.06 - Force Account Provisions and Compensation.

(6) By the cost variations attributable to the events or situations with adjustment of profit and fee, all as specified in the contract or subsequently agreed upon before commencement of the pertinent performance.

(7) In the absence of agreement by the parties:

48 (A) For change orders with value not exceeding \$50,000 by
49 documented actual costs of the work, allowing for overhead and
50 profit as set forth in Section 109.05 - Allowances for Overhead and
51 Profit. A change order shall be issued within fifteen days of
52 submission by the contractor of proper documentation of completed
53 force account work, whether periodic (conforming to the applicable
54 billing cycle) or final. The Engineer shall return any
55 documentation that is defective, to the contractor within fifteen days
56 after receipt, with a statement identifying the defect; or

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58 (B) For change orders with value exceeding \$50,000 by a
59 unilateral determination by the Engineer of the costs attributable to
60 the events or situations with adjustment of profit and fee, all as
61 computed by the Engineer in accordance with applicable sections
62 of HAR Chapters 3-123 and 3-126, and Section 109.05 -
63 Allowances for Overhead and Profit. When a unilateral
64 determination has been made, a unilateral change order shall be
65 issued within ten days. Upon receipt of the unilateral change
66 order, if the contractor does not agree with any of the terms or
67 conditions, or the adjustment or nonadjustment of the contract time
68 or contract price, the contractor shall file a notice of intent to claim
69 within thirty days after the receipt of the written unilateral change
70 order. Failure to file a protest within the time specified shall
71 constitute agreement on the part of the contractor with the terms,
72 conditions, amounts, and adjustment or nonadjustment of the
73 contract time or the contract price set forth in the unilateral change
74 order.

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76 A contractor shall be required to submit cost or pricing data if any
77 adjustment in contract price is subject to the provisions of HAR Chapter 3-122,
78 Subchapter 15. A fully executed change order or other document permitting
79 billing for the adjustment in price under any method listed in Subsections
80 104.06(1) through 104.06(7) shall be issued within ten days after agreement on
81 the method of adjustment."
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END OF SECTION 104