**CITY OF BILOXI**

**SPECIAL PROVISION NO. 907-109-1**

**DATE: 02-10-2023**

**SECTION 109 – MEASUREMENT AND PAYMENT**

# Subsection 109.04.1 – Supplemental Agreement.

Delete the first and second paragraphs and insert the following:

When the Supplemental Agreement process is initiated for unit price contracts, the unit prices in the original Contract shall stand. For lump sum items, the Contractor will be required to submit to the Engineer a detailed breakdown for material, labor, equipment, profit and overhead. The total allowable mark-up, which includes Contractor as well as Subcontractor work, shall not exceed 20%, which also includes tax and bonds.

**Subsection 109.04.2 – Force Account Agreement.**

Delete the first paragraph of (h) Miscellaneous.

# Subsection 109.06 – Partial Payments

# Subsection 109.06.1 - General

Add the following paragraphs after the last paragraph of Subsection 109.06.1:

In addition, the Engineer may refuse to approve the whole or any part of any payment if, in his opinion, he is unable to make such representations to the City. He may also refuse to approve any such payment, or because of subsequently discovered evidence or the result of subsequent inspection or tests, nullify any such payment, or any part of any payment, previously approved to such extent as may be necessary in his opinion to protect the City from loss because:

1. Completed work or existing property has been damaged by the Contractor or his Subcontractors, requiring replacement or repair;
2. The work for which payment is requested cannot be verified or was not verified by the City at the time of payment, but subsequent verifications revealed discrepancies;
3. The City Engineer or his authorized representative verifies the work and the City pays for the work, but subsequent discoveries reveal discrepancies between the Contract and the payment.
4. Claims or Liens have been filed, or there is reasonable evidence indicating the probable filing thereof;
5. The Contract price has been reduced because of Modifications;
6. The City has been required to correct defective Work, complete the work, or maintain traffic control due to unsafe conditions.
7. Of unsatisfactory prosecution of the Work, including failure to clean up the project site.
8. Of persistent failure to cooperate with other contractors on the Project and persistent failure to carry out the Work in accordance with the Contract Documents;
9. Of liquidated damages payable by the Contractor; or
10. Of any other violation thereof, or failure to comply with, the provisions of the Contract Documents.

**Subsection 109.06.01 – General**

Delete the first paragraph in toto and insert the following:

Monthly estimates will be authorized by the City provided the amount due on completed work is no less than $1,000 including advancement on materials. The monthly estimate shall be for the work completed during the period of the 1st day of the month through the last day of the month. Payments for monthly pay estimates will be made based on the estimated quantities and computed at contract unit price and will be placed on City Council docket for payment.

**Subsection 109.06.2 – Advancement on Materials.**

In the fourth paragraph, change “$10,000” to “$2,000”.

# Subsection 109.06.3 - Retainage

Delete Subsection 109.06.3 in toto and insert the following:

Retainage will be withheld according to the following:

1. When the value of earned work is less than 50 percent of the value of work scheduled for completion by the approved progress schedule, the amount to be retained shall be five percent of the value of the earned work.
2. When the value of earned work is greater than 50 percent of the value of work scheduled for completion by the approved progress schedule, but prior to final completion, the amount to be retained shall be two and one-half percent of the value of the earned work, at which time 50 percent of the retainage held to date shall be returned. Reduction in retainage shall be subject to conditions as stated in the Contract.

**Subsection 109.07 – Changes in Material Costs**

Delete Section 109.07 in toto.

**Subsection 109.11 – Acceptance and Final Payment**

In the last sentence of the last paragraph, change “one (1)” to “two (2)”.