



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

STEPHANIE KOPELOUSOS
SECRETARY

September 13, 2010

Monica Gourdine
Program Operations Engineer
Federal Highway Administration
545 John Knox Road, Suite 200
Tallahassee, Florida 32303

Re: Office of Design, Specifications
Section 004
Proposed Specification: 0040301 Scope of the Work.

Dear Ms. Gourdine:

We are submitting, for your approval, two copies of the above referenced Supplemental Specification.

These changes were proposed by Paul Steinman to clarify how to apply a price adjustment for a significant underrun in a major item of work.

Please review and transmit your comments, if any, within two weeks. Comments should be sent via Email to ST986RP or rudy.powell@dot.state.fl.us.

If you have any questions relating to this specification change, please call Rudy Powell, State Specifications Engineer at 414-4280.

Sincerely,

Rudy Powell, Jr., P.E.
State Specifications Engineer

RP/cah

Attachment

cc: Gregory Jones, Chief Civil Litigation
Florida Transportation Builders' Assoc.
State Construction Engineer

SCOPE OF THE WORK.**(REV 7-19-10)**

SUBARTICLE 4-3.1 (Page 19) is deleted and the following substituted:

4-3.1 General: The Engineer reserves the right to make, at any time prior to or during the progress of the work, such increases or decreases in quantities, whether a significant change or not, and such alterations in the details of construction, whether a substantial change or not, including but not limited to alterations in the grade or alignment of the road or structure or both, as may be found necessary or desirable by the Engineer. Such increases, decreases or alterations shall not constitute a breach of Contract, shall not invalidate the Contract, nor release the Surety from any liability arising out of this Contract or the Surety bond. The Contractor agrees to perform the work, as altered, the same as if it had been a part of the original Contract.

The term "significant change" applies only when:

(a) The Engineer determines that the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction, or

(b) A major item of work, as defined in 1-3, is increased in excess of 125% or decreased below 75% of the original Contract quantity. The Department will apply any price adjustment for an increase in quantity only to that portion in excess of 125% of the original Contract item quantity; *in accordance with 4-3.2 below. In the* ~~or in~~ case of a decrease below 75% *the Department will only apply a price adjustment for the additional costs that are a direct result of the reduction in quantity.* ~~to the actual amount of work performed, such allowance to be determined in accordance with 4-3.2, below.~~

~~In the instance of (a) above, the determination by the Engineer shall be conclusive. and shall not subject to~~ *In the event* ~~If the determination is~~ challenged by the Contractor in any ~~forum~~ *proceeding*, ~~except upon~~ the Contractor *must* establishing by clear and convincing proof that the determination by the Engineer was without any reasonable ~~and good faith~~ basis.

SCOPE OF THE WORK.**(REV 7-19-10)**

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In (a) above, the determination by the Engineer shall be conclusive. If the determination is challenged by the Contractor in any proceeding, the Contractor must establish by clear and convincing proof that the determination by the Engineer was without any reasonable basis.