

0090202SL MEASUREMENT AND PAYMENT
COMMENTS FROM INTERNAL/INDUSTRY REVIEW

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Comments: (11-21-11)

I respectfully request that consideration is given to deleting the **highlighted** words in the two proposed specification changes (see below). I am of the opinion that the term “invoice” could lead to the incorrect interpretation by some that this specification is only attempting to address material costs. From discussion with the State Construction Office, I know that all costs (including equipment and labor) are to be considered as well. Thanks for your consideration.

9-2.2.6 Adjustment to the Lump Sum Payment for Deleted Items of Work: When items ~~such as pipe culverts, inlets, manholes, mitered end sections, etc.~~ of work are shown in the Contract Documents to be constructed or installed and due to actual field conditions, it is determined by the Engineer that the item is not needed, ~~then~~ a negative adjustment *to the Contract* will be made. *When the Engineer’s determination that the items are not needed is made after the Contractor has commenced work on or has expended costs associated with the items being deleted, the negative adjustment to the Contract will be based on the invoice price for the actual cost of the items being deleted less all costs incurred prior to the date the Engineer determined the items are not needed and the Contractor will retain ownership. When the Engineer’s determination that the items are not needed is made before the Contractor commences work on or expended costs associated with the items being deleted, then the negative adjustment will be based on the invoice price for the actual costs of the items being deleted.* ~~This A adjustment will not exceed \$5,000.00. Should the amount of the adjustment exceed \$5,000.00, it will be considered a significant change and a negative adjustment will be processed in accordance with 4-3.2.~~

Response: Thank you for the review and comment. Your suggested changes will be considered in the development of the final wording for this specification change. Subarticle has been revised as follows:

9.2.2.6 Adjustment to the Lump Sum Payment for Deleted Items of Work: *When items of work are shown in the Contract Documents to be constructed or installed and due to actual field conditions, it is determined by the Engineer that the items are not needed, a negative adjustment to the contract will be made. The negative adjustment will be based on the actual cost of the items being deleted less all costs incurred prior to the date the Engineer determined the items are not needed and the Contractor will retain ownership. The negative adjustment will be processed in accordance with 4-3.2.*

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Comments: (11-28-11)

For both 0090202LS, 0090202SLLS,

9-2.2.6 Adjustment to the Lump Sum Payment for Deleted Items of Work:

When items such as pipe culverts, inlets, manholes, mitered end sections, etc. *of work* are shown in the Contract Documents to be constructed or installed and due to actual field conditions, it is determined by the Engineer that the item(s) is not needed, ~~then~~ a negative adjustment *to the Contract* will be made. *When the Engineer's determination that the item(s) are not needed is made after the Contractor has commenced work on or has expended costs associated with the item(s) being deleted, the negative adjustment to the Contract will be based on the invoice price for the actual cost of the item(s) being deleted less all costs incurred prior to the date the Engineer determined the item(s) are not needed and the Contractor will retain ownership. When the Engineer's determination that the item(s) are not needed is made before the Contractor commences work on or expended costs associated with the item(s) being deleted, then the negative adjustment will be based on the invoice price for items of work the actual costs of the items (Note, the following could be included for clarification: This would include cost for material and labor) being deleted.* ~~This adjustment will not exceed \$5,000.00. Should the amount of the adjustment exceed \$5,000.00, it will be considered a significant change and a negative adjustment will be processed in accordance with 4-3.2.~~

As a complete rewrite to the above, the following could be used;

Suggestion for writing Specification 9-2.2.6

When an item or items of work shown in the Contract Documents are not constructed or installed due to actual field conditions, and it is determined by the Engineer that the item(s) of work are not needed or used, a negative adjustment shall be made against the contract cost.

If and when the contractor has commenced work or has expended costs associated with the item(s) being deleted, the basis for the negative adjustment will be according to the following criteria:

1. Submittal of an itemized invoice describing the actual cost of the Labor, material and equipment.
2. All costs incurred prior to the date when the Engineer determined that the item(s) of work are not needed or installed, will be paid for in the lump sum item of work.
3. The contractor will retain ownership of all materials bought and stockpiled, prior to the date of the Engineer's determination that the item(s) of work are not needed or installed. If the contractor has not commenced or installed an item(s) of work, a negative adjustment will made on all of the deleted item(s) of work, based on an itemized invoice describing the actual cost of the Labor, material and equipment.

The negative adjustment will be assessed as a lump sum value against the contract cost.

Response: Thank you for the review and comment. Your suggested changes will be considered in the development of the final wording for this specification change. Since not all adjustments related to deleted work are negative adjustments, that portion of your suggested change will not be made.

See response to 1st comment for revised language.

Pat McCann
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Comments: (11-28-11)

Rudy, D4 Construction comments are in underlined/highlighted text.

9-2.2.6 Adjustment to the Lump Sum Payment for Deleted Items of Work:

When items ~~such as pipe culverts, inlets, manholes, mitered end sections, etc.~~ of work are shown in the Contract Documents to be constructed or installed and ~~due to actual field conditions,~~ it is determined by the Engineer that the items ~~s is~~ are not needed, ~~then~~ a negative adjustment ~~to the Contract~~ will be made. ~~When the Engineer's determination that the items are not needed is made after the Contractor has commenced work on or has expended costs associated with the items being deleted, the negative adjustment to the Contract will be based on the invoice price for the actual cost of the items being deleted less all costs incurred prior to the date the Engineer determined the items are not needed and the Contractor will retain ownership. When the Engineer's determination that the items are not needed is made before the Contractor commences work on or expended costs associated with the items being deleted, then the negative adjustment will be based on the invoice price for the actual costs of the items being deleted. This~~ adjustment will not exceed \$5,000.00. ~~Should the amount of the adjustment exceed \$5,000.00, it will be considered a significant change and an~~ negative adjustment will be processed in accordance with 4-3.2. The negative adjustment will be reflective of a fair and equitable amount in accordance with 4-3.2 covering the value of all deleted work less all items of cost incurred by the contractor prior to the date that the Engineer notifies the contractor of the deleted work.

Response: Thank you for the review and comment. Your suggested changes will be considered in the development of the final wording for this specification change. Since not all adjustments related to deleted work are negative adjustments, that portion of your suggested change will not be made.

See response to 1st comment for revised language.
