

**SECTION 1.09  
MEASUREMENT AND PAYMENT**

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**1.09.01—Measurement of Quantities:** Work completed in compliance with the Contract will be measured by the Engineer according to U.S. Customary (System International) standard measures, and quantities of work performed shall be computed based on such measurements made in accordance with the methods of measurement described herein under provisions regarding the applicable Contract item.

Notwithstanding any other provision in the Contract, only work that is within the payment limits prescribed by the Contract or ordered by the Engineer will be measured for payment. No payment will be made for work that is not actually performed.

Structures shall be measured and quantities computed according to the neat lines shown on the plans (as those plans may be revised by authorization of the Engineer), or as may otherwise be required by the Contract.

Quantities of materials measured for payment by net weight (mass) shall be measured in tons (metric tons), while contained in hauling vehicles on scales furnished by and at the expense of the Contractor. The scales shall be satisfactory to the Engineer and shall be sealed. When required by the Engineer, an inspector will be appointed and compensated by the Department to check the weight (mass) of all materials to be incorporated into the Project. The tare weight (mass) of trucks used to haul materials being paid for by weight (mass) shall be taken at such times as the Engineer directs.

**1.09.02—Value Engineering:** These Value Engineering provisions apply as an incentive to the Contractor to initiate, develop, and present to the Department for consideration cost-reduction proposals conceived by the Contractor, involving changes in the drawings, designs, specifications, or other requirements of the Contract. These provisions do not apply unless the proposal submitted is specifically identified by the Contractor as being presented for consideration as a Value Engineering Proposal. All such proposals must be made on the Department's Value Engineering Proposal form, copies of which are available from the Engineer.

The proposals which may be considered as Value Engineering Proposals are those which, if implemented, (a) would require modification of the Contract by construction order; (b) would produce a savings to the Department by calling for the use of items or methods less costly than those specified in the Contract; (c) would not alter necessary standardized features of the original Project; and (d) would not impair essential functions or characteristics of the construction called for by the original Contract, such as service life, reliability, economy of operation, and ease of maintenance. Proposals that would produce only a reduction in the time required to complete the Project (without monetary savings to the Department) will not be considered as Value Engineering Proposals.

Value Engineering Proposals shall be subject to the following cautions and conditions:

1. The Contractor is cautioned not to base any bid or bid price on the anticipated approval of a Value Engineering Proposal and to recognize that such Proposal may be rejected. The Contractor will be required to perform the Contract in accordance with the existing Contract plans and specifications at the prices bid unless and until the Department formally accepts, in writing, the Contractor's Value Engineering Proposal.

2. In order for the Department to consider such a Proposal, the savings likely to be generated by the Proposal must be sufficient, in the sole judgement of the Department, to warrant its review and processing by the Department. All costs resulting from such review or processing will be borne by the Department. Before any Value Engineering Proposal will be considered by the Department, the Department must determine, in its sole judgement, that implementation of the Proposal would result in a total cost savings of more than \$200,000, reflecting a savings of at least \$100,000 for the Department. The Department will not consider any Value Engineering Proposal that would require an increase in Contract time.

3. All Value Engineering Proposals apply only to the ongoing Contract, and whether approved or not, such Proposals become the property of the Department. Such Proposals shall contain no restrictions

imposed by the Contractor on their use or disclosure by the State. The Department will have the right to use, duplicate and disclose in whole or in part any data necessary for the use or implementation of the Proposal. The Department retains the right to use any accepted Proposal or part thereof on any other current or subsequent Department projects without any obligation to the Contractor for such use. This provision is not intended to deny rights provided by law with respect to patented materials or processes.

4. If the Department already has under consideration certain revisions of the Contract or has approved certain changes in specifications or standard drawings for general use which subsequently appear in a Value Engineering Proposal, the Department may reject the Contractor's Proposal and may proceed with such revisions without any obligation to the Contractor.

5. The Proposal must be presented and approved in writing prior to the Contractor's undertaking any work on the Contract items involved in the proposal. Savings due to a reduction in quantities or deletion of items which result solely from adjustments to field conditions, and Proposals which would only waive specification or other Contract requirements, are not considered to be Value Engineering Proposals.

6. The Contractor shall have no claim against the Department for any costs or delays due to the Department's review or rejection of a Value Engineering Proposal, including, but not limited to, development costs, anticipated profits, or increased material or labor costs resulting from delays in the review or rejection of such Proposal.

7. The Department will be the sole judge of the acceptability of a Proposal and of the estimated net savings in construction costs that would result from adoption of all or any part(s) of such Proposal. In determining such estimated net savings, the Department reserves the right to disregard the Contract bid prices if, in the judgment of the Engineer, such prices do not represent a fair measure of the value of work to be performed or deleted under the Proposal. Errors in the estimated quantities in the bid proposal form for the Contract shall be corrected by the Department prior to calculating the savings that would likely result from adoption of the Value Engineering Proposal.

8. The Engineer may reject all or any portion of work performed pursuant to an approved Value Engineering Proposal if the Engineer determines that unsatisfactory results are being obtained because of the Proposal's implementation with regard to that work. The Engineer may direct the removal of such rejected work and require the Contractor to proceed in accordance with the original Contract requirements. Payment for any work performed under the Value Engineering Proposal, or for its removal, will be made as per Contract unit price or cost-plus, as determined by the Department. Where modifications of the Value Engineering Proposal have been approved in order to adjust to field or other conditions, payment will be limited to the total amount payable for the work at the Contract bid prices, as if the pertinent work had been constructed in accordance with the original Contract requirements. The Contractor waives the right to use such rejection or limitation of reimbursement as the basis of any claim against the State for delay damages or for any other damages or costs.

9. Value Engineering Proposals must conform to the specifications or standards of the Department. The standards governing the original design of the Contract will be the minimal standard allowed.

10. If additional information is needed in order for the Department to evaluate Proposals, the Contractor must provide the Department with this information within 14 calendar days of such request or within such other time period as may be approved by the Department. Failure to do so will result in rejection of the Proposal.

11. The Contractor shall provide revised Project plans, specifications and estimates to the Department in construction order format, reflecting such changes as would be required for implementation of the Value Engineering Proposal. The Contractor shall be solely responsible for any errors or omissions resulting from such revisions.

12. Savings not directly related to the Contract, such as, but not limited to, reductions in inspection or testing costs or Department overhead, will not be included in the savings calculation for any Value Engineering Proposal.

Before expending considerable funds in development of a formal Value Engineering Proposal, the Contractor may find it beneficial to submit a conceptual Proposal to the Department. The Contractor will be notified in writing of the acceptability of the conceptual Proposal or the reason(s) for its rejection. The Department retains the right to reject the formal Proposal even if the conceptual Proposal was determined acceptable. A conceptual Value Engineering Proposal must be submitted for cost-reduction Proposals involving structures, rights-of-way acquisitions, permits or revisions as per Section 1.10, or the use of railroad property, on forms provided by the Department.

Value Engineering Proposals will be processed in the same manner as are alterations of the Contract that

require a construction order. As a minimum, the following shall be submitted by the Contractor in or with each Proposal:

1. A statement that the Proposal is being submitted as a Value Engineering Proposal.
2. A description of the difference between the existing Contract requirements and the proposed change(s), and the comparative advantages and disadvantages of each, taking into account considerations of service life, economy of operations, ease of maintenance, desired appearance, safety, and environmental impacts or necessary permit changes. When an item's function or characteristics would be altered by implementation of the Proposal, a justification of the anticipated effects of the alteration on the end item's performance must be included in the Proposal. A life-cycle cost analysis must be included for items involving alteration of functional characteristics. Factors for determining future worth will be provided by the Department.
3. Complete plans, specifications, and computations signed and sealed by a Professional Engineer licensed by the State of Connecticut, showing that the proposed Contract revisions would incorporate the same design criteria and restrictions that applied to the original Contract features and requirements. Said revisions shall be presented by the Contractor in the Department's construction order format consisting of mylar-reproducible plans, indicating (a) quantity increases and decreases by item number, with associated cost; (b) new items, with their quantities and costs; (c) specifications in contract format; and, if needed, (d) compliance permit applications and revisions in accordance with Section 1.10.
4. A complete analysis of the probable cost effects of the proposed changes on Project construction, future operations in connection with the completed Project, maintenance and durability of completed Project construction, and other aspects of the Project, as appropriate.
5. The date by which the Proposal would have to be implemented in order for the Department to obtain the maximum cost reduction from the Proposal's implementation. The period established by the date must allow the Department ample time for review and processing of the Proposal. Should the Department find that it does not have sufficient time for such review and processing, it may reject the Proposal solely on such basis. If the Department fails to respond to the Proposal by said date, the Contractor shall consider the Proposal to be rejected and shall have no claims against the State as a result thereof.
6. A description of the effect that the implementation of the Proposal would likely have on the time required to complete the Project.

Payment for accepted Value Engineering Proposals will be made in the following manner:

1. The changes resulting from a Value Engineering Proposal will be incorporated into the Contract by construction order and shall reflect the changes in unit bid item quantities or new agreed price items, as appropriate, in accordance with the Specifications.
2. The Contract prices for the revised Project work will be paid directly as accomplished. In addition to such payment, the Department will pay the Contractor, under a separate item or a Value Engineering Incentive item, 50% of the total savings obtained by the State as a result of its implementation of the Value Engineering Proposal. An estimate of said savings is to be calculated by the Department within one week prior to the Proposal's acceptance, by (a) estimating what it will cost the Department to carry out the Project as revised according to the Value Engineering Proposal; (b) estimating what it would have cost the Department to carry out the Project under the terms of the Contract as modified by any construction orders as of the time that the Department accepted the Proposal; and (c) subtracting the sum estimated as per (a) from the sum estimated as per (b).

The Value Engineering Incentive will be paid in two installments. 60% of the estimated incentive will be paid to the Contractor when the Value Engineering Proposal is accepted. When the implementation of the Proposal, including all related construction, has been completed, the Department will calculate the actual savings that resulted from it. The Department will then divide those savings by two, subtract the amount of the first Incentive payment from the resulting sum, and pay the remainder to the Contractor.

3. The Contractor's costs for development, design, submission and processing of the Value Engineering Proposal are not eligible for reimbursement.
4. The Department will not reimburse the Contractor based on any cost savings not identified in the Value Engineering Proposal prior to its acceptance.

**1.09.03—Increased or Decreased Quantities:** Whenever the quantity of any item as given in both the bid proposal form and Contract is increased or decreased, the Department will pay for such item at the Contract price, on the basis of the actual quantity completed, except as otherwise expressly authorized under the provisions of Articles 1.04.02, 1.04.03 or 1.04.04.

**1.09.04—Extra and Cost-Plus Work:** Extra work shall be performed only under the conditions and

subject to the requirements outlined in Article 1.04.05. Payment for such work shall be based either on a unit price or on a lump sum, to be agreed upon before the extra work is started; or, if no agreement as to price can be reached, the Engineer may order that the work will be paid for on a cost-plus basis.

For all work done on a cost-plus basis, the Contractor's compensation shall be determined in accordance with the following requirements:

**(a) Labor:**

(1) For all labor, the Department shall pay the Contractor the wage rate actually paid as shown by its certified payroll, which shall be at least the minimum rate established for the Project by the State Labor Department or the U.S. Department of Labor. For all foremen in direct charge of Project work, the Department will pay the Contractor the actual wage paid to the foremen as shown on the Contractor's certified payroll.

(2) The Department will reimburse the Contractor for the actual costs paid to, or on behalf of, workers by reason of allowances, health and welfare benefits, pension fund benefits and other such benefits, when such amounts are required by a collective bargaining agreement or another employment contract generally applicable to the classes of labor employed on the Project. The Contractor shall certify all such costs.

(3) For property damage, bonding, liability and workmen's compensation insurance premiums, unemployment insurance contributions and social security taxes on Project cost-plus work, the Department will reimburse the Contractor for its actual Project costs. The Contractor shall provide to the Engineer documentation, satisfactory to the Engineer in form and substance, of all such costs.

(4) The Department will also pay to the Contractor an amount equal to 20% (15% for overhead, 5% for profit) of the total sums described in (a) (1) through (3) above.

No part of the salary or expenses of anyone connected with the Contractor's forces above the grade of foreman, who provides general supervision of Project work, will be included in the above payment calculations, except when the Contractor's organization is entirely occupied with cost-plus work, in which case the salary of a superintendent may be included in said labor item when the nature of the pertinent Project work is such that, in the opinion of the Engineer, a superintendent is required for that work. The allowable rate of pay for such superintendent shall be agreed upon before the Contractor begins the pertinent work. If no agreement on the rate can be reached, the Engineer will make payment based on such rate as he deems reasonable

The Engineer reserves the right to determine the number and type of personnel to be employed for the cost-plus Project work.

**(b) Specialized Work:** When the Engineer directs the Contractor to perform specialized work requiring skills, tools and equipment substantially unlike those ordinarily used by the Contractor or its authorized Project subcontractors, the Department will pay the Contractor for the use of a specialist to perform the specialized work. For such specialized services, including materials incorporated into the Project, the Department will pay the Contractor its actual costs, plus additional compensation in accordance with subparagraph (e) below. Prior to performing such specialized work, the Contractor shall obtain and submit to the Engineer a minimum of three price quotes for the work, if requested by the Engineer.

**(c) Materials:** For all materials necessary for cost-plus Project work, the Department will pay the Contractor its actual cost for such materials as delivered to the Project site, including delivery charges as shown by original receipted bills, plus 15 % of the sum of said cost and charges.

In lieu of receipted bills for materials used which were not specifically purchased for the Project, but were taken from the Contractor's stock, the Contractor shall provide to the Engineer an affidavit certifying that such materials were not purchased for the Project, that the materials were taken from the Contractor's stock, that the quantity claimed to have been used on the Project was actually so used, and that the price claimed for the materials is currently their fair market value. The Department will pay for costs of transporting the materials to the Project site, in accordance with subparagraphs (a) and (d) hereof.

The Department will not reimburse the Contractor for any penalty or charge incurred due to the Contractor's late or delayed payment for the pertinent materials.

**(d) Equipment:** All equipment used for cost-plus Project work must, in the judgment of the Engineer, be in good working condition and suitable for the purpose intended; and the Engineer reserves the right to determine the size and number of units of equipment to be used for such work. The manufacturer's ratings shall be the basis for all Rental Rate Blue Book classifications used for payment purposes. ("Rental Rate Blue Book" as used in these specifications refers to the current edition of the Rental Rate Blue Book, taking into account all current Rate Adjustment Tables, and amendments thereof, which is published by K III Directory Corporation of San Jose, California, including all current Rate Adjustment Tables and

amendments thereof.) Trucks will be classified by cubic-yard capacity.

No percentage mark-up will be added for payment purposes to amounts charged by the Contractor based on equipment rental rates.

The Department will not pay rental rates for small tools needed to complete the cost-plus Project work.

For payment purposes, estimated operating costs per hour from the Rental Rate Blue Book will apply only to the actual time during which the equipment is actively being used to perform cost-plus Project work.

For equipment that is also being used for non-cost-plus Project work, the Department will pay the applicable hourly rate only for the actual time that the equipment is assigned to cost-plus Project work. The applicable period of assignment for each piece of equipment shall start when the equipment commences to be used for cost-plus Project work ordered by the Engineer, and shall end at the time designated by the Engineer.

For equipment which has to be brought to the Project site exclusively for cost-plus work, the Department will reimburse the Contractor for loading and unloading costs and costs of transporting such equipment to and from the Project site; provided, however, that payment for return transportation from the Project site shall not exceed the cost of moving the equipment to that site. If such a piece of equipment is self-propelled, and is driven to the Project site under its own power, then the Department will pay only operating costs and labor costs for its transport to and from the Project site. The Department will not, however, pay for any loading, unloading and transportation costs if the equipment is used for any Project work on the site other than cost-plus work.

1) Owned Equipment: The Department will pay the Contractor the applicable rental rate set forth in the Rental Rate Blue Book for any equipment (1) which the Contractor uses, with the Engineer's authorization, to perform cost-plus Project work, and (2) which is owned by the Contractor or a subsidiary, affiliate, or parent company of the Contractor (no matter how far up or down the chain of ownership from the Contractor).

The maximum hourly rate to be used in paying for Contractor-owned equipment assigned to cost-plus work shall be the applicable monthly rate in the Rental Rate Blue Book, divided by 176 (176 working hours per month).

Should the proper completion of the cost-plus Project work require equipment of a type not covered by the Rental Rate Blue Book, the Engineer will determine, and the Department will make payment to the Contractor at, a reasonable rental rate based on rates prevailing in the area of the Project. If practicable, such rates shall be determined by the Engineer before the affected work is begun. If the Contractor proposes that the Engineer use a particular rate in such an instance, the Contractor must disclose to the Engineer the specific sources of, or support for, said rate.

If a piece of equipment owned by the Contractor is assigned to cost-plus Project work, but remains idle for some portion of the period of the cost-plus work, the Department will pay for that idle time at 50% of the applicable rental rate (exclusive of operating costs) in the Rental Rate Blue Book.

For payment purposes, the period of equipment usage shall be deemed to start when the Contractor begins to use the equipment for cost-plus Project work and shall be deemed to end when the equipment is released by the Engineer from use for such work. Any hours during which the equipment is used for work other than cost-plus Project work will be deducted from the pertinent payment period.

For any piece of Contractor-owned equipment assigned to cost-plus Project work, the Department will reimburse the Contractor for an aggregate minimum of 8 hours (of use time, idle time, or a combination thereof) in each 24-hour day (measured from one midnight to the following midnight) during the assignment period. No such reimbursement will be made, however, for Saturdays, Sundays and legal holidays during which the Contractor does no Project work, or for any other day on which the Engineer orders the Contractor to do no Project work. If the equipment is used to perform cost-plus Project work for more than 8 hours in a day, the Department will pay the Contractor at the applicable hourly rate computed on a monthly basis for the actual time of use; however the Department will not pay the Contractor for more than 8 hours of idle time for a piece of equipment during a given day.

The Department shall have the right to limit its aggregate Project payments for idle time for a given piece of equipment to the replacement value of that equipment.

(2) Rented Equipment: If the Engineer determines that in order to perform the cost-plus Project work the Contractor must rent certain machinery, trucks or other equipment not owned by the Contractor or a subsidiary, affiliate, or parent company of the Contractor (no matter how far up or down the chain of ownership from the Contractor), the Contractor shall inform the Engineer, in advance of such rental, (1) of

the specific nature of the rental(s), (2) the reasons for its need for such rental(s), (3) the anticipated or proposed rental rate(s), and (4) the estimated duration for the use of the equipment. Rates for such rented equipment must be provided based on the following:

—A daily rate per hour when the equipment is to be specifically assigned to Project work by the Engineer for a period of 7 consecutive calendar days or less.

—A weekly rate per hour when such assigned time exceeds 7 consecutive calendar days, but does not exceed 21 consecutive calendar days.

—A monthly rate per hour when such assigned time exceeds 21 consecutive calendar days.

The applicable daily, weekly, or monthly rate will be determined at the expiration of 21 calendar days or upon release of the equipment by the Engineer, whichever occurs first. Interruptions of the rental period, when equipment is used on other than assigned cost-plus work, will not entitle the Contractor to payment at a rental rate that would be applicable to the shorter periods arguably occasioned by such interruptions.

Prior to renting such equipment, the Contractor shall obtain and submit to the Engineer a minimum of three quotes, if requested by the Engineer.

The Department will pay the Contractor for such rental at the rate actually paid by the Contractor, provided that the given use and rental rate are acceptable to the Engineer. In order to obtain such payment, the Contractor must provide the Engineer with a copy of the original receipted bill for the rental expenses incurred.

(e) **Administrative Expense:** When extra work on a cost-plus basis is performed by an authorized subcontractor, the Department will pay the Contractor an additional 7.5% for that work; such payment will be in addition to the percentage payments described in (a), (b), (c) and (d) above, as a reimbursement for the Contractor's administrative expense in connection with such work. Approval of such additional payments will be given only after the Contractor provides to the Engineer receipted invoices for all relevant costs.

(f) **Bonding Costs:** For bonding on the total cost of the cost-plus work including administrative expenses as outlined in (e) above, the Contractor shall receive its actual cost. The Contractor shall provide to the Engineer documentation, satisfactory to the Engineer in form and substance, of all such costs.

(g) **Miscellaneous:** The compensation provided for in (a), (b), (c), (d) and (e) above shall be deemed to be payment in full for the extra work and shall be deemed as full compensation for same, including costs of superintendence, use of small tools, equipment for which no rental is allowed, safety equipment, consumables, field office overhead, home office overhead, bonding, other insurance, and profit. The Contractor's representative and the Engineer shall compare their respective records of the extra work done on a cost-plus basis at the end of each day. Copies of these records shall be signed by both the Engineer and the Contractor's representative. The Engineer will then forward a copy of same to the Contractor and to any affected subcontractor in accordance with Department procedures. Upon payment of such costs by the Contractor, the Contractor shall immediately furnish the Engineer with original receipted bills covering the costs, including transportation charges, for all materials used for such work.

**1.09.05—Eliminated Items:** Should the Engineer determine any Contract items, or portion of Project work contained in a lump sum item, to be unnecessary for completion of the Project, the Engineer may eliminate such items or portion of work from the Contract. Such action shall in no way invalidate the Contract; and no allowance for any items, or portion of work contained in a lump sum item so eliminated, will be made by the Engineer in making final payment to the Contractor, except for (a) such actual work as may have been done on the items, or portion of work contained in a lump sum item, prior to the Engineer's notice to the Contractor that the items or work had been eliminated; and (b) such related material as may have been purchased for the Project prior to said notice. This provision shall apply unless the Engineer determines that an elimination of a given item, or portion of work contained in a lump sum item, constitutes a "significant change" in the character of the Contract work, as defined under Article 1.04.03. In such a case, the terms of Article 1.04.03 shall be applied to the payment issues related to the eliminated item or work.

**1.09.06—Partial Payments:**

**A. Monthly and Semi-monthly Estimates.**

(1) Once each month, the Engineer will make, in writing, current estimates of the value of work performed in accordance with the Contract, calculated at Contract unit prices, including but not limited to the value of materials complete in place and materials not yet incorporated into the Project, but approved by the Engineer for payment (as provided for elsewhere in this article). Two and one half percent (2 1/2%) of the total amount determined by the Engineer will be deducted from the estimate and retained by the

Department until the Engineer accepts the Project. The balance, less all previous payments, will be certified for payment. When work equaling the original Contract value has been accomplished, no additional retainage will be withheld.

Exceptions may be made as follows:

(a) When not in conflict with the interests of the State, the Contractor may request, and the Engineer may make, semi-monthly estimates for payment. Semi-monthly estimates will be subject to the same retainage and payment conditions as are monthly estimates.

(b) No estimates for payments will be made when, in the judgment of the Engineer, the Project is not proceeding in accordance with the Contract, or when in his judgment the total value of the Project work done since the last estimate amounts to less than \$2,500 or 2% of the total bid amount, whichever is less.

(c) When Project work with a Contract value equal to at least 95% of the original Contract value has been completed, but prior to the Engineer's acceptance of the entire Project, the Commissioner may make additional payments which draw upon the funds held in retainage if he considers such payment to be in the best interests of the State.

(2) The Engineer may also make payment at Contract unit prices for the number of units that represent the value of the Project work performed to date, if said units are essentially, though not totally, complete.

**B. Payment for Stored Materials:** Non-perishable materials that meet Contract requirements, that have been produced or purchased specifically for incorporation into the Project, and that have been delivered to the Project site or to such location as the Engineer may have approved, but which have not yet been incorporated into the Project, may be included in current estimates at such fraction of the applicable Contract unit price or lump sum price as the Engineer may deem to represent a fair value for the material, if such materials have been paid for by the Contractor as shown by receipted bills or, in lieu of such receipted bill(s), a duly-executed Certification of Title executed by the Contractor and the Vendor in the form approved by the Department. When partial payment is made for stored materials, such materials shall become the property of the State; but such payment shall in no way release the Contractor from its responsibility for the condition, protection and, in case of loss, replacement of such materials, or from any liability resulting in any manner from the presence of such materials wherever they may be stored or kept. All materials shall be stored in accordance with Article 1.06.03 and in accordance with the manufacturer's recommendations. Material test approval by the Department shall be required prior to payment for such materials.

Offsite storage may be approved by the Engineer provided that the materials proposed for payment are segregated from other materials, clearly labeled as being owned by the Department for use on the identified Project, otherwise handled in compliance with Article 1.06.03, and stored in accordance with the manufacturer's recommendations. All such materials must be readily-available for inventory and inspection by the Engineer. Storage outside of the State of Connecticut may be considered only when a representative of the Department is able to verify that the above requirements have been satisfied.

For items requiring extended fabrication, manufacturing or assembly time, the Contractor may propose to the Engineer a schedule of values for the related material costs. If the Engineer approves such a schedule of values, it shall become the Basis of Payment for the stored materials, so long as all other pertinent Contract requirements have been satisfied.

Generic materials having a use on many projects will be considered for payment prior to their incorporation into the Project only if stored in unopened packaging or in large lots. Stock and raw materials will not be considered for such advance payment without the Engineer's prior written consent thereto.

In no case shall material payments exceed the Contract unit price or lump sum price less the actual value of delivery and installation of the materials; if they do exceed such a price, the Engineer reserves the right to reduce any related payment accordingly. Such reductions in payment shall in no way affect the Department's ownership interest in the stored materials.

**1.09.07—Final Payment:** When the Commissioner has accepted the Project, the Engineer shall prepare a final payment estimate. It shall state the entire amount of each item of Project work performed, the value thereof, and the amount of all payments made on prior estimates, all such estimated payments being merely partial payments and subject to correction in the calculation of the final payment. Upon certification of the final estimate for payment, the Department shall return to the Contractor any securities that may have been deposited in lieu of monies retained.

**1.09.08—Vacant**

**1.09.09—Payment of Costs Owed to the State:** The State shall have the right to set off against amounts otherwise due to the Contractor under this Contract or under any other contract or arrangement that the Contractor has with the State (a) any costs that the State has incurred due to the Contractor's noncompliance with this Contract and (b) any other amounts that are due and payable from the Contractor to the State. Any sum taken in setoff from the Contractor shall be deemed to have been paid to the Contractor for purposes of payment obligations under Article 1.03.04 of these Specifications.