

107-C-245 WAIVER OF LEGAL RIGHTS

(Adopted 06-02-15)

The Standard Specifications are revised as follows:

SECTION 107, BEGIN LINE 733, DELETE AS FOLLOWS:

107.23 Waiver of Legal Rights

Upon completion of the work, the Department will expeditiously make final inspection and notification of acceptance. Such final acceptance, however, shall not preclude or estop the Department from correcting any measurement, estimate, or certificate made before or after completion of the work, nor shall the Department be precluded or estopped from recovering from the Contractor or its surety, or both, such overpayment as it may sustain by failure on the part of the Contractor to fulfill its obligations under the contract. A waiver on the part of the Department of any breach of any part of the contract shall not be held to be a waiver of any other or subsequent breach.

The Contractor, without prejudice to the terms of the contract, shall be liable to the Department for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the rights of the Department under any warranty or guaranty. ~~All costs and charges incurred by the Department, including, but not limited to, attorneys' fees and litigation expenses incurred by the Department with regard to the Contractor's and/or Surety's performance under the contract or performance bond, or related to the work to be provided under the contract, together with the cost of remedying the work under the contract to the extent and in the manner decided by the Department, will be deducted from any monies due or which may become due. If there are no monies or insufficient monies still due from the Department to the Contractor, the Contractor and/or Surety shall be liable to the Department for any such costs and charges.~~

SECTION 108, BEGIN LINE 715, DELETE AS FOLLOWS:

~~All costs and charges incurred by the Department, including, but not limited to, attorneys' fees and litigation expenses incurred by the Department with regard to the Contractor's and/or Surety's performance under the contract or performance bond, or related to the work to be provided under the contract, together with the cost of completing the work under the contract, will be deducted from any monies due or which may become due. If such expense exceeds the sum which would have been payable under the contract, the Contractor and the surety shall be liable and shall pay to the Department the amount of such excess.~~
