

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge John L. Kane

Civil Action No. \*-cv-\*-JLK-\*

\*

Plaintiff,

v.

\*

Defendant.

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**JURY VERDICT FORM (SAMPLE)**

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We, the jury, present our Answers to the Questions submitted by the Court, to which we have all agreed:

**I. CATEGORY 1**

For \*’s work performed under the \*-\* Contract before the effective date of termination, please determine the total amount of the following items (without duplication of any items) proved by \*. If you find \* has failed to prove an amount for any of the following, please enter “0.”

- A. The amount of \*’s “actual” (Instr. 3.4) and “recoverable” (Instr. 3.6 - 3.9) costs for work performed under the \*-\* Contract. (*see also* Instructions 3.2, 3.3, 3.5, 3.10 - 3.11 [includes bonding costs])

\$ \_\_\_\_\_

- B. The cost of settlements with the following construction subcontractors for actual work in place at the job site as of the termination date:

1. A Construction, Inc. \$ \_\_\_\_\_
2. B Constuction \$ \_\_\_\_\_
3. C \$ \_\_\_\_\_
4. D \$ \_\_\_\_\_

C. A reasonable sum as profit on work performed.

1. Before determining any amount for reasonable profit in Category 3(c) of Instruction 3.2, you must first determine whether \* has lost its entitlement to profit for work performed under the Contract by virtue of the caveat introduced in Instruction 3.17. Accordingly, please answer the following prefatory questions before considering any amount of profit to award \*:

- a. Has \* proved that \* would have suffered a loss on the entire \*-\* Contract even without \*'s termination?

YES \_\_\_ NO \_\_\_

IF YOUR ANSWER TO THIS QUESTION WAS "YES," PLEASE SKIP THE REMAINDER OF THIS SECTION I(C) AND PROCEED TO SECTION II. YOU WILL BE DIRECTED TO RETURN TO THIS QUESTION I(C)(1) AFTER YOU COMPLETE SECTION III. IF YOUR ANSWER TO QUESTION C(1)(a) WAS "NO," SKIP QUESTION 1(b) AND PROCEED TO QUESTION 2.

- b. Referring to Instruction 3.19, is \* responsible for the \*'s loss position either because

(i) \* is entitled to equitable adjustment(s) that take the Contract out of the loss position (*see* Instructions on Category 3 Damages - Equitable Adjustments)?

YES \_\_\_ NO \_\_\_

(ii) \* failed to make progress payments and those payments would

have taken the Contract out of the loss position?

YES \_\_\_ NO \_\_\_

(iii) \*’s actions or conduct made \*’s performance impossible?

YES \_\_\_ NO \_\_\_

(iv) \* furnished defective specifications to \* that, in turn, put the Contract in the loss position?

YES \_\_\_ NO \_\_\_

IF YOU ANSWERED “YES” TO ONE OR MORE OF THE ABOVE QUESTIONS (b)(I), (ii), (iii) or (iv), PROCEED TO QUESTION 2. IF YOU ANSWERED “NO” TO EACH OF THE QUESTIONS (b)(i) - (iv), SKIP TO SECTION II.

2. Enter the amount of reasonable profit to which \* is entitled for work performed up to the effective date of the Contract’s termination (Instr. 3.15).

\$ \_\_\_\_\_

## II. CATEGORY 2

For \*’s reasonable costs of settlement for work terminated under the \*-\* Contract, please determine the total amount of the following items (without duplication of any items) proved by \*. (See Instruction 3.7 [defining “reasonable”] and Instructions 3.20 - 3.22.) If you find \* has failed to prove an amount of costs under any of these categories, please enter “0.”<sup>1</sup>

- A. Accounting, legal, clerical or other expenses reasonably necessary for the preparation and pursuit of termination settlement proposals with \* and supporting data.

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<sup>1</sup> *Judge’s Note: Nominal damages of \$1 will be awarded, if appropriate, in any Final Judgment ultimately issued in this case.*

\$ \_\_\_\_\_

B. Accounting, legal, clerical costs and other expenses associated with the termination of, and settlement with, the following lower-tier subcontractors:

- |      |   |          |
|------|---|----------|
| 1. * | - | \$ _____ |
| 2. * | - | \$ _____ |
| 3. * | - | \$ _____ |
| 4. * | - | \$ _____ |
| 5. * | - | \$ _____ |

C. The cost of storage, transportation and other expense items incurred that were reasonably necessary for the preservation, protection or disposition of the termination inventory and equipment:

\$ \_\_\_\_\_

NOTE: As set forth in Instruction 3.2, the sum of \$2,682,804 – the stipulated amount of total payments already made to \* by \* – will be deducted from the total amount you award, to the extent that amount exceeds the stipulated sum. You do not have to do the math here on the Verdict Form, however.

### III. CATEGORY 3 - Equitable Adjustments

For \*’s entitlement to equitable adjustments for specific additional costs for performance under the Contract, do you find that \* has proven each of the following (*see* Instructions 3.24- 3.26):

1. Did \* require \* to perform more or different work than required which increased the amount or difficulty of the work required by the Contract or somehow accelerated, augmented, or complicated the contract work in a manner different than set forth in the contract?

YES \_\_\_\_ NO \_\_\_\_

1(a). If “yes,” identify the specific category or categories of this work. For example, “asbestos debris removal not contemplated by the Contract.”

\_\_\_\_\_  
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The fact that there is space provided for multiple categories of equitable adjustments does not mean I am instructing you that there are that many, or any, specific equitable adjustment categories. You may fill some, all or none of the spaces depending on your determination of the facts presented at trial.

IF YOU ANSWERED "YES" TO QUESTION 1 ABOVE, PROCEED TO QUESTION 2. IF YOU ANSWERED "NO" TO QUESTION 1, SKIP TO THE BOTTOM OF THIS VERDICT FORM, COMPLETE YOUR ANSWERS TO QUESTION (C)(1) IN SECTION I, AND THEN SIGN AND DATE THIS VERDICT FORM.

- 2. Did \* perform all or a portion of the additional or different work?  
YES \_\_\_\_ NO \_\_\_\_

IF YOU ANSWERED "YES" TO QUESTION 2, PROCEED TO QUESTION 3. IF YOU ANSWERED "NO" TO QUESTION 2, SKIP TO THE BOTTOM OF THIS VERDICT FORM, COMPLETE YOUR ANSWERS TO QUESTION (C)(1) IN SECTION I, AND THEN SIGN AND DATE THIS VERDICT FORM.

- 3. Did \* incur extra costs above what it would have incurred under the Contract

because of the extra work?

YES \_\_\_\_ NO \_\_\_\_

IF YOU ANSWERED "YES" TO QUESTION 3, PROCEED TO QUESTION 3(a). IF YOU ANSWERED "NO" TO QUESTION 3, SKIP TO THE BOTTOM OF THIS VERDICT FORM, COMPLETE YOUR ANSWERS TO QUESTION (C)(1) IN SECTION I, AND THEN SIGN AND DATE THIS VERDICT FORM.

3(a) Were these extra costs "recoverable" (i.e. "reasonable, allowable and allocable to the Contract") as those terms are defined in Instructions 3.6 - 3.9)?

YES \_\_\_\_ NO \_\_\_\_

IF YOU ANSWERED "YES" TO QUESTION 3(a), PROCEED TO QUESTION 4. IF YOU ANSWERED "NO" TO QUESTION 3(a), SKIP TO THE BOTTOM OF THIS VERDICT FORM, COMPLETE YOUR ANSWERS TO QUESTION (C)(1) IN SECTION I, AND THEN SIGN AND DATE THIS VERDICT FORM.

4. Do you find that \* caused \* to incur these extra costs?

YES \_\_\_\_ NO \_\_\_\_

IF YOU ANSWERED "YES" TO QUESTION 4, PROCEED TO QUESTION 5. IF YOU ANSWERED "NO" TO QUESTION 4, SKIP TO THE BOTTOM OF THIS VERDICT FORM, COMPLETE YOUR ANSWERS TO QUESTION (C)(1) IN SECTION I, AND THEN SIGN AND DATE THIS VERDICT FORM.

5. What is the amount to be awarded for each equitable adjustment category proven by \* and identified in Question 1(a)? Please identify both a dollar amount (if none, enter "0") and the specific equitable adjustment proven by \* in the space provided. Do not include overhead or profit in your answers.

For example:

\$ \_\_\_\_\_ for asbestos debris removal not contemplated by the Contract.

Your answers:

\$ \_\_\_\_\_ for \_\_\_\_\_.

\$ \_\_\_\_\_ for \_\_\_\_\_.

\$ \_\_\_\_\_ for \_\_\_\_\_.

\$ \_\_\_\_\_ for \_\_\_\_\_.

\$ \_\_\_\_\_ for \_\_\_\_\_.

\$ \_\_\_\_\_ for \_\_\_\_\_.

(Use the additional space below, if necessary)

6. What amount, if any, for which \* has proved it is entitled for overhead (Instruction 3.27) and reasonable profits (Instruction 3.28) on the equitable adjustment(s) identified in Question 5? Enter "0" if your answer is none.

\$ \_\_\_\_\_ for overhead      \$ \_\_\_\_\_ for reasonable profit

PLEASE RETURN TO CATEGORY (C), QUESTION (C)(1)(b) IN SECTION I AND COMPLETE THAT SECTION. WHEN YOU ARE FINISHED, PLEASE SIGN AND DATE THIS VERDICT FORM.

Dated this \_\_\_\_\_ day of May, 2006.

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Presiding Juror

Juror

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Juror

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