

26 (7) Each contract for construction services between a
 27 local governmental entity and a contractor must provide for the
 28 development of a single list of items required to render
 29 complete, satisfactory, and acceptable the construction services
 30 purchased by the local governmental entity, which must include a
 31 dollar valuation, as reasonably determined by the contractor as
 32 a portion of the contract value, of the estimated cost to
 33 complete each item.

34 (a) The contract must specify the process for developing
 35 the list, including the responsibilities of the local
 36 governmental entity and the contractor in developing and
 37 reviewing the list and a reasonable time for developing the
 38 list:

39 1. For construction projects having an estimated cost of
 40 Less than \$10 million, within 30 calendar days after reaching
 41 substantial completion of the construction services purchased as
 42 defined in the contract, or, if not defined in the contract,
 43 upon reaching beneficial occupancy or use; or

44 2. For construction projects having an estimated cost of
 45 \$10 million or more, within 30 calendar days, ~~or, if extended by~~
 46 ~~contract, up to 60 calendar days~~ after reaching substantial
 47 completion of the construction services purchased as defined in
 48 the contract, or, if not defined in the contract, upon reaching
 49 beneficial occupancy or use.

50

51 The contract must also specify a date for the delivery of the
52 list of items, not to exceed 5 days after the list of items has
53 been developed and reviewed in accordance with the time periods
54 set forth in subparagraphs 1. and 2.

55 (b) If the contract between the local governmental entity
56 and the contractor relates to the purchase of construction
57 services on more than one building or structure, or involves a
58 multiphased project, the contract must provide for the
59 development of a list of items required to render complete,
60 satisfactory, and acceptable all the construction services
61 purchased pursuant to the contract for each building, structure,
62 or phase of the project within the time limitations provided in
63 paragraph (a).

64 (c) The final contract completion date must be at least 30
65 days after the delivery of the list of items. If the list is not
66 provided to the contractor by the agreed upon date for delivery
67 of the list, the contract time for completion must be extended
68 by the number of days the local governmental entity exceeded the
69 delivery date. Damages may not be assessed against a contractor
70 for failing to complete a project within the time required by
71 the contract, unless the contractor failed to complete the
72 project within the contract period as extended under this
73 paragraph.

74 (d) The failure to include any corrective work or pending
75 items not yet completed on the list does not alter the

76 responsibility of the contractor to complete all the
 77 construction services purchased pursuant to the contract.

78 (e) Within 20 days after developing the list, the local
 79 governmental entity shall pay the contractor the remaining
 80 balance of the contract, including any remaining retainage
 81 withheld by the local governmental entity, less an amount that
 82 equals the estimated cost to complete the items on the list.

83 (f)-(e) Upon completion of all items on the list, the
 84 contractor may submit a payment request for the amount ~~all~~
 85 ~~remaining retainage~~ withheld by the local governmental entity
 86 pursuant to paragraph (e) this section. If a good faith dispute
 87 exists as to whether one or more items identified on the list
 88 have been completed pursuant to the contract, the local
 89 governmental entity may continue to withhold up to 150 percent
 90 of the total costs to complete such items.

91 (g)-(f) All items that require correction under the
 92 contract and that are identified after the preparation and
 93 delivery of the list remain the obligation of the contractor as
 94 defined by the contract.

95 (h)-(g) Warranty items or items not included in the list of
 96 items required under paragraph (a) may not affect the final
 97 payment of retainage as provided in this section or as provided
 98 in the contract between the contractor and its subcontractors
 99 and suppliers.

100 (i)-(h) Retainage may not be held by a local governmental

101 entity or a contractor to secure payment of insurance premiums
102 under a consolidated insurance program or series of insurance
103 policies issued to a local governmental entity or a contractor
104 for a project or group of projects, and the final payment of
105 retainage as provided in this section may not be delayed pending
106 a final audit by the local governmental entity's or contractor's
107 insurance provider.

108 (j)~~(i)~~ If a local governmental entity fails to comply with
109 its responsibilities to develop the list required under
110 paragraph (a) or paragraph (b) within the time limitations
111 provided in paragraph (a), the contractor may submit a payment
112 request to the local governmental entity for the remaining
113 balance of the contract, including all remaining retainage
114 withheld by the local governmental entity. The local
115 governmental entity must pay the contractor pursuant to this
116 section; and payment of any remaining undisputed contract
117 amount, less any amount withheld pursuant to the contract for
118 incomplete or uncorrected work, must be paid within 20 business
119 days after receipt of a proper invoice or payment request. If
120 the local governmental entity has provided written notice to the
121 contractor specifying the failure of the contractor to meet
122 contract requirements in the development of the list of items to
123 be completed, the local governmental entity shall pay the
124 contractor the remaining balance of the contract, less an amount
125 equal to 150 percent of the estimated cost to complete the items

126 that the local governmental entity intended to include on the
 127 list need not pay or process any payment request for retainage
 128 ~~if the contractor has, in whole or in part, failed to cooperate~~
 129 ~~with the local governmental entity in the development of the~~
 130 ~~list or to perform its contractual responsibilities, if any,~~
 131 ~~with regard to the development of the list or if paragraph~~
 132 ~~(8)(c) applies.~~

133 (8)

134 (c) This section does not require the local governmental
 135 entity to pay or release any amounts that are the subject of a
 136 good faith dispute made in writing pursuant to the contract or
 137 ~~the subject of a claim brought pursuant to s. 255.05, or~~
 138 ~~otherwise the subject of a claim or demand by the local~~
 139 ~~governmental entity or contractor.~~

140 Section 2. Paragraph (a) of subsection (2) of section
 141 218.76, Florida Statutes, is amended to read:

142 218.76 Improper payment request or invoice; resolution of
 143 disputes.—

144 (2)(a) If a dispute arises between a vendor and a local
 145 governmental entity concerning payment of a payment request or
 146 invoice, the dispute shall be finally determined by the local
 147 governmental entity pursuant to a dispute resolution procedure
 148 established by the local governmental entity. Such procedure
 149 must provide that proceedings to resolve the dispute are
 150 commenced within 30 ~~45~~ days after the date the payment request

151 or proper invoice was received by the local governmental entity
 152 and concluded by final decision of the local governmental entity
 153 within 45 ~~60~~ days after the date the payment request or proper
 154 invoice was received by the local governmental entity. Such
 155 procedures are not subject to chapter 120 and do not constitute
 156 an administrative proceeding that prohibits a court from
 157 deciding de novo any action arising out of the dispute. If the
 158 dispute is resolved in favor of the local governmental entity,
 159 interest charges begin to accrue 15 days after the local
 160 governmental entity's final decision. If the dispute is resolved
 161 in favor of the vendor, interest begins to accrue as of the
 162 original date the payment became due.

163 Section 3. Subsection (2) of section 255.073, Florida
 164 Statutes, is amended to read:

165 255.073 Timely payment for purchases of construction
 166 services.—

167 (2) If a public entity disputes a portion of a payment
 168 request, the undisputed portion must be ~~timely~~ paid by the date
 169 required under the contract or by 20 days after receipt of the
 170 request, whichever is earlier.

171 Section 4. Subsection (3) of section 255.074, Florida
 172 Statutes, is amended to read:

173 255.074 Procedures for calculation of payment due dates.—

174 (3) A public entity must submit a payment request to the
 175 Chief Financial Officer for payment no more than 14 ~~20~~ days

176 after receipt of the payment request.

177 Section 5. Subsections (4) through (8) of section 255.077,
178 Florida Statutes, are renumbered as subsections (5) through (9),
179 respectively, subsection (1) and present subsections (4) and (8)
180 are amended, and a new subsection (4) is added to that section,
181 to read:

182 255.077 Project closeout and payment of retainage.—

183 (1) Each contract for construction services between a
184 public entity and a contractor must provide for the development
185 of a list of items required to render complete, satisfactory,
186 and acceptable the construction services purchased by the public
187 entity, which must include a dollar valuation, as reasonably
188 determined by the contractor as a portion of the contract value,
189 of the estimated cost to complete each item. The contract must
190 specify the process for the development of the list, including
191 responsibilities of the public entity and the contractor in
192 developing and reviewing the list and a reasonable time for
193 developing the list, as follows:

194 (a) For construction projects having an estimated cost of
195 less than \$10 million, within 30 calendar days after reaching
196 substantial completion of the construction services purchased as
197 defined in the contract, or, if not defined in the contract,
198 upon reaching beneficial occupancy or use; or

199 (b) For construction projects having an estimated cost of
200 \$10 million or more, within 30 calendar days, unless otherwise

201 extended by contract not to exceed 60 calendar days, after
 202 reaching substantial completion of the construction services
 203 purchased as defined in the contract, or, if not defined in the
 204 contract, upon reaching beneficial occupancy or use.

205 (4) Within 20 days after developing the list, the public
 206 entity shall pay the contractor the remaining balance of the
 207 contract, including any remaining retainage withheld by the
 208 public entity pursuant to s. 255.078, less an amount that equals
 209 the estimated costs to complete the items on the list.

210 (5)~~(4)~~ Upon completion of all items on the list, the
 211 contractor may submit a payment request for the amount ~~all~~
 212 ~~remaining retainage~~ withheld by the public entity pursuant to
 213 subsection (4) s. 255.078. If a good faith dispute exists as to
 214 whether one or more items identified on the list have been
 215 completed pursuant to the contract, the public entity may
 216 continue to withhold an amount not to exceed 150 percent of the
 217 total costs to complete such items.

218 (9)~~(8)~~ If a public entity fails to comply with its
 219 responsibilities to develop the list required under subsection
 220 (1) or subsection (2), as defined in the contract, within the
 221 time limitations provided in subsection (1), the contractor may
 222 submit to the public entity a payment request for all remaining
 223 retainage withheld by the public entity pursuant to s. 255.078.
 224 The public entity shall pay the contractor within 20 days after
 225 receiving the payment request. However, the public entity need

226 | not pay or process any payment request for retainage if the
 227 | contractor has, ~~in whole or in part,~~ failed to cooperate with
 228 | the public entity in the development of the list or failed to
 229 | perform its contractual responsibilities, if any, with regard to
 230 | the development of the list or if s. 255.078(3) applies.

231 | Section 6. Subsection (3) of section 255.078, Florida
 232 | Statutes, is amended to read:

233 | 255.078 Public construction retainage.—

234 | (3) This section and s. 255.077 do not require the public
 235 | entity to pay or release any amounts that are the subject of a
 236 | good faith dispute or, the subject of a claim brought pursuant
 237 | to s. 255.05, ~~or otherwise the subject of a claim or demand by~~
 238 | ~~the public entity or contractor.~~

239 | Section 7. Paragraph (b) of subsection (1) of section
 240 | 255.0992, Florida Statutes, is amended to read:

241 | 255.0992 Public works projects; prohibited governmental
 242 | actions.—

243 | (1) As used in this section, the term:

244 | (b) "Public works project" means an activity ~~exceeding \$1~~
 245 | ~~million in value~~ that is paid for with any local or state-
 246 | appropriated funds and which consists of the construction,
 247 | maintenance, repair, renovation, remodeling, or improvement of a
 248 | building, road, street, sewer, storm drain, water system, site
 249 | development, irrigation system, reclamation project, gas or
 250 | electrical distribution system, gas or electrical substation, or

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251 | other facility, project, or portion thereof that is owned in
252 | whole or in part by any political subdivision.

253 | Section 8. This act shall take effect July 1, 2023.