



City of Grove City, Ohio

**General Conditions of
Contracts for Construction**

Revised February 2012

City of Grove City, Ohio
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100 GENERAL PROVISIONS

101 - DEFINITIONS AND TERMS

Whenever in these specifications or in other Contract Documents the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

101.01 Abbreviations. Whenever the following abbreviations are used in these specifications or on the plans, they are to be construed the same as the respective expressions represented:

AAN American Association of Nurserymen

ASHTO American Association of State Highway and Transportation Officials

ACI American Concrete Institute

AISC American Institute of Steel Construction

AISI American Iron and Steel Institute

ANSI American National Standards Institute

AREA American Railway Engineering Association

ASA American Standards Association

ASCE American Society of Civil Engineers

ASME American Society of Mechanical Engineers

ASTM American Society for Testing and Materials

AWG American Wire Gage

AWS American Welding Society

AWWA American Water Works Association

BUSTR Bureau of Underground Storage Tank Regulations

CMSC Construction and Material Specifications - City of Columbus

EI Edison Electric Institute

EPA Environmental Protection Agency

FHWA Federal Highway Administration, Department of Transportation

FSS Federal Specifications and Standards, General Services Administration

IEEE Institute of Electrical and Electronic Engineers

IES Illuminating Engineering Society

IME Institute of Makers of Explosives

IMSA International Municipal Signal Association

IPCEA Insulated Power Cable Engineering Association

ISSA International Slurry Seal Association

ITE Institute of Transportation Engineers

NEMA National Electrical Manufacturers Association

ODOTCMS Ohio Department of Transportation Construction and Material Specifications

OMUTCD Ohio Manual of Uniform Traffic Control Devices

ORC Ohio Revised Code

OSHA Occupation Safety & Health Act

PCI Precast/Prestressed Concrete Institute

SSPC Steel Structures Painting Council

UL Underwriters' Laboratories, Inc.

Unless otherwise stated in special provisions or in a drawing note, the latest revision of the above standards shall apply. References made to dated Specifications and Standards for Water Supply and Distribution shall govern, unless later revisions are approved by the Director.

101.02 Addendum or Addenda. Written instructions issued by the City prior to bid for the purpose of varying, modifying, rescinding or adding to portions of the Contract Documents .

101.03 Advertisement (Invitation for Bids). The public announcement, as required by law, inviting bids for work to be performed or materials and equipment to be furnished.

101.04 Award. The written acceptance by the City of a bid.

101.05 Bidder. Any individual, firm, partnership, or corporation submitting a Proposal for the advertised work, acting directly or through a duly authorized representative.

101.06 Bid Submittal Documents. The bound manual which includes the advertisement for bids, special provisions, the proposal forms, proposal guaranty, contract forms, supplemental specifications, standard drawings and other notices.

101.07 Borrow Area. The term borrow area as used in this section refers to locations outside the right-of-way from which natural materials are removed for use in the work.

101.08 Bridge. A structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads and having a length measured along the center of roadway of more than 10 feet (3.0 m) between the center line of bearing of abutments or extreme limits of openings for multiple boxes. The length of a bridge structure is the over-all length measured between centerline of abutments. The roadway width of a bridge structure is the clear width measured at right angles to the longitudinal centerline of the bridge between the bottom of curbs or guardrails or, in the case of multiple height of curbs, between the bottoms of the lower risers. For curb widths of one foot or less, the roadway width shall be measured between parapets or railings.

101.09 Calendar Day or Day. Every day shown on the calendar.

101.10 Certified Test Data. A test report from a manufacturer's laboratory or independent laboratory listing test data for the specified requirements for the samples tested and a statement by a person having legal authority to act for the supplier and/or manufacturer of the material that the test report furnished represents the material delivered to the City of Grove City project. The certification shall include the Laboratory Report No. and the name of the project to which the material is delivered. Laboratory reports signed by a Registered Professional Engineer and those signed by other personnel and notarized will be accepted for this purpose.

101.11 Change Order. A written order issued by the Director to the Contractor, covering changes in the plans or quantities or both, within or beyond the scope of the contract and establishing the basis of payment and/or completion time for the work affected by the changes.

101.12 City. The City of Grove City, acting through its Director or properly authorized agents thereof; such agents acting severally within the scope of the particular duties entrusted to them.

101.13 Completion Date. The date, as set forth in the Notice to Proceed, on which the work contemplated shall be completed.

101.14 Completion Time. The number of calendar days, as shown in the Bid Submittal Documents, within which the work contemplated shall be completed.

101.15 Conduit. Any pipe or similar passageway for electricity, gas, water or other utility.

101.16 Contract or Contract Documents. The written agreement between the City and the Contractor setting forth the obligations of the parties thereunder, including but not limited to, the performance of the work, the furnishing of labor and materials, and the basis of payment. The contract includes the advertisement or invitation for bids, proposals, affidavits, contract forms, bid/performance/payment bonds, Grove City General Provisions, supplemental conditions, specifications, supplemental specifications, and standard drawings as the same are published or may be published and amended by the several Divisions of the City, special provisions, general and detailed plans, notices to Contractor, and any change orders and supplemental agreements that are required to complete the construction of the work in an acceptable manner, including authorized extensions of the completion date, all of which constitutes one instrument.

101.17 Contract Performance and Payment Bond. The approved form of security, executed by the Contractor and its surety or sureties, guaranteeing complete performance of the contract and all supplement agreements pertaining thereto and the payment of all legal debts pertaining to the construction of the project.

101.18 Contract Item (Pay Item). A specifically described unit of work for which a price is provided in the contract.

101.19 Contract Modification. A properly approved and authorized alteration of the executed contract incorporating any change order(s) into the existing terms and conditions, which may also provide for an increase or decrease in the basis of payment and/or completion time.

101.20 Contractor. The individual, firm, partnership, corporation, or other entity contracting with the City for performance of prescribed work, acting directly or through a duly authorized representative.

101.21 County. The designated county in which the work specified is to be done.

101.22 Culvert. Any structure not classified as a bridge which provides an opening under the roadway.

101.23 Department. The Department of the City of Grove City under which the Project is being performed.

101.24 Director. The Director of the contracting department of the City of Grove City under which the Project is being performed.

101.25 Engineer. The Project Engineer of the City of Grove City working under the supervision of the City Engineer or the Administrator of the Division under which the project is being performed.

101.26 Engineer's Estimate. The City's estimated cost of the improvement.

101.27 Equipment. All machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and acceptable completion of the work.

101.28 Extra Work. An item of work not provided for in the contract as awarded but found essential to the satisfactory completion of the contract within its intended scope.

101.29 Extra Work Contract. A contract concerning the performance of work or furnishing of materials involving extra work. Such extra work may be performed at agreed prices or on a force account basis.

101.30 Fabricator. The individual, firm, or corporation that fabricates structural metals or prestressed concrete members as an agent of the Contractor.

101.31 Inspector. The Engineer's authorized representative assigned to make detailed inspections of contract performance.

101.32 Laboratory. A reputable testing laboratory that is designated by or acceptable to the Director for rendering testing and inspection services on a Contract where these specifications govern.

101.33 Materials. Any materials specified for use in the construction of the project and its appurtenances.

101.34 Metrication. Throughout these specifications, the English units are used as the primary unit with the metric equivalents shown in parentheses. The metric equivalents were arrived at using "soft conversion" where the metric equivalent to the standard English unit is a straight mathematical conversion. The conversions shown are for information and training purposes only, and should not be regarded as the standards. Industry standard metric values have not been used in these specifications.

101.35 National Holidays. New Years Day, January 1; Martin Luther King's Birthday - the Third Monday in January; Presidents' Day, the Third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the First Monday in September; Thanksgiving Day, the fourth Thursday in November; Christmas Day, December 25.

101.36 Notice of Award. Written notice by the City to the apparent successful bidder stating that upon compliance with the conditions enumerated therein, within the time specified, the City will enter into a contract. This notice will only be issued after the apparent successful bidder obtains Grove City City Council approval.

101.37 Notice of Commencement. Legal notice by the City indicating the beginning of Construction on a public improvement.

101.38 Notice of Intent to Award. Written notice by the City to the apparent successful bidder indicating the City's intent to award the contract subject to approval by Grove City City Council.

101.39 Notice to Proceed. Written notice to the Contractor, by the Director or the Director's authorized representative authorizing the beginning of work and setting forth the completion date.

101.40 Owner. The City of Grove City.

101.41 Plans. The plans, profiles, typical cross-sections, contract drawings and supplemental drawings, approved by the Director, or exact reproductions thereof, which show the location, character, dimensions and details of the work.

101.42 Profile Grade. The trace of a vertical plane intersecting the top of curb, centerline of roadway, or as indicated on the plans. Profile grade means either elevation or gradient of such trace according to the context.

101.43 Project. The specific section of the work together with all appurtenances and construction to be performed thereon under the contract.

101.44 Proposal. The offer of a bidder, on the prescribed form properly signed and guaranteed, to perform the work and to furnish the labor and materials at the prices quoted.

101.45 Proposal Form. The approved form on which the Department requires bids to be prepared and submitted for the work.

101.46 Proposal Guaranty. The approved form of security furnished with a bid to guarantee that the bidder will enter into the contract if its bid is accepted.

101.47 Questionnaire. The specified forms on which the bidder is required to furnish information concerning qualifications, experience, plant, equipment, financial, labor, management or other resources.

101.48 Reasonably Close Conformity. Compliance with reasonable and customary manufacturing and construction tolerances whether specified in the Contract Documents or not. This standard shall not overcome or supplant the requirement of stated tolerances.

101.49 Right-of-Way. A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes and extending to the limits under the control of the state or local authority.

101.50 Road. A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.

101.51 Roadbed. The graded portion of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulder.

101.52 Roadway. The portion of a highway or street within limits of construction.

101.53 Sewer. Pipe or conduit intended for carrying storm drainage or sanitary drainage.

101.54 Shoulder. The portion of the roadway contiguous to the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

101.55 Sidewalk. The facility within the public right-of-way primarily constructed for the use of pedestrians.

101.56 Special Provisions. Additions and revisions to the standard and supplemental specifications covering conditions peculiar to an individual project.

101.57 Specialty Items. Work specified by the Contract Documents that requires specialized knowledge and/or equipment and materials to perform.

101.58 Specifications (CMSC). The directions, provisions and requirements contained herein as supplemented by the supplemental specifications and special provisions.

101.59 State. The State of Ohio acting through its authorized representative.

101.60 Street. A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.

101.61 Structures. Bridges, culverts, catch basins, curb inlets, drop inlets, retaining walls, cribbing, manholes, endwalls, buildings, curbs, pavements, sewers, water mains, service pipes, underdrains, foundation drains and other features which may be encountered in the work and not otherwise classed herein.

101.62 Subcontractor. The individual, firm, partnership or corporation to whom the Contractor sublets part of the contract with the written approval of the City.

101.63 Subgrade. The surface upon which a structure or work and appurtenances are to be constructed.

101.64 Substructure. All of that part of a bridge or culvert below the bearings of simple and continuous spans, skewbacks of arches and tops of footings of rigid frames, together with backwalls and wings.

101.65 Superintendent. The Contractor's authorized representative in responsible charge of the work.

101.66 Superstructure. The entire structure except the substructure.

101.67 Supplemental Specifications. Detailed specifications supplemental to or superseding these specifications.

101.68 Surety. The corporation, partnership or individual, other than the Contractor, executing a bond furnished by the Contractor.

101.69 Titles (or Headings). The titles or headings of the sections and subsections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

101.70 Water line. Conduit for carrying public water supply.

101.71 Work. The furnishing of all labor, services, materials, equipment, and other incidentals necessary or convenient to the successful completion of the project and the carrying out of all duties and obligations imposed by the Contract.

101.72 Work Days. Wherever indicated inside these specifications, workdays are defined as: Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, excluding national holidays.

101.73 Working Drawings. Stress sheets, shop drawings, erection plans, falsework plans, cofferdam plans, bending diagrams for reinforcing steel, or any other supplementary plans or similar data which the Contractor is required to submit for approval.

101.74 Interpretations. In order to avoid cumbersome and confusing repetition of expressions in these specifications, it is provided that whenever anything is, or is to be, done, if, as, or when, or where "contemplated, required, determined, directed, specified, authorized, ordered, given, designated, indicated, considered necessary, deemed necessary, permitted, reserved, suspended, established, approval, approved, disapproved, acceptable, unacceptable, suitable, accepted, satisfactory, unsatisfactory, sufficient, insufficient, rejected, or condemned," it shall be understood as if the expression were followed "by the Engineer" or "to the Engineer".

102 – INSTRUCTIONS TO BIDDERS, BIDDING REQUIREMENTS AND CONDITIONS

102.01 Pre-qualification of Bidders

102.02 Availability and Contents of Bid Submittal Documents

102.03 Proposals

102.04 Interpretation of Quantities in Proposal

102.05 Examination of Plans, Specifications, Special Provisions, and Site of Work

102.06 Preparation of Proposal

102.07 Irregular Proposals

102.08 Proposal Guaranty

102.09 Delivery of Proposals

102.10 Withdrawal of Proposals

102.11 Public Opening of Proposals

102.12 Material Standards

102.13 Combination or Conditional Proposals

102.01 Pre-qualification of Bidders. Contracts requiring pre-certification of bidders shall state that pre-certification is required in the Bid Submittal Documents.

102.01.1 Bidder's Pledge and Agreement. Each Bidder acknowledges that this is a public project involving public funds and that Grove City expects and requires that each successful Bidder adhere to the highest ethical and performance standards. Each Bidder by submitting a bid pledges and agrees that (a) it will act at all times with absolute integrity and truthfulness in its dealings with Grove City and the Design Professional, (b) it will use its best efforts to cooperate with the Grove City and all Contractors on the Project and at all times will act with professionalism and dignity in its dealings with Grove City and all Contractors, (c) it will assign only competent supervisors and workers to the Project, each of whom is fully qualified to perform the tasks that are assigned to him/her, and (d) it has read, understands and will comply with the terms of the Contract Documents.

102.02 Availability and Contents of Bid Submittal Documents. Bid submittal documents are available to prospective bidders at the location stated in the advertisement. The Bid Submittal Documents will state the location and description of the contemplated work and—in the case of

unit price contracts—will show the approximate estimate of the various quantities and kinds of work to be performed or materials to be furnished, and will have a schedule of items for which unit bid or lump sum prices are invited. The bid submittal documents will state the contract completion time, and the date, time and place of the opening of proposals. The documents will also include any special provisions or requirements which vary from or are not contained in the plans and specifications. The plans, specifications, supplemental specifications, standard drawings or other documents designated in the bid submittal documents, will be considered a part of the proposal whether attached or not. The prospective bidder will be required to pay the Department the sum stated in the Advertisement for Bids for each set of Bid Submittal Documents.

102.03 Proposals. The City may disqualify or refuse to consider a proposal if a bidder is in default for any of the following reasons:

1. More than one proposal for the same work from an individual, firm, or corporation under the same or different name, or corporation under the same name or corporations with one or more of the same persons as officers or directors of such corporations, or corporations which are holding companies, parent companies or holding companies which are subsidiaries of such corporations.
2. Evidence of collusion among bidders.
3. Bid prices which obviously are unbalanced.
4. Lack of experience, competency and/or adequate machinery, equipment, plant, and other resources, as revealed by qualifications and resources form required by the proposal.
5. Uncompleted work, whether or not with the City, which, in the judgment of the City, might hinder or prevent the prompt completion of additional work if awarded.
6. Blank.
7. Failure to perform previous contracts adequately or a breach of prior contracts, whether or not the breach was waived by the City at a prior time.
8. Or for any other reasonable cause.

102.04 Interpretation of Quantities in Proposal. The quantities appearing in the proposal are approximate only and are prepared for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of work performed and accepted or materials furnished and accepted in accordance with the contract. The scheduled quantities of work to be done and materials to be furnished may each be increased, decreased, or omitted as hereinafter provided.

The description of unit price items in the proposal which are identified as "increase or decrease" items are identified for the purpose of establishing a unit price for payment for increases or

decreases in the particular item during performance of the work. For the purpose of bid preparation and evaluation of all such "increase or decrease" items shall be computed as increases.

102.05 Examination of Plans, Specifications, Special Provisions, and Site of Work. The Bidder is expected to examine carefully the site of the proposed work, the proposal, plans, specifications, supplemental specifications, standard drawings, as the same are published or may be published and amended by the several Divisions of the City, special provisions, and Contract forms, before submitting a proposal. The bidder may also make additional investigations of subsurface conditions prior to submitting the bid. Such soil tests and investigations shall be at the bidder's expense and at no cost to the City or the Consulting Engineer. Any physical variation at the site of the work from that indicated by the Contract Documents, noted by the Contractor during the required examination or during any additional investigation conducted by the bidder, shall be called to the attention of the Contracting Authority in writing prior to submitting a proposal.

The submission of a bid shall be considered evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the plans, specifications, supplemental specifications, standard drawings, as the same are published or may be published and amended by the several Divisions of the City, special provisions and contract.

No pleas of ignorance of any provisions of the Contract Documents or of available subsurface data which may have been obtained by the City or its authorized representatives for use in designing the project shall be accepted as a basis for any claim for extra compensation, extra work or for any extension of time.

Data concerning subsurface materials or conditions may have been obtained by the City or Consulting Engineer for use in designing the project. Said borings, test excavations, and other subsurface investigations even if incorporated into the plans, if any, are incomplete, are not a part of the Contract Documents, and are not warranted to show the actual subsurface conditions. Said subsurface data, if not in the plans, is available for review by bidders upon written request and execution of the Release for Subsurface Information. Bidders shall not rely on subsurface information obtained from the City and neither the City nor the Consulting Engineer will be responsible in any way for additional compensation for excavation work performed under the contract due to the Contractor's assumptions or deductions based on said subsurface data prepared solely for the Consulting Engineer's use. The Contractor agrees that no claims will be made against the City or the Consulting Engineer, if, in carrying out the work, it is found that the actual subsurface conditions encountered do not conform to those indicated by said borings, test excavations and other subsurface investigations.

All soil data obtained from the City is for information only and indicates conditions existing at the time of the tests. The information is not guaranteed to be indicative of any subsurface condition except at the particular and exact locations of the borings.

102.06 Preparation of Proposal. The bidder shall submit the proposal upon the forms furnished by the City. For unit price contracts, the bidder shall specify a unit price in figures for each proposal item for which a quantity is given and shall also show the products of the respective unit prices and quantities written in figures in the column provided for that purpose and the total amount of the proposal obtained by adding the amount of the several items. All the words and figures shall be in ink or typed.

The bidder may submit an 8 1/2 x 11 inches (216 x 279 mm) computerized bid sheet or sheets attached to the bid proposal. The computerized bid sheet or sheets must meet the following requirements:

1. reference numbers, description, units and quantities included,
2. a unit price per/item,
3. an extension price per/item,
4. project name, number, and date on each sheet,
5. subtotals and totals clearly identified,
6. blanks where appropriate,
7. in the event of a deleted item - the word deleted inserted,
8. lines between columns and items,
9. each page numbered.
10. a general summary of subtotals must be shown on the last sheet,
11. the Contractor's contract compliance number must appear on each computerized sheet,
12. the following statement must appear on the last sheet of the computerized bid:

The bidder's TOTAL is only for reference at the bid opening. The City will verify that the TOTAL price and the individual unit and/or lump sum prices correspond. If there is a discrepancy, the unit and/or lump sum prices shall govern.

When an item in the proposal contains a choice to be designated by the bidder, the bidder shall indicate that choice in accordance with the specifications for that particular item, and thereafter no further choice will be permitted.

The proposal shall include a properly executed non-collusion affidavit.

The bidder's proposal must be signed with ink by the individual, by one or more members of the partnership, by one or more members or officers of each firm representing a joint venture, or by one or more officers of a corporation, or by an agent of the Contractor legally qualified and acceptable to the City. If the proposal is made by an individual, name and business address of that individual must be shown; if as a joint venture, the name and business address of each member or officer of the firms represented by the joint venture must be shown; if by a corporation, the name of the state under the laws of which the corporation is chartered and the name and title of the officer or officers having authority under the by-laws to sign contracts, the name of the corporation and the business address of its corporate officials must be shown; or if by any other business entity the Director shall require the names and address of the responsible officers of such entity.

Anyone signing a proposal in a representative capacity must file with it evidence of their authority to bind the bidder by Affidavit of Authority.

Before a contract will be awarded to a foreign corporation or a person or partnership non-resident of the State of Ohio, such foreign corporation, person, or partnership non-resident shall file with the Secretary of State a power of attorney designating them or their agent or the Secretary of State, as agent, for the purpose of accepting service of summons, in any action in law or equity, or both, brought in the State of Ohio.

102.07 Irregular Proposals. Proposals will be considered irregular and may at the discretion of the City be rejected for the following reasons:

1. If the proposal is on a form other than that furnished or authorized by the Department; or if the form is altered or any part thereof is detached.
2. If there are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
3. If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award. This does not exclude a bid limiting the maximum gross amount of awards acceptable to any one bidder at any one bid letting, provided that any selection of awards will be made by the City.
4. If the proposal does not contain a unit price, for each pay item listed except in the case of authorized alternate pay items or lump sum items.
5. Blank.

6. If the proposal is not signed by the bidder and does not contain an executed Affidavit of Authority.

7. The bidder fails to return the complete bid document.

102.08 Proposal Guaranty or Bond. Bidder shall furnish a Bid Guaranty, as prescribed in Sections 153.54, 153.57, and 153.571 of the Ohio Revised Code, in the form of either: (1) a bond for the full amount of the bid in the form of the Bid Guaranty and Contract Bond included in the Contract Documents; or (2) a certified check, cashier's check, or irrevocable letter of credit in a form satisfactory to the City in an amount equal to 10% of the bid. The Bid amount shall be the total of all sums bid, including all add alternates with no deduction for any deduct alternates.

102.09 Delivery of Proposal. The proposals for each project shall be placed, together with the proposal guaranty in a sealed envelope so marked as to indicate the identity of the project and the name and address of the bidder. If forwarded by mail said envelope shall then be placed in another envelope which shall be sealed and addressed as indicated in the proposal. Proposals will be received until the hour and date set for the opening thereof and must be in the hands of the official indicated by such time. Proposals received after the time for opening of bids will be returned to the bidder unopened.

102.10 Withdrawal of Proposals. Prior to the opening of bids, a bidder may withdraw its proposal provided the bidder makes a written request which is received by the Director prior to the time of bid opening. The proposal will be returned to the bidder unopened. Where the request for withdrawal is made by telegram or fax transmittal, said withdrawal will not be effective until a signed confirmation letter is received by the Director. The letter confirming the withdrawal must be registered or certified, executed by a party authorized to execute the proposal, and include an executed affidavit of authority.

102.11 Public Opening of Proposals. Proposals will be opened and read publicly at the time and place designated by the Director. Bidders, their authorized agents and other interested parties are invited to be present.

102.12 Material Standards. Before any contract is awarded, the bidder may be required to furnish a complete statement of the origin, composition, and manufacture of any or all materials to be used in the construction of the work together with samples, which samples may be subjected to the tests provided for in these specifications to determine their quality and fitness for the work.

The equipment, items, devices, materials, forms of construction, fixtures, etc., named specifically in the Contract Documents have been carefully selected by the City to establish a standard for the

type and equality of article to be furnished. The bid evaluation shall be based upon the furnishing of these named standards by the Contractor.

Where a standard is named accompanied by the words "or equal," the product of any source may be submitted for review and consideration provided that the product furnished is equal in all respects to the named standard and the Contractor certifies that the item is equal in quality and all aspects of performance and appearance to that specified.

The Director shall be the sole judge and arbiter of the fitness of all items submitted for approval as "or equals." The Director alone shall determine the extent of any special features or modifications required to render an "or equal" item acceptable in all respects to equipment to be considered "an equal" to a named standard, the alternate item must not detract from the quality of performance which would have been provided by the use of the named standard. Determination of equality will consider materials of construction, design features, construction features, compatibility with adjacent items of work, performance parameters, maintainability, durability, operability, finish and workmanship, quality of service representation, maintenance and operation documentation, financial ability of the manufacturers, locations of successful installations, compliance with Contract Documents and other qualities that may affect the determination.

Should special features or modifications be required upon the product or modifications to the adjacent features of the work be required to accommodate the product, such features or modifications shall be made at no additional cost to the City. If the director is not satisfied that the "or equal" item is an acceptable replacement to the named standard, a named standard shall be furnished by the Contractor at no additional cost to the City.

102.13 Combination or Conditional Proposals. If the City so elects, proposals may be issued for projects in combination and/or separately, so that bids may be submitted either on the combination or on separate units of the combination. The City reserves the right to make awards on combination bids or separate bids to the best advantage of the City. No combination bids, other than those specifically set up on the proposals by the City, will be considered. Separate contracts will be written for each individual project included in the combination. Conditional Proposals may be considered not responsive to the bid solicitation.

102.14 Errors and Inconsistencies. Bidders are responsible for notifying the City in a timely manner of any ambiguities, inconsistencies, errors, or omissions in the Contract Bid Documents and Specifications. The Bidder shall not, at any time after the execution of the Contract, be compensated for a claim alleging insufficient data, incomplete Contract Documents, or incorrectly assumed conditions regarding the nature or character of the Work, if no request was made by the Bidder prior to the Bid opening.

102.15 Public Information. The Owner considers all information, documentation and other materials requested to be submitted in response to this solicitation to be a non-confidential and/or non-proprietary nature and therefore subject to public disclosure under the Ohio Public Records Laws.

102.16 No Compensation. The Owner will not provide compensation to Bidders for any expenses incurred for Bid preparation or for any presentations made.

102.17 No Guarantee of Award. The Owner makes no guarantee that it will make an award because of the bid solicitation, and reserves the right to accept or reject any or all bids, waive any formalities or minor technical inconsistencies, irregularities, or delete any item/requirements from this bid solicitation or resulting contract when deemed to be in the Owner's best interest.

102.18 Requests for Clarifications Pre-Bid and Addendum. If a Bidder contemplating submitting a bid for the proposed Project is in doubt as to the true meaning of any part of the Contract Documents, it may submit a written request for an interpretation thereof to the Owner's representative. Any interpretation of the proposed documents will be made by Addendum only, duly signed by the Owner, and a copy of such Addendum will be mailed or delivered to each Bidder receiving a set of Contract Documents and each plan room where the Contract Documents are maintained. The Owner will not be responsible for any other explanation or interpretation of the proposed documents. In interpreting the Contract Documents, words describing materials that have a well-known technical or trade meaning, unless otherwise specifically defined in the Contract Documents, shall be construed in accordance with the well-known meaning recognized by the trade. Bidders are responsible for notifying the Owner in a timely manner of any ambiguities, inconsistencies, errors, or omissions in the Contract Documents. The Bidder shall not, at any time after the execution of the Contract, be compensated for a claim alleging insufficient data, incomplete Contract Documents, or incorrectly assumed conditions regarding the nature or character of the Work, if no request was made by the Bidder prior to the bid opening.

The Owner reserves the right to issue Addenda changing, altering, or supplementing the Contract Documents prior to the time set for receiving Bids. Any explanation, interpretation, correction, or modification of the Contract Documents will be issued in writing in the form of an Addendum, which shall be the only means considered binding; explanations, interpretations, etc., made by any other means shall NOT be legally binding. All Addenda shall become a part of the Contract Documents.

Bidders shall submit written questions to the Owner in sufficient time in advance of the Bid opening to allow sufficient time for the Owner to respond. The Owner shall in its sole discretion determine whether an Addendum will be issued. All Addenda will be issued, except as hereafter provided, and

mailed or otherwise furnished to persons who have obtained Contract Documents for the Project, at least 24 hours prior to the published time for the opening of Bids, excluding Saturdays, Sundays, and legal holidays. If any Addendum is issued within such 24 hour period, then the time for opening of Bids shall be extended as determined by Owner with no further advertising of Bids required unless otherwise noted in the Addendum.

Copies of each Addendum will be sent only to the Bidders to whom Contract Documents have been issued and to Plan Rooms where copies of the Contract Documents are maintained. Receipt of Addenda shall be indicated by Bidders in the space provided on the Bid Form. Bidders are responsible for acquiring issued Addenda in time to incorporate them into their Bid. Bidders should contact Owner prior to the Bid opening to verify the number of Addenda issued.

If a Bidder fails to indicate receipt of all Addenda through the last Addendum issued by Owner on its Bid Form, the Bid of such Bidder will be deemed to be responsive only if:

1. The Bid received clearly indicates that the Bidder received the Addendum, such as where the Addendum added another item to be Bid upon and the Bidder submitted a Bid on that item; or
2. The Addendum involves only a matter of form or is one that has either no effect or has merely a trivial or negligible effect on price, quantity, quality, or delivery of the item Bid.

102.19 Compliance with Applicable Laws. By submitting a Bid for Work on the Project, the Bidder acknowledges that it is in compliance with applicable federal, state, and local laws and regulations, including, but not limited to, the following:

1. Equal Employment Opportunity/Nondiscrimination. In addition to the applicable Federal Law requirements, the Bidder agrees that if it is awarded a contract that in the hiring of employees for performance of work under the contract or any subcontract, neither it nor any subcontractor, or any person acting on its behalf or its subcontractor's behalf, by reason of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform work to which the employment relates. The Bidder further agrees that neither it nor any subcontractor nor any person on its behalf nor on behalf of any subcontractor, shall discriminate against or intimidate any employees hired for the performance of the work under the contract on account of race, creed, color, sex, or disability as defined in Section 4112.01 of the Ohio Revised Code.

2. Ethics Laws. The Bidder represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

3. By submitting its Bid, each Bidder certifies for reliance of the Owner that it has no unresolved finding for recovery against it issued by the Auditor of the State of Ohio on or after January 1, 2001, except as permitted by Section 9.24(F) of the Ohio Revised Code.

102.20 Bids to Remain Open. All Bids shall remain open for acceptance for 60 days following the day of the Bid opening—unless a longer period is stated in the solicitation for bids—but the Owner may, in its sole discretion, release any Bid and return the Bid Guaranty prior to that date.

102.21 Project Conditions and Specifications. The general conditions and specifications for the Project are: 1) these City of Grove City General Provisions; (2) Section 200 through 1000 of the Construction and Material Specifications of the City of Columbus, Ohio, current edition; and (3) Section 200 through 700 of the Construction and Material Specifications of the State of Ohio Department of Transportation, current edition.

Copies of the Construction and Material Specifications of the City of Columbus, Ohio may be obtained from:

Director of Public Service
City of Columbus, Ohio
90 W. Broad Street, 3rd Floor
Columbus, Ohio

Copies of the Construction and Material Specifications of the State of Ohio Department of Transportation may be obtained from:

Ohio Department of Transportation
Bureau of Contract Sales
P.O. Box 899
Columbus, Ohio 43216 0899

102.22 Conflicts among Contract Documents. To the extent any inconsistencies exist between any of the documents that comprise the Contract for the Project; those inconsistencies shall be resolved by employing the following hierarchy:

- 1) Owner/Contractor Agreement
- 2) These Grove City General Provisions
- 3) Supplemental Specifications (if any)
- 4) Supplemental Conditions (if any)
- 5) Plans or Drawings
- 6) Section 200 through 1000 of the Construction and Material Specifications of the City of Columbus, Ohio, current edition
- 7) Section 200 through 700 of the Construction and Material Specifications of the State of Ohio Department of Transportation, current edition
- 8) All remaining Contract Documents.

103 - AWARD AND EXECUTION OF CONTRACT

103.01 Consideration of Proposals

103.02 Award of Contract

103.03 Cancellation of Award

103.04 Return of Proposal Guaranty

103.05 Requirement of Contract Performance and Payment Bond

103.06 Execution of Contract

103.07 Failure to Execute Contract

103.08 Contractor's Insurance

103.09 Fire and Builder's Risk Insurance

103.10 Railroad Protective Insurance

103.11 Worker's Compensation Insurance

103.12 Delinquent Personal Property Tax Affidavit

103.01 Consideration of Proposals. After the proposals are opened and read, they will be compared on the basis of the summation of the products of the approximate quantities shown in the proposal by the unit bid prices. In the event of a discrepancy between unit bid prices and extensions, the unit price shall govern. The right is reserved to reject any or all proposals, to waive technicalities or to advertise for new proposals.

103.01.1 Alternates. At the time of awarding the contract, the Owner will select or reject alternates as it determines is in its best interest. A Bidder's failure to include on its Bid Form the cost of an alternate selected by the Owner and applicable to the Bidder's work shall render the bid non-responsive and be grounds for the rejection of the bid. Otherwise, the failure to include the cost of an alternate will not be deemed material.

The Bidder acknowledges that although there is an estimate for the cost of the Project, the market conditions may and frequently do result in the estimate being different from the sum of the bids received, either higher or lower. The Bidder understands that the Owner may include alternates, which may include deduct alternates as well as add alternates, to give it flexibility to build the Project with the funds available. The Bidder further understands and acknowledges that use of add and deduct alternates is a long held customary practice in the construction industry in the State of

Ohio. The Bidder also acknowledges that the Owner will not make a decision about the alternates on which to base the award of contracts until the bids are received, and the Owner can compare its available funds with the base bids and the cost or savings from selecting different alternates. The Bidder understands that the award to the Bidder submitting the lowest and best bid will be based on the lowest base bid plus selected alternates, and may result in an award to a Bidder other than the Bidder that submitted the lowest base bid.

If, during the progress of the Work, the Owner desires to reinstate any alternate not included in the Contract, the Owner reserves the right to reinstate the alternate at the price bid by the Contractor provided that such action is taken in sufficient time so as not to delay the progress of the work or cause the Contractor additional expense.

103.01.2 Clarification of Bids. To assist in the examination, evaluation, and comparison of the Bids and the qualifications of the Bidders, the Owner may—at its discretion—ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Owner shall not be considered. The Owner’s request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Owner in the evaluation of the Bids.

103.02 Award of Contract. The award of the contract, if it be awarded, will be made as soon as is reasonably possible after the opening of bid proposals to the lowest and best bidder whose proposal complies with all the requirements prescribed. In no case will an award be made until all necessary investigations are made regarding the bidder to whom it is proposed to award the contract. The successful bidder will be notified, by letter mailed to the address shown in the proposal, that the City intends to award the contract—subject to approval by Grove City City Council. Written Notice of Award will be furnished by the City whereupon execution of the contract will commence.

103.02.1 Determination of the Bidder Submitting the Lowest and Best Bid. Subject to the right of the Owner to reject any or all Bids, the Owner will award the Contract for the Work to the Bidder submitting the lowest and best Bid, taking into consideration accepted alternates.

In evaluating Bids, the Owner may conduct such investigations as are deemed necessary to establish the qualifications and financial ability of the Bidder and its subcontractors and suppliers. The Bidder authorizes the Owner and its representatives to contact the owners, design professionals, and others having knowledge (collectively “Contacts”) on projects on which the Bidder has worked and authorizes and requests such Contacts to provide the Owner with a candid evaluation of the Bidder’s performance. By submitting its Bid, the Bidder agrees that if it or any

person, directly or indirectly, on its behalf or for its benefit brings an action against any of such Contacts or the employees of any of them as a result of or related to such candid evaluation, the Bidder will indemnify and hold such Contacts and the employees of any of them from any claims whether or not proven that are part of or are related to such action and from all legal fees and expenses incurred by any of them arising out of or related to such legal action. This obligation is expressly intended for the benefit of such Contacts and the employees of each of them.

In addition to the forgoing, Owner may consider the following criteria in determining the lowest and best bidder; and, in its discretion, may consider and give such weight to these criteria as it deems appropriate:

1. Past Contract Performance

a. Whether Bidder has failed to perform a contract within the last five years from the date of Bid submission based on all information including fully settled disputes or litigation. A fully settled dispute or litigation is one that has been resolved in accordance with the dispute resolution mechanism under the respective contract, and where all appeal instances available to the Bidder have been exhausted.

b. Whether Bidder has failed to sign a contract after submitting a bid security in the past five years.

c. All pending litigation shall in total not represent more than ten percent (10%) of the Bidder's net worth and shall be treated as resolved against the Bidder.

d. Owner may also consider the Bidder's history of making claims against others or having claims made against it; and, if the Bidder's management operates or has operated another construction company, the Owner may consider the work history of that company in determining whether the Bidder submitted the lowest and best Bid.

2. Financial Ability

a. The Bidder's financial ability to complete the Contract successfully and on time without resort to its Surety.

b. Submission of audited financial statements including balance sheets, income statements, and cash flow statements, or other financial statements acceptable to the Owner, for the last three years to demonstrate the current soundness of the Bidder's financial position and its prospective long term profitability.

3. Experience

a. Whether the Bidder has experience under contracts in the role that is the required of it by these Contract Documents for at least the last five years prior to Bid submission deadline, and with activity in at least nine months each year.

b. Whether the Bidder has participated in the role that is the required of it by these Contract Documents in at least two contracts within the last five years, each with a value of at least 80% of the Project being bid, that have been successfully and substantially completed and that are similar to the proposed Works. Similarity shall be based on the physical size, complexity, methods, technology or other characteristics as described in the Owner's Requirements section of the Contract Documents.

c. Whether the Bidder has a record of consistent customer satisfaction and of consistent completion of projects, including projects that are comparable to or larger and more complex than the Owner's Project, on time and in accordance with the applicable Contract Documents.

d. The Owner may consider the Bidder's prior experience on other projects with the Owner, including the Bidder's demonstrated ability to complete its work on these projects in accordance with the Contract Documents and on time, and will also consider its ability to work with the Owner as a willing, cooperative, and successful team member.

e. The Bidder's equipment and facilities.

f. The adequacy, in numbers and experience, of the Bidder's work force to complete the Contract successfully and on time.

g. The Bidder's compliance with federal, state, and local laws, rules, and regulations, including but not limited to the Occupational Safety and Health Act, Prevailing Wage laws, and Ethics laws.

h. The foregoing information with respect to each of the Subcontractors and Suppliers that the Bidder intends to use on the Project.

i. The Bidder's participation in a drug-free workplace program acceptable to the Owner, and the Bidder's record for both resolved and unresolved findings of the Auditor of State for recovery as defined in Section 9.24 of the Ohio Revised Code.

j. The Owner's prior experience with the Bidder's surety.

k. The Bidder's interest in the Project as evidenced by its attendance at any pre-Bid meetings or conferences for Bidders.

l. Depending upon the type of the work, other essential factors, as the Owner may determine and as are included in the Specifications.

m. The Owner may also consider the qualifications and experience of subcontractors and suppliers.

n. Whether the Bidder meets the requirements set forth in the various provisions of the Specifications included with the Contract Documents.

103.02.2 Contractor Qualification Statement. With its Bid, the Bidder will complete and submit to the Owner a completed Contractor's Qualification Statement (using the form included in the Contract Documents), and thereafter will provide the Owner with such additional information as the Owner may request regarding the Bidder's qualifications. The failure to submit requested information on a timely basis may result in the determination that the Bidder is not the lowest and best Bidder.

103.02.3 Waiver of Contest. By submitting its Bid, the Bidder agrees that the Owner's determination of which Bidder is the lowest and best Bidder shall be final and conclusive, and that if the Bidder or any person on its behalf challenges such determination in any legal proceeding, the Bidder will indemnify and hold the Owner and its employees and agents harmless from any claims included or related to such legal proceeding, whether or not proven, and from legal fees and expenses incurred by the Owner, its employees, or agents that arise out of or are related to such challenge.

103.02.4 Rejection of Subcontractors. The Owner reserves the right to reject proposed Subcontractors before the Contract is awarded. The Bidder shall replace rejected subcontractors with subcontractors acceptable to the Owner with no change in the amount of the Bid submitted by the Bidder to Owner. After approval by the Owner of the list of proposed Subcontractors, Suppliers, and manufactures submitted by the successful Bidder, the list shall not be changed unless written approval of the change is authorized by the Owner.

103.03 Cancellation of Award. The City reserves the right to rescind the award of any contract at any time before the execution of said contract by all parties without any liability against the City.

103.04 Return of Proposal Guaranty. All proposal guaranties, except those of the three lowest bidders, will be returned in a reasonable amount of time following the opening and checking of the proposals. The retained proposal guaranties of the unsuccessful of the three lowest bidders will be returned within a reasonable amount of time following the award of contract and that of the successful bidder will be returned after a satisfactory contract performance and payment bond has

been furnished and the contract has been executed; unless the successful bidder has submitted a combined Bid/Performance/Payment Bond which will not be returned.

103.05 Requirement of Contract Performance and Payment Bond. Unless the bidder has submitted the combined Bid/Performance/Payment bond in the form set forth in O.R.C. 153.571 with its bid, the successful bidder must within 10 days, after receiving written Notice of Award and before execution of the contract by the City, furnish a contract performance and payment bond in the form provided by 153.57 of the Ohio Revised Code in the full amount of the proposal bid. Said bond shall cover the entire contract. Successful bidder's failure to return the contract and the contract performance and payment bond shall be deemed a refusal by the Contractor from entering into a contract and release the City from all obligation to the bidder.

103.06 Execution of Contract. The contract shall be signed by the successful bidder and returned, together with the contract performance and payment bond and other required Contract Documents, within 10 days after the bidder has received the Notice of Intent to Award and the Contract Documents for signature. No proposal shall be considered binding upon the City of Grove City until the execution of the contract.

The Contractor will be supplied with 5 sets of Contract Documents. The Contractor must obtain 1 copy of these specifications (CMSC) at its own cost and keep available 1 copy of the CMSC, and 1 set of the Contract Documents at the work site at all times. Any extra sets of Contract Documents required by the Contractor may be purchased from the appropriate owner division.

103.07 Failure to Execute Contract. Failure of the bidder to execute the contract and file an acceptable bond shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty which shall become the property of the City, not as a penalty, but in liquidation of damages sustained. Award may then be made to the next lowest responsive and responsible bidder, or the work may be re-advertised as the Director may decide.

103.08 Contractor's Insurance. The Contractor shall take out and maintain during the life of the contract, such Public Liability (Bodily Injury and Property Damage) Insurance as shall protect the Contractor and any subcontractor performing work covered by the contract from claims for damages for personal injury, including accidental death, as well as from claims for property damage which may arise from operations under the contract, whether such operation be by the Contractor or by any subcontractor or by anyone directly or indirectly employed by either of them. Such insurance policy shall include the City as an additionally named insured. The Contractor shall maintain coverage of the types and in the amounts as specified below. Proof of such insurance coverage shall be evidenced by submitting a certificate of insurance. A Contractor's "Umbrella"

type policy with limits specified below may be submitted for this requirement, with the City as a named insured.

The amounts of such insurance shall be as follows:

Bodily Injury Liability:

Each Person \$500,000

Each Accident \$1,000,000

Property Damage Liability:

Each Accident \$500,000

All Accidents \$1,000,000

Such insurance shall remain in full force and effect during the life of the contract.

The Contractor shall furnish evidence to the City of Grove City that, with respect to the operations it performs, it carries regular automobile insurance including but not limited to: any auto, all owned auto, hired auto, and non-owned auto providing for a limit of not less than \$1,000,000.00 for all damages arising out of bodily injuries to or death of one person, and subject to that limit for each person, a total limit of \$1,000,000.00 for all damages arising out of bodily injuries to or death of two or more persons in any one event, and automobile insurance providing for a limit of not less than \$1,000,000.00 for all damages arising out of injury to or destruction of property in any one event and, subject to that limit per event a total (or aggregate) limit of \$1,000,000.00 for all damages arising out of injury to or destruction of property during the policy period.

Insurance may not be changed or canceled unless the insured and the City are notified in writing not less than thirty days prior to such change or cancellation. In the event of cancellation the Contractor shall cease all operations until proper insurance has been restored. If any part of the contract is sublet, the Contractor is responsible for the part sublet being adequately covered by insurance herein-above described.

If during the construction of the work, special hazards such as boiler explosion, elevators, hoists, blasting, etc. are encountered they shall be covered by rider or riders to the policy or policies herein required or by separate policies of insurance in amounts as follows:

Type of Hazard	Public Liability	Property Damage
Boiler Explosion	\$500,000-\$1,000,000	\$500,000-\$1,000,000
Elevators	\$500,000-\$1,000,000	\$500,000-\$1,000,000

Hoists	\$500,000-\$1,000,000	\$500,000-\$1,000,000
Blasting	\$500,000-\$1,000,000	\$500,000-\$1,000,000

Certificates showing proof of coverage for such special hazards shall be furnished upon demand.

103.09 Fire and Builder's Risk Insurance. The Contractor shall maintain insurance to protect the Contractor and the City from loss by fire, lightning, extended coverage and vandalism in the full amount of the Contract.

103.10 Railroad Protective Insurance. Where the Contract requires Railroad Protective Insurance and no specific bid item is provided in the proposal for the payment of the premium therefore, the cost of such insurance shall be included in the various other bid items in the Contract.

103.11 Worker's Compensation Insurance. The Contractor shall take out and maintain, during the life of this Contract, adequate Worker's Compensation Insurance for all employees employed at the site of the project and, in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for the subcontractor's employees, unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under the Contract at the site of the project is not protected under the Worker's Compensation statute, the Contractor shall provide and cause each subcontractor to provide suitable insurance for the protection of their employees not otherwise protected.

In order to comply with this requirement, the Contractor shall furnish and attach to each executed set of the Contract Documents, a copy of the Worker's Compensation Certificate showing that the Contractor's industrial insurance premium has been paid.

Renewal certificates shall be furnished as necessary during the life of the Contract.

103.12 Delinquent Personal Property Tax Affidavit. Bidders are charged with notice of Section 5719.042 of the O.R.C. and shall submit the affidavit required by said section with the bid. The Affidavit is to be incorporated into and made a part of this contract and no payment shall be made with respect to this contract unless such statement has been incorporated.

104 - SCOPE OF WORK

104.01 Intent of Contract

104.02 Alteration of Plans or Character of the Work

104.03 Extra Work

104.04 Contract Modification

104.05 Maintenance of Traffic and Accessibility to Utilities

104.06 Rights In and Use of Materials Found on the Work Site

104.07 Right of Property in Materials

104.08 Final Cleaning Up

104.01 Intent of Contract. The intent of the Contract is to provide for the construction and completion in every detail of the work described. The Contractor shall perform all items of work covered and stipulated in the proposal and perform altered and extra work, furnish all labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the plans, specifications and terms of the contract. Should any misunderstanding arise as to the intent or meaning of the plans, specifications, supplemental specifications, special provisions or proposal, or any discrepancy appear, the decision of the Engineer shall be final and conclusive.

The price for items of work or materials shown on the plans or provided for in the specifications or special provisions for which no separate line item unit price is given shall be distributed among the various bid items. Submission of a bid shall be considered evidence that the Bidder is satisfied with the plans and conditions as shown.

No additional compensation will be paid to the Contractor for compliance with the plans, specifications or Special Provisions.

104.02 Alteration of Plans or Character of the Work. The City reserves the right to make, at any time during the progress of the work, such increases or decreases in quantities and such alterations in the details of construction, including alterations in the grade or alignment of the road, bridge, structure, conduit, culvert, sewer or waterline or other work item as may be found to be necessary or desirable. Such increases or decreases and alterations shall not invalidate the contract nor release the Surety, and the Contractor agrees to perform the work altered, the same as if it had been a part of the original contract.

The Contractor shall ensure that coverage provided by the Surety is maintained at the same value as the altered project value. The altered work shall be paid for at the same unit prices as other parts of the work. All expenses for increased alterations and increased costs shall be borne solely by the Contractor. No claim shall be made by the Contractor for any loss of anticipated profits because of any such alteration, or by reason of any variation between the approximate quantities and the quantities of work as done.

Should the Contractor encounter or the Engineer discover during the progress of the work subsurface or latent physical conditions at the site differing materially from those indicated in this contract, AND unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract the Engineer shall be promptly notified in writing of such conditions before they are disturbed. The Engineer will thereupon promptly cause the investigation of conditions and if they are found to so materially differ and cause an increase or decrease in the cost of, or the time required for performance of the contract, an equitable adjustment will be made. Latent physical conditions such as abandoned public and private utilities, ancient foundations or other such man-made structures of which the City and the Contractor could not have been aware, or reasonably could not have been aware of at the time of the execution of the Contract, may qualify for adjustment in time of completion and increased cost of construction, all of which must be documented by the Contractor and submitted to the Engineer for approval.

Any adjustment in compensation because of a change or changes resulting from one or more of the conditions described in the foregoing paragraphs will be made in accordance with the provisions of 104.03 and/or 109.03. Any adjustment in contract time because of changes will be made in accordance with the provisions of 108.07.

104.03 Extra Work. The Contractor shall perform unforeseen work, for which there is no price included in the contract, whenever it is deemed necessary or desirable by the Engineer in order to complete fully the work as contemplated. Such work shall be performed in accordance with the specifications and as directed, and will be paid for as provided under 109.04.

104.04 Contract Modification. When it becomes necessary in the opinion of the Engineer, in the prosecution of any work or improvement under contract, that alterations or modifications are needed in such contract, the same shall only be made upon a written change order approved by the City. No such change order shall be effective until the price to be paid for the work or material, or both, under the altered or modified contract shall have been agreed upon in writing and signed by the Contractor and the Director on behalf of the City. The Contractor shall have no claim for, nor be entitled to, compensation for any such extra work, alterations or change orders, until the same

have been incorporated into appropriate contract modification(s). All modifications must be approved by Grove City and have an appropriate Auditor's certificate attached to the Contract modification. CONTRACTOR AGREES THAT ANY CHANGE ORDER SHALL CONSTITUTE A FINAL SETTLEMENT OF ALL MATTERS RELATING TO THE CHANGE IN THE WORK THAT IS THE SUBJECT OF THE CHANGE ORDER, INCLUDING, BUT NOT LIMITED TO, ALL DIRECT, INDIRECT, AND CUMULATIVE COSTS ASSOCIATED WITH SUCH CHANGE AND ALL ADJUSTMENTS TO THE CONTRACT SUM AND THE DATE FOR SUBSTANTIAL COMPLETION.

104.05 Maintenance of Traffic and Accessibility to Utilities. The Contractor shall at all times provide and maintain access to fire hydrants, water valves, water service boxes, gas valves, gas service boxes, manholes and other similar appurtenances. When so stated on the Plans or in the Proposal, public traffic shall be maintained during construction. This may be traffic through the project or it may be only cross traffic at intersections. Maintenance of traffic may be required only at certain stages of construction or at all times, if so noted. At locations on the project where sewer or water line construction only is called for and a part of the existing pavement will remain in place, traffic will be maintained and ingress and egress to all public and private entrances shall be provided. In the event of the complete closure of any street, alley or private drive, the Contractor shall give written notification to the occupants of all premises affected by such closure as per Section 614.05 of these specifications.

Whenever the Contractor, for any reason, ceases operations on this contract for a period of 15 or more calendar days, the Contractor, if so directed by the Engineer, shall construct a temporary roadway to provide access to the premises affected by project operations. The temporary roadway shall be constructed of cinders, gravel, crushed stone or other acceptable materials and of suitable width and thickness to carry anticipated vehicles, as directed by the Engineer. The temporary road shall be maintained by the Contractor in serviceable condition until such time that the contract work is resumed. The cost of constructing and maintaining temporary roadway shall be borne by the Contractor. Failure of the Contractor to perform the operations stated in this section when directed by the Engineer, within a reasonable time, will give the City authority to perform the work and bill the Contractor 2.5 times the cost of the work completed.

All traffic control devices shall be furnished, erected, maintained and removed by the Contractor in accordance with the OMUTCD and paid for in accordance with the provisions of 614, Maintaining Traffic. When the Proposal does not include 614, this work shall be performed but will not be paid for directly, and the cost of this work shall be included in the price bid for various items in the Proposal. The provisions of these items and this section shall not in any way relieve the Contractor

of any of his legal responsibilities or liabilities for the safety of the public. The attention of the bidder is directed to the provisions of Item 107.02 and 107.08 of these specifications.

104.06 Right In and Use of Materials Found on the Work Site. The Contractor, with the approval of the Engineer, may use on the project such stone, gravel, sand or other material determined suitable by the Engineer, as may be found in the excavation. In such instances, the Contractor shall give the City a credit for the material used from the site. All portions of suitable or unsuitable excavation material removed, which was needed for use in the embankments, backfills, approaches, or otherwise, shall be replaced with other acceptable material, at the expense of the Contractor. No charge for the materials so used will be made against the Contractor. The Contractor shall not excavate or remove any material from within the project location which is not within the grading limits, as indicated by the slope and grade lines, without written authorization from the Engineer.

Unless otherwise provided, the material from any existing old structure may be used temporarily by the Contractor in the erection of the new structure. Such material shall not be cut or otherwise damaged except with the approval of the Engineer.

All material and other items at the site are the property of the City unless otherwise noted. The City shall have the right of first refusal to keep items or material from the site including, but not limited to, asphalt millings, topsoil, etc.

104.07 Right of Property in Materials. Nothing in the contract shall be considered as vesting in the Contractor any right of property in materials issued, after they shall have been attached or affixed to the work or the soil, but all such materials shall, upon being so attached or affixed, become the property of the City.

104.08 Final Cleaning Up. Before final acceptance, all ground occupied by the Contractor in connection with the work shall be cleaned of all rubbish, excess materials, temporary structures, and equipment. These areas shall have suitable vegetative cover established by seeding and mulching or sodding as required by Items 659 or 660, cost of which to be included in various items bid, unless a separate bid item is provided in the proposal, and all parts of the work shall be left in an acceptable condition.

105 - CONTROL OF WORK

105.01 Authority of the Director

105.02 Plans and Working Drawings

105.03 Conformity with Plans and Specifications

**105.04 Coordination of Plans, Specifications, Supplemental Specifications
and Special Provisions**

105.05 Cooperation by Contractor

105.06 Work Hours

105.07 Night Work, Work on Sundays and National Holidays

105.08 Cooperation with Utilities

105.09 Cooperation Between Contractors

105.10 Construction Stakes, Lines and Grades

105.11 Photographs and Videos

105.12 Authority and Duties of Project Engineer

105.13 Authority and Duties of the Inspector

105.14 Inspection of Work

105.15 Removal of Unacceptable and Unauthorized Work

105.16 Load Restrictions

105.17 Maintenance During Construction

105.18 Failure to Maintain Roadway or Structures, Traffic Control

Facilities and Other Appurtenances

105.19 Borrow Areas

105.20 Use of Fire Hydrants

105.21 Claims for Adjustment and Disputes

105.22 Moving of Equipment

105.01 Authority of the Engineer.. The Engineer will decide all questions which may arise as to the quality and acceptability of materials furnished, work performed and rate of progress; all questions which may arise as to conformity with plans, specifications and other Contract Documents; all questions as to the acceptable fulfillment of the contract on the part of the Contractor; all questions which may arise as to interpretation of the plans, specifications, and other Contract Documents.

105.02 Plans and Working Drawings. Plans will show location and design details of all structures, lines, grades, and typical cross sections of roadways, conduits and all other items required by Contract. The Contractor shall keep one set of plans available on the work at all times.

The Contractor shall be responsible for the furnishing of copies of plans, specifications and special provisions, or the necessary portions thereof, to subcontractors and parties furnishing labor, materials and equipment for a project. The plans will be supplemented by such working drawings as are necessary to adequately control the work. Working drawings for structures shall be furnished by the Contractor and shall consist of such detailed plans as may be required to adequately control the work and are not included in the plans furnished by the City. All working drawings must be approved by the Engineer and such approval shall not operate to relieve the Contractor of any responsibility under the contract for the successful completion of the work. Where work consists of repairs, extensions or alterations of existing structures, the Contractor shall make such measurements of original construction as may be required to accurately join old and new work. Any measurements which may appear upon the plans to indicate the extent and nature of such repair or extension shall not relieve the Contractor of this responsibility. The contract price will include the cost of furnishing all working drawings.

105.03 Conformity with Plans and Specifications. All work performed and all materials furnished shall be in conformity with the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on the plans or indicated in the specifications.

In the event the Engineer finds the materials or the finished product in which the materials are not within conformity with the plans and specifications but that reasonably acceptable work has been produced, the Engineer shall then make a determination if the work shall be accepted and remain in place. In this event, the Engineer will document the basis of acceptance by change order which will provide for an appropriate adjustment in the contract price for such work or materials as is deemed necessary to conform to the determination based on engineering judgment. Any such change order must be incorporated into a contract modification as provided in Section 104.04 of these specifications.

In the event the Engineer finds the materials of the finished product in which the materials are used or the work performed are not in conformity with the plans and specifications, irrespective of

whether the materials or work are equal to those specified, and have in the sole opinion of the Engineer resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

Failure of the Contractor to follow the order of the Engineer, pursuant to this section, shall give the City the unqualified right to supply the materials for the finished product and perform the labor or cause it to be performed and any and all expense chargeable thereto, directly or indirectly, shall be deducted or billed to the Contractor. **105.04 Coordination of Plans, Specifications, Supplemental Specifications and Special Provisions.** These specifications, the supplemental specifications, the plans, special provisions, proposal, standard drawings and all supplementary documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, calculated dimensions will govern over scaled dimensions, plan notes will govern over specifications, supplemental specifications will govern over specifications; proposals and special provisions will govern over both specifications and plans.

The Contractor shall take no advantage of any apparent error or omission in the plans or specifications. In the event the Contractor discovers such an error or omission, it shall immediately be made known to the Engineer in writing. The Engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the plans and specifications.

105.05 Cooperation by Contractor. The Contractor shall give the work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the Engineer, inspectors and other Contractors in every way possible. The Contractor shall attend progress meetings when requested by the Engineer. The Contractor shall have on the project at all times a competent superintendent, acting as an authorized agent, capable of reading and thoroughly understanding the plans and specifications and thoroughly experienced in the type of work being performed, who shall receive instructions from the Engineer or an authorized representative. The Superintendent shall have the full authority to execute orders or directions of the Engineer without delay and to promptly supply such materials, equipment, tools, labor and incidentals as may be required. Such superintendence shall be furnished irrespective of the amount of work sublet.

Where the work extends across private property, the Contractor shall conduct operations in strict conformity with the terms and conditions of the easements and agreements obtained from the owners of the property. The City will not provide any points of access to any of these easements other than at points shown or described in the agreement with the property owner. Arrangements for the use of any additional points of access shall be made with the property owners by the Contractor at no additional cost to the City.

The Contractor agrees to confine the work under this contract to the strict dimensions of easements, rights-of-way, or other work area authorized in writing by the City. Any failure of the Contractor, or the Contractor's agents, servants and employees to restrict the work in the defined area shall be the sole liability and responsibility of the Contractor who further agrees to save the City harmless from any activity of the Contractor's agents, servants, employees and subcontractors where such activity concerning work under this contract extends beyond the defined work area. The Contractor also agrees that where operations extend outside prescribed work areas, the City has the absolute right to suspend the work unless written evidence indicates permission from the property owner.

If the Contractor disperses any or all of its equipment to an area outside the work limits of the project, for any reason whatsoever, the re-mobilization of the equipment back to the work area shall be at the Contractor's expense. If the Contractor has been granted permission by the Director to remove said equipment from the work area, then, at the discretion of the Director, consideration may be given as to the amount of the City's participation, if any.

105.06 Work Hours. The Contractor and any and all subcontractors agree that all work on this Contract shall be performed only during the period from 1/2 hour before sunrise and 1/2 hour after sunset as sunrise and sunset are determined by the U.S. National Weather Service unless a variance is requested in writing from the Contractor and granted, in writing, from the Engineer.

105.07 Night Work, Work on Sunday and National Holidays. No work will be permitted at night, on Sunday and/or National Holidays as listed in Section 101.35. Authorization to work at night, on Sunday and/or National Holidays shall only be upon written permissions of the Engineer or as detailed in the Contract Documents.

Requests to work at night, on Sunday and/or National Holidays must be made in writing 3 working days prior to the night, Sunday and/or Holiday work.

The Contractor is advised, however, that if permission is granted by the Engineer, all work at night, on Sunday and/or National Holidays must be in accordance with the City's Noise Ordinance unless such requirements have been waived by action of City Council.

Failure of the Contractor to comply or failure of the Contractor to control any and all of its subcontractors for work under the contract to comply with the above provisions shall be cause to make all such work performed subject to removal and replacement at no additional expense to the City.

105.08 Cooperation with Utilities. During the course of plan preparation for an improvement, the City shall notify all utility companies, all pipe line owners or other parties affected and endeavor to

have all necessary adjustments of the public or private utility fixtures, pipe lines and other appurtenances within or adjacent to the limits of construction made as soon as possible so as not to interfere with the progress of the work.

During the course of construction, the Contractor shall be solely responsible to notify any utility or other service when such service is encountered as provided hereinafter. The Contractor shall be solely and completely responsible for all above ground utilities, structures, and appurtenances, in regard to protection or replacement of same.

The Contractor shall also be solely responsible for below ground utilities, structures, and appurtenances that may be accurately located by removing manhole covers, valve box covers, and other access point coverings, with reasonable effort using hand tools for such removal. Cost of protecting and/or replacing the utilities, structures, and appurtenances covered by this paragraph shall be borne solely by the Contractor and included in the various bid items in the Contract.

Existing surface or overhead structures or utility lines are not necessarily shown on the drawings and those shown are only approximately correct. The Contractor shall make such investigations as are necessary to determine the extent to which existing surface or overhead structures may interfere with the prosecution of the work contemplated under this Contract.

Existing subsurface structures or utility lines including sewer service connections but excluding all other service connections, which may be encountered during the construction of the work embraced under this Contract or are located in such close proximity to the work under this Contract as to require special precautions or methods for their protection, such as sewers, drains, sewage force mains, water mains, gas mains, telephone and electric conduits, private wells, private wastewater disposal systems, *and private stormwater conveyance systems* together with appurtenances, are shown in plan on the drawings, insofar as there is public record of their existence. The sizes, locations and depths shown are only approximately correct and the Contractor shall make such investigations or explorations as may be necessary to verify the accuracy of the information given. Furthermore, it is recognized that the exact locations of water mains are unknown, hence the Contractor shall, if so ordered, uncover and locate these mains ahead of the excavation for the work required by these specifications.

In accordance with Section 153.64 of the ORC, at least 2 working days prior to commencing construction operations, the Contractor shall notify the Engineer, the registered utility protection service and the owners of each underground and overhead utility facility not members of the registered utility protection service. Water lines, gas lines, wire lines, service connections, water and gas meter boxes, water and gas valve boxes, light standards, cable-ways, signals, and all other utility appurtenances within the limits of the proposed construction which are to be relocated or

adjusted are to be moved by the owners at their expense, except as otherwise provided for in the special provisions or as noted on the plans.

Water mains, services and appurtenances owned and/or maintained by the Division of Water, Department of Public Utilities, City of Grove City, Ohio shall be adjusted as indicated on the drawings or as specified at the Contractor's cost and expense in a manner approved by the Division of Water, and no separate payment will be made unless a separate item is included in the Contract therefore.

In the event that the work requires a shut-off of water or any other utilities, the Contractor shall notify the affected subscribers of the time of such shut-off and the probable time that service will be restored. The Contractor shall make such notification at least 48 hours prior to such shut-off unless otherwise directed by the Engineer. All shut-offs and turn-ons will be made under the direction and supervision of Division of Water personnel or personnel of any other affected utilities and the Contractor shall furnish all assistance required including tools and equipment. The time and place of such shut-offs shall be designated by the Engineer.

The cost for this work shall be included in the price bid for the various items in the Contract and no additional payment will be made.

It is understood and agreed that the Contractor has considered in the contract bid all permanent and temporary utility appurtenances in their present or relocated positions and that no additional compensation will be allowed for any delays, inconvenience, or damage sustained by the Contractor due to any interference from said utility appurtenances or the operation of moving them, except that in those cases where, after written notification from the Contractor, the Director determines that the character of the work to be performed or the cost thereof or the time provided therefore has been materially changed by such delays without the fault or negligence of the Contractor, an equitable adjustment shall be made.

If, through no fault of the Contractor, the progress of contract work is delayed for an unreasonable length of time from that proposed in the progress schedule of Section 108.03, because of failure of a utility company to relocate or adjust its lines, the Contractor shall immediately file with the City a detailed written statement describing the nature of the delay and its effect upon contract work progress. Failure to submit the written statement is an irrevocable waiver of the Contractor's claim.

It is the complete responsibility of the Contractor to determine the exact location of each, every and all substructures and utility lines of public utility facilities including but not limited to water, sewer, traffic, and electricity pipes or conduits shown on the plans including services lines not shown whether or not located on private property, public property, public or private right of ways,

or public or private easements and of all surface or overhead structures, including but not limited to utility lines, telephone or electrical poles, growing things such as trees, sidewalks and driveways.

To the fullest extent allowed by Ohio law, any damage done directly or indirectly to the above mentioned items as a result of the progress of the work done under this contract, whether done by the Contractor or its agents, servants or employees, or by the Contractors' subcontractor(s), whether such damage results from negligence or otherwise and whether the damage is to private or public property or real or personal property shall be and hereby agrees that it is the Contractor's sole responsibility to pay the entire cost thereof. The Contractor further agrees to save the City harmless from any expense incurred thereby as stated in this section.

Failure of the Contractor to pay the entire cost as stated above within 30 days or in the event litigation arises as a result of damage as aforesaid shall give the Director the unqualified right to deduct and withhold the entire amount of damages from the cost of this Contract and City might sustain in the opinion of the Director from said damages until said damages are liquidated and the City is kept whole from any such expense.

The Contractor further covenants not to sue the City, either in law or equity, where such deduction and withholding is made by the City.

The City shall return, within a reasonable time thereafter not to exceed 30 days, any excess amount over the liquidated amount of damages paid by the City or judgments and costs of litigation the said City is required to pay.

The Contractor further waives any and all rights, title or interest in any and all amounts so liquidated and any and all amounts of judgments and costs of litigation found against the City.

105.09 Cooperation Between Contractors. The City reserves the right at any time to contract for and perform other or additional work on or near the work covered by the Contract.

When separate contracts are awarded within the limits of any one project, each Contractor shall conduct its work so as not to interfere with or hinder the progress or completion of the work being performed by other Contractors. Contractors working on the same project shall cooperate with each other as directed.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with its Contract and shall protect and save harmless the City from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by it because of the presence and operations of other Contractors working within the limits of the same project.

The Contractor shall arrange its work and shall place and dispose of the materials being used so as not to interfere with the operations of the other Contractors within the limits of the same project. Each Contractor shall join their work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

105.10 Construction Stakes, Lines and Grades. Unless the Proposal contains a Lump Sum bid Item 623 Construction Layout Stakes, the Contractor shall execute all work in conformity to the lines and grade furnished by the City and shall preserve all points of reference until authorized to remove them. The Contractor shall notify the City at least 2 working days prior to the time that stakes or other points for line and grade will be needed. There shall be no compensation to the Contractor for the cost occasioned by delay in establishing lines, grades and elevations or making other necessary measurements or by inspection; but such costs shall be considered as having been included in the price stipulated for doing the work called for in the Contract.

All construction staking, including privately funded projects shall be performed under the supervision of a registered Professional Engineer or Land Surveyor. All field notes, cut sheets, etc., shall be submitted to the City upon request. When the proposal contains a lump sum for Item 623 Construction Layout Stakes, the City will locate and reference the centerline of the project outside the construction limits and establish bench marks, and the Contractor shall furnish and place construction layout stakes for the project, all in accordance with the provisions of Item 623.

105.11 Photographs and Videos. From time to time during the progress of the work, photographs or videos of the work may be taken by the Engineer, inspectors or other duly authorized City personnel or agents, at no expense to the Contractor. The Contractor shall, however, furnish access to the work at all times for this purpose and shall furnish such assistance as may be required. The photographs or videos thus taken shall be the property of the City of Grove City, Ohio. Nothing herein contained shall be construed as prohibiting the taking of photographs or videos by the Contractor or its agents, provided, however, that it is done at no cost or expense to the City.

105.12 Authority and Duties of Project Engineer. The Project Engineer has immediate charge of the engineering details of each construction project and is responsible to insure that the Contractor satisfactorily administers and completes the project. The Project Engineer has the authority to reject defective material and to suspend any work that is being improperly performed.

The Project Engineer will have the authority to suspend the work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the workers or the general public; for failure to carry out provisions of the Contract, for failure to carry out orders; for such periods as may be deemed necessary due to unsuitable weather. The suspension of the work for the above reasons does not relieve the Contractor of responsibility according to Section 107.14.

In the event the Project Engineer orders the work suspended for unsafe conditions, whether they be unsafe to workers or the public, or unsuitable weather, use of defective material not in conformity with the specifications or because work is being improperly performed, the expense, whether direct or indirect for such suspension shall be borne solely by the Contractor.

105.13 Authority and Duties of the Inspector. Inspectors employed by the City are authorized to inspect all work and materials furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication or manufacture of the materials to be used. The Inspector is not authorized to alter, approve, or waive any provisions of the Contract or drawings, but shall have the authority to reject materials which do not meet specification requirements or suspend the portion of the work involved until any question at issue can be referred to and decided by the Engineer. The Inspector is not authorized to issue instructions contrary to the plans and specifications, or to act for the Contractor.

105.14 Inspection of Work. All materials and each part or detail of the work shall be subject to inspection by the Project Engineer. The Project Engineer, inspector or duly authorized City agent shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the Project Engineer requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering or removing and the replacing of the covering or making good of the parts removed, will be at the Contractor's expense. Any work done or materials used without supervision or inspection by an authorized City representative may be ordered removed and replaced at the Contractor's expense. Failure to reject any defective work or material shall not in any way prevent later rejection when such defects be discovered, or obligate the City to final acceptance. When any unit of government or political subdivision or railroad or any corporation is to pay a portion of the cost of the work covered by this Contract, its respective representatives shall have the right to inspect the work. Such inspection shall in no sense make any unit of government or political subdivision or railroad or any corporation a part to this contract, and shall in no way interfere with the rights of either party hereunder.

105.15 Removal of Unacceptable and Unauthorized Work. All work which does not conform to the requirements of the Contract may be considered unacceptable work.

Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist prior to the final acceptance of the work, shall be removed immediately and replaced in an acceptable manner.

No work shall be done without lines and grades having been given by the City. Work done contrary to the instructions of the Project Engineer, work done beyond the lines shown on the plans, or as given, except as herein specified, or any extra work done without authority, will be considered as unauthorized and will not be paid for under the provisions of the Contract. Work so done may be ordered removed or replaced at the Contractor's expense.

Upon failure on the part of the Contractor to comply with any order of the Project Engineer under the provisions of this section, the Project Engineer will have authority to cause unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs, including but not limited to attorney's fees, engineering fees, and inspection costs incurred by the City as a result of the unacceptable work, from any monies due or to become due to the Contractor.

105.16 Load Restrictions. The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads. A special permit will not relieve the Contractor from his sole liability for damage which may result from the moving of equipment or materials, whether caused by the Contractor's or subcontractor's equipment. The operation of equipment of such weight or so loaded as to cause damage to structures or the roadway or to any other type of construction will not be permitted.

Hauling of materials over the base course or surface course of a roadway under construction shall be limited as directed by the Project Engineer. No loads will be permitted on a concrete pavement, base or structure before the expiration of the curing period. In no case shall legal load limits be exceeded unless permitted in writing. The Contractor shall be responsible for all damage done by its or subcontractor's equipment.

105.17 Maintenance During Construction. The Contractor shall maintain the work during construction and until the project is accepted. This maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces to the end that the roadway, conduits or structures are kept in satisfactory condition at all times.

In the case of a Contract for the placing of a paving course upon a roadway subgrade previously constructed, the Contractor shall maintain the previous paving course or subgrade during all construction operations.

Temporary restoration of street surfaces shall be made on installation of underground lines and structures, surplus excavation shall be removed, and the street graded and put in a safe and passable condition. Settlements occurring in or adjacent to trenches shall be immediately refilled to a proper grade. Failure on the part of the Contractor to restore the street surface to the satisfaction of the Engineer shall be considered a cause sufficient for stopping the construction work until such restoration shall be made and no extension of contract completion time will be granted. If the contract does not contain an Item 616, all costs of maintenance work and dust control during construction and before the project is accepted shall be included in the unit prices bid of the various pay items. The Contractor shall repair, restore and clean streets and other public facilities outside the work limits that are affected by its operations, including hauling and delivery of materials. All costs of maintenance work during construction and before the project is accepted shall be included in the unit prices bid of the various pay items and the Contractor will not be paid an additional amount for such work.

105.18 Failure to Maintain Roadway or Structures, Traffic Control Facilities and Other Appurtenance. If the Contractor, at any time, fails to comply with the provisions of Section 105.17, the Engineer will immediately notify the Contractor of such non-compliance. If the Contractor fails to remedy unsatisfactory maintenance within 24 hours after receipt of such notice, the Engineer may immediately proceed to maintain the project and the entire cost of this maintenance will be deducted from monies due or to become due the Contractor on this contract.

105.19 Borrow and Waste Areas. The terms borrow area and waste area as used in these specifications refer to locations outside the right-of-way from which natural materials are removed for use in the work or upon which materials from the work are to be deposited as waste.

Before any borrow or waste disposal operations are to begun, the Contractor shall submit its plan for operation, control of drainage water, cleanup, shaping, and restoration of the disturbed areas and obtain the Project Engineer's written approval. The plan of operations shall include the saving of topsoil, and proposed measures to keep sediment and other contaminants from entering streams, lakes, and reservoirs by the use of methods such as diversion channels, dikes, sediment traps, and vegetation covers, etc. When it becomes necessary to locate such areas in or near streams, special precautions shall be taken.

The stability of borrow and waste areas and any damage to surrounding property resulting from movement of the area shall be the sole responsibility of the Contractor. Restoration of all borrow or waste areas shall include cleanup, shaping, replacement of topsoil and establishment of vegetation cover by seeding and mulching in accordance with the requirements of Item 659 at no additional cost to the City. The restored area shall be well drained unless approval is given to convert a pit

area into a pond or lake, in which case restoration measures shall be confined to the disturbed areas above the anticipated normal water level.

The cost of work described herein necessary to secure these results shall be included in the contract price bid for these items to which they apply.

105.20 Use of Fire Hydrants. The Contractor shall make the proper arrangements with the Division of Fire and the Division of Water for the use of fire hydrants when used for work performed under this Contract.

Before the final estimate is paid, the Contractor shall submit a letter from the Division of Water to the *Transportation* Division or the Administrator of the Division under which the project is being performed stating that the Contractor and all subcontractors have returned the Siamese Valve to the Division of Water and paid all costs arising from the use of the fire hydrants.

105.21 Claims for Adjustment and Disputes. If, in any case, the Contractor deems that additional compensation is due for work or material not clearly covered in the Contract or not ordered by the Director as extra work, as defined herein, the Contractor shall notify the Engineer in writing no more than 14 calendar days after the event given rise to such claim of its intention to make claim for such additional compensation before beginning the work on which the claim is based. The notice required here, shall state in all capital letters in at least 12 point font at the top of the notice "NOTICE OF CLAIM FOR ADJUSTMENT TO CONTRACT PRICE OR TIME." If such notification is not given, and the Engineer is not afforded proper facilities by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor, and the fact that the Engineer has kept account of the cost of aforesaid, shall not in any way be construed as proving or substantiating the validity of the claim. If the claim, after consideration by the Engineer, is found to be just, it will be paid as extra work as provided herein for force account work and be incorporated into an appropriate contract modification under the terms of the Contract Documents. Nothing in this subsection shall be construed as establishing any claim contrary to the terms of Section 104.02. **If the City provides a claim form with the Contract Documents, the Contractor shall use that claim form to submit its claims. Failure to use the claim form constitutes an irrevocable waiver of the claims submitted without using the claim form.**

105.22 Moving of Equipment. Non-rubber tired vehicles or equipment shall not be moved on City streets. Permits to do so must be obtained from the Engineering Department.

106 - CONTROL OF MATERIAL

106.01 Source of Supply and Quality Requirements

106.02 Samples, Tests, Cited Specifications

106.03 Plant Inspection

106.04 Storage of Materials

106.05 Handling of Materials

106.06 Unacceptable Materials

106.07 City-Furnished Material

106.01 Source of Supply and Quality Requirements. The materials used on the work shall meet all requirements of the Contract. In order to expedite the inspection and testing of materials, the Contractor shall notify the Engineer of the proposed sources of materials prior to delivery. At the option of the Engineer, materials may be inspected at the source of supply before delivery is started. If it is determined by the Engineer, after trial, that sources of supply for previously approved materials do not produce specified products the Contractor shall furnish materials from other sources which shall, in turn, be subject to controls set forth herein.

The Contractor shall furnish or cause to be furnished delivery tickets or documents for all materials to be incorporated in the work, which tickets or documents shall describe in detail the type, size, specification or data, fully denoting the material being delivered.

106.02 Samples, Tests, Cited Specifications. All materials will be inspected, tested and compliance determined by the Engineer before incorporation of the work. Unless otherwise designated, tests in accordance with AASHTO, ASTM or other methods on file in the Office of the Director will be made by and at the expense of the City. Samples will be taken by a qualified representative of the City. References included in these specifications to AASHTO, ASTM or Federal Specifications shall be the test method, sampling method or specification amended to issue date of this edition of the City of Columbus specifications. All materials being used are subject to inspection, test or rejection at any time prior to incorporation into the work. Copies of all tests will be furnished to the Contractor's representative. The Contractor, in all cases, shall furnish the required samples without charge.

Transports and distributors hauling bituminous material shall be equipped with an approved submerged bituminous material sampling device. If, in the judgment of the Engineer, the quantity used of any one material is so inconsequential as to not warrant testing in accordance with the

minimum requirements for sampling materials in Section 700, verification of the quality of the material may be covered by a Field Inspection Report of Materials, prepared by the Engineer.

106.03 Plant Inspection. The Engineer or an authorized representative may undertake the inspection of materials at the source. In the event plant inspection is undertaken the following conditions shall be met:

1. The Engineer shall have the cooperation and assistance of the Contractor and the producer with whom the Contractor has contracted for materials.
2. The Engineer or an authorized representative shall have full entry at all times to such parts of the plant as may concern the manufacture or production of the materials being furnished.
3. If required by the Engineer, the Contractor shall arrange for an approved building for the use of the Inspector; such building to be located conveniently near the plant, independent of any building used by the material producer.
4. Adequate safety measures shall be provided and maintained. It is understood that the City reserves the right to re-test all materials prior to incorporation into the work which have been tested and accepted at the source of supply after the same have been delivered and to reject all materials which, when re-tested, do not meet the requirements of these specifications, or those established for the specific project.

106.04 Storage of Materials. Materials shall be so stored as to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the right-of-way may be used for storage purposes and for the placing of the Contractor's plant and equipment, but any additional space required therefore must be provided by the Contractor at no expense to the City. Private property shall not be used for storage purposes without written permission of the owner or lessee, and if requested by the Engineer copies of such written permission shall be furnished. All storage sites shall be restored to their original condition by the Contractor at no expense to the City.

106.05 Handling Materials. All materials shall be handled in such manner as to preserve their quality and fitness for the work. Aggregate shall be transported from the storage site to the work in tight vehicles so constructed as to prevent loss or segregation of materials after loading and measuring in order that there may be no inconsistencies in the quantities of materials intended for incorporation in the work as loaded, and the quantities as actually received at the place of operations.

106.06 Unacceptable Materials. All materials not conforming to the requirements of the specifications at the time they are used shall be considered unacceptable and shall be removed immediately from the site of the work unless otherwise instructed by the Engineer. No materials, the defects of which have been corrected, shall be used until approval has been given. Upon failure on the part of the Contractor to comply immediately with any order of the Engineer made under the provisions of this section, the Engineer shall have authority to remove and replace defective materials and to deduct the 2.5 times the cost of removal and replacement from any monies due or to become due to the Contractor.

106.07 City-Furnished Material. The Contractor shall furnish all materials required to complete the work, except when otherwise provided in the proposal. Materials furnished by the City will be delivered or made available to the Contractor at the points specified in the special provisions. The cost of handling and placing all materials after they are delivered to the Contractor shall be considered as included in the contract price for the item in connection with which they are used.

The Contractor will be held responsible for all delivered materials, and deductions will be made from any monies due the Contractor to make good any shortages and deficiencies, from any cause whatsoever, and for any damage which may occur after such delivery, and for any demurrage charges.

107 - LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

107.01 Laws to be Observed

107.02 Permits, Licenses and Taxes

107.03 Patented Devices, Materials and Processes

107.04 Restoration of Surfaces Opened by Permit

107.05 Federal Aid Provisions

107.06 Sanitary Provisions

107.07 First Aid

107.08 Public Convenience and Safety

107.09 Barricades and Warning Signs

107.10 Maintenance of Traffic

107.11 Use of Explosives

107.12 Protection and Restoration of Property

107.13 Responsibility for Damage Claims

107.14 Contractor's Responsibility for Work

107.15 Contractor's Responsibility for Utility Property and Services

107.16 Furnishing Right-of-Way

107.17 Personal Liability of Public Officials

107.18 No Waiver of Legal Rights

107.19 OSHA

107.20 Litigation

107.01 Laws to be Observed. The Contractor shall keep fully informed of all Federal, State and local laws, ordinances, and regulations and all orders and decrees of authorities having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the City and its

representatives against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor or employees.

The Contractor agrees that in the hiring of employees for the performance of work under this Contract or any subcontract hereunder, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates; and, that no contractor, subcontractor, or any person on a contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color.

Any breach of the foregoing shall cause to be deducted from the amount payable to the contractor by the Owner, under this contract, a forfeiture of twenty-five dollars for each person who is discriminated against or intimidated in violation of this contract; and the contract shall be canceled or terminated by the Owner, and all money to become due hereunder may be forfeited, for a second or subsequent violation of the terms of this section of the contract.

107.02 Permits, Licenses and Taxes. The Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Prior to the closure of or working in or on any portion of a street the Contractor shall obtain a permit from the City. The Contractor shall include and pay all state and local sales, consumer and use taxes. Materials purchased for incorporation into the work will be exempt from state and local sales tax. A sales tax exemption certificate will be issued by the City at the request of the Contractor.

All persons or entities performing work under these Contract Documents shall comply with the requirements set forth in City of Grove City Income Tax Ordinances.

107.03 Patented Devices, Materials and Processes. If the Contractor employs any design, device, material, or process covered by letters of patent or copyright, suitable legal agreement(s) with the patentee or owner, shall be provided for such use. The Contractor and the Surety shall indemnify and save harmless the City, any affected third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material or process or any trademark or copyright, and shall indemnify the City for any costs, expenses, and damages

which it may be obliged to pay by reason of any infringement, at any time during the prosecution of after the completion of the work.

It is intended that the Bidder in addition thereto, bid on one or more patented or non-patented devices, materials and processes as alternates when provided in the Proposal which may be bid upon and furnished by the Bidder in lieu of the patented devices, materials and processes specified in the Proposal.

In the case of patented pavements and wearing courses, where royalties, licensing and proprietary service charges exacted or to be exacted by the patentees are published and certified agreements are filed with the City, guaranteeing to prospective Bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented payments may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

107.04 Restoration of Surfaces Opened by Permit. The right to construct or reconstruct any utility service in the roadway or street or to grant permits for same, at any time, is hereby expressly reserved by the Director, and the Contractor shall not be entitled to any damages either for the digging up of the street or for any delay occasioned thereby. Any individual, firm, or corporation wishing to make an opening in the street must secure a permit. The Contractor shall allow parties bearing such permits, and only those parties, to make openings in the roadway. When ordered by the Engineer, the Contractor shall make in an acceptable manner all necessary repairs due to such openings and such necessary work will be paid for as extra work, or as provided in these specifications, and will be subject to the same conditions as original work performed.

107.05 Federal Aid Provisions. When the United States Government pays all or any portion of the cost of a project, the Federal laws and the rules and regulations made pursuant to such laws must be observed by the Contractor and the work shall be subject to the inspection of the appropriate Federal Agency.

Such inspection shall in no sense make the Federal Government a party to this contract and will in no way interfere with the rights of either party hereunder.

107.06 Sanitary Provisions. The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of its employees and City representatives as may be necessary to comply with the requirements of the State and local Board of Health, or of other authorities having jurisdiction.

107.07 First Aid. The Contractor shall provide and keep upon the work a completely equipped First Aid Kit and shall provide ready access thereto at all times when workers are employed on the work.

The Contractor shall designate some proper person or persons to be in charge of first aid work and shall cause such person or persons to receive proper instructions therein.

107.08 Public Convenience and Safety. The Contractor shall at all time so conduct contract work as to assure the least possible obstruction to traffic. The safety and convenience of the general public and the residents along the street and the protection of persons and property shall be provided for by the Contractor as specified under Section 104.05.

The Contractor shall provide and maintain safeguards, safety devices and protective equipment and take any other needed actions as may be necessary to protect the public and property in connection with the work.

The presence of barricades or lights, provided and maintained by any party other than the Contractor, shall not relieve the Contractor of this responsibility.

107.09 Barricades and Warning Signs. Temporary traffic control devices and facilities shall be furnished, erected, maintained and paid for in accordance with the provisions of Item 614, Maintaining Traffic. All traffic control devices shall conform to Part 7 of the OMUTCD for Streets and Highways as amended, as required under Section 4511.09 ORC. The provisions of this item and this section shall not in any way relieve the Contractor of any of his legal responsibilities or liabilities, for the safety of the public.

107.10 Maintenance of Traffic. All work shall be performed in accordance with Standard Specifications Item 614 except that unless an item for maintaining traffic is included in this contract, the cost of this work shall be included in the prices bid for the various items of the Contract and there will be no separate payment made therefore.

To avoid interruption of bus and coach operations, the Contractor shall give sufficient advance notice to the company or companies concerned, to permit rerouting of lines, if necessary, prior to the commencement of work.

When material is piled in the gutters, suitable drains of sufficient size to carry all the storm water flowing in the gutters, shall first be laid. Where the drainage from cross streets or alleys is interfered with or cut off by reason of the nature of the work, suitable crossings shall be provided for pedestrians. No material shall be piled within 20 feet (6.0 m) of any fire hydrant.

The Contractor shall notify the Grove City Fire and Police Divisions whenever a street or section of street is about to be closed to traffic and also when it is to be opened.

107.11 Use of Explosives. When and if it is necessary, for the prosecution of the work to be done under this Contract, to resort to blasting with explosives, the Contractor shall use the highest

degree of care and adequate protective measures so as not to endanger life, completed portions of the Contract project, and all other property, both public and private. Before conducting any blasting operations, the Contractor shall furnish the Engineer, in writing, a schedule of intended blasting operations and it shall give the Engineer prior written notification of any changes in such schedule. Contractor shall provide proof of special hazard insurance as set forth under Subsection 103.08 of these specifications.

The use, handling, storage and transportation of explosives shall conform and be in accordance with the applicable requirements and/or provisions of:

1. the latest revision of "State of Ohio Administrative Code Chapter 4121:1- 3," issued by the Department of Industrial Relations and the Industrial Commission of the State of Ohio
2. the Ohio Explosive Laws, Section 3743.01 - 3743.26 of the ORC and amendments thereto;
3. local regulations; and
4. as specified herein.

The Contractor shall secure a written permit from the Department of Public Safety, Division of Fire, of the City of Grove City before any blasting work is begun. Except in the case of continuous tunnel operations, all blasting shall be conducted during daylight hours only with the provision that, when required by the Engineer, blasting shall be limited to certain daylight hours.

All shot firing shall be done by IME approved electrical or non-electric blasting systems which allows the blaster to control the exact moment in which firing of the shot will occur. The Contractor shall make suitable provisions to prevent the scattering of broken rock, earth, stones or other material during blasting operations.

107.12 Protection and Restoration of Property. The Contractor shall be responsible for the preservation of all public and private property. The Contractor shall be responsible for all damage or injury to property during the prosecution of the work, resulting from any act, omission, neglect, or misconduct in any manner or method of executing the work, or at any time due to defective work or materials.

Dust, mud, noise or other nuisance originating from any plant operations either inside or outside the right-of-way shall be controlled by the Contractor in accordance with local ordinances and regulations at the sole expense of the Contractor. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work; or in consequence of the non-execution thereof by the Contractor, shall restore, such property to a condition acceptable to the City by repairing, rebuilding

or otherwise restoring as may be directed by the Engineer. The cost of all work associated with said restoration shall be at no additional cost to the City. When mail boxes, road or street name signs and supports interfere with construction, the Contractor shall remove and erect them in temporary location during construction in a manner satisfactory to and as directed by the Engineer. After completion of the construction and before final acceptance of the project the Contractor shall erect the mail boxes, road or street name signs and supports in a permanent location in accordance with the plans unless otherwise directed by the Engineer. This work shall be considered a subsidiary obligation of the Contractor and will not be paid for separately. Removal, temporary erection and permanent erection of mail boxes shall be in accordance with U.S. postal regulations.

The Contractor shall cooperate with the Engineer in protecting and preserving cornerstones and monuments that may be within the right-of-way. The Contractor shall not start grading or resurfacing operations until the Engineer has referenced all known cornerstones, monuments, and land markers in the area to be improved. Monuments, cornerstones and land markers unexpectedly encountered shall be protected, referenced and preserved in the same manner.

When cornerstones, monuments and land markers are encountered in the performance of the work, and monument covers are not listed in the proposal, the City will furnish them and supervise their precise location and installation, and the Contractor will furnish all the labor, tools and other materials required incidental to such installations. Shouldn't something be in here regarding property pins both preserved and disturbed? Any labor, tools and materials so furnished shall be paid for as force account work. The cost to the City for repair, re-evaluation of location and replacement of any cornerstone, monument or land-marker within the project, damaged, destroyed, or made inaccessible during the progress of the work by the Contractor or Contractor's employees, in violation of these provisions, is a charge deductible from any estimate payable on account of the work.

When tree trimming and/or tree removal is necessary on City property, the Contractor shall obtain the appropriate permits from the City Department of Recreation and Parks, Forestry Division, When tree trimming and/or tree removal is necessary in easements, right-of-way and/or on private property, the Contractor shall comply with the requirements of Section 201 of these specifications.

107.13 Responsibility for Damage Claims. The Contractor and Surety shall save harmless the City of Grove City and all of its representatives or any participating railroad or railway company, from all suits, actions, or claims of any character brought on account of any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding the work or through the use of unacceptable materials in the construction of the improvement or on account of any act or

omission, by the Contractor, or its agents and they shall pay any judgment obtained or growing out of any claims or suits.

107.14 Contractor's Responsibility for Work. Until final written acceptance of the project by the Engineer, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof by the action of the elements, from vandalism from vehicular accidents, or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to acts of God, of the public enemy or governmental authorities.

In case of suspension of work by the Contractor, or under the provisions of 105.09, the Contractor shall be responsible for the project and shall take such precautions as may be necessary to prevent damage to the project, provide for adequate drainage and shall erect any necessary temporary structures, signs, or other facilities at the Contractor's expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established plantings, seeding, and sodding furnished under the Contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against injury.

107.15 Contractor's Responsibility for Utility Property and Services. At points where the Contractor's operations are adjacent to properties of railway, telegraph, telephone, and power companies, or are adjacent to private wells, private wastewater disposal facilities, private stormwater conveyance systems and other utilities or property, damage to which might result in considerable expense, loss, or inconvenience, work shall not be commenced until all arrangements necessary for the protection thereof have been made.

The Contractor shall cooperate with the owners of any underground or overhead utility lines in their protection and in removal and rearrangement operations in order that these operations may progress in a reasonable manner, that duplication of rearrangement work may be reduced to a minimum, and that services rendered by those parties will not be unnecessarily interrupted.

In the event of interruption to water lines, private water wells, private wastewater disposal facilities or utility services as a result of accidental breakage or as a result of being exposed or unsupported, the Contractor shall promptly notify the proper authority and shall cooperate with the said authority in the restoration of service. If water or sewer service is interrupted, repair work shall be

continuous until the service is restored. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

107.16 Furnishing Right-of-Way. The City will be responsible for the securing of all necessary rights-of-entries in advance of construction deemed necessary by the City. Any exceptions will be indicated in the contract.

107.17 Personal Liability of Public Officials. In carrying out any of the provisions of these specifications, or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the Director or authorized representatives, either personally or as officials of the City, it being understood that in all such matters they act solely as agents and representatives of the City.

107.18 No Waiver of Legal Rights. Neither the inspection by the Engineer, nor by any inspector or duly authorized City representatives, nor any order, measurements, or certificate by the Director, or said representatives, nor any order by the Director for the payments of money, nor any payment for, nor acceptance of any work by the Engineer nor any extension of time, nor any possession taken by the City or its duly authorized representatives, shall operate as a waiver of any provision of this Contract, or of any power herein reserved to the City, or any right to damages herein provided; nor shall any waiver of any breach of this Contract be held to be a waiver of any other subsequent breach.

107.19 OSHA. All Contractors shall comply with the provisions of the Occupation Safety and Health Act of 1972 and all amendments thereto.

107.20 Litigation. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Contractor arising out of or relating to this agreement or its breach will be decided in a court of competent jurisdiction within the County of Franklin, State of Ohio, and the law of Ohio shall govern.

108 - PROSECUTION AND PROGRESS

108.01 Subletting of Contract

108.02 Preconstruction Conference

108.03 Prosecution and Progress

108.04 Suspension of Work

108.05 Limitation of Operations

108.06 Character of Workers, Methods, and Equipment

108.07 Contract Completion Date

108.08 Liquidated Damages

108.09 Cancellation of Contract

108.10 Certified Payrolls

108.01 Subletting of Contract. The Contractor shall not sublet, sell, transfer, assign, or otherwise dispose of the Contract or Contracts or any portion thereof, or of its right, title, or interest therein, without written consent of the Director. In case such consent is given, the Contractor will be permitted to sublet a portion thereof, but shall perform with the Contractor's own organization, work amounting to not less than 50 percent of the total contract cost, except that any items set forth in the proposal to be "specialty items" may be performed by subcontract and the cost of any such specialty items so performed by sub-contract may be deducted from the total cost before computing the amount of work required to be performed by the Contractor's own organization. No sub-contract, or transfer of Contract, shall in any case release the Contractor of his liability under the Contract and bonds.

108.02 Preconstruction Conference. Unless otherwise provided for in the plans or Bid Submittal Documents, or otherwise waived by the City, no work shall be commenced under this Contract until a Preconstruction Conference has been held. In general, 14 days are required to notify all interested parties of a Preconstruction Conference. Upon confirmation of a valid Contract, the City will mail Preconstruction Conference notices to all parties by first-class mail. The Contractor shall take due note of this requirement and aid in the timely scheduling of the Preconstruction Conference to avoid unnecessary delays in the commencement of the work.

108.03 Prosecution and Progress. The Contractor shall submit a progress schedule at the Preconstruction Conference. The progress schedule shall provide a complete and detailed sequence

of operations of the work within the time limits specified in the contract. The schedule shall show the order in which the Contractor proposes to carry out the work, the dates on which the various portions of the work shall commence, and the dates on which the Contractor contemplates completing the various portions of the work.

On contracts of \$100,000 (One hundred thousand dollars) or less, the Contractor shall submit to the Engineer at the Preconstruction Conference a progress schedule as described above either by use of a bar chart or by a written statement.

On contracts over \$100,000 (One hundred thousand dollars) the Contractor shall submit to the Engineer at the Preconstruction Conference a progress schedule as described above in the form of a bar chart, hand drawn CPM diagram or a computer generated CPM Schedule in a format approved by the City or as specified by the Special Provisions.

Where a CPM Schedule is to be provided, the degree of detail of the CPM Schedule shall be to the satisfaction of the City; however, at a minimum all activity durations shall be in working days and no construction activity shall have a duration longer than 10 working days. In the event that the schedule indicates a completion date which is earlier than the required completion date, the Contractor shall not be entitled to any extension in contract time, nor to recover any cost for delay, disruption, interference, hindrance, extension, or acceleration costs incurred, however caused, because of an extension of the early completion date until such time as the network or activities affected increases the critical path duration of the CPM Schedule beyond the required completion date. Unless a specific bid item is included in the contract, the cost of the progress schedule is to be included in the unit prices bid for the various contract items. If the Contractor's operations are materially affected by changes in the plan or in the amount of the work or if the Contractor has failed to comply with the approved schedule, the Contractor shall submit a revised progress schedule, which schedule shall show how the Contractor proposes to prosecute the balance of the work. When it becomes apparent to the Engineer that the project completion date cannot be met, the Contractor shall also prepare a written plan detailing how the Contractor proposes to recover the lost time and meet the required completion date. Such measures may include but are not limited to; increasing the size of the workforce; increasing the number of working hours per shift, shifts per work day, work days per week, the amount of equipment or combination thereof; or rescheduling of work activities to achieve maximum concurrence of work efforts, all at no additional cost to the City. The Contractor shall submit the revised progress schedule and/or recovery plans within 10 days after the request is made by the Engineer.

Acceptance by the City of the revised progress schedule and/or recovery plan shall not serve as a time extension approval. Any request for an extension of the contract completion date must be

processed per Section 108.07. No payment will be made to the Contractor until the progress schedule, revised progress schedule and/or recovery plan is approved by the City. Should the prosecution of the work, for any reason, be discontinued, the Contractor shall notify the Engineer at least one working day in advance of resuming operations.

If the City assigns an inspector(s) to the project and the Contractor does not notify the City of its intent not to work, charges incurred by the City for inspection services will be deducted from monies owed to the Contractor, unless such charges are waived by the Director.

108.04 Suspension of Work. The Director may instruct the Contractor to delay the start of operations or suspend the Contractor's operations in whole or in part, for the length of time the Director may deem necessary. The Contractor shall start or resume the operations when notified to do so by the Director.

If, without the fault or negligence of the Contractor, the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Director in the administration of the Contract or by failure to act within the time specified in the Contract (or if no time is specified within a reasonable time), an adjustment shall be made by the Director for any increase in the cost of performance of the Contract (excluding profit) necessarily caused by the unreasonable period of such suspension, delay, or interruption, and the Contract shall be modified in writing.

If construction under these specifications is suspended, delayed, or interrupted through no fault of the Contractor by an order of a court of competent jurisdiction, or the Environmental Protection Agency, such suspension, delay, or interruption will be considered to be an unreasonable suspension, delay, or interruption. In the event that additional expense or loss due to suspension includes machinery or equipment idled by such act or failure to act, payment therefore may be allowed only for machinery or equipment actually on the project site required for those phases of the construction work to which such order applies, and such payment shall be made at the following rates: For idled machinery or equipment owned by the Contractor, the hourly rate of compensation will be the monthly rental rate times a factor of 0.50 divided by 176 hours per month, with no operating costs added; and for idled machinery or equipment rented by the Contractor, the actual rental price paid plus 15 percent thereof. The maximum rental price shall be as set forth in the current Equipment Guide Blue Book. All of the provisions of Section 109.05(c) shall apply to this provision.

108.05 Limitation of Operations. The Contractor shall conduct the work at all times in such a manner and in such sequence as will assure the least interference with traffic and other operations of the public. The Contractor shall have due regard to the location of detours and to the provisions

for handling traffic. The Contractor shall not open up work to the prejudice or detriment of work already started. The Engineer may require the Contractor to finish a section on which work is in progress before work is started on any additional sections if the opening of such section is essential to public convenience.

108.06 Character of Workers, Methods, and Equipment. The Contractor shall at all times employ sufficient competent labor and equipment for prosecuting the several classes of work to full completion in the manner and time required by these specifications. All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform all work properly and satisfactorily. Any person employed by the Contractor or by any subcontractor who, in the opinion of the Engineer, does not perform their work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Engineer, be removed forthwith by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the work without the approval of the Engineer. Should the Contractor fail to remove such person or persons as required above, or fail to furnish suitable and sufficient personnel for the proper prosecution of the work, the Engineer may withhold all estimates, which are or may become due, or may suspend the work by written notice until the Contractor complies with such orders.

All equipment which is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and produce a satisfactory quality of work. Equipment used on any portion of the project shall be such that no injury to the roadway, adjacent property, or other streets or highways will result from its use.

When the methods and equipment to be used by the Contractor in accomplishing the construction are not prescribed in the Contract, the Contractor is free to use any methods or equipment that is demonstrated to the satisfaction of the Engineer will accomplish the Contract work in conformity with the requirements of the Contract. When the Contract specifies that the construction be performed by the use of certain methods and equipment such methods and equipment shall be used unless others are authorized by the Engineer. If the Contractor desires to use a method or type of equipment other than those specified in the Contract, the Contractor may request authority from the Engineer to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed to be used and an explanation of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing construction work in conformity with Contract requirements. If, after trial use of the substituted methods of equipment, the Engineer determines that the work produced

does not meet Contract requirements, the Contractor shall discontinue the use of the substitute methods or equipment and shall complete the remaining construction with the specified methods and equipment. The Contractor shall remove the deficient work and replace it with work of specified quality at no expense to the City, or take such other corrective action as directed. No change will be made in basis of payment for the construction items involved nor in Contract time as a result of authorizing a change in methods or equipment under these provisions.

108.07 Contract Completion Date. The Contractor shall have completed the work on or before the Contract Completion Date specified in the Notice to Proceed, or on or before a later date determined as specified herein, otherwise the City shall proceed as provided in Sections 108.08 or 108.09.

If the Contract is revised in any material respect and it is determined that said revision will cause delay in the completion of the work, the City may postpone the completion date by the number of calendar days determined to be equitable. If the Contractor finds it impossible for reasons beyond the Contractor's control to complete the work in the time specified or as extended in accordance with the provisions of this section, the Contractor may make a written request to the Engineer for an extension of time setting forth therein the reasons which the Contractor believes will justify the granting of the Contractor's request. Requests for extension of time shall be filed in writing by the Contractor with the Engineer. The Contractor's plea that insufficient time was specified is not a valid reason for extension of time. If the Engineer finds that the work was delayed because of conditions beyond the control and without the fault of the Contractor, then an extension of the time for completion in such amount as the conditions justify may be granted. The extended time for completion shall then be in full force and effect the same as though it were the original time for completion. If the City should suspend the work in whole or in part as provided in Section 108.04, the date for completion shall be postponed the number of days that the suspension directly or indirectly delays the completion of the work.

Delays caused by weather or seasonal conditions should be anticipated and will be considered as the basis for an extension of time only when the actual workdays lost exceeds the number of work days lost each month due to inclement weather as determined by the following schedule:

Month Number of Work Days Lost Due to Weather

April	6
May	5
June	5
July	4

August	4
September	5
October	6
November	6

A work day will be counted as lost if, due to adverse weather, the Contractor's efficiency is reduced more than 50 percent on the critical item under construction at that time. Sundays and holidays will not be counted as lost work days. The time between December 1 and March 31 is considered winter months and no extensions will be granted for this time. Claims for weather related delays shall be submitted within 14 days of the weather condition giving rise to the claim. If the Contract Documents include a claim form, the claim must be submitted thereon. Failure to do so is an irrevocable waiver of the claim. If no claim form is provided, the weather related claim must be submitted in writing to the City within 14 days of the weather event giving rise to the claim.

108.08 Liquidated Damages. For each calendar day that any work shall remain uncompleted after the Contract completion date, the sum specified herein will be deducted from any money due the Contractor, not as a penalty but as liquidated damages; provided however, that due account shall be taken of any adjustment of the completion time granted under the provisions of Section 108.07. The Contractor shall complete the work by the Contract Completion Date specified in the Notice to Proceed, or by a later date determined in accordance with Section 108.07. Requests for extension of the Completion Date shall be in writing and shall be submitted to the Engineer, prior to the date set for completion in the Notice to Proceed. Failure to request an extension of the Completion Date, in writing, prior to the date set for completion in the Notice to Proceed and/or per Section 108.07, will **AUTOMATICALLY** cause the deduction of Liquidated Damages, as set forth in Section 108.08 or the proposal, from all estimates due and payable to the Contractor after such Completion Date.

Permitting the Contractor to continue and finish the work or any part of it after the date fixed for its completion, or after the date to which completion may have been extended, will in no way operate as a waiver on the part of the City of any of its rights under the Contract.

The Director may waive such portions of the liquidated damages as may accrue after the work is in condition for safe and convenient use.

In addition to the amounts specified hereinafter for each calendar day after the completion date, the Contractor will be charged for all inspection, engineering, legal counsel, etc. service regardless of any extension of time granted, unless such charges are waived by the Director.

Schedule of Liquidated Damages

Original Contract Amount (Total Amount of the Bid) Amount of Liquidated Damages

From More Than To and Including

\$0 \$25,000	\$100.00
\$25,001 \$50,000	\$150.00
\$50,001 \$100,000	\$200.00
\$100,001 \$500,000	\$300.00
\$500,001 \$1,000,000	\$500.00
\$1,000,001 \$2,000,000	\$750.00
\$2,000,001 \$5,000,000	\$1000.00
\$5,000,001 \$10,000,000	\$1500.00
Over \$10,000,001	\$2000.00

108.09 Cancellation of Contract. If the work to be done under this Contract shall be abandoned by the Contractor; or if this Contract shall be assigned or the work under this Contract sub-let by the Contractor, otherwise than herein specified; or if before the completion of the work under this Contract, the Contractor shall become financially unable to meet obligations or shall become bankrupt or shall make a general assignment for the benefit of the creditors or shall have a receiver appointed or to take charge of the Contractor's affairs or shall have Contractor's property levied upon or taken in execution or under attachment; or if, at any time, the Director shall be of the opinion that the performance of the Contract is unnecessarily or unreasonably delayed or that the Contractor is violating any of the conditions or agreements of this Contract, or is executing the same in bad faith or is not fulfilling the terms thereof, or is not making such progress in the execution of the work as to indicate its completion within the time specified in the Contract, or within the time to which the completion of the Contract may have been extended by the Director, then at the discretion of the Director, acting for the City, may at any time declare this Contract or any portion thereof, terminated by a written notice served upon the Contractor, a copy of which shall be given to the Surety or the authorized agent of the Surety.

Upon the service of such notice, the Contractor shall discontinue the work or such part thereof as the Director shall designate, whereupon the Surety may, at its option, assume this Contract or that portion thereof on which the Director has ordered the Contractor to discontinue work and proceed to perform the same and may, with the written consent of the Director, sublet the work, or portion of same taken over, provided, however, that the Surety shall exercise its option, if at all, within 2 weeks after written notice to discontinue work has been served upon the Contractor and upon the Surety or its authorized agent. The Surety, in such event, shall take the Contractor's place in all respects and will be paid by the City for all work performed by it in accordance with the terms of this Contract including the completion date and if the Surety, under the provisions hereof, shall assume said entire Contract, all monies remaining due the Contractor at the time of default, shall thereupon become due and payable to the Surety as the work progresses, subject to all of the terms of this Contract.

In the event the Director has ordered the Contractor to discontinue work on the project, the City shall have the absolute right, without liability on the part of the City to the Contractor or its surety, to continue and complete the project herein described. The Surety and the Contractor shall then be jointly and severally liable for all expenditures made by the City to complete the said project excepting and providing that the Surety shall not be liable for any amount over the obligation of its bond.

Any and all balances of payments due the Contractor by the City shall be forfeited to the City and the Contractor agrees that it shall lose all right, title and interest to said balances, excepting and providing that said balances shall be used, after forfeiture, for a set off to the benefit of the Contractor and its Surety on the expenditures of the City to complete this project.

108.10 Certified Payroll. The Contractor shall submit to the Prevailing Wage Coordinator of the City of Grove City a weekly copy of all project employee payrolls for the duration of the time of construction. The copy shall be accompanied by a certified statement, signed by the Contractor or an Agent, indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the prevailing wage rates in the Contract, or any subsequent revision of wage rates during the life of the Contract. The Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor shall make employment records available for inspection by authorized representatives of the City and will permit employees to be interviewed during working hours by these representatives. All weekly payrolls shall contain or have attached the following:

1. the full name and social security number of each employee;
2. the current address of the employee;

3. the Job Classification of the employee (same as shown on wage determination or provisional approval);

4. hourly rate of pay;

5. hours worked each day and total for each week;

6. fringe payments and deductions made.

Failure to furnish and submit the above information as part of the required weekly Certified Payroll will be cause for the City to withhold the preparation of the monthly estimate. In the event of a violation of the wage rate provisions by the Contractor or any subcontractor, the City may, after notice to the Contractor, suspend further payments or proceed to terminate the Contract as provided by other sections of the Contract, or these specifications.

109 - ACCEPTANCE, MEASUREMENT AND PAYMENT

109.01 Measurement of Quantities

109.02 Scope of Payment

109.03 Compensation for Altered Quantities

109.04 Extra Work

109.05 Force Account Work

109.06 Eliminated Items

109.07 Partial Payments

109.08 Payment for Material on Hand

109.09 Final Inspection and Acceptance

109.10 Final Estimate

109.11 Release of Liability

109.12 Guarantee

109.01 Measurement of Quantities. Where work is to be paid for by units of length, area, weight or volume, all work accepted under this Contract will be measured by the Engineer, or the Engineer's authorized representative and the quantities of various items of work performed will be determined by the Engineer, as the basis for final settlement.

109.02 Scope of Payment. The Contractor shall receive and accept compensation provided for in the Contract as full payment for furnishing all materials and equipment for performing all work under the Contract in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof, except as otherwise provided in Sections 104.02, 105.21 and 107.14. If the "Basis of Payment" clause in the specifications relating to any unit price in the bid schedule requires that the said unit price cover and be considered compensation for certain work or material essential to the item, this same work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the specifications.

109.03 Compensation for Altered Quantities. When the accepted quantities of work vary from the quantities in the bid schedule, the Contractor shall accept as payment in full, so far as ontract items are concerned, payment at the original contract unit prices for the accepted quantities of work

done. No allowance except as provided in 104.02 will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor resulting either directly from such alterations or indirectly from unbalanced allocation among the Contract items of overhead expense on the part of the bidder and subsequent loss of expected reimbursements therefore or from any other cause.

Increased work involving extra work agreements shall be paid for as stipulated in such agreements. The Contractor shall furnish substantiating data required in the preparation of these agreements. The costs of increased work shall be developed using guidelines of Section 109.05.

For Unit Price Items, if the actual quantity of a unit price item in the Contract varies more than 40 percent above or below the estimated quantity, an equitable adjustment in the unit price may be requested by either the City or the Contractor. The equitable adjustment will be based upon any increase or decrease in costs due solely to the variation.

109.04 Extra Work. Extra work performed in accordance with the requirements and provisions of Section 104.03 will be paid for at the unit prices or lump sum stipulated in the order authorizing the work.

109.05 Force Account Work. The City may require the Contractor to do work for which there are no prices set forth in the contract on a force account basis and the Contractor is to be compensated in the following manner:

1. **Labor.** For all labor and for all foremen in direct charge of the specific operations, the Contractor shall receive the rate of wage and fringe benefits currently in effect at the time the work is performed for each and every hour that said labor and foremen are actually engaged in such work, to which may be added an amount equal to 10 percent of the sum thereof. In addition to the above the Contractor shall itemize the actual cost of Social Security Tax, Worker's Compensation and State and Federal Unemployment Insurance.

2. **Materials.** For materials accepted by the Engineer and used, the Contractor shall receive the actual cost of such materials delivered to the project and used.

3. **Equipment: (Owned).** For any machinery or special equipment other than small tools which it may be deemed necessary or desirable to use for the Force Account, the Contractor shall receive payment for said equipment actually engaged in such work (hourly, daily, weekly or monthly).

Equipment: (Stand-By or Idled). With the Engineer's approval, all equipment that was idled, the hourly rate of compensation will be the monthly rental rate times a factor of 0.50 divided by 176 hours per month with no operating costs added.

Equipment: (Rented). 2 percent may be added to the rental price for equipment that is rented and used on Force Account.

4. **Supervisor's Transportation.** A flat hourly rate, which includes fuel and lubricants, will be calculated from the Rental Rate Blue Book. The monthly rate will be divided by 176 hours to arrive at the hourly rate.

5. **Operating Costs.** For all equipment except the supervisor's transportation for every hour worked, the Contractor may add the estimated operating cost as outlined in the Rental Rate Blue Book.

6. **Subcontract Work.** For work performed by an approved Subcontractor, the prime Contractor will add 1 percent to cover administrative costs not to exceed \$5,000.00.

7. **Compensation.** The compensation to the Contractor as above provided in (a), (b), (c), (d), (e), and (f) shall constitute payment in full for extra work done on a force account basis including administration, superintendence, overhead, use of tools and equipment for which no rental is allowed, profit, taxes other than sales tax, premium on insurance, and any other expense incidental to performing the force account work. Sales tax will not be allowed on any item for which tax exemption may be obtained.

8. **Statements.** Final payment will not be made for work performed on a force account basis until the Contractor has furnished the Engineer with quadruplicate itemized statements of the cost of such force account work detailed as follows:

A. Name, classification, date, daily hours, total hours, rate, and extension for each laborer and supervisor.

B. Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment.

C. Quantities of materials, prices, and extensions.

D. Transportation of materials.

The Contractor's representative and the Engineer's or City's representative shall compare records daily of the extra work done as ordered on a force account basis, and they shall certify that these records are correct, and no subsequent additions, deletions or alterations of these records shall be permitted.

Statements shall be accompanied and supported by proper invoices for all materials used and transportation charges, and rented equipment performing work on force account operations. However, if materials used on the force account work are not specifically purchased for such work

but are produced by the Contractor or taken from the Contractor's stock, then in lieu of the invoices the Contractor shall furnish an affidavit certifying that such materials were produced by or taken from the Contractor's stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the Contractor. Statements shall be filed not later than 30 days following that in which the work was actually performed.

109.06 Eliminated Items. Should any items contained in the proposal be found unnecessary for the proper completion of the work, the Engineer may, upon written order to the Contractor, eliminate such items from the Contract, and such action shall in no way invalidate the Contract. When a Contractor is notified of the elimination of items, the Contractor will be reimbursed for actual work done and all costs incurred, including mobilization of materials prior to said notification.

109.07 Partial Payments. If satisfactory progress is being made monthly payments based on completed work will be made to the Contractor as determined by the Engineer, as the work proceeds. The monthly payment is approximate only, and all partial estimates and payments shall be subject to correction in the final estimate and payment. Ten percent of the value so determined will be retained by the City until 50 percent of the work has been completed. When more than 50 percent of the work has been completed the amount retained shall be reduced to 5 percent for all work completed to the date of the estimate. On contracts having a total award price in excess of \$500,000.00, the amount retained shall be reduced in accordance with the following schedule:

% of work completed	% retained of all completed work
Over 60	4
Over 70	3
Over 80	2
Over 90	1

The Contractor is hereby put on notice that the City will neither deposit retainage in an escrow account, nor pay interest on such retainage. Partial payments may, at any time, be withheld, if in the opinion of the Engineer, the work is not proceeding in accordance with the provisions in Section 108.03. Partial payments may be allowed twice each month, if in the judgment of the Engineer, the amount of work in place is sufficient to so warrant. Before the second partial payment estimate is processed and for each subsequent partial estimate thereafter, the Contractor will be required to submit a notarized affidavit confirming that all bills for materials and for subcontracted work represented by the previous partial payment have been paid. Should any defective work, material or acceptable work that has been damaged by the Contractor's operations be discovered previous to the final acceptance or should a reasonable doubt arise previous to the final acceptance as to the

integrity of any part of the completed work, the estimate and payment for such defective or questioned work shall not be allowed until the defect has been remedied and cause for doubt removed, by and at the expense of the Contractor upon the order of the Engineer.

109.08 Payment for Material on Hand. Partial payments may be made to the extent of the delivered cost of approved materials to be incorporated in the work, when delivered on the project or stored in acceptable storage places in the vicinity of the project. Delivered cost shall be evidenced by manufacturer's invoice bearing the statement that all previous invoices have been paid.

The Contractor shall make application for payment for materials on hand or stored on a form provided by the City. Information will be required as to the cost of the materials, when such materials will be incorporated in the work and such other information which will be considered for approval of advance payment. Consideration will only be given to materials for major items of the Contract. No partial payment will be made on living or perishable plant materials until planted.

109.09 Final Inspection and Acceptance. When the Contractor completes all or portions of the work to be accepted by the City, a request by the Contractor for a final inspection shall be made. If items remain which must be completed or remedied by the Contractor, the Contractor shall perform the work immediately upon being notified by the Engineer. When such items have been corrected by the Contractor, final inspection will be made. The work must pass final inspection before it will be accepted by the City. The date of approval of the final inspection by the Engineer shall be the date of acceptance for the project. Where the City has made a final inspection and has accepted any portion of the work, the retained percentage for the entire Contract will be appropriately reduced for the portion of the work accepted.

Acceptance-Traffic Detoured.

1. **Acceptance and Opening to Traffic-Part of Project.** When a portion of a highway or structure covered by contract is substantially completed, a partial acceptance may be made by the Engineer and that portion opened to traffic when such opening will benefit the public interest. When all items on a portion of the highway are completed, upon written authorization by the Engineer, the Contractor may cease to maintain barriers, lights and traffic control devices covering the accepted portion.

2. **Acceptance and Opening to Traffic when Progress is Unsatisfactory or Work is Suspended.** When a portion of a highway or a structure is completed and the progress schedule of work has not been met or the Contractor suspends work for over 14 days during the normal construction season the Engineer on written notice to the Contractor may order the road or

structure to be opened for travel and the Contractor shall place the highway, bridge or culvert or portions thereof in such condition for travel as the Engineer may order and shall remove all barriers and obstructions at no cost to the City of Grove City.

3. Acceptance and Opening to Traffic when Ordered by the Engineer. Upon written notice from the Engineer directing that the highway, bridge, or culvert, or any part thereof be opened for travel, the Contractor shall put the highway, bridge or culvert or such portions thereof as the Engineer may direct in such condition for travel as the Engineer may direct, and shall remove all barriers and obstructions. Acceptance of the work in whole or in part is not involved in this case, but the Contractor will not be held responsible for damage by such traffic to completed or partially completed portions of the work. Additional costs to the Contractor by such action shall be reimbursed in an agreed manner.

Acceptance-Traffic Maintained.

1. When traffic is maintained the Engineer, at the request of the Contractor, may accept a portion of a project when such acceptance will serve the public interest.

A portion of the project shall be defined as a section of highway or structure on which all items of work have been completed, or, a substantial part or feature of the work that is completed, or, a substantial part or feature of the work that is completed and that is not dependent for its stability and integrity upon other uncompleted items of work and that can be received for public usage prior to completion of all work in the contract. Acceptance of a portion of the project will relieve the Contractor of responsibility for maintenance and damage due to traffic and all retained percentages shall be released and paid to the Contractor for those portions of the project named in the acceptance notice. The Contractor shall not be required to maintain portions of the highway or structures which have been completed and accepted, but he is required to repair any damage caused by his operations, defective work, or noncompliance with the plans specifications and contract until the final estimate has been approved by the Director.

109.10 Final Estimate. As soon as practicable after the acceptance of the work by the City and approval of the final modification by City Council, there shall be issued a final estimate for payment based on the actual quantities of completed and accepted work performed under this Contract. Such final estimates shall be approved by the Director, after which the City shall pay the entire sum found to be due, after deducting all previous payments made under 109.07. All prior estimates are subject to correction in the final estimate payment.

109.11 Release of Liability. No person or corporation other than the signer of this Contract as Contractor, has any interest hereunder and no claim shall be made or be valid, and neither the City,

nor any official or agent thereof, shall be liable for or be held to pay any money except as provided herein. The acceptance by the Contractor of final payment shall operate as and shall be a release to the City, and every officer and agent thereof, from all claims and liability to the Contractor for anything done or furnished for, or relating to the work, or for any act or neglect of the City, or of any person relating to or affecting the work except those claims that are pending or asserted and for which the Owner has received notice of those pending or asserted claims at the time of the final payment.

109.12 Warranty and Post Completion Correction Period. In addition to other warranties that are in the Contract Documents, Contractor warrants and guarantees that its Work conforms in all respects to the Contract Documents and that it is free from defects in material and/or workmanship. Contractor further agrees to furnish any special warranties required by the Contract Documents relating to its Work prior to and as a condition of final payment. Contractor agrees to perform any remedial or corrective work necessary to satisfy its warranty obligations without cost to Grove City. Any and all warranties which are available on any material or equipment or other service which is part of the Work will be provided to Grove City at no additional cost, and Contractor further agrees to perform the Work in such a manner so as to preserve any and all such manufacturer or Suppliers' warranties.

Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;
2. recommendation by Engineer or payment by Owner of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

When any work is accepted by the City there shall be a Correction Period extending for one year from the date of acceptance of the work. The City will designate on the plans or in the proposal

those portions of the project that may be accepted prior to completion of the entire project. If during the course of the construction, the City desires to accept and place in operation any additional portions of the work, written notification will be given to the Contractor by the City. At any time during the Correction Period, the City may notify the Contractor and his Surety that certain repairs are necessary. Within 10 days after being so notified, the Contractor shall make such repairs as are declared necessary to restore the work to a good and serviceable condition. In the event that the Contractor fails to comply with the order to repair as provided, said repairs may be made by the City and it is hereby agreed by the Contractor that reimbursement shall be made to the City for said expense so incurred within ten days following the receipt of a statement rendered to the Contractor by the City for said expense. Specifications for the work performed under this Contract shall govern in the making of repairs under this section. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this section, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed with no diminution of the remaining warranties.

109.13 Indemnification. To the fullest extent permitted by Laws and Regulations—including O.R.C. 2305.31—Contractor shall indemnify, hold harmless, and defend Owner and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, (whether alleged or proven), demands, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, including the breach of any warranty provided in the Contract Documents. The Contractor's obligations under this section are joint and several.

In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

For any matter for which Owner is indemnified under this section, Contractor shall pay for Owner's reasonable defense, including, but not limited to, all fees and charges of engineers, architects,

attorneys, and other professionals and all court or arbitration or other dispute resolution costs or awards until Owner is found negligent.