

PART 100
GENERAL CONDITIONS

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SECTION 101

ABBREVIATIONS AND DEFINITIONS

101.1 ABBREVIATIONS

AASHTO - American Association of State Highway and Transportation Officials

AC - Asphalt Cement or Concrete

ACI - American Concrete Institute

ACPA - American Concrete Pipe Association

AJCHNS - American Joint Committee on Horticultural Nomenclature Standard: 1942 Edition - Standardized Plant Names.

ANSI - American National Standards Institute, Inc. (American Standard for Nursery Stock)

APWA - American Public Works Association

ASCE - American Society of Civil Engineers

ASTM - American Society for Testing and Materials

AWWA - American Water Works Association

Bit - Bituminous

BM - Bench Mark or Board Measure

C - Centigrade

Caltrans - California Business, Transportation and Housing Agency, Department of Transportation

cf - Cubic Feet

cfs - Cubic Feet Per Second

CIP - Cast Iron Pipe

CIPP - Cured in Place Pipe

CM - Centimeter

CMP - Corrugated Metal Pipe

CU - Cubic

cy - Cubic Yard

Deg - Degree

Dia - Diameter

DICL - Ductile Iron Cement Lined pipe

DIP - Ductile Iron Pipe

Div - Division

Dr - Drive

Ea - Each

E - East

EI - Elevation

F - Fahrenheit

FH - Fire hydrant

FHWA - Federal Highway Administration

Floodway - Wichita-Valley Center Flood Control Project Limits

fps - Feet per second

Ft - Foot or feet

Ga - Gage

Galv - Galvanized

gph - Gallons per hour

gpm - Gallons per minute

HDPE - High Density Polyethylene

Hwy - Highway

ID - Inside Diameter

In - Inch

ISSA - International Slurry Seal Association

KDOT - Kansas Department of Transportation

KDOT Standard Specifications - Standard Specifications for State Road and Bridge Construction, (1990 Edition including all applicable revisions)

KDHE - Kansas Department of Health and Environment

L - Length

lb - Pound

LF - Linear Feet

Lin - Linear

Lt - Left

Max - Maximum

Meas - Measured

MH - Manhole

Min - Minimum

Misc - Miscellaneous

MM - Millimeter

MTBM - Microtunnel Boring Machine

MUTCD - Manual on Uniform Traffic Control Devices developed by the National Advisory Committee on Uniform Traffic Control Devices

N - North

NE - Northeast

NEC - National Electric Code

Nom - Nominal

NPDES - National Pollution Discharge Elimination System

NW - Northwest

No. - Number

OD - Outside Diameter

Oz - Ounces

PCC - Portland Cement Concrete

PCCP - Prestressed Concrete Steel Cylinder Pipe

PL - Property Line

PLS - Pure live seed

PP - Power Pole

ppm - Parts per million

psi - Pounds per square inch

psf - Pounds per square foot

PVC - Polyvinyl Chloride pipe

Pvmt - Pavement

Q - Rate of Flow

RAP - Reclaimed Asphalt Pavement

RC - Reinforced concrete

RCP - Reinforced Concrete Pipe

Rd - Road

Rdwy - Roadway

Reinf - Reinforced, Reinforcing

rpm - Revolutions per minute

Rt - Right

R/W - Right-of-way

S - South

San - Sanitary

Sec - Seconds

SE - Southeast

Spec - Specifications

Sq Ft - Square Foot

Sq Yd - Square Yard

SS - Sanitary sewer

St - Street

Sta - Station

Std - Standard

SW - Southwest

SWS - Stormwater sewer

Temp - Temporary

Typ - Typical

USGS - United States Geological Survey

VCP - Vitrified clay pipe

Vert - Vertical

W - West

Wt - Weight

Yd - Yard

' - feet or minutes

" - inches or seconds

° - degrees

% - percent

- number

@ - at

/ - per

= - equals

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101.2 DEFINITIONS

Wherever in these specifications or in other contract documents the following terms are used, the intent and meaning shall be interpreted as follows.

Addendum - A supplement to any of the contract documents issued, in writing, after advertisement of but prior to the opening of bids for a project.

Advertisement - The public announcement inviting bids for work to be performed or materials to be furnished.

Award - The formal action of the governing body in accepting a proposal.

Bidder - An individual, partnership, firm, corporation, or combination thereof, or joint venture, submitting a proposal for the advertised work.

Bid Bond - The approved form of security, executed by the bidder and the bidder's surety or sureties, guaranteeing the good faith of the bidder and the execution of a satisfactory contract.

Bid Packet - (See Notice to Contractors)

Calendar Day - Each 24-hour day, including Saturdays, Sundays and holidays.

City - The term "City" shall signify the City of Wichita, Kansas or its authorized officers or representatives.

Change Order - A written order issued by the City to the Contractor and signed by both, which sets forth changes to the contract including, but not limited to, extra work, conditions or basis of payment, increases or decreases in contract quantities, contract time adjustments, or other additions or alterations to the contract.

Completion Time - The completion date of the project based on the number of working days specified plus any authorized modifications thereof, the number of calendar days specified plus any authorized modifications thereof, or the calendar date of completion plus any authorized modifications thereof.

Contract - The written agreement between the City and the Contractor by which the Contractor is required to furnish all labor, equipment and materials necessary to perform the work specified for compensation by the City as set forth in the specifications. The Contract includes the invitation for bids, bid proposal, all bond and insurance provisions, addenda, specifications, special provisions, plans, and any notices, agreements or change orders required to complete the construction of the project.

Performance & Maintenance Bond - A surety bond to the City of Wichita in the amount of 100% of the contract price, executed by the Contractor and the Contractor's surety or sureties, guaranteeing the complete and faithful performance and completion of the contract, and maintenance of the completed project for a period of two years after the date of completion and acceptance of the project.

Contractor - The individual, partnership, firm, corporation, or combination thereof, or joint venture entering into a Contract with the City of Wichita to perform the prescribed work.

Engineer - The City Engineer of Wichita, Kansas acting directly through his/her duly authorized representative(s).

Incidental Work - Any item of work specifically identified in the plans, specifications or special provisions, or any other work found to be necessary for the satisfactory completion of the contract, but for which there is no identified pay item. Such work shall be completed by the Contractor and all costs shall be considered as subsidiary to the other pay items of work in the Proposal. No claim from the Contractor will be allowed for payment of such work as extra work.

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

Holidays (City) - Current City holidays include New Year's day, the observance of Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday after Thanksgiving Day, and Christmas Day. If New Year's Day, Independence Day, Veteran's Day or Christmas Day falls on a Saturday or Sunday, both that day and the preceding or following normal workday will be considered City Holidays. In addition, any other day(s) designated as a City Holiday, not specifically mentioned herein, but declared as a City Holiday by the governing body, shall also be considered a City Holiday.

Maintenance Bond - (See Contract Bond).

Notice of Award - A letter from the City advising the Contractor that the City's Board of Bids has recommended awarding the Contract. Attached to the letter are copies of the Contract, and the statutory and contract (performance and maintenance) bond forms.

Notice to Contractors - The bid packet provided to Contractors which includes the project special provisions, any other specific project requirements or information and the Bid Proposal form.

Notice to Proceed - Written notice to the Contractor to proceed with the Contract work.

Payment Bond - (See Statutory Bond).

Plans - All approved plans, drawings, sketches, etc., or reproductions thereof pertaining to the details and work to be performed.

Proposal - The offer of a bidder, on the prescribed form, to perform the work and to furnish the labor, equipment and materials at the prices quoted.

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

Proposal Guarantee - (See Bid Bond).

Special Provisions - Special conditions, requirements, supplementary provisions, additions and/or revisions to the standard specifications that are applicable to the project under consideration.

Statutory Payment Bond - A bond to the State of Kansas in an amount not less than 100% of the total contract amount, conditioned that such Contractor and/or Subcontractor(s) shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies used or consumed in the construction of the project.

Working Day - Each calendar day, excluding Saturdays, Sundays and City Holidays, on which weather and/or other conditions not under control of the Contractor will permit construction operations to proceed for at least 50% of the normal full work day schedule. For projects where work must be done within the right-of-way on any major street, Saturdays will also be included as Working Days.

Work Order - (See Notice to Proceed).

SECTION 102

INFORMATION FOR BIDDERS AND GENERAL BID REQUIREMENTS

102.1 PREPARATION OF PROPOSAL

The Bidder shall submit his/her proposal on the forms obtained from the City or by a third party employed by the City to prepare and/or supply the bid form and other bid documents. The bidder shall specify unit prices, extensions and a total of the extensions. The bidder must acknowledge receipt of and agree that the proposal is based on all addenda received after receipt of the initial bid packet.

The quantities and unit prices identified on the bid form will be used to develop the bid, and as a basis for establishing partial payment and change order values. Final payment will be based on final unit quantities measured in the field, on the lump sum contract amount, or a combination of both as specified in the bid packet for each project.

All bids must state the price bid for all items listed on the bid form, which price shall include all labor and materials required for the complete execution of the work.

All prices must be stated in figures. The unit prices will be considered to be the offer in case of any variation between unit prices and totals stated by the bidder. All amounts and totals will be subject to verification by the City of Wichita.

All bid prices must be clear, legible and must be written in ink or typed. If prices and/or totals are unclear, illegible or written in pencil, the City reserves the right not to read the bid and/or reject it.

The place of residence of each bidder must be given after his/her signature, which must be written in full. Two proposals under different names will not be received from one firm or association, and shall be cause for each bid to be rejected.

102.2 BID SUBMITTAL

All bids are to be enclosed in sealed envelopes, directed to the Purchasing Manager of the City of Wichita, Kansas. The outside of the envelope shall be clearly marked to indicate the name of the project, the project Index Code (the City's six-digit financial code) and the contracting company name.

Bids must be submitted to the Purchasing Manager's office (12th Floor, City Hall, 455 N. Main, Wichita, Kansas 67202) prior to 10:00 a.m. on the date specified. Bids turned in or received after 10:00 a.m. will not be read, and will be returned, unopened.

102.3 BID BOND

Each bid must be accompanied by an acceptable Bid Bond in an amount of not less than five percent (5%) of the total bid; said bond to be held by the Purchasing Manager, subject to the conditions specified in the proposal, as a guarantee of good faith of the bidder until such time as the contract is executed. Bid Bonds must be submitted on the standard, approved City of Wichita Bid Bond form. Other Bid Bond forms may be used only if they have been pre-approved by the City's Law Department.

In lieu of submitting a minimum five percent (5%) Bid Bond with each bid, contractors may opt to submit a standing bid bond that is kept on file in the Purchasing Manager's office. The Contractor shall indicate on the bid form whether a bid bond is being submitted with the bid or if a standing bid bond is on file.

Bid bonds, as well as statutory, and performance and maintenance bonds shall be issued by a bonding company authorized to do business in the State of Kansas through an agent located in the State of Kansas who is authorized by his/her company to accept on behalf of the company all notices of claims, court summons or other legal notices. The Surety shall provide the agent's name, address and phone number shall be provided to the City.

102.4 SUBCONTRACTORS

The Contractor shall submit a list of proposed subcontractors with the bid and indicate whether such subcontractors are Minority or Disadvantaged Business Enterprises (MBE, DBE). The City shall identify and certify DBE's and MBE's.

102.5 NONRESIDENT CONTRACTORS

All Contractors who are nonresident's of Kansas are required to be registered and bonded with the Secretary of Revenue of the State of Kansas pursuant to KSA 79-1008 through 79-1015, as amended. Nonresident Contractors shall submit satisfactory evidence that they are in compliance with such Kansas statutory requirements.

102.6 SALES TAX EXEMPTION

Most contracts for projects let through the City Engineer's office are exempt from state and local sales taxes. Projects that are not exempt (normally only water line projects funded 100% by the Water Utility Fund), will be clearly identified in the bid solicitation. Do not include sales tax in your bid unless clearly directed to do so.

For all projects that are exempt from sales tax under applicable Kansas statutes, the Contractor will be provided a sales tax exemption number and certificate. The Contractor must obtain such certificate before purchasing materials or starting work. No payments shall be made for any sales tax paid by the Contractor, unless the project provides for such. The Contractor will be required to be in compliance with the provisions of Kansas law and submit the completed sales tax project completion certification prior to receiving final payment for the project.

102.7 EQUAL EMPLOYMENT OPPORTUNITY

All Contractors must be in compliance with all applicable federal, state and local EEO/AA and non-discrimination requirements and be certified by the City's Civil Rights and Services office as being in compliance prior to final execution of the contract. Failure to comply may result in cancellation of a contract award and forfeiture of the contracts Bid Bonds.

Federal-aid projects shall include a FHWA form 1273 as part of the contract.

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the Contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action program Requirements:

- a) During the performance of this contract, the Contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; **the Americans with Disabilities Act of 1990** and laws, regulations or amendments as may be promulgated thereunder.
- b) Requirements of the State of Kansas:
1. The Contractor shall observe the provisions of the Kansas Act Against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, **disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification**, national origin or ancestry;
 2. In all solicitations or advertisements for employees, the Contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the **Kansas Human Rights Commission**;
 3. If the Contractor fails to comply with the manner in which the Contractor reports to the **Kansas Human Rights Commission** in accordance with the provisions of KSA 1976 Supp. 44-1031, as amended, the Contractor shall be deemed to have breached this contract and it may be cancelled, terminated or suspended in whole or in part by and contracting agency;
 4. If the Contractor is found guilty of a violation of the Kansas Act against discrimination under a decision or order of the **Kansas Human Rights Commission** which has become final, the Contractor shall be deemed to have breached the present contract, and it may be cancelled, terminated or suspended in whole or in part by the contracting agency;
 5. The Contractor shall include the provisions of Paragraph 1 through 4, inclusively, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- c) Exempted from these requirements are (State of Kansas):
1. Any contractor, subcontractor, vendor or supplier who has already complied with the provisions set forth in sections pertaining to the State of Kansas by reason of holding a contract with the Federal government, or a contract involving Federal funds;
 2. Contracts entered into by a contractor, subcontractor, vendor or supplier who employs fewer than four (4) employees during the term of this contract;
 3. Contracts with the City of Wichita with a cumulative total of five thousand dollars (\$5,000) or less during the fiscal year of the City.

- d) Provisions of the City of Wichita, Kansas, relating to Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall observe the provisions of the Code of the City of Wichita against discrimination (Section 2.12.900, et seq. of the Code of the City of Wichita, Kansas) and shall not discriminate against any employee or applicant for employment in the performance of work under the present contract, purchase order or agreement because of race, religion, color, sex, "**disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification**", national origin, ancestry or marital status. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and Equal Employment Opportunity in all employment relations, including but not limited to employment, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program when required to the Rights and Services Board of the City of Wichita, Kansas, **Civil Rights and Services** in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or in behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "**disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification**", national origin, ancestry or marital status. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase that is deemed acceptable by the **Wichita Civil Rights and Services Board**;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the rules, regulations and the orders issued by the Board pursuant thereto, and will permit access to books, records and procedures concerning employment relations by the **Civil Rights and Services Board** of said City for the purpose of investigation to ascertain compliance with Non-Discrimination and Equal Employment Opportunity Requirements. If the vendor, supplier, contractor or subcontractor fails to comply with the manner in which he/she or it reports to the Board in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be cancelled, terminated or suspended terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be initiated against such vendor supplier, contractor or subcontractor;
 4. If the vendor, supplier, contractor or subcontractor is found guilty of a violation of any provision of the Code of the City of Wichita pertaining to and regulating Non-Discrimination and Equal Employment Opportunity under a decision or order of the **Civil Rights and Services Board** of the City of Wichita, Kansas, which has become final, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement, and it may be cancelled, terminated or suspended in whole or in part by the City of Wichita, and such other synchronous and remedies may be imposed as provided by law;

5. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsection 1 through 4, inclusively, of this present section in every subcontract, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.
- e) Exempted from these requirements are: (City of Wichita)
1. Any contractor or subcontractor, vendor or supplier of the City of Wichita, or any of its agencies, who wishes to enter into a contract, purchase order or agreement which is covered by the provisions of Section 2.12.908 of the Code of the City of Wichita, Kansas, shall prior to entering into such contract, purchase order or agreement, submit to the **Civil Rights and Services Board** of the City of Wichita, Kansas, A preliminary report on forms provided by the Board concerning Non-Discrimination and Equal Employment/Affirmative Action for review and evaluation. Upon review of the preliminary form submitted:
 - a. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
 - b. The provisions of Section 2.12.908 shall not apply to vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reasons of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) days period from the Federal agency involved.
 - c. Those contractors, subcontractors, vendors or suppliers not exempted herein whose preliminary report reveals deficiencies shall be required to submit goals and timetables for correction of such deficiencies in accordance with instructions included with the preliminary report for review, evaluation and acceptance prior to a contract, purchase order or agreement award.
- f) Failure of any contractor, subcontractor, vendor or supplier to report to the **Kansas Human Rights Commission** as required by KSA 1976 Supp. 44-1031, as amended, or to the **Civil Rights and Services Board** of the City of Wichita as required by 2.12.908, of the Code of the City of Wichita, Kansas; or has been found guilty of a violation of the City's Ordinances, State Statutes, or Federal Statutes, or regulations pertaining to unlawful discrimination, which finding, decision or order has become final, shall be deemed a breach of this contract and said contract may be cancelled, terminated or suspended in whole or in part by the City or its contracting agency.

102.8 IRREGULAR PROPOSALS/REJECTION OF PROPOSALS

Bid proposals will be considered irregular and may be rejected for the following reasons:

- a) Failure to submit the bid on the form provided by the City or a copy thereof.
- b) Failure to sign and date the bid.
- c) The bid form contains any unauthorized additions, statements, conditional or alternate bids or irregularities of any kind.
- d) Failure to acknowledge all applicable addenda.
- e) Failure to provide unit prices for each pay item listed, except in the case of authorized alternate unit prices of pay items.
- f) Failure to submit the list of potential subcontractors (or indication on the bid form that there are no anticipated subcontractors) and any other documents or certifications that are included in the Bid Packet and/or required to be submitted with the bid (ex. Buy American, Certification of Nonsegregated Facilities, Certification Regarding Lobbying, Notice to Labor Unions, Contracts with Legislators, Noncollusion, etc.)
- g) Receipt of more than one proposal for the same work from an individual, partnership or corporation under the same or different names.
- h) Evidence of collusion among bidders.
- i) Obvious unbalancing of one or more bid items.

The City reserves the right to reject any and all bids.

SECTION 103

AWARD AND EXECUTION OF CONTRACT

103.1 CONSIDERATION OF PROPOSALS

After the proposals have been opened and read, they shall be verified and compared by checking the extensions and additions. In the event of a discrepancy between the unit prices and the extensions thereof, the unit bid price shall govern.

Until the project is awarded, the City reserves the right to reject any and all proposals.

103.2 AWARD OF CONTRACT

The award of contract, if it is awarded, shall be made within thirty (30) days after opening the proposal, unless both the City and the Contractor agree to an extension of the 30-day time period. Notice of such award shall be in writing by the City. The successful bidder shall provide all required certificates of insurance, bonds and/or proof of filing of such bonds, and any other required certifications with ten (10) calendar days from the date the project is awarded.

103.3 CANCELLATION OF AWARD

The City reserves the right to cancel the award of any contract at any time before execution of said contract by all parties, without any liability against the City.

103.4 CONTRACT BONDS

The following bonds and bonding amounts are required for all projects unless specifically exempted or modified by the Special Provisions issued for the project being bid:

- a) **Statutory Payment Bond** - A bond to the State of Kansas in an amount not less than 100% of the total contract amount, conditioned that such Contractor and/or Subcontractor(s) shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies used or consumed in the construction of the project.
- b) **Performance and Maintenance Bond** - A bond to the City in the amount of 100% of the total contract amount, guaranteeing the faithful performance of the work and the completion of the contract, and to replace or repair any latent defects or failures in the improvement for a period of two years from the date of completion and acceptance of the project. Such bond shall also include the provision that the Contractor shall save and hold the City harmless for all claims and suits brought against the Contractor, or the City for damages to property or injury to persons occasioned by or growing out of the construction of said improvement, or the failure or neglect of the Contractor to carry out said contract, or to complete the work and replace or repair any latent defects or failures in said improvement and the works thereon as provided by the terms and provisions of said contract.

The Statutory as well as Performance and Maintenance Bond, and Bid Bond, shall be issued by a bonding company authorized to do business in the State of Kansas through an agent located in the State of Kansas who is authorized by his/her company to accept on behalf of the company all notices of claims, court summons or other legal notices. The Surety shall provide the agent's name, address and phone number shall be provided to the City.

103.5 INSURANCE

The Contractor shall carry all insurance which may be required by federal, state and local laws and regulations. The Contractor will be required to submit a Certificate of Insurance, issued by an insurer authorized by the Kansas Commissioner of Insurance to do business in Kansas, certifying the following insurance coverage:

1. Comprehensive General Liability

Covering premises -- operations, xcu hazards when applicable, Product/Completed Operations, Broad Form Property Damage and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 Each Occurrence \$500,000 Each Aggregate
Property Damage Liability	\$500,000 Each Occurrence \$500,000 Each Aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 Each Occurrence \$500,000 Each Aggregate

2. Comprehensive Automobile Liability

All Owned, Non-Owned, and Hired vehicles with minimum limits as follows:

Bodily Injury Liability	\$500,000 Each Accident
Property Damage Liability	\$500,000 Each Accident
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 Each Accident

3. Workers' Compensation

For minimum limits of:

Employers Liability	\$100,000 Each Accident
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The Insurance Certificate must contain the following:

- Statement that the Contractual Liability includes the Liability of the City of Wichita assumed by the Contractor in the contract documents.
- Cancellation - Should any of the above policies be canceled before the expiration date thereof, the issuing company will mail ten (10) days written notice to certificate holder.

Certificates of Insurance shall be furnished to the City Engineer's office before the contract is issued. Required insurance shall be maintained and in effect until the date of final acceptance.

103.6 EXECUTION AND APPROVAL OF CONTRACT

The Contractor shall submit all bonds and insurance certificates, and execute the contract within ten (10) calendar days from the date the project is awarded.

SECTION 104

SCOPE OF WORK

104.1 WORK TO BE DONE

Unless otherwise specified in the plans, specifications or special provisions, the Contractor shall furnish all labor, materials, equipment, tools, transportation, supplies, utilities, services and facilities required to construct and complete the project in a satisfactory and acceptable manner in full compliance with the plans, specifications and terms of the contract.

104.2 MAINTENANCE OF TRAFFIC/ACCESS TO PROPERTIES

Unless otherwise stated in the project plans or special provisions, traffic flow must be maintained at all times, and access must be provided to all properties at all times. Safe and adequate pedestrian access must also be provided.

All traffic lanes maintained during construction activities shall be a minimum ten (10) feet, with eleven (11) feet preferred, in width and shall be hard surfaced. Nine (9) foot wide lanes may be provided on lower volume roadways at the discretion of the Engineer.

104.3 CLEANUP, DUST CONTROL, POLLUTION CONTROL, SURFACE WATER AND EROSION CONTROL

The Contractor shall take whatever steps as may be necessary to at all times keep the entire site clean and free from trash, excess materials, surface water and debris generated or caused by construction activities.

The Contractor shall also take whatever steps as may be necessary to prevent and control dust and erosion of material as a result of construction. Erosion, surface water runoff and pollution control measures must be implemented on all job sites as required by federal, state and local laws, NPDES plan and permit requirements, and the plans and specifications for the project.

Failure of the Contractor to comply with cleanup orders and/or all other mitigation and control measures, shall be cause for suspension of work until such unacceptable conditions are corrected. Liquidated damages, as specified for completion of work on the project, shall be charged for each day unacceptable conditions are not corrected.

104.4 MAINTENANCE OF ROADWAY AND SIDEWALK SURFACES

The Contractor shall be responsible for maintenance of street and sidewalk area surfaces within the construction limits of the project and along haul roads, upon commencement of construction or construction related activities on the project. Such maintenance shall include maintaining the traveled portions of roadways and walkways in smooth and acceptable surface conditions free from potholes settlements, elevation offsets, etc.

Upon observation of a defect in the roadway or sidewalk surface, or upon notification by the Engineer, by a public safety representative or by a citizen, the Contractor shall immediately respond to temporarily repair or correct the defect. Failure of the Contractor to respond in a reasonable period of time may result in the Contractor being charged liquidated damages for each day defects are not corrected in addition to any other direct costs the City may incur in correcting the defect.

Because of obvious safety concerns to motorists and pedestrians, the Contractor is expected to respond promptly to all reasonable notices of defects, regardless of the cause of the defect. If it is determined after the defect is corrected that the defect is the responsibility of another entity (example - utility cut trench settlement within the project limits), the Contractor shall be reimbursed for direct expenses in correcting the defect.

104.5 MAINTENANCE OF WORK AREAS

The Contractor shall be responsible for maintenance of all work areas, including all signs and barricades and all other traffic control devices during performance of the work.

The Contractor shall be available 24 hours per day to respond to calls or notification from the City regarding maintenance of signs, barricades, work site equipment, or other work site conditions. The Contractor shall provide the City with the telephone number(s) where the City can contact the Contractor at any time. If required or approved, the Contractor will equip one or more personnel with pagers which will allow the City to directly contact them. Upon receiving notification of the need to perform any type of maintenance to any work site, the Contractor shall immediately respond and make such temporary repairs or reset signs and barricades as required to return the work site to a safe and proper operating condition.

Often the City is called about hazardous work site conditions or barricades knocked down. It is the City's obligation and policy to respond to calls as soon as possible without regard to agency responsibility. If it can be easily determined which Contractor has responsibility then that Contractor will be notified. However, the City reserves the right to respond to any such calls to remedy a hazardous condition. The Contractor shall reimburse the City for the costs of time, equipment, and materials for response to any such call connected with the Contractor's work.

104.6 NO PAY ITEM

Frequently plans, specifications, and/or Special Provisions will identify specific items of work to be completed by the Contractor for which the Proposal does not include a pay item. It shall be perceived in these cases that such work will be completed by the Contractor and all costs for such work shall be considered as subsidiary to the other pay items of work in the Proposal. No claim from the Contractor will be allowed for payment of such work as extra work.

104.7 DETAILS/SILENCE OF CONTRACT

The apparent silence of Specifications, Plans, and Special Provisions as to any detail or the apparent omission from them of a detailed description concerning any point shall be regarded as meaning that only the best general practice of the trade or profession involved is to be used. All interpretations of the project plans, specifications, and special provisions shall be made on the basis stated above.

104.8 APPEARANCE AND CONDUCT

All of the work done on this project will be done in full view of the general public. Citizens' impressions of the Contractor's employees, work procedures and finished product will reflect both on the Contractor and the City of Wichita. For this reason, it is important for the Contractor's employees to present a pleasing appearance and conduct themselves in a proper manner. Any failure to comply with reasonable requirements regarding appearance and conduct may result in the City shutting the job down until the situation is rectified, or dismissal from the job of any Contractor's employee that fails to comply with these requirements.

Acceptable clothing will be jeans or work slacks, T-shirt or standard type shirt-blouse and leather or similar type work shoes. Tank tops, going shirtless, wearing an unbuttoned shirt and shorts will not be allowed.

The Contractor shall inform his employees to respect private property and to not lounge on or litter private property.

104.9 FIELD OFFICE

If the Contract Documents require furnishing a Field Office for use by the Engineer during the course of construction of the project, a Field Office meeting the requirements of "Field Office Special" as contained in KDOT Standard Specifications, shall be provided. Unless otherwise approved, electricity shall be provided from the local power company (not a generator) and an electronic surge protector of the type designed to protect computers and other similar electronic equipment shall be provided. If requested, the phone shall include a portable 900 mhz handset that can be used on the job site in the vicinity of the phone's base unit.

104.10 REPLACEMENT OF SIDEWALK AND CURBS - CONSTRUCTION OF WHEELCHAIR RAMPS

At all locations where existing sidewalks connect to curbs and/or street surfaces and where any such connection (curbing, sidewalk or both) is disturbed by construction activities, such sidewalk connections shall be replaced with wheelchair ramps meeting current City of Wichita and ADA design standards. Such ramps shall be constructed even if not specifically identified on the plans and in the bid quantities. Payment for such wheelchair ramps shall be considered incidental to other pay items unless specifically identified in the project plans and bid items.

It shall be the policy of the Engineering Division to require wheelchair ramp construction:

Whenever sidewalk is constructed or repaired at intersections

- a. Applicable to: Sidewalk Condemnation Program
Utility Cut Repair Program
New Construction
Contract Maintenance Program
- b. Applicable only when walk is constructed or replaced between the curb and private property; that is, no wheelchair ramp shall be constructed when the section of replaced walk is adjacent only to private property.
- c. WCR construction shall be limited to the side of the street where the repair is made.

Whenever curb and gutter is replaced at intersections

- a. Applicable to: Utility Cut Repair Program
Contract Maintenance Program
- b. WCR construction shall be limited to the side of the street where the repair is made.

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SECTION 105

CONTROL OF WORK

105.1 AUTHORITY OF THE ENGINEER

The Engineer will decide all questions which may arise as to the quality and acceptability of materials furnished, the work performed, the rate of progress of the work, the interpretation of the plans and specifications and the acceptable fulfillment of the contract on the part of the Contractor. The Engineer's estimates and decisions shall be final. The Engineer shall have the authority to suspend the work wholly or in part, due to the failure of the Contractor to carry out provisions of the contract, and carry out orders. The Engineer shall also have the authority to suspend the work for periods necessary due to unsuitable weather, for conditions considered unsuitable for the prosecution of work, or for any other condition or reason deemed to be in the public interest.

Upon all questions concerning the execution of the work in accordance with these specifications and the measurements thereof, the decision of the Engineer shall be final.

105.2 SHOP DRAWINGS, MATERIAL SUBMITTALS AND CERTIFICATIONS

The Contractor will be required to submit shop drawings, material certifications, test reports and any other certifications or submittals required by the contract documents to the Engineer for review and approval. Failure to submit required submittals in a timely manner to allow the Engineer sufficient time to review the submittals and/or to allow for sufficient ordering, fabrication and delivery times, shall not be considered sufficient justification to extend the contract time.

105.3 CONFORMITY WITH PLANS AND SPECIFICATIONS

All work performed and all materials furnished shall be in conformity with the lines, elevations, 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 used not in conformity with the plans and specifications, but that reasonably acceptable work has been produced, he/she 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 contract modification which will provide for an appropriate adjustment in the contract price for such work or materials as he/she deems necessary to conform to his/her determination based on engineering judgment.

In the event the Engineer finds the materials or the finished product in which the materials are used or the work performed are not in conformity with the plans and specifications and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by the Contractor at no additional cost to the City.

In all instances wherein the items and/or specifications require installation or construction in accordance with either manufacturers' or suppliers' recommendations and/or instructions, said recommendations and/or instructions shall be submitted with the applicable portion clearly marked for approval prior to the commencement of work on that item or portions of the contract.

105.4 COOPERATION OF CONTRACTOR

The Contractor shall give the work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the Engineer, inspectors, utility companies and other Contractors in every way possible. The Contractor shall at all times be represented on the job site by a competent supervisor capable of understanding the project and authorized to receive and fulfill instructions from the Engineer. The Contractor shall file with the Engineer, the names, addresses and telephone numbers of representatives who can be contacted anytime, in case of emergency. These representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice.

105.5 CONSTRUCTION STAKES, LINES AND GRADES

Unless otherwise specified in the Contract, the Engineer shall set construction stakes establishing lines and grades for the project. The Contractor shall be held responsible for the preservation of all stakes and marks. If construction stakes or marks have been carelessly or willfully destroyed or disturbed by the Contractor, the cost for replacing them will be charged against the Contractor and will be deducted from the payment for the work.

105.6 PRESERVATION OF PROPERTY IRONS AND MONUMENTS

Property Irons

The Contractor shall be responsible for preserving property irons whether or not they are shown on the plans. Any property irons damaged or destroyed by the Contractor shall be re-established by a licensed land surveyor in accordance with state laws. The Contractor shall receive no additional payment for re-establishing property irons damaged or destroyed during construction activities.

Monuments

The Contractor shall protect from disturbance or damage all section and survey monuments until the Engineer has witnessed or otherwise referenced their location and shall not remove them until directed.

105.7 INSPECTION

Inspectors may be appointed whose duties shall be to point out to the Contractor any neglect or disregard of these specifications. The Contractor is not relieved of responsibility for defective work, errors, imperfections or oversights in his product by the inspector. Final acceptance or rejection of the work shall be made by the Engineer.

Notice of any imperfections in any portion of the work to any foreman or agent shall be considered as notice to the Contractor.

105.8 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK, AND CORRECTION OF DEFECTS

Generally unauthorized work is work performed beyond the limits indicated by the lines and grades shown on the plans or other terms of the contract, beyond the limits defined by the stakes set, or it is extra work not authorized by written agreements. Such work is not subject to compensation and may at the discretion of the Engineer be ordered removed or otherwise corrected by the Contractor at his/her expense.

Defective work is work which does not conform to the requirements of the contract or work in which defective materials have been incorporated. Upon written order, by the Engineer, the Contractor shall be required to remove and replace or otherwise satisfactorily correct defective work as directed. Upon failure of the Contractor to comply with such orders, the Engineer may have such defective work removed or replaced, or otherwise corrected. All costs incurred by such actions may be deducted from any monies due or which may be due the Contractor. In some instances of defective work, such as surface courses, base courses, and similar items of work which have minor defects as constructed or have been constructed with materials having minor defects, the Engineer has the right to permit such work to be left in place without any compensation to the Contractor or to make payment to the Contractor at a reduced rate from the contract price, which the Engineer may deem a reasonable value of the work.

During the course of construction of the project, the Engineer will notify the Contractor of identified defects. Upon substantial completion of major components of the project and/or the entire project, the Engineer will provide the Contractor a written list of identified defects. The Contractor shall be required to correct and/or properly address all defects within the required contract completion time, unless the Engineer grants an exception in writing. Failure to correct defects promptly may result in liquidated damage charges to the Contractor for failure to complete all work within the specified time.

105.9 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 so that the roadway or structures are kept in satisfactory conditions at all times.

In the case of a contract for the placement of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations. All cost of maintenance work during construction and before the project is accepted shall be included in the unit bid price on the various pay items, and/or in the lump sum price for the project.

If the Contractor, at any time, fails to perform maintenance during construction, the Engineer will immediately notify the Contractor of such noncompliance. If the Contractor fails to remedy unsatisfactory maintenance which is not a threat to public safety within 24 hours after receipt of such notice, the Engineer may immediately proceed to maintain the project. The entire cost of this maintenance will be deducted from monies due or to become due the Contractor on his contract. If the Contractor's failure to maintain the project is deemed by the Engineer to be an immediate threat to public safety, the Engineer shall immediately proceed to maintain the project and correct the problem.

105.10 ACCEPTANCE

Partial Acceptance

If at any time during the prosecution of the project the Contractor substantially completes a unit or portion of the project, such as a structure, utility service, or a section of road or pavement, he may request the Engineer to make final inspection of that work. If the Engineer finds, upon inspection, that the work has been satisfactorily completed in compliance with the contract he may accept the work as being completed. Such partial acceptance shall in no way void or alter any terms of the contract.

Final Acceptance

Upon due notice from the Contractor of presumptive completion of the entire project, the Engineer will make an inspection. If all construction provided for and contemplated by the contract is found completed to his satisfaction, that inspection shall constitute the final inspection and the Engineer will make the final acceptance. The Contractor will be notified in writing of this acceptance as of the date of the final inspection.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the Engineer will give the Contractor the necessary instructions for correction of same and give the Contractor a reasonable and specific length of time in which to correct such unsatisfactory work. The Contractor shall immediately comply with and execute such instructions. Upon correction of the work, another inspection will be made which shall constitute the final inspection provided the work has been satisfactorily completed. In such event, the Engineer will make the final acceptance and notify the Contractor, in writing, of this acceptance as of the date of the final inspection.

SECTION 106

CONTROL OF MATERIALS

106.1 SOURCE OF MATERIALS AND QUALITY

All construction materials to be used on the work or incorporated into the work, equipment, plant, tools, appliances or methods to be used on the work shall be subject to the inspection and approval or rejection of the Engineer.

The materials used on the work shall meet all quality requirements of the contract. In order to expedite the inspection and testing of materials, the Contractor shall notify the Engineer of the proposed source of materials prior to delivery. At the option of the Engineer, materials may be approved at the source of supply before delivery is started. If it is found after trial that sources of supply for previously approved materials do not produce specified products, the Contractor shall furnish materials from other sources.

Unless otherwise noted, all materials used in the project shall be new and unused. Additionally, any new materials used in the project that are damaged during the construction of the project and prior to final acceptance, as determined by the Engineer, shall be replaced by the Contractor with new material at no additional cost to the City.

106.2 SAMPLES AND TESTS OF MATERIALS

All materials to be incorporated in the work may be subject to sampling, testing and approval, and samples furnished shall be representative of the materials to be used. The Engineer may select samples, or may require that samples be delivered by the Contractor to a laboratory designated by the Engineer.

The procedures and methods used to sample and test materials will be determined by the Engineer. Generally, testing methods and procedures will follow established criteria (ASTM, AASHTO, KDOT, etc.) or will be contained in the project specifications.

Unless otherwise designated, where one manufacturer's product is specified, it shall be understood that this represents the standard required, but that a similar product of another manufacturer may be considered as a satisfactory substitute and may be approved. If the Contractor desires to use such an "or equal" product, pertinent information on the proposed substitute product (description, catalog cuts, shop drawings, samples, etc.) shall be submitted to the Engineer for review and either approval or rejection, in a timely manner so as not to delay the projects construction after "rejection".

106.3 PLANT INSPECTION

The Engineer may undertake the inspection of materials at the source. In this event, the following conditions shall be met:

- a) The Engineer shall have the cooperation and assistance of the Contractor and the producer with whom he has contracted for materials.
- b) The Engineer 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.

106.4 STORAGE OF MATERIALS

The Contractor shall provide storage facilities and exercise such measures as will insure the preservation of the quality and fitness of all materials and/or equipment to be used in the work. Stored items shall be located so as to facilitate their prompt inspection. That portion of the right-of-way and easements not required for public travel may be used for storage purposes, when approved by the Engineer. Any additional storage area as required must be provided by the Contractor. Private property shall not be used for storage purposes without written permission of the owner or lessee. If requested, by the Engineer, copies of such written permission shall be made available. All storage areas shall be restored to their original condition at the Contractor's expense.

106.5 HANDLING MATERIALS

All materials and/or equipment shall be handled in such a manner as to preserve their quality and fitness for the work.

106.6 UNACCEPTABLE MATERIALS

All materials and/or equipment not conforming to the requirements of the specifications, whether in place or not, may be rejected. Rejected materials and/or equipment shall be removed immediately from the site of work unless otherwise permitted by the Engineer. No rejected material and/or equipment, the defects of which have been subsequently corrected, shall be used until approved, in writing, by the Engineer.

SECTION 107

LEGAL RELATIONS AND CONTRACTOR RESPONSIBILITIES

107.1 LAWS TO BE OBSERVED

The Contractor shall keep fully informed of all Federal and State laws, County and City ordinances, regulations, codes, and all orders and decrees of bodies or tribunals having any jurisdiction or authority, 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, codes, and all 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 such, whether by the Contractor or the Contractor's employees or subcontractors.

107.2 PERMITS, LICENSES AND TAXES

The Contractor shall obtain all necessary permits and licenses, pay all charges, fees and taxes, and give all notices necessary for the lawful prosecution of the work. Required permits from the Corps of Engineers (404), the Division of Water Resources (work in or near waterways), the Kansas Department of Health and Environment (401 and National Pollution Discharge Elimination System (NPDES)), Sedgwick County and railroads may have already been obtained by the City or developer. It is the Contractor's responsibility to ensure that all required permits have been obtained prior to commencing work.

107.3 PATENTED DEVICES, MATERIALS AND PROCESSES

If the Contractor employees any design, device, material, or process covered by letters of patent or copyright, the Contractor shall provide for such use by suitable legal agreement with the patentee or owner. 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 obligated to pay by reason or any infringement, at any time during the prosecution or after the completion of the work.

107.4 SAFETY, HEALTH AND SANITARY PROVISIONS

The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for use by the Contractor's employees as may be necessary to comply with all federal, state and local requirements and regulations.

The Contractor shall provide and maintain in a neat and sanitary condition a portable toilet at any worksite where at least five employees will be working for more than one day. Toilet facilities shall comply with all applicable health regulations and shall not cause a public nuisance. Toilets shall not be placed on private property.

The Contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, on his/her own responsibility or as the Engineer may determine, reasonably necessary to protect the life and the health of employees on the job, the safety of the public and to protect property in connection with the performance of the work covered by the contract.

Precaution shall be exercised by the Contractor at all times for the protection of persons (including employees) and property. The Contractor shall comply with the provisions of all applicable laws, pertaining to such protection including all Federal and State occupational safety and health acts, and standards and regulations promulgated thereunder.

107.5 USE OF FIRE HYDRANTS

Contractors desiring to use water from public hydrants will be required to make application to the Water and Sewer Department, pay all permit and use fees, and conform to the rules and regulations pertaining to using hydrants.

107.6 SANITARY SEWER OVERFLOWS

A sanitary sewer overflow is defined as any spillage of untreated sewage from any public or private sanitary sewer line. Examples of sewage overflows are - damaging or shattering a sewage line or manhole that allows untreated sewage to flow aboveground or underground outside of designated sewage lines or manholes; blocking sewage flow in any manner that causes sewage to overflow existing sewer lines or manholes, or that causes backups in adjacent sewer lines, building lines, and buildings; cutting, damaging or misdirecting bypass pump lines that allow or cause a raw sewage spillage; failure to provide adequate pumping capacity or backup capabilities when pumping sewage around one or more pipe sections or manholes; allowing or causing raw sewage to flow anywhere other than in approved sewage lines; and allowing or causing sewage to flow in an open, exposed condition, whether contained or channeled within existing sewage lines and structures or not, in such a manner that could cause a safety or health attractive nuisance to the general public (ex., broken top of an exposed line that could be easily accessed by children).

Anytime a Contractor working on any type of project, is working on, near, or in reasonable proximity to an existing, functioning sanitary sewer line, the Contractor will be expected to have properly planned and addressed how the Contractor will pump sewage, bypass existing lines or manholes being constructed or reconstructed and/or damaged by construction, and what emergency procedures the Contractor will follow if a sewage overflow or bypass occurs. The Contractor shall discuss the plan with the project inspector or field engineer prior to beginning work. If requested by the inspector or engineer, the Contractor shall submit a plan for review and approval. However, approval of the Contractor's plan shall not relieve the Contractor from all responsibility for ensuring that the plan is sufficient to prevent and address sewage bypasses and overflows, and from all liabilities, costs and penalties that may result from a sewage overflow. The Contractor must receive approval from the project inspector or engineer prior to commencing any pumping or bypass operations.

If a sanitary sewage overflow occurs, the Contractor shall immediately take whatever steps necessary to correct the problem, to contain and cleanup the spillage, and to properly dispose of spillage material. If any bypass or spillage occurs, the Contractor shall immediately notify the project inspector and project engineer. If the project inspector or engineer is unavailable, the Contractor shall call the Sewer Maintenance Division of the Water and Sewer Department (during normal working hours call 268-4024, at other times or in an emergency call 262-6000).

The Contractor will be required to pay, at no additional compensation from the City, any actual costs the City may incur in investigating and verifying the spillage, any actual costs the City may incur in assisting in or performing containment and cleanup of the spillage, and any penalties that may be assessed as a result of the spillage or overflow.

107.7 WORK WITHIN A RAILROAD RIGHT-OF-WAY

When a railroad right-of-way is included in the work, the Contractor shall:

- a) Comply with the rules and regulations of the railroad company relative to the required manner of constructing said portion of the work; and shall perform the work so as not to endanger or interfere with the safe operation of the track(s) and property of the railroad company and of the traffic moving on such track(s).

- b) Carry the kinds and amounts of insurance and bonds required by the railroad company for the period of time in which work is performed on or adjacent to the railroad company's property, and until such work has been satisfactorily completed and all tools, equipment and materials have been removed from the railroad company's property and such property is left in a clean and presentable condition.
- c) Contact the railroad company at least 72 hours in advance of performing any construction within the right-of-way or any track(s).
- d) Any and all contractors or City personnel who will be working within four feet of track rail will attend a safety program administered by the railroad.

107.8 NOTIFICATIONS BY CONTRACTOR

The Contractor will be required to give advance notification of construction activities to all concerned parties per the following:

- a) Prior to beginning construction: Public Safety Departments (police, fire, emergency communications, EMS), U.S. Post Office, and all utility companies which occupy the right-of-way or easement where construction work will take place.
- b) If any major traffic streets are to be partially or wholly closed - notify and request authorization through the Traffic Engineering Section of the City Engineer's office. Major street closings, unless of an emergency nature, require City Council approval. Requests for closures should be submitted a minimum of 13 days prior to the requested closure date.
- c) For all projects that may affect the adjacent property owner, tenant or business - A minimum of ten (10) days advance written notice will be provided to all adjacent property owners, businesses and tenants. The notification letter and/or format may be provided by the Engineer. In any case, the notification shall include at least the following information: name of contractor, contractor's contact person and phone number, nature of the work, expected construction schedule, effect the construction may have on adjacent property (e.g. limited access, detour routes, interruption of water service, etc.), and the contact person with the City.
- d) The City shall notify media.

107.9 WORK ZONE TRAFFIC CONTROL

General

All construction traffic control signing or delineation for this project shall conform to the applicable requirements of the latest revision of the Manual on Uniform Traffic Control Devices (MUTCD) developed by the National Advisory Committee on Uniform Traffic Control Devices and in particular to Part VI of said manual.

Traffic Control Devices

The Contractor shall provide, erect, and maintain all barricades, signs and other traffic control devices, and shall take all necessary precautions for the protection of the work area and safety of the public. The Contractor shall also provide, erect, and maintain any additional signs or barricades related to the construction area or detour route as required by the Engineer. All such required signs or barricades shall be considered subsidiary to the traffic control bid item.

- a) Temporary traffic control devices shall be used to guide traffic through construction areas. They include traffic cones to channelize traffic, portable barricades for warning, vertical panel channelizing devices to divert traffic, and lighting devices between the hours of sunset and sunrise.

- b) Advance warning devices shall be used to alert the motorist of an obstruction in the roadway. They include diamond-shaped signs and flasher-type high level warning devices mounted eight feet (8') above the roadway.

All construction traffic control signs and barricades shall be reflectorized with either Type II high performance of fluorescent orange prismatic grade sheeting as required.

Flagger or Pilot Cars

Flagger or pilot cars shall be provided to ensure the safe passage of traffic.

Traffic Control Measures

The application of all traffic control measures shall be based primarily upon the conditions existing at the time that such measures are deemed necessary. Prior to the start of any work that would interrupt the normal flow of traffic, sufficient and adequate devices and measures shall be provided and erected as directed by the Engineer. These devices shall be immediately removed when no longer needed.

General Traffic Regulations

A traffic lane shall be a minimum of ten feet (10') of clear street width with a safe motor vehicle operating speed of at least 30 miles per hour on major streets and 20 miles per hour on local streets and alleys.

A minimum of two traffic lanes, one for each direction, shall be maintained open to traffic at all times on all major streets, unless otherwise specified.

Local access shall be maintained to all properties on the project at all possible times. When local access cannot be maintained, the Contractor must notify the affected property owner at least 24 hours in advance and restore access as soon as possible.

A traffic lane shall not be considered as satisfactorily open to traffic unless it is paved with hot mix or cold mix asphalt paving. Where pavement did not previously exist or where all of the existing pavement has been removed, a traffic lane shall not be considered as satisfactorily open to the traffic unless it is graded reasonably smooth and maintained dust free as directed by the Engineer.

The Contractor shall maintain all existing STOP, YIELD, and street name signs erect, clean, and in full view of the intended traffic at all times. If these signs interfere with construction, the Contractor shall temporarily relocate the signs away from the construction but still in full view of the intended traffic. Existing traffic signs other than STOP, YIELD, and street name signs shall be maintained by the Contractor until such time as construction renders them obsolete. At that time the Contractor shall remove signs and posts without damage and deliver them as directed by the Engineer.

A Contractor, who wishes to reduce traffic speed in the work zone, is required to contact the City Traffic Engineer, present their reasoning and identify proposed location of temporary speed limit signs.

Subject to the approval of the Engineer, the Contractor shall furnish and install the Construction Zone Speed Limit Signs. The Contractor shall maintain the signs erect, clean, and in full view of the intended traffic at all times. Should the signs interfere with construction, the Contractor shall relocate the signs as necessary.

Minimum Requirements

The following information is to be used to control traffic in and around construction areas unless specific traffic control is detailed in the project plans or specifications. The information given should be considered the minimal requirements and may be modified on the job by the Engineer and must conform to the latest version of the MUTCD.

A minimum list of signs that may be required by the construction operations as directed by the Engineer are as follows:

Road Work Ahead*
Right or Left Lane Closed Ahead*
No Right or Left Turn**
Keep Right or Left**
Road Closed Ahead*
Detour Ahead*
Detour
Road Closed
End Construction

* Required in advance of the construction area

** To be used whenever confusion might exist over how traffic should flow, especially at intersections as required.

This list should not be considered all inclusive, and other work zone signs may be required to fit special situations as directed by the Engineer or at the Contractor's discretion.

Signs, barrels and barricades should be clean, reflective and in sound condition, weighted as required to prevent movement. All black on orange warning signs used in the construction area will be required to use fluorescent orange prismatic grade retro-reflective sheeting. All other signs, barrels and barricades used in the construction area will be required to be reflectorized with Type II high performance sheeting. Use of Engineer grade retro-reflective sheeting on signs and barricades is no longer acceptable. Tapers left in place overnight must consist of barrels or Type II barricades. Cones shall not be used for night-time traffic control.

The following table is for the distances from the start of the taper to the lane closure sign and from that sign to and between other advance warning signs:

<u>Speed Limit, MPH</u>	<u>Distance</u>
30 or less	200'-300'
35	300'-350'
40	350'-400'

The sign spacing should be adjusted to fit conditions in the field, such as intersections, driveways, curves, hills and sight obstructions. In no case shall the spacing of the advance warning signs be less than identified in the above table. Unless directed by the Engineer, all advance warning signs shall be placed in the parking, **NOT on the pavement**. On one-way streets identical signs should be placed on both sides of the street. Generally, more advance warning should be given if traffic is being moved over more than one lane or if the road curves.

Detour Routes

If necessary, the Traffic Engineer shall establish detour routes and the Contractor will be required to install and maintain detour route signing. The Contractor shall notify the Traffic Engineer sufficiently in advance of starting the project to permit the detour route to be identified.

Traffic Control Plans

The Contractor will be required to develop plans for detour signing and for construction traffic control signing and delineation for the project. Construction traffic control signing and delineation plans and detour signing plans shall be prepared as scaled drawings using the same scale as the project construction plans. Such plans shall be developed in consultation with the City's Construction Engineer and The City's Traffic Engineer, or their authorized representatives, in conformance with the Contractor's proposed construction sequence and schedule. Such plans shall be developed prior to any work proceeding on the project which would create a hazard to vehicular traffic. The Engineer may shut down job until traffic control is in compliance. To insure the safety of the traveling public, the Contractor will be charged liquidated damages

for failure to maintain signing and delineation in compliance with the plans developed for the project. Such liquidated damages shall be as specified for the completion of work on the project and will be charged for each calendar day during which the signing and delineation is not maintained in compliance with the developed plans for a period of time in excess of two hours in any one calendar day. Costs for installing, maintaining, and removing traffic control signing and delineation shall be subsidiary to other bid items.

107.10 DAMAGES AND OBSTRUCTIONS

The Contractor shall be responsible for all damages to public or private property and utilities caused by the Contractor's construction or construction-related activities throughout the contract and warranty time. The Contractor will be required to replace all damaged City infrastructure (pavement, sidewalk, water lines, sewer lines, etc.) at no cost to the City.

107.11 SITE RESTORATION

The Contractor shall be responsible for the restoration of public and private property disturbed, modified or damaged by construction-related activities. Yards, grassed and landscaped areas shall be restored in an equal to or better condition per the requirements of the City of Wichita's Administrative Regulation 78, unless specifically directed otherwise by the project plans, specifications or special provisions.

Administrative Regulation 78 - Cleanup, Restoration or Replacement Following Construction is provided in total as follows:

The purpose of this Regulation is to define and establish the policy, procedures and requirements of the City as they pertain to the cleanup, restoration or replacement of private and public properties, including easements, rights-of-way, etc., when damaged (disturbed) by City personnel, contractors or franchises.

It shall be the policy of the City to ensure prompt and correct restoration of areas damaged (or disturbed) by construction activities. The prompt restoration and cleanup of such areas will prevent blight and visual degradation of property, lawns and turfs damaged by construction, and promote proper maintenance of such areas by the property owners.

Responsibilities

The Department head involved in the project either by city personnel or by contract administration, shall be responsible to the City Manager for the implementation and coordination of the requirements of this Regulation. The City Manager may designate City departments and individuals within departments to administer, monitor and enforce the policies and requirements of this Regulation.

Any person or persons authorized to engage in construction activities in the City's right-of-way, or public easements, including, but not limited to, utility contractors, subcontractors, drainlayers and City maintenance personnel (i.e.; Street, Water/Sewer, Traffic, Parks) shall be responsible for the proper and expeditious restoration of lawn/turf that may be damaged, removed or disturbed by construction and maintenance activities.

Requirements

- a. All contracts issued by the City shall contain standard provisions, approved by the City Attorney, to assure that contractors and persons performing work on behalf of the City will clean and restore City right-of-way and adjacent property to the condition it was prior to construction.
- b. The City will require complete and proper cleanup, restoration of construction work areas in the City's right-of-way, public easements and property adjacent thereto, by the person or persons responsible for the construction/maintenance.
- c. Restoration shall include, but not be limited to, cleanup and disposal of materials and debris, regrading to original condition and replacement of lawn/turf damage (or disturbed) from maintenance/construction.

- d. Lawn/turf areas shall be restored with the same grass/sod as existing (wherever possible). Restoration may include, but not limited to, top soil preparation, seeding, mulch and/or resodding. (It is the intent of this provision that in case of planted areas, the Contractor will restore such areas to their original (or better) condition using techniques and material which will provide for complete restoration.)
- e. Restoration of lawn/turf areas shall commence as soon as practical after completion of the construction/maintenance work. (The intent of this provision is to ensure that all cleanup, disposal of materials and debris, and grading and leveling of soil be performed immediately upon job completion. Restoration of lawn/turf shall be scheduled as soon as possible depending upon the appropriate time relative to grass species and, where required, upon availability of sod.)
- f. On projects contracted by the City, no final payment shall be paid to the Contractor until final inspection and approval of all cleanup, restoration work is completed in a sound and acceptable manner.
- g. Where possible, all excavation work in finished lawn areas/easements should be performed in such a manner to protect shrubs, trees, sod (not shown or directed to be removed).

All contractors and franchises shall be encouraged to work with property owners to ensure cleanup and restoration work is performed to the reasonable satisfaction of the property owner. However, such agreement will not relieve the Contractor from provisions and expectations of the contracted work to be performed.

City inspection personnel will be charged with the responsibility to assure compliance of this Regulation.

107.12 THIRD PARTY BENEFICIARY

It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of any part of the Contract to create the public or member thereof a third party beneficiary hereunder, or to authorize anyone not party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract. The duties, obligations and responsibilities of the parties of this contract with respect to third parties shall remain as imposed by law.

107.13 ASSIGNMENT PROHIBITED

No part of the work herein shall be assigned or subcontracted without the written consent of the Engineer, and in no case shall such consent relieve the Contractor from the obligations herein entered into by the same, or change the terms of this agreement.

SECTION 108

COMMENCEMENT, PROSECUTION AND PROGRESS

108.1 NOTICE TO PROCEED

The Contract Documents will indicate when the project is to begin. The Engineer will issue a Notice to Proceed (work order) to the Contractor when construction on the project may proceed.

Unless otherwise indicated in the Contract, no work shall begin until the work order is issued and all required contract documents (bonds, insurance certificate, contract, etc.) are signed and submitted to the City Engineer's office. Late return of Contracts and Bonds shall in no way waive the project working days or completion date. The Contractor will ascertain that an adequate supply of material for the construction of this project is available prior to submitting his bid. Working days will be charged as provided for in the Standard Specifications, once the work order is issued. The non-availability of material shall not prevent working days from being assessed.

If requested from and approved by the Engineer, an early start date may be authorized.

108.2 CONTRACTOR'S CONSTRUCTION SCHEDULE

When requested, the Contractor shall furnish the Engineer with a proposed construction schedule for review. If requested by the Engineer the Contractor shall provide the proposed construction schedule in CPM (critical path method) or network schedule format at no additional cost to the City. The Engineer's review of the schedule shall be for the purposes of determining the City's staffing needs, providing notifications and expected work schedules to property owners, media, etc., and to insure general compliance with the Contract Documents relating to phasing and completion of the work. The Engineer reserves the right to reject part or all of the proposed schedule and request that a revised schedule and/or additional information be submitted. Review of a submitted schedule shall in no way be construed as an affirmation or admission that the schedule is reasonable or workable - such responsibilities remain with the Contractor.

The Contractor shall conduct the work at all times in such a manner and sequence that will assure the least interference with traffic and inconvenience to the public. 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.

If, in the opinion of the Engineer, the Contractor has fallen behind the approved progress schedule, the Contractor shall take such steps as may be required by the Engineer, including but not limited to, increasing the number of personnel, shifts, and/or overtime operations, days of work, and/or amount of construction equipment until such time as the work is back on schedule. The Contractor shall also submit for approval no later than seven (7) working days, such supplementary schedule or schedules as may be deemed necessary to demonstrate the manner in which the approved rate of progress will be regained, all at no additional cost to the City.

Should it appear at any time after the Contractor has fallen behind schedule and has not satisfactorily taken whatever steps necessary to return the project to schedule, either on the Contractor's own initiative or at the direction of the Engineer, the Engineer may employ such additional help and purchase material as may be required to complete the work, all at the Contractor's expense.

108.3 CHARACTER OF WORKERS; METHODS AND EQUIPMENT

The Contractor shall at all times employ sufficient labor and equipment for prosecuting the several classes of work to full completion in the manner and time required by the specifications.

All workers shall be competent and have sufficient skill, knowledge and experience in their class of work and in the operation of equipment required to perform all work properly and satisfactorily.

Any person employed by the Contractor or any Subcontractor who, in the opinion of the Engineer, does not perform his/her work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Engineer, be removed from the work 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. The Contractor or Subcontractor shall keep the City harmless from damages or claims for compensation that may occur in the enforcement of this section.

Should the Contractor or Subcontractor fail to remove such person as required above, or fail to furnish suitable and sufficient personnel for the proper prosecution of the work, the Engineer may suspend the work by written notice until such orders are complied with.

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 to produce a satisfactory quality of work. Equipment used on any portion of the project shall be such that it will not damage property adjacent to the work area.

When the methods and equipment to be used by the Contractor in accomplishing the construction are not prescribed, the Contractor is free to use any method or equipment that is demonstrated to be satisfaction of the Engineer to be capable of accomplishing the work in conformity with the requirements of the specifications.

When the specifications state the construction shall 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 of type of equipment other than those specified, 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 the specifications. If, after trial use of the substituted methods or equipment, the Engineer determines that the work produced does not meet the specifications, the Contractor shall discontinue the use of the substitute method 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, or take such other corrective action as the Engineer may direct. No change will be made in basis of payment for the construction items involved nor in contract time as result of authorizing a change in methods or equipment under these provisions.

108.4 CONTRACT TIME AND EXTENSIONS

The Contract Documents will clearly indicate the type of contract period - working day, calendar day, completion date or specified contract period (e.g. yearly utility cut repair contract).

If the Contractor finds it impossible, for reasons beyond the Contractor's control, to complete the work within the contract time, as specified or extended, a written request shall immediately be submitted to the Engineer for an extension of time setting forth the reasons the Contractor believes will justify granting the request. 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 through no fault of the Contractor, the Engineer may extend the time for completion by such amounts as the conditions justify. The extended time for completion shall then be in full force and effect the same as though it were the original time for completion.

108.5 WORKING DAYS

A working day as defined in this section shall be each calendar day, excluding Saturdays, Sundays and City Holidays, on which weather and/or other conditions not under control of the Contractor will permit construction operations to proceed for at least 50% of the normal full work day schedule. For projects where work must be done within the right-of-way on any major street, Saturdays will also be included as Working Days.

The Engineer shall issue to the Contractor a Notice to Proceed stating the date upon which the work should begin. A grace period (normally three days) of the length stated in the specifications or Notice to Proceed, which shall include the effective date of the Notice to Proceed, while excluding Saturdays, Sundays and City Holidays, shall be allowed the Contractor in which to begin work before the Engineer starts counting working days.

Assessment of working days shall be in accordance with the following provisions.

- a) One whole day will be assessed for each working day that the Contractor is not prevented from working at least fifty percent (50%) of his/her full normal daily schedule by weather or other conditions beyond the Contractor's control. Unsuitable cold weather shall be defined for clarification as a temperature in the shade below 20°F, except where the controlling operation being constructed has a controlling minimum temperature above 20°F.
- b) Work which will require inspection by the Engineer shall not be permitted on Sundays. These provisions relative to Sunday work may be waived only with the written approval of the Engineer, in which case working days shall be assessed if inspection is required. Performance of work on Saturdays shall be optional with the Contractor except where such work occurs in the right-of-way of a major traffic street. The Contractor shall be required to work six (6) days per week when completing any work within a major traffic street right-of-way.
- c) Days on which work is delayed or suspended due to acts of the Engineer or the City shall be counted as "City's Delay" and shall not be counted as working days.
- d) Days required after the event of unsuitable weather conditions, storms, floods and other such circumstances beyond the Contractor's control to attain the approximate condition of work before such event shall not be counted as working days.
- e) Delays caused by plant and equipment breakdown when due to failure of the Contractor to provide and maintain such equipment in good mechanical condition or to provide for immediate emergency repairs shall be considered within the Contractor's control and shall **not** be justification for **not** charging working days.
- f) Delays due to slow delivery of materials from the supplier or fabricator for reasons of priority, late ordering, financial arrangements or other such causes shall be considered within the Contractor's control and shall **not** be justification for **not** charging working days.
- g) Additional working days may be granted for additional work created by adding additional items to the contract or by overrunning existing contract items. The Contractor shall, when feasible, make a written request to the Engineer for an extension in the number of working days stating the tentative number of additional working days required with sufficient documentation to establish a claim before starting the extra work.
- h) The Contractor shall be notified, in writing, by the Engineer immediately following the end of each work week as to the number of working days charged in that week. Should the Contractor disagree as to the number of working days charged in that week, the Engineer shall be notified, in writing, within ten (10) calendar days of such notice and the differences shall be settled at the earliest possible date.

- i) During the Christmas/New Year's holiday season, the Contractor may request that working days not be charged for projects let under the working day method. Such request shall be in writing to the Engineer. It shall be at the sole discretion of the Engineer whether to suspend charging working days. The Contractor should not assume that all requests for suspension of charging working days will be approved.

Projects that are let under the calendar day or completion date methods will not be eligible for extensions due to the Christmas/New Year's holiday season.

108.6 FAILURE TO COMPLETE THE WORK ON TIME (LIQUIDATED DAMAGES)

Should the Contractor fail to complete the work within the contract time, including any authorized extensions thereof, the Contractor shall become liable to the City of Wichita for liquidated damages at the rate specified in the following table of liquidated damages for each **working day** that the work remains uncompleted, for projects let under the working day method, and for each **calendar day** that the work remains uncompleted under either the calendar day or calendar date methods; unless stated otherwise in the Contract Documents.

Generally, the City of Wichita shall deduct and withhold liquidated damages from any monies due or coming due to the Contractor. However, if said monies are insufficient to cover the amount owing, then the Contractor or the Contractor's surety shall pay any additional amounts due. This sum shall be considered and treated not as a penalty but as predetermined, fixed, agreed, reasonable liquidated damages due the City of Wichita to compensate for the detriment to the public and to defray expenses incurred by the City due to added cost of engineering, administration, supervision, inspection, and maintenance resulting from failure to complete the work within the time specified in the contract.

By the submission of its bid for this work, the Contractor evidences and warrants to be capable of performing the work within the time specified elsewhere in the Contract documents and shall begin work as specified in the notice to proceed, and that the Contractor and its surety shall be liable for and shall pay the liquidated damages as specified.

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

Neither by the act of taking over the work nor by the annulment of the contract, nor by requiring the surety to complete the contract shall the City of Wichita forfeit the right to recover liquidated damages from the Contractor or the Contractor's surety for failure to complete the contract work within the specified time.

The assessment of liquidated damages as set forth in this section shall not constitute a waiver of the City of Wichita's right to collect any additional damages which the City of Wichita may sustain by failure of the Contractor to carry out the terms of the contract. Additional damage for delays would include, for example, any claims against the City of Wichita caused by the Contractor's failure to complete the contract in a timely manner.

TABLE OF LIQUIDATED DAMAGES

<u>Amount of Original Contract</u>	<u>Damages/Day</u>
Less than \$100,000	\$300.00
\$100,000 or greater, but less than \$500,000	\$500.00
Over \$500,000	\$1,000.00

108.7 DEFAULT OF CONTRACT

The Contractor shall be considered in default of the contract, if but not limited to the following items, the Contractor:

- a) Fails to begin the work under the contract within a reasonable time;
- b) Fails to perform the work with sufficient workers and equipment or with sufficient materials to assure the prompt completion of said work;
- c) Performs the work unsuitably, or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable;
- d) Discontinues the prosecution of the work;
- e) Fails to resume work which has been discontinued within a reasonable time after notice to do so;
- f) At any time colluded with any party or parties;
- g) Becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency;
- h) Allows any final judgment to stand against the Contractor unsatisfied for a period of ten days;
- i) Makes an assignment for the benefit of creditors;
- j) Fails to comply with contract requirements regarding minimum wage payments or applicable requirements regarding equal employment opportunity;
- k) For any other cause whatsoever, fails to carry on the work in an acceptable manner; then the Engineer shall give notice, in writing, to the Contractor, and the Contractor's surety, of such delay, neglect or default, and advise them that the work must be resumed immediately.

If the Contractor or surety, within a period of 14 calendar days after the date of issuance of such notice, has not proceeded in accordance therewith, then the City will, upon written notification from the Engineer of the fact of such delay, neglect or default and the Contractor's failure to comply with such notice, have full power and authority without violating the contract to take the prosecution of the work out of the hands of the Contractor. The City may appropriate or use any or all materials and equipment on the ground as may be suitable and acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the Engineer will be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by the City, together with the cost of completing the work under contract, will be deducted from any monies due or which may become due said Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the City the amount of such excess.

108.8 DEFERMENT OR CANCELLATION OF CONTRACT

The City may defer or cancel the Contract or any portion thereof if conditions encountered during the progress of work make it impossible or impracticable to proceed with the work, if there are reasons beyond the Contractor's control that prevent proceeding with or completing the work as originally contemplated, if a local or national emergency exists, or if deferment or cancellation is determined by the City to be in the public interest.

When any Contract, or any portion thereof, is deferred or canceled before completion of all work in the Contract, payment shall be made for the actual items of work completed and accepted, or as mutually agreed for pay items of work partially completed or when no unit prices are included in the Contract. No claim for loss of anticipated profits will be considered.

Deferment or cancellation of the Contract or any portion thereof shall not relieve the Contractor of responsibilities for the completed work nor the surety of its obligation for and concerning any just claims out of the work performed.

SECTION 109

MEASUREMENTS AND PAYMENTS

109.1 SCOPE OF PAYMENT

Payment for the various items in the Proposal will be made in accordance with the type of contract (lump sum, lump sum plus measured quantities, measured quantities, unit price measured quantities, etc.), and shall be compensation in full for furnishing all labor, materials, equipment and appurtenances necessary to complete the work in a satisfactory manner as shown on the plans and as required in the specifications, with all connections, testing, and related work completed. Each item, fixture, piece of equipment, etc., shall be complete with all necessary connections and appurtenances, for the satisfactory use and operation of said item. No additional payment will be made for work related to any items unless specifically called for in the Proposal. This compensation shall also cover all risk, loss, damage or expense of whatever character arising out of the nature of the work or the prosecution thereof.

109.2 LUMP SUM BID ITEMS

When a lump sum bid item is included in the Contract, the price bid for such item shall include all labor, materials, equipment, and any other items required to fully construct and complete the bid item.

Unless otherwise specifically covered elsewhere in these specifications, the Contract Documents, or when there are one or more specific pay items normally covered under "Clearing Right-of-way and Site Preparation" or "Site Restoration", the lump sum bid for these items shall include the following:

- a) **Clearing Right-of-way and Site Preparation** - All costs for removing existing street pavement, driveway, entrance and crossroad drainage pipes, sidewalks, storm sewer pipes, mailboxes, fences, inlets, trees, hedge, shrubs and any other items requiring removal to facilitate construction of the project. Construction of temporary roadways shall also be included in site preparation, unless otherwise specified.
- b) **Site Restoration** - All costs for constructing, replacing, or reconstructing gravel roadways, mailboxes, seeding, fertilizing, mulching, ditch grading, area grading of the work area, removal of temporary roadways, and any other such items requiring replacement or restoration for which a pay item is not provided in the proposal. Mulching and seeding shall be done in accordance with the "Landscaping and Seeding" section of these specifications, unless otherwise specified. Gravel road reconstruction shall be completed using a minimum total thickness of four inches of road gravel of a type approved by the Engineer.

Quantities

Bid Proposals and project plans may or may not provide a breakdown of estimated quantities. If quantities are provided, they are an estimate only - the Contractor should make a thorough investigation of the site to determine actual quantities of work to be done.

The Contractor will be required to furnish, to the Engineer, a breakdown estimate for all lump sum bid items in the Proposal prior to starting work, unless otherwise approved by the Engineer. Such breakdown estimates will require approval by the Engineer. Breakdown estimates which are unbalanced in the opinion of the Engineer will not be approved.

109.3 MEASUREMENT OF QUANTITIES

When work items are measured to determine exact quantities of work completed for interim or final payments, standard units of measurement shall be used per the bid item and/or as specifically defined in the applicable section() of these specifications.

109.4 ASSIGNMENT OF PAYMENTS

The contract shall not assign payments of a contract or any portion thereof without approval of surety and written consent of the City. Any assignment of money shall be subject to all proper set off and withholdings in favor of the City and to call deductions provided for in these specifications.

109.5 CONTRACT PAYMENT TYPE

Unless otherwise specified in the contract documents, most projects let and contracted for through the City Engineer's office will be one of the five types described as follows.

Lump Sum

A lump sum price contract shall mean that the Contractor shall perform all the work identified in the project plans and specifications for the total lump sum amount bid. Quantities provided in the bid documents are estimates only and cannot be used as a basis for drawing additional payment for work that is identified in the project plans and specifications.

Lump Sum plus Measured Quantities

Shall be the same as lump sum as described previously except one or more bid items may be identified as measured quantities for which payment shall be based on the actual, measured quantities of work completed.

Measured Quantities

A measured quantity contract shall mean that payment for all bid items, except lump sum bid items, will be based on actual measured quantities.

Unit Price

Shall be the same as Measured Quantities, except that quantities provided in the bid proposal are estimates only and are used for the purpose of comparing bids and awarding a contract. The actual quantities of work to be done may vary significantly from the bid quantities. This type of contract and payment is frequently used for maintenance type projects where budget are set, but the actual amount and extent of work may vary.

Unit Price plus Contract Period

Shall be the same as Unit Price, except that the contract will also included a provision for a set period of time that the unit prices bid and the Contract is valid. Frequently used for repetitive and ongoing work such as sidewalk replacement and utility cut patching.

109.6 PARTIAL PAYMENTS AND RETAINAGE

Partial Payments

Throughout the course of the construction of each project, partial payments may be made at periodic intervals generally not exceeding one calendar month, provided work was prosecuted during the time period from the previous payment. The City reserves the right not to make partial payments in increments less than \$1,000 and for total project with short completion times or total contract amounts of less than \$10,000.

Partial payments shall be made on the bases of actual or estimated quantities of work completed, or a percentage of total work completed, as determined by the Engineer.

Partial payments may be made to the Contractor for stored material when requested. Such requests shall be in writing to the Engineer and shall include sufficient documentations for the engineer to determine if such a request should be granted and the reasonable amount of payment. Approval of such requests shall be at the sole discretion of the Engineer.

Retainage

Unless otherwise specified, five percent (5%) shall be retained from all partial and final payments until the project is entirely complete and accepted by the City. The project shall not be considered completed and accepted until all work required by the specifications is completed to the satisfaction of the Engineer, all defects have been corrected and all required certifications and affidavits are submitted and approved by the City.

At the sole discretion of the Engineer, partial or final Retainage may be reduced and partial or conditional certificate of completion may be issued for partial work that is fully completed and functional for use by the public.

109.7 ACCEPTANCE AND FINAL PAYMENT

When the improvement provided for in the contract has been completed by the Contractor, and the Engineer has made a final inspection, the Engineer shall issue a written final acceptance.

Upon concurrence from the Contractor, in writing, agreeing on the total payment due the Contractor, and upon submitted and acceptance of all certificates, affidavits, list of subcontractors and suppliers, project catalogs, operating manuals, test results and material certifications, and any other submittals required by the contract documents or the Engineer, final payments shall be made to the Contractor.

The two (2) year maintenance provision whereby the Contractor is liable for any latent defects or failures shall commence on the date of the written final acceptance.

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