

100 GENERAL PROVISIONS

101 INFORMATION AND INSTRUCTIONS TO BIDDERS

101.01 Submission of Bids. Sealed Bids for the Work will be received by the City of Springfield at the office of the Purchasing Agent until the date and time set in the Notice to Bidders, at which hour the Bids will be publicly opened and read aloud. Bidders or their representatives are invited to attend the bid opening.

101.011 Each Bid must be submitted in a sealed envelope, addressed to the Purchasing Agent at City Hall. Each sealed envelope containing a Bid must bear on the outside the name of the Bidder, the Bidder's address, and the title of the Work for which the Bid is submitted.

101.012 The City of Springfield will not be held responsible if a Bid is opened prior to the opening time and date due to improper identification on face of envelope.

101.013 Bids to receive consideration must be received PRIOR to the specified time of opening and reading of Bids as designated in the Legal Notice. Bids received later than this time and date will not be considered.

101.014 All Bids must be made on the forms furnished by the CITY as none other will be acceptable. All blank spaces for Bid prices must be filled in, and the Bid form must be fully completed and executed when submitted. If there is an error made in the extensions, by the Bidder, the total shall be changed as only the unit price shall govern. Bids must have an original signature where a signature is required.

101.015 The Bid shall be legibly prepared with ink or typed. Bids having any erasure or corrections thereon may be rejected unless explained or noted over the signature of the Bidder.

101.016 Facsimile transmissions of formal sealed bids will not be accepted.

101.017 The submitted bids shall include:

- a. Two (2) complete sets of the Bid Sheet, Warranty/Guarantee, and technical literature, if applicable.
- b. One (1) copy of all other items required by the bid specifications.

101.018 If a pre-bid meeting has been planned or is mandatory, it will be noted in the detailed technical specifications.

101.02 Bid Identification. Every Bid submitted shall contain the full name and address of the Bidder, and shall specify whether the Bidder is an individual, partnership,

association or corporation. Each Bidder shall further set forth the names and addresses of every person, partnership, or firm, if any other than the Bidder, who might be interested in the Bid or any contract or benefit which might accrue therefrom.

101.03 Bid Security (Bond). Each Bid submitted shall be accompanied by a Bid Bond (form provided) in the amount of ten percent 10% of the total amount of the Bid. A certified check or a cashier's check drawn upon a solvent bank and made payable to the treasurer of The City of Springfield, for like amount, may be used in lieu of Bid Bond, but subject to all the conditions enumerated therein. Every Bid Bond shall be executed by an authorized Surety licensed to do business in the State of Ohio, with a properly executed "Power-of-Attorney" authorizing the attorney-in-fact to bind the Surety and certified to include the date of the Bond. The Obligee therein shall be The City of Springfield, Ohio. The Bid Bond shall have original signatures and notary seal. Copies of the Bid Bond will not be accepted.

101.031 In case of alternate bids, only one Bid Bond will be required provided the same is in the amount equal to at least ten percent (10%) of the highest gross bid.

101.032 Nonconstruction Bids shall require a 5 percent (5%) Bid Bond.

101.04 Performance and Payment Bonds. The successful Bidder shall furnish and pay for Bonds covering the faithful performance and payment of all obligations under the Contract Documents. Performance and Payment Bonds or a certified check on a solvent bank payable to the Treasurer of the City of Springfield, Ohio, each in the amount of one hundred percent (100%) of the Contract Price will be required. Bonds shall be executed on the forms included with the Bid Documents and with such Sureties as are licensed to do business in the State of Ohio, with a properly executed Power-of-Attorney, authorizing the attorney-in-fact to bind the Surety and certified to include the date of the Bond.

101.041 Bonds shall be in a specific amount equal to not less than 100% of the amount of the contract award.

101.042 Bonds shall remain in full force and effect for the period of time as set forth in the General Conditions, paragraph "Guarantee" (103.41)

101.043 Successful Bidder shall execute and deliver said Bonds and properly executed Contract to the City Law Director within ten (10) days after Notice of Award as successful Bidder has been given. Failure or neglecting to deliver said Bonds as specified shall be considered as having abandoned the Contract and the Bid Security will be retained by the City as liquidated damages.

101.05 Non-collusion Affidavit and Disqualification. Bidder shall execute a Non-Collusion Affidavit on form furnished by the CITY, a copy of which is provided in the Bid Documents. No Contract shall be deemed to be fully executed until said Affidavit has been properly executed.

101.051 The City reserves the right to disqualify Bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of the Bidder(s).

101.06 Affirmative Action Assurance Plan. CONTRACTOR shall be required to have an Affirmative Action Plan which declares that it does not discriminate on the basis of race, color, religion, creed, national origin, ancestry, sex, or age and which specifies goals and target dates to assure the implementation of that plan. All Bidders whose Bids will be for \$15,000.00 or more shall submit as part of their Bid Documents the information requested on the "Affirmative Action Assurance Forms."

101.07 Taxes. Bidders are to be advised that materials purchased for this contract are exempt from Sales Tax under Ohio Revised Code 5739.02 and material prices quoted should reflect such exemption. The City will furnish necessary Certificates of Exemption upon request.

101.08 Municipal Income Tax. Before beginning Work on the Project, the CONTRACTOR and all Subcontractors shall:

a. Contact the Income Tax Bureau of the City of Springfield, Ohio, for the purpose of establishing an account number with the Bureau. To obtain the proper City tax forms or have specific questions answered, please contact the Income Tax Division at (937) 324 7699 or (937) 324-7306.

b. Furnish such information as may be legally required by the Income Tax Bureau.

c. Comply with all ordinances of the City of Springfield, Ohio pertaining to Municipal Income Taxation, including the filing of income tax returns covering net profit and withholding reports on all employees subject to the tax and shall pay all said tax found to be due.

d. If the CONTRACTOR or Subcontractor shall fail to comply with these provisions, the CITY will withhold payment for Work or services until such compliance has been effected.

101.09 Questions and/or Changes to Bid Documents. Submit all questions about specifications to the Engineering Department or appropriate Buyer of the City of Springfield, in writing. To the extent possible, copies of all changes will be issued to all Bidders of record as addenda. All such changes or Addenda shall become part of the Contract and all Bidders shall be bound by such changes or Addenda whether or not received by the Bidder.

101.091 Copies of all addenda issued will be available for inspection and will be on file in the office of the Purchasing Agent. It shall be the Bidder's responsibility to make inquiry as to changes or Addenda issued.

101.092 Only a written interpretation, clarification or correction by Addendum, shall be binding. No Bidder shall rely upon any interpretation, clarification or correction given

by any other method.

101.093 Any inquiry received within a reasonable time prior to the date fixed for the opening of bids will be given consideration.

101.094 The CITY reserves the right to postpone the bid opening.

101.10 Subcontractors / Material Suppliers. The low Bidder shall supply the names and addresses of all major material suppliers and Subcontractors when requested to do so by the CITY. All materials must meet the approval of the ENGINEER and a sample of said materials with the manufacturer's specifications shall be submitted when requested by the CITY.

101.11 Withdrawal of Bid. Any Bid may be withdrawn prior to the scheduled time set for the opening of Bids or authorized postponement thereof, if withdrawal is requested in person by a Bidder or his authorized representative. The Bidder or his authorized representative must sign a receipt for withdrawal of the Bid. Sealed bids may be submitted again prior to bid opening. No Bidder may withdraw a Bid within sixty (60) days after the actual date of the bid opening. Should there be reasons why the Contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the City and the Bidder.

101.12 Qualifications of Bidders. Upon request, by the City, Bidders must furnish satisfactory evidence of their ability to do the class of Work required and have the necessary equipment available to do the Work. The City reserves the right to reject any Bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the CITY that such Bidder is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.

101.121 Bidders who have not previously been awarded a Contract in the City of Springfield are required to state what Work of a character similar to that included in the proposed Contract the Bidder has done to give references and such other detailed information as will enable the ENGINEER to judge the Bidder's responsibility, experience, skill and financial resources required for the performance of the Work, on the form designated by the CITY.

101.122 Failure to have performed satisfactorily any Contract previously awarded to the Bidder by the CITY may be sufficient cause for rejection of the Bid.

101.13 Minimum Wages. The CONTRACTOR shall pay the rate of wages attached to the Bid Form as determined by the Department of Industrial Relations or as specified by the Federal Register Labor Rates, whichever controls, and submit an affidavit of compliance on the form included in the Contract Documents for himself and subcontractors prior to final payment.

101.14 Assignment of Contract. The CONTRACTOR shall not assign his Contract or any part thereof without the approval of the CITY, nor without the consent of the Surety, unless the Surety has waived its right to notice of assignment.

101.15 Laws and Regulations. All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout.

101.151 Bidders wishing to avail themselves to protection of trade secrets should review the provisions of the Codified Ordinances of the City of Springfield, Section 149.09 entitled "Records Submitted to the City; Trade Secrets." Contact Finance/Purchasing at (937) 324-7326 for this information.

101.16 Employment Requirements. The CONTRACTOR agrees that in the hiring of employees for the manufacture, processing, furnishing of such goods and services or performance of work under this contract or any subcontract; no contractor, subcontractor, or any person acting on his behalf, shall by reason of race, creed, color, or national origin discriminate against any person who is qualified and available to perform the work to which the employment relates.

101.161 The CONTRACTOR further agrees that no contractor, subcontractor, nor any person on his behalf shall, in any manner discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, or color, or national origin.

101.162 The CONTRACTOR agrees that there shall be deducted from the amount payable to the CONTRACTOR by the City under this contract, a forfeiture of ONE HUNDRED Dollars (\$100.00) for each person who is discriminated against or intimidated in violation of such contract. This contract shall be canceled or terminated by the CITY and all money to become due thereunder may be forfeited, for a second or subsequent violation of the terms of this section of the contract.

101.163 Particular attention is called to the statutory requirements of the laws of Ohio relative to licensing of corporations organized under the laws of any other state. Instructions for obtaining a Contractor's license are included as Supplement No. 1 attached to Information and Instructions to Bidders.

101.17 Quantities. The quantities appearing on the Bid Form are approximate. Payment will be made only for the actual quantities of Work performed and accepted, or materials furnished and accepted. The scheduled quantities of Work to be done, and materials furnished may be increased, decreased, or omitted as hereinafter provided or as directed by the ENGINEER.

101.18 Examination or Work Site. Bidders must satisfy themselves of the accuracy of the estimated quantities in the Bid schedule by examination of the site and a review of

the drawings and specifications including Addenda. The submission of a Bid will be deemed as acknowledgment that this has been done, and that the specifications and form of Contract are fully understood. After Bids have been submitted, the Bidder shall not assert that there was a misunderstanding concerning the quantities of Work or of the nature of the Work to be done.

101.19 Subsurface Structures. Prospective Bidders are advised that the CITY does not guarantee the location of any subsurface structures, nor the character of any subsurface materials shown on the plans. The indications of such structures and of such materials on the drawings are based on the best available data and should not be regarded as conclusive.

101.20 Lands and Right of Way. The CITY shall provide to Bidders, prior to bidding, all information that is pertinent to and delineates and describes the land owned and rights-of-way acquired or to be acquired.

101.21 Fugitive Dust. The successful Bidder shall be required to comply with the following Air Pollution regulations that apply to renovation and/or demolition activities with the City of Springfield, Ohio:

a. Section 839.15 of the Codified Ordinance of the City of Springfield, Ohio, "Restrictions of Fugitive Dust.

b. Rule OAC-3745-170-08 of the Ohio Administrative Code as promulgated by the Ohio Environmental Protection Agency (EPA).

101.22 Award of Contract. Award of contract will be made to a responsible bidder submitting the lowest and best bid complying with the conditions of the Bid Invitation. No Contract can be awarded if the lowest and best bid is in excess of one hundred ten percent of the estimate for the Project.

101.221 The party to whom the Contract is awarded will be required to execute the Contract, obtain the Performance and Payment Bond and Certificate of Insurance within ten (10) Calendar Days from the date when Notice of Award is delivered to Bidder. The Notice of Award shall be accompanied by the necessary Contract and bond forms. In case of failure of the Bidder to execute and return the Contract, file acceptable Performance and Payment Bonds, and required Certificates of Insurance within the ten (10) day period, the CITY may, at its option, consider the Bidder in default, in which case, the Bid Bond or certified or cashier's check accompanying the Bid shall become the property of the CITY, not as a penalty, but as liquidated damages sustained. Award may then be made to the next lowest and best bidder, or the work may be re-advertised as the CITY may decide.

101.222 The CITY within ten (10) days of receipt of acceptable Performance and Payment Bond, Certificate of Insurance and Contract signed by the party to whom the Contract was awarded, shall sign the Contract and return to such party an executed and certified duplicate of the Contract. Should the CITY not execute the Contract within such

period, the Bidder may by Written Notice withdraw his signed contract. Such notice of withdrawal shall be effective upon receipt of the notice by the CITY.

101.223 The Contract Documents contain the provisions required for the construction of the Project. Information obtained from an officer, agent, or employee of the CITY or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the Contract.

101.224 The City in its best interests reserves the right to award separate contracts as indicated in the bid documents unless otherwise specified by the Bidder.

101.23 Rejection of Bids. The City reserves the right to reject any or all bids, and to waive informalities and minor irregularities in bids received whenever the best interest of the City will be served.

101.24 Retainage. The provisions of Sections 153.12 through 153.14 and Section 153.63 of the Ohio Revised Code shall not apply to this project's AGREEMENT. No retainage shall be escrowed and the CONTRACTOR shall not be entitled to receive any interest earned on retainage. Interest earned on retainage shall belong to the OWNER.

101.25 Prevailing Wage. As required by the State Department of Labor, state prevailing wage rates shall be paid should the project exceed the threshold levels as indicated in the project Bid Documents.

101.251 "Construction" projects subject to Ohio's prevailing wage law are:

1. Any new construction of any public improvement, the total overall project cost of which is fairly estimated to be more than the dollar amount indicated in the Bid Documents, adjusted biannually by the Director of Industrial Relations pursuant to Section 4115.034 of the Ohio Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

2. Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement, the total overall project cost of which is fairly estimated to be more than the dollar amount indicated in the Bid Documents, adjusted biannually by the Director pursuant to Section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority.

(See Section 4115.03 O.R.C.)

101.252 If the appropriate threshold is met or exceed, the Bidder shall include in his bid and, if awarded this work, he shall pay applicable and current prevailing wage rates and shall submit certified copies of payroll related to the project to the City's Prevailing Wage Coordinator.

101.253 Current prevailing wage determination is available for viewing in the Purchasing Division located on the fourth floor of City Hall, 76 E. High Street, Springfield, Ohio 45502. To request a copy of the prevailing wage determination, call (937) 324-7326 or to view the current State of Ohio prevailing wage rates on the internet go to (<http://198.234.41.198/w3/webwh.nsf?Opendatabase>).

101.26 Bid Protests. Bidders whose bids are refused or rejected by the Purchasing Agent and bidders who object to the Purchasing Agent's recommendation of a contract award who desire reconsideration of the Purchasing Agent's acts must submit a written request for reconsideration to the City's Finance Director, stating all reasons the bidder objects to the Purchasing Agent's decisions.

101.261 All requests for reconsideration must be submitted within five (5) days after the Purchasing Agent has posted notice of his or her recommendation for award. Bidders who fail to submit a petition for reconsideration within the said five (5) day period, waive any objections to the decisions of the Purchasing agent.

101.27 Minority and Disadvantaged Business Enterprises. It is the policy of the City of Springfield, Ohio, that Minority and Disadvantaged Business Enterprises, as defined in Chapter 153 of the City of Springfield Codified Ordinances, shall have a maximum practical opportunity to participate in the performance of contracts let by the City of Springfield, Ohio.

101.271 By submitting a signed bid, said Bidder assures the required percentage goals for MBE/DBE utilization shall be met on a Federally funded project on which he bids, unless said bidder timely demonstrates to the City good faith efforts to attain the required percentage goals.

102 DEFINITIONS AND TERMS

Wherever in these specifications or in any documents or instruments used in connection with a contract where these specifications govern and the following terms are used, the intent and meaning of the terms shall be interpreted as follows:

102.01 Abbreviations. Where abbreviations are used in these specifications or on the plans, they are to be construed the same as the respective expressions represented. Abbreviations shall be as indicated in Section 101.01 of the Construction and Material Specifications of the State of Ohio or as defined in these specifications.

102.02 Addendum. A written instrument issued by the City prior to the execution of the Contract which modifies or interprets the Bidding Documents, including drawings and specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents when the Contract is executed.

102.03 Bid. The offer or proposal of a Bidder submitted on the prescribed form properly signed and guaranteed, setting forth the prices for the work to be performed.

102.04 Bid Bond (Proposal Guarantee). The security furnished with a Bid to guarantee that the Bidder will enter into the Contract if his Bid is accepted.

102.05 Bidder. An individual, firm, or corporation submitting a Bid for the work.

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

102.07 Change Order. A written order issued by the City and approved by the City Commission to the CONTRACTOR, signed by the CITY MANAGER, its ENGINEER, and CONTRACTOR covering changes in the plans or quantities, or both, within the scope of the Contract and establishing the basis of payment and time adjustments for the work affected by the changes.

102.08 CITY. The City of Springfield, Ohio acting through its City Manager or properly authorized agent(s); such agent(s) acting severally within the scope of the particular duties entrusted to them.

102.09 City Manager. The City Manager of the City of Springfield, Ohio acting in his official capacity on behalf of the City of Springfield, Ohio.

102.10 Contract. The written agreement including all Contract documents between the CITY and the CONTRACTOR setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the work, the furnishing of labor and materials, and the basis of payment. The Contract includes the Invitation for Bid, CONTRACTOR'S Bid (or portions thereof awarded), Instructions to Bidders, Contract Form and Contract Bond, Specifications, general conditions, supplemental conditions,

general and detailed plans, Notice of Award, Notice to Proceed and any Change Orders and supplemental agreements that are required to complete the construction of the work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

102.11 Contract Bond (Performance and Payment). The approved form of security, executed by the Contractor and his Surety or Sureties, guaranteeing complete execution of the Contract and all supplemental agreements pertaining thereto and the payment of all legal debts pertaining to the construction of the project.

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

102.13 Contract Price. The total moneys payable to CONTRACTOR under the Contract Documents.

102.14 Contract Time. The number of days stated in the Bid Documents for the completion of the work, or the date set forth in this agreement.

102.15 CONTRACTOR. The individual, firm, partnership or corporation that has entered into a Contract with the CITY for the performance of prescribed work, acting directly or through a duly authorized representative.

102.16 Completion Date. The date shown in the Bid, on which the work contemplated shall be completed, as stated in the Notice to Proceed or any extensions thereof as may be provided for in these General Conditions.

102.17 ENGINEER. The City Engineer of the City of Springfield, Ohio, or other properly authorized agents acting within the scope of duties assigned to them by the Engineer or City Manager.

102.18 Estimate. The form provided by the CITY and used by CONTRACTOR in requesting periodic payments, including accompanying documentation required by Contract Documents.

102.19 Extra Work. An item of work not provided for in the Contract as awarded but found essential to the satisfactory completion of the contract within its intended scope, and not otherwise provided for under Modifications of Contract.

102.20 Field Order. A written or oral order issued by ENGINEER that clarifies or interprets the Contract Documents.

102.21 Inspector/Project Representative. The Engineer's authorized representative of the City assigned to make detailed inspections of Contract performance for the Project.

102.22 Interpretations. Wherever in the specifications or upon the drawings the words "directed", "required", "permitted", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the directions, requirement, permission, order, designations, or prescription of the CITY is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import, shall mean approved by, acceptable or satisfactory to the CITY, unless otherwise expressly stated.

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

102.24 Notice of Award. The Written Notice by the CITY to the apparent successful Bidder stating that upon compliance with the conditions precedent to be fulfilled by him within the time specified, CITY will execute and deliver the Contract to him.

102.25 Notice to Proceed. A Written Notice given by CITY to CONTRACTOR fixing the date on which the Contract Time shall commence to run and on which CONTRACTOR shall start to perform his obligations under the Contract Documents.

102.26 Plans/Drawings. The plans, profiles, elevations, typical cross sections, working drawings, supplemental drawings, standard drawings reviewed or approved by the Engineer, or exact reproductions thereof, which show the location, character, dimensions and details of the Work.

102.27 Project. The specific section of the Work together with all appurtenances and construction to be performed thereon under the Contract.

102.28 Specifications. Those portions of the contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work.

102.29 Supplemental General Conditions. Additions and revisions to the standard and General Conditions covering conditions peculiar to an individual project.

102.30 Subcontractor. An individual, firm or corporation to whom the CONTRACTOR sublets part of the Contract to be performed on the job site, who prior to such undertaking receives the written consent of the City.

102.31 Surety. The corporation, partnership or individual other than the CONTRACTOR, executing a Bond furnished by the CONTRACTOR.

102.32 Superintendent. The CONTRACTOR'S authorized representative in responsible charge of the Work.

102.33 Supplier. Any person, supplier, or organization that supplies materials or equipment for the Work, including that fabricated to a special design, but who does not

perform labor at the site.

102.34 Work. Work shall mean the furnishing of all labor, materials, equipment and other incidentals necessary or convenient to the successful completion of the Project and the carrying out of all the duties and obligations imposed by the Contract.

102.35 Working Days. Any day, except legal holidays, Saturdays and Sundays on which the City of Springfield permits the CONTRACTOR to work. If permission is granted to work on any of those excepted days, such time will be counted as a Working Day.

102.36 Written Notice. A letter sent by registered mail by the City to the last known business address of the firm or delivered in person to the individual or officer in the firm.

103 GENERAL CONDITIONS

103.01 Intent of Contract. The intent of the Contract is to provide for the construction and completion in every detail of the Work described. The CONTRACTOR shall perform all items of Work covered by this Contract, perform altered and extra work, furnish all labor, materials, equipment, tools, transportations and supplies necessary to complete the Work in conformance with the plans, specifications and terms of the Contract.

103.011 It is understood that, except as otherwise specifically stated in the Contract Documents, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature and all other services and facilities of every nature whatsoever necessary to execute, complete and deliver the Work within the time stipulated.

103.02 Plans, Specifications and Special Conditions. The plans, specifications, special provisions and all supplementary documents are essential parts of the Contract and a requirement occurring in one is as binding as occurring in all. They are intended to be complementary and to describe and provide for a complete Work.

103.021 Should any misunderstanding arise as to the intent or meaning of the plans, specifications, or special provisions, or any discrepancy appear, the explanation of the ENGINEER shall be final and conclusive. Any correction of errors or omission in drawings and specifications may be made when such correction or omission is necessary for the proper fulfillment of their intent as determined by the ENGINEER.

103.022 Any correction made pursuant to the above paragraph shall not be retroactive but will take effect at the date of notification to the CONTRACTOR of such correction.

103.023 The CONTRACTOR shall take no advantage of any apparent error or omission in the plans or specifications. In the event the CONTRACTOR discovers such an error or omission, he shall immediately notify the ENGINEER. The ENGINEER will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the plans and specifications.

103.03 Authority of the Engineer and Decision. The ENGINEER will decide all questions which may arise as to the amounts, quality, acceptability and fitness of materials furnished and Work performed and as to the rate of progress of the Work; all questions which may arise as to the interpretation of the plans and specifications; all questions as to the acceptable fulfillment of the Contract on the part of the Contractor and as to compensation. The decision of the ENGINEER shall be final and conclusive unless within ten (10) days after any decision, the CONTRACTOR applies in writing to the City Manager for a review of such decision.

103.031 When an application for review of the decision of the ENGINEER is presented, the City Manager shall, within ten (10) days thereafter, give opportunity for the CONTRACTOR to appear before him and the ENGINEER, and present evidence bearing upon such decision, and any claim for modification or reversal thereof.

103.032 The City Manager shall render his decision within ten (10) days after such appearance and his decision shall be final unless the CONTRACTOR shall, within ten (10) days after receiving the decision, give notice in writing of his intention to file suit in court for final determination of the matter.

103.04 Authority of Inspectors. The Inspectors employed or contracted by the CITY are authorized to inspect all work done and materials furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication or manufacture of the materials to be used. The Inspector is not authorized to alter or waive the provisions of the Contract. He is authorized to call to the attention of the CONTRACTOR any failure of the work or materials to conform to the specifications and Contract. He is authorized to reject materials that do not meet specification requirements or suspend the portion of the work involved until any question at issue can be referred to and decided by the ENGINEER. The Inspector is not authorized to issue instructions contrary to the plans and specifications, or to act for the CONTRACTORS. No work shall be done unless the Contractor has notified the Engineer prior to undertaking such work of day and time he intends to undertake such work. Any work done after the Inspector has ordered it stopped, or any work done in the absence of the Inspector, after such order has been given shall at once be removed by the CONTRACTOR.

103.05 Cooperation by Contractor. The CONTRACTOR shall have on the Work at all times, as his agent, a competent Superintendent capable of reading and thoroughly understanding the plans and specifications and thoroughly experienced in the type of work being performed, who shall receive instructions from the ENGINEER or other authorized representatives. This person shall have full authority to execute orders or directions of the ENGINEER without delay, and to promptly supply such materials, equipment, tools, labor and incidentals as may be required. Such superintendence shall be furnished irrespective of the amount of work sublet. Should the CONTRACTOR or his Superintendent object to or refuse to perform an oral order, the ENGINEER shall send a written order to the Contractor.

103.06 Inspection of Work. No material of any kind may be used until it has been inspected, tested, and accepted by the ENGINEER. Before accepting any material or equipment, the ENGINEER may order such tests of material and/or equipment as may be necessary to determine compliance with the specifications for such material or equipment. The CONTRACTOR must furnish all labor necessary in handling such materials for inspection. All materials rejected must be promptly removed from the Project area. Materials and workmanship found at any time to be defective shall be promptly replaced or remedied by the CONTRACTOR, regardless of previous inspection.

103.061 The ENGINEER, together with other parties who may enter into contracts with the CITY for doing work within the territory covered by the Contract, shall for all purposes which may be required by their Contracts, have access to the Work and the premises used by the CONTRACTOR, and the CONTRACTOR shall provide safe and proper facilities for them. Furthermore, the ENGINEER or other duly authorized representative of the CITY, shall at all times have immediate access to all places of manufacture and shipment of materials made for use under this Contract for inspecting the same.

103.062 During the course of the CONTRACTOR'S performance of the work, the CITY's Inspector will conduct on-site observations of the general progress of the work and will consult with the City and the CONTRACTOR giving his opinions and suggestions, based on his observations, as to any defects or deficiencies in the CONTRACTOR'S work relating to compliance with drawings, specifications, and design and planning concepts. Neither the CITY nor its Inspector shall have the responsibility for the superintendence of construction site conditions, safety conditions, operations, equipment or other personnel other than employees of the CITY. This service will in no way relieve the CONTRACTOR of complete supervision of the work or the CONTRACTOR'S obligation for complete compliance with the drawings and specifications. The CONTRACTOR shall have sole responsibility for safety and for safe practices or conditions.

103.07 Notice to Proceed. The Contract Time will commence on the date stated in the Notice to Proceed; or if a Notice to Proceed is not given, will commence thirty (30) calendar days after the day on which the executed Contract is delivered by the City to the CONTRACTOR. Unless the CONTRACTOR is otherwise notified by the CITY, in no event will the Contract Time commence later than ninety (90) calendar days after the day on which the CITY delivers the executed Contract to CONTRACTOR. A Notice to Proceed may be given at any time within thirty (30) days after the day on which CITY delivers the executed Contract to CONTRACTOR.

103.071 The CONTRACTOR shall begin the Work as specified in the Notice to Proceed, or by mutual agreement between the CITY and the CONTRACTOR. If the CONTRACTOR has not begun the work as specified, or by a mutually agreed date, the CITY may suspend Work as described in Suspension of Work.

103.072 The Work will begin at such point as stated on the plans or as agreed upon by the CONTRACTOR and the ENGINEER. Whenever, in the opinion of the ENGINEER, it is necessary that certain portions of the Work be done immediately, the CONTRACTOR, upon Written Notice, shall proceed with such Work without delay. If he fails to do so, the City Manager may do, or cause to be done, such Work, either by direct labor or by re-letting such portion of the Contract, and deduct the cost of same from any money due or to become due the CONTRACTOR under this Contract.

103.073 If the Work done under this Contract conflicts with other Work done for or

by the CITY or with its consent, the ENGINEER shall determine the time and manner of procedure of the operations carried on under this Contract.

103.08 Compensation for Altered Quantities. When the accepted quantities of Work vary from the quantities in the Bid schedule, the CONTRACTOR shall accept as payment in full, so far as Contract items are concerned, payment at the original unit prices for the accepted quantities of work done. No allowance except as provided in Extra Work will be made for any increased expenses, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the CONTRACTOR resulting either directly or indirectly from unbalanced allocation among the Contract items of overhead expense on the part of the Bidder and subsequent loss of expected reimbursement therefor or from any other cause.

103.081 Additional work involving supplemental agreements shall be paid for as stipulated in such agreements. The CONTRACTOR shall furnish substantiating data required in the preparation of these agreements.

103.09 Alteration of Plans or Character of Work (Modification of Contract). The CITY reserves the right to make, at any time during the progress of the Work, such increases or decreases in the quantities of the Work, modifications in the specifications and plans as may be found to be necessary or desirable. Such increases and decreases or alterations shall not in any way violate or annul the Contract nor release the Surety. The CONTRACTOR shall perform the Work as altered, the same as if it had been a part of the original Contract.

103.091 Unless such alterations, increases or decreases materially change the character of the Work to be performed or the cost thereof, the altered Work shall be paid for at the same unit prices as other parts of the Work. If, however, the character of the Work or the unit costs thereof are materially changed, the price to be paid for such work shall be determined in accordance with the provisions of "Extra and Force Account Work."

103.092 No claim shall be made by the CONTRACTOR for any loss of anticipated profits because of such alteration or by reason of variation between the approximate quantities and the quantities of Work as done.

103.093 A material change of Work will be considered proper grounds for extending the time of completion. Any adjustment in Contract Time because of such changes will be made in accordance with the provisions of "Extensions of Time."

103.094 All modifications or alterations of the Contract resulting in an increase of Contract cost or an extension of time shall be of no effect until such alteration or modification has been agreed upon in writing and signed by the CONTRACTOR, the City Engineer, approved in advance by the City Commission and signed by the CITY Manager.

103.10 Equivalent Equipment Materials and Supplies. Whenever a material, article, or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended merely to establish a standard; and, any material, article or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed is in the opinion of the ENGINEER, of equal substance and function. It shall not be purchased or installed by the CONTRACTOR without the ENGINEER'S written approval, except as noted on the plans or specification that replacement or added equipment or material must be of the same manufacturer to be compatible with an existing operation.

103.11 Subletting or Assigning of Contract. It is the intent of these specifications that the majority of the Work will be performed under the CONTRACTOR'S supervision utilizing his own forces and equipment.

103.111 The CONTRACTOR may utilize Subcontractors for the performance of Work under the Contract. The CONTRACTOR shall not award any Work to any Subcontractor without prior written approval of the CITY.

103.112 The CONTRACTOR shall be as fully responsible to the CITY for the acts and omissions of his Subcontractors and of persons either directly or indirectly employed by such Subcontractor, as he is for the acts and omissions of persons directly employed by him.

103.113 The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the General Conditions and other Contract Documents insofar as applicable to the Work of Subcontractors and to give the CONTRACTOR the same power as regards terminating any Subcontract that the City may exercise over the CONTRACTOR under any provision of the Contract Documents.

103.114 Nothing contained in this CONTRACT shall create any contractual relation between any Subcontractor and the CITY.

103.115 Subletting or assigning the whole of, or any portion of the Contract shall not release the CONTRACTOR or his Surety from any portion of the Contract.

103.116 In case the CONTRACTOR assigns any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the CONTRACTOR shall be subject to prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.

103.12 Lines and Grades. All Work to be performed under this Contract must be in accordance with the lines, grades, and centerlines shown on the plans and instructions as given by the ENGINEER. The ENGINEER will establish the location and elevation of control points on the Project site, if required. The CONTRACTOR shall establish and be responsible for all other lines and grades.

103.121 The CONTRACTOR will be required to furnish such materials and give such assistance as may be required and shall notify the ENGINEER twenty-four (24) hours in advance of any need for the ENGINEER'S services in staking out Work, if such services are to be provided under this Contract.

103.122 The CONTRACTOR shall be held responsible for the preservation of all stakes and marks, and if any of the construction stakes or marks have been carelessly or willfully destroyed or disturbed by the CONTRACTOR, the cost of replacing them will be charged against him and will be deducted from payment from the Work.

103.123 The ENGINEER will be responsible for the accuracy of lines, slopes, grades and other engineering work performed by the CITY as set forth under this section.

103.13 Interference with Existing Structures. Existing structures which may be encountered in or along the Work, whether or not shown on the plans, shall be removed and replaced, or shall be maintained by the CONTRACTOR at his expense, unless otherwise noted on the plans, and in such a manner as to secure the safety of the public and the structure. Excepted from the foregoing are the public service poles, which will be removed by the corporation owning the same at no expense to the CONTRACTOR, unless noted otherwise on the plan.

103.131 Subsurface structures encountered in the prosecution of the Work shall be protected and maintained in complete operation, unless permission for their removal or relocation is given. Existing subsurface structures, including old sewers, abandoned drains, etc., which may appear within the limits of the excavation shall be removed and plugged if required by the CITY, but such removal and plugging will not be paid separately, being included in the price bid for the excavation of other items requiring such excavation, unless otherwise noted on the plans.

103.132 If the uncovering of subsurface structures necessitates a change in the alignment or grade of the proposed Work, the CONTRACTOR shall call such obstructions to the attention of its ENGINEER and shall cease work at such obstructions until ordered to proceed.

103.133 If any change of grade or alignment shall serve to delay the Work, the time allowed for completion of the Contract will be extended to the extent to which the delay shall have operated, the decision of the CITY upon this point being final.

103.134 If the CONTRACTOR damages any utilities that were identified by the utility having jurisdiction, he shall promptly, repair the damaged utility or shall permit the utility to repair the same, at its option, or shall pay all reasonable bills sent him by the affected utility for work performed by them.

103.135 The CONTRACTOR is advised that he will be responsible to immediately repair and place back in service any water main, water service, sewer main or sewer lateral which he damages during the course of construction on this Contract. These water mains, water services, sewer mains or sewer laterals shall be repaired to the satisfaction of the ENGINEER. If the CONTRACTOR does not repair these damaged lines immediately, the CITY may repair the lines and will bill the CONTRACTOR for all costs incurred in effecting said repairs. The only exceptions to the above requirements will be that if the CONTRACTOR has properly notified the CITY to locate these lines prior to working in the area and it is found that they were not properly marked or were in such deteriorated condition that failure of the lines was not due to CONTRACTOR'S negligence. The ENGINEER will make the determination as to the CONTRACTOR'S responsibility for damage. If the CONTRACTOR is found not responsible for damage, the CITY will make the necessary repairs. If the ENGINEER determines that the CONTRACTOR is not responsible for the damaged line, and the repairs required an excess of 24 hours to complete, the Contract Completion Time will be extended to the extent of time to which it took to complete the repair. No additional compensation shall be paid to the CONTRACTOR due to any line breakage.

103.14 Interference with Existing Traffic. At least forty-eight (48) hours before commencing Work, the CONTRACTOR shall notify all the CITY departments and Public Service Corporations whose tracts, wires, pipes, conduits or other structures may be affected by his Work. The Contractor shall notify the Engineer concerning any interference with traffic operations. The ENGINEER shall notify the Fire Chief and Police Chief of the temporary blocking or closing, and subsequent reopening, of any street or intersection, the Contractor shall not interfere with the operations of the local bus system without permission of the ENGINEER.

103.141 During the progress of the Work, the CONTRACTOR shall accommodate both vehicular and pedestrian traffic as required on the plans or by the Engineer, and shall at all times provide free access to fire hydrants, manholes, water valves, gas valves and other similar appurtenances. Gutters or waterways must be kept open or other provisions made for the removal of storm water.

103.142 Street intersections may be blocked but one-half at a time. The CONTRACTOR shall lay and maintain temporary driveways, bridges, and crossings, such as in the opinion of the ENGINEER are necessary to reasonably accommodate the public unless designated otherwise on the plans.

103.143 In the event of the CONTRACTOR'S failure to comply with these provisions, the City Manager may with or without notice, cause the same to be done, and

will deduct the cost of such work from any money due or to become due to the CONTRACTOR under this Contract. The performance of such work by the CITY, or at its order, shall in no way relieve the CONTRACTOR of his legal responsibilities or liabilities for the safety of the public or the Work.

103.15 Protection and Restoration of Easement Areas. When it is required as part of the Contract to perform work within the limits of temporary or permanent easements, such work shall be done in conformance with all agreements between the CITY and such owners. Care shall be taken to avoid injury to the premises entered. The area shall be left in a neat and orderly condition by the removal of rubbish, construction materials, equipment, grading or surplus excavation and the property to the same general condition as at the time of entry for work to be performed under this Contract, or as designated on the plan. If additional storage areas are required, it shall be the CONTRACTOR'S responsibility to make proper arrangements for its use with the affected property owners.

103.151 All structures, fences, trees, shrubs and other objects located in the easement or right of way areas or adjacent thereto must be properly safeguarded and protected unless noted to be removed on the plan. If it is found necessary to remove any of the above-mentioned objects, they shall be replaced by the CONTRACTOR at his expense. If any object is injured or damaged in any way, that object shall be repaired or replaced by the CONTRACTOR at his own expense.

103.16 Land for Construction Purposes. The CONTRACTOR may be permitted to use available space belonging to the CITY, on or near the site of the Work, for construction purposes and for the storage of materials and equipment. The availability, location and extent of the areas so used shall be as designated and approved by the CITY.

103.161 Any such space utilized by the Contractor shall when the space is no longer required, or upon completion of the Project restore the area to the sites original or better condition at his sole expense.

103.162 The CONTRACTOR shall be solely responsible for obtaining and shall pay all costs in connection with any additional work area, storage sites, access to the site, or temporary right-of-way which may be required for proper completion of the Work.

103.163 It shall be clearly understood that the responsibility for the protection and safekeeping of equipment and materials on or near the site will be entirely that of the CONTRACTOR and that no claim shall be made against the CITY by reason of any act of an employee or trespasser. It shall be further understood that should any occasion arise necessitating access to the sites occupied by these stored materials and equipment, the CONTRACTOR owning or responsible for the stored materials or equipment shall immediately move same. No materials or equipment may be placed upon the property of the CITY until the CITY has approved the location contemplated by the CONTRACTOR to be used for storage.

103.164 All materials and equipment, delivered or found upon the location of the improvement, shall be neatly piled up so as not to impede travel upon walks or driveways, interfere with the operations of any other Contractor or prevent the use of existing facilities more than is actually necessary in the proper performance of this Contract.

103.17 Use of Sewers, Water Mains, Streets, or Other Portions of the Project. At any time during the progress of the Work, the CITY may, by Written Notice to the CONTRACTOR, take over and utilize the whole or part of the Project that has been completed. The CONTRACTOR will be relieved from the maintenance of such part as may be used, except as provided under, "Guarantee."

103.18 Sewer and Water Line Crossing Construction Requirements at Railroads and Highways. Wherever the requirements of a Project necessitates the crossing over or under railroad tracks, streets or highways, the CONTRACTOR shall furnish to the ENGINEER, or other officials of the Railroad, Street, or Highway Authority, drawings and information as required on the plans and in the specifications or as required by the Railroad, Street or Highway Authority with regards to the crossing. The CONTRACTOR shall not proceed with any work on a crossing over or under railroad tracks, streets or highways, until he or the CITY has received written approval from the Railroad, Street, or Highway Authority as to the method and procedure to be used in making the crossing.

103.181 The CONTRACTOR shall notify such Railroads, Streets or Highway Authority not less than one week in advance of any operations at the crossing. He shall also make arrangements for the protection and maintenance of traffic and of structures as will satisfy the ENGINEER, or officials of said Railroad, Street, or Highway Authority in connection therewith shall be paid by the CONTRACTOR without expense to the CITY.

103.182 Jacking, tunneling or boring methods may be used to place pipe under railroad tracks, streets and highways, unless the CITY, Railroad, Street or Highway Authority shall require or prohibit one or more of the above mentioned methods.

103.183 Any methods that employ simultaneous boring and jacking or the auguring method will not be permitted.

103.19 No Estoppel. The CITY shall not be precluded or estopped by any return or certificate made or given by it, from at any time either before or after the final completion and acceptance of the Work and payment made therefor showing true and correct amount and character of the Work done and materials furnished by the CONTRACTOR or any other person under this Contract, or from showing at any time that any such return or certificate is untrue and incorrect or improperly made in any particular, or that the Work or materials or any part thereof, do not conform to the specifications. The CITY shall not be precluded or estopped, notwithstanding any such return or certificate and payment in accordance therewith, from demanding and payment in accordance therewith, from

demanding and recovering from the CONTRACTOR such losses and costs as it may sustain by reason of his failure to comply with the specifications.

103.191 Neither the acceptance by the CITY, nor any order, measurements, or certificate by the CITY, nor any order for payment of money, nor any payment for, nor any possession taken by the CITY, or its employees, shall operate as a waiver of any portion of this CONTRACT or of any power herein reserved to the CITY, or any rights to recover for damages herein provided; nor shall the waiver of any breach of this Contract be held to be a waiver of any subsequent breach.

103.20 Patents. The CONTRACTOR shall hold and save the CITY, its agents and employees harmless from liability for or on account of, any patented or unpatented invention, process, article or appliance manufactured or used in the performance of the Contract, including its use by the CITY, unless otherwise stipulated in the Contract.

103.201 If the CONTRACTOR employs any design, device, material, or process covered by letters of patent or copyright, he shall provide for such use by suitable legal agreement, with the patentee or owner of the design, device, material or process. It is mutually agreed and understood that, without exception the Contract prices shall include all royalties or costs arising from the use of such design, device, material or process, in any way involved in the Work. The CONTRACTOR and/or the Surety shall indemnify and save the CITY harmless from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright and shall indemnify the CITY for any costs, expenses and damages which it may be obliged to pay by reason of any infringement, at any time during the prosecution or after the completion of the Work.

103.21 Laws and Regulations. The CONTRACTOR shall keep fully informed and comply with all Federal and State laws, city ordinances, and all rules and regulations which in any manner affect those engaged or employed on the Work or the materials used in the Work, or in any way affect the conduct of the Work. CONTRACTOR shall obtain all necessary permits and licenses and shall pay all fees and charges incidental to the due and lawful conduct of the Work.

103.211 The CONTRACTOR shall at all times observe and comply with, and shall cause all his agents, employees and Subcontractors to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and save harmless the CITY and its representatives against any claim or liability arising out of or resulting from, or based upon the violation of any such law, ordinance, regulation, order or decree whether by himself, his employees, agents or Subcontractors.

103.212 The CONTRACTOR shall comply with all safety requirements of the Industrial Commission of Ohio Relating to Construction, which requirements are by reference made a part of these Contract Documents.

103.213 The CONTRACTOR agrees that in the hiring of employees for the performance of Work under this Contract or any Subcontract, no Contractor, Subcontractor, or any person acting on his behalf, shall by reason of race, creed, or color, discriminate against any person who is qualified and available to perform the Work to which the employment relates.

103.214 The CONTRACTOR further agrees that neither he nor any Subcontractor or any person on contractor's or subcontractor's behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of Work under this Contract on account of race, creed or color.

103.215 The CONTRACTOR agrees that there shall be deducted from the amount payable to the CONTRACTOR by the CITY under this Contract, a forfeiture of ONE HUNDRED Dollars (\$100.00) for each such person who is discriminated against or intimidated in violation of such Contract. This Contract shall be cancelled or terminated by the CITY and all money to become due thereunder may be forfeited, for a second or subsequent violation of the terms of this paragraph of the Contract.

103.216 Arbitration shall not be an acceptable means for resolving disputes, claims and other matters between the Owner and Contractor. Any and all litigation arising out of or pertaining to the contract shall be engaged in Clark County Ohio, or, if Federal Court jurisdiction is applicable, in the Federal District Court for the Southern District of Ohio in Dayton, Ohio, or if the State of Ohio is a party, in the Court of Claims.

103.217 Bidders should contact the Inspections Office, (937) 324-7389, for permit and license information necessary to complete bid and contract award. Concerning a "Street Opening Permit" or "Sidewalk, Curb, and Gutter Permit" contact the City Engineering Department, (937) 324-7313.

103.22 Sanitary Provisions. The CONTRACTOR shall provide and maintain in a neat, sanitary condition such accommodations for the use of his employees and department representatives as may be necessary to comply with the requirements of the State and Local Boards of Health or of other authorities having jurisdiction in such matters.

103.23 Liability of Contractor for Project Safety. The CONTRACTOR is hereby notified to comply with the Specific Safety Requirements of the Industrial Commission of Ohio, Division of Safety and Hygiene, Relating to Construction, OAC4121:1-3(k), and other applicable local, State or Federal requirements, during construction.

103.231 The CONTRACTOR shall take all responsibility for the Work, and take all precautions for preventing injuries to persons and property on or about the Work. He shall assume the defense of, indemnify and save harmless the CITY, its officers and agents from all claims relating to injuries to any person or corporation received or

sustained by or from the CONTRACTOR, his agents or employees in doing the Work, or handling materials, or implements, work methods or labor used, or any omission or neglect of the CONTRACTOR, his agents or employees.

103.232 If CONTRACTOR shall claim compensation for any damages sustained by reason of the acts of the CITY, he shall, within five (5) days after the sustaining of such damage, make a written statement to the CITY of the nature of the damage sustained. On or before the fifteenth (15) day of the month succeeding that in which any such damage shall have been sustained, the CONTRACTOR, shall file with the CITY an itemized statement of the details and amount of such damage, and unless such statement shall be made, he shall not be entitled to any payment on account of such damage.

103.233 The CONTRACTOR shall also protect the public by such barricades, detour and/or other signs, lights or watchmen as may be necessary, and shall save harmless the CITY from any and all claims and judgments for injuries or damages arising out of or resulting from such neglect.

103.234 The mention of any specific duty or liability of the CONTRACTOR in any part of the specifications shall not be construed as a limitation or restriction upon any general liability or duty imposed upon the CONTRACTOR by the specifications, as a whole, said reference to any specific duty or liability being merely for purposes of explanation.

103.24 Protection of Work and General Public. The CONTRACTOR shall take all necessary precautions for the protection and safeguarding of the Work, public and private property and for the health and safety of the employees engaged in the Work.

103.241 The CONTRACTOR shall provide protection through the use of traffic control barricades, lights, signs and other devices to provide warning and protection for vehicular traffic, pedestrians and the Work.

103.242 The CONTRACTOR shall cooperate with the ENGINEER in protection and preserving cornerstones, monuments, property pins and other such items in the Project area. Prior to actual construction, the CONTRACTOR shall erect barricades around all visible survey monuments that are in or adjacent to the construction area as noted on the Drawings. Any other monument or property corner stake, pin or marker discovered or uncovered during progress of the Work shall be protected from damage or loss and the ENGINEER shall be notified in writing as to the exact location. Any survey monument, property corner, right-of-way or other marker damaged or destroyed by the CONTRACTOR'S forces shall be replaced and the CONTRACTOR shall be obligated to pay all costs of the replacement survey required and the cost shall be deducted from monies due the CONTRACTOR.

103.243 Work under this Contract is to be performed at the Project site on property of the CITY or within public streets, highways, or alleys or with specified rights-of way

or easements acquired for the purpose. The CONTRACTOR is cautioned that the activities of his agents and employees and of all equipment operators, truckers and delivery men employed by him or his Subcontractors or material supplies must be confined to such areas. Any damages to property, streets, highways, rights-of-way or easements are the sole responsibility of the CONTRACTOR and must be properly settled by him.

103.25 Injunctions. If legal obstructions to the prosecution of the Work arise, the delay shall operate to extend the time for the completion of the part or parts of the Work obstructed for the length of time the obstruction continues and no longer, but no damages shall be claimed or allowed the CONTRACTOR for any such delay.

103.26 Character of Workmen, 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 these Contract Documents.

103.261 All workmen shall have sufficient skill and experience to perform properly the work assigned to them. Workmen engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform all work properly and satisfactorily.

103.262 Any person employed by the CONTRACTOR or by any Subcontractor who, in the opinion of the CITY, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the CITY, be removed, forthwith by the CONTRACTOR or Subcontractor employing such person, and shall not be employed again in any portion of the Work without the approval of the CITY.

103.263 Should the CONTRACTOR, or Subcontractor, fail to remove such person or persons as required above, or fail to furnish suitable and sufficient personnel for the proper prosecution of the Work, the CITY, may withhold all monies due, which are or may become due, or may suspend the Work by Written Notice until the CONTRACTOR, or Subcontractor, complies with such orders.

103.264 All equipment that 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 no injury to the roadway, adjacent property or other highways will result from its use.

103.265 When the methods and equipment to be used by the CONTRACTOR in accomplishing the construction are not prescribed in the Contract, the Contractor is free to use any methods or equipment that he demonstrates to the satisfaction of the ENGINEER will accomplish the contract Work in conformity with the requirements

103.266 When the Contract specifies that the construction be performed by the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized by the ENGINEER. If the CONTRACTOR desires to use a method or type of equipment other than those specified in the Contract, he 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 Work in conformity with Contract requirements. If after trial use of the substituted methods or equipment, the ENGINEER determines that the Work produced does not meet Contract requirements, 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 directed. No change will be made in basis of payment for the construction items involved nor in Contract time as a result of authorizing a change in methods or equipment under these provisions.

103.267 The CONTRACTOR alone shall be responsible for the safety, efficiency, and adequacy of his plant, appliances and methods, the direction of his employees, and for any damage which may result from their failure or their improper construction, maintenance or operation.

103.27 Sunday and Night Work. The CONTRACTOR is required to prosecute Work done under this Contract during daylight hours in accordance with CITY Charter provisions. No work will be permitted at night or on Sundays except to save property or life or in case of emergency or special conditions as authorized or directed by the ENGINEER. Any work necessary to be performed at night, on Sundays or on legal holidays shall be performed without additional expense to the CITY unless otherwise specifically provided for in the Contract Documents.

103.28 Cleaning Up. The CONTRACTOR shall remove surplus excavated materials and materials for construction as the Work progresses, and shall render the streets suitable, safe and convenient for traffic. Before final acceptance of the Work, the CONTRACTOR shall clean the street surface, walks, gutters, fences, lawns, private property, right-of-way, and structures, leaving them in as good a condition as originally found, and shall remove all machinery, tools, surplus materials, temporary buildings and other structures from the site of the Work and any adjacent areas affected during construction.

103.29 Suspension of Work. The CITY, on account of public necessity, adverse weather conditions, or for other reasons, may order all Work suspended and thereupon the CONTRACTOR shall cease operation and take means to protect all materials, construction sites and the general public from the construction areas. He shall also maintain pedestrian and vehicular traffic as directed by the ENGINEER. In case of such stoppage of work, the time allowed for the completion of the Work may be extended in an

amount equal to that lost by the CONTRACTOR in such manner, but the CONTRACTOR shall be entitled to no additional claim for damages by the reason of the suspension of the Work. The CONTRACTOR shall be notified of any suspension of the Work by Written Notice.

103.291 The City charter provides that no member of the City Commission, the City Manager, or any other officer or employee of the City, shall directly or indirectly be interested in any Contract, job, work, or service with or for the City; nor in the profits or emoluments thereof, nor in the expenditure of any money on the part of the City other than his fixed compensation; and any contract with the City in which any such officer or employee is, or becomes, interested may be declared void by the City Commission. In any such case the City may notify the CONTRACTOR, in writing, to discontinue all Work or any part thereof, and thereupon the CONTRACTOR shall discontinue the Work or such part thereof as may be designated.

103.30 Measurements. The ENGINEER will determine the final quantities of the items of Work performed as basis for the final payment. The CONTRACTOR, in case of unit price items, will be paid for the actual amount of Work performed in accordance with these specifications as provided under the various items. When an item is listed as a "lump sum" item, the measurement shall refer to completion of all work as described for the completion of that item before payment for that item.

103.301 Where the computation of areas or volumes by exact geometric methods is unduly laborious or refined, the planimeter will suffice as an instrument of precision and will be used in the determination of quantities upon which payments are based. The measurements of the CITY as to the amount of Work done shall be final and conclusive.

103.302 Payment will be made for Work done within the lines prescribed by the specifications, and in accordance with the unit prices for the items under which the Work is done.

103.31 Prices. The CITY shall pay, and the CONTRACTOR shall accept as full compensation for each item of Work performed in accordance with the price quoted for each said item in the Contract or Bid Proposal and/or as agreed to under "Extra and Force Account Work."

103.32 Date for Completion. The CONTRACTOR shall complete the Work on or before a date arrived at by adding the agreed construction period in Calendar Days to the date determined by applying the provisions of "Notice to Proceed", or on or before another date as specified herein. Otherwise, the CITY by its City Manager shall proceed as provided in "Unsatisfactory Progress and Termination of Contract".

103.321 If the Contract is revised in any material respect and it is determined by the CITY that said revision will cause delay in the completion of the Work, the CITY will extend the completion date by the number of Calendar Days it determines to be

applicable.

103.33 Extension of Time. If the CONTRACTOR finds it impossible for reasons beyond his control to complete the Work by the date as specified or as extended in accordance with the provisions of this Section, he may, at any time prior to the end of the Contract period or Contract time as extended, make a written request to the CITY for an extension of time setting forth therein the reasons which he believes will justify the granting for his request.

103.331 Extensions of time to complete the Work may be granted by the CITY for occurrences which may be caused by an act or neglect of the CITY, the ENGINEER, an employee of the CITY, any other Contractors employed by the CITY; by strikes, fire or other cause outside of and beyond the control of the Contractors, and which, in the opinion of the ENGINEER could have been neither anticipated nor avoided.

103.332 If the CITY finds that the Work was delayed because of conditions beyond the control and without the fault of the CONTRACTOR, it may extend the time for completion in such amount as the conditions justify. The extended time for completion shall be postponed by the number of days that the suspension directly or indirectly delays the completion of the Work.

103.333 Extensions of time will not be granted for delays caused by unfavorable weather (except as provided under "Suspension of Work"), unsuitable ground conditions, inadequate construction force or the failure of the CONTRACTOR to place orders for equipment or materials in sufficient time to insure delivery when needed. The insufficiency of time as specified in the Contractor's Bid Proposal is not a valid reason for an extension of time.

103.34 Failure to Complete on Time. It is understood and mutually agreed by and between the CONTRACTOR and the CITY that time is of the essence of each and every portion of the contract, and that it is impossible to anticipate or calculate with any reasonable degree of certainty the actual monetary value of the damages which will be sustained by the CITY in the event that the Work is not completed within the time required by the Contract. It is, therefore, agreed that the CONTRACTOR shall pay to the CITY for each and every Calendar Day that any Work shall remain uncompleted beyond the time fixed in this Agreement for completion, or any authorized extension thereof, the sum as specified in the schedule of Liquidated Damages, not as a penalty but as liquidated damages; provided however, that due account shall be taken of any adjustment of the completion date granted under the provisions of Extension of Time.

103.341 Permitting the CONTRACTOR to continue and finish the Work or any part of it after the day fixed for its completion, or after the date to which completion may have been extended, will in no way operate as a waiver on the part of the CITY or any of its rights under the Contract. The CITY may waive such portions of the liquidated damages as may accrue after the Work has reached substantial completion, as determined by the

CITY and is in condition for safe and convenient use, but not before such time as substantial completion has been determined by the CITY.

SCHEDULE OF LIQUIDATED DAMAGES

Original Contract Amount		Amount of Liquidated Damages for Each Calendar Day of Overrun in Time
More than	but not exceeding	Daily Liquidated Damages
\$0.00	\$500,000	\$500.00
500,000	2,000,000	700.00
2,000,000	10,000,000	1,250.00
over 10,000,000		2,000.00

103.342 The CITY shall have the right to deduct any and all liquidated damages from any funds due or to become due to the CONTRACTOR, or to sue for compensation for damages for non-performance of this Contract within the time stipulated and provided for.

103.35 Unsatisfactory Progress and Termination of Contract. If the Work to be done under this Contract shall be abandoned by the CONTRACTOR, or if this Contract, or any part thereof shall be assigned or the Work under this Contract sublet by the CONTRACTOR, otherwise than herein specified, or without the previous consent of the CITY; or if before the completion of the Work under this Contract, the CONTRACTOR shall become financially unable to meet his current obligations or shall become bankrupt or shall make a general assignment for the benefit of the creditors or shall have a receiver appointed for him or to take charge of his affairs or shall have his property levied upon or taken in execution or under attachment; or if, at any time, the CITY shall be of the opinion that the performance of the Contract is unnecessarily or unreasonably delayed or that the CONTRACTOR is violating any of the conditions or agreements of this Contract, or is executing the same in bad faith or is not fulfilling the terms thereof, or is not making such progress in the execution of the Contract, or within the time to which the completion of the Contract may have been extended by the CITY, then the CITY, at its discretion, may at any time declare this Contract or any portion thereof, terminated by a Written Notice served upon the CONTRACTOR, a copy of which shall be given to the Surety or the authorized agent of the Surety. Such notice shall include reasons for the termination of the Contract, and shall be effective upon mailing to CONTRACTOR and Surety.

103.351 Upon the service of such notice of termination, the CONTRACTOR shall cease all work and vacate the construction site or such part thereof as the CITY shall designate, whereupon the Surety may, at its option, assume this Contract or that portion thereof on which the CITY has ordered the CONTRACTOR to discontinue work and proceed to perform the same and may, with the written consent of the CITY, sublet the Work, or portion of same taken over, provided, however, that the Surety shall exercise its option, if at all, within twenty (20) days after written notice to discontinue Work has been served upon the Surety or its authorized agent. The Surety, in such event, shall take the CONTRACTOR'S place in all respects and shall be paid by the CITY for all Work

performed by it in accordance with the terms of the Contract and if the Surety under the provisions hereof, shall assume said entire CONTRACT, all monies remaining due the CONTRACTOR, at the time of his default, shall thereupon become due and payable to the Surety as the Work progresses, subject to all of the terms of this Contract.

103.352 In case the Surety does not, within the specified time, exercise its right and option to assume this Contract or that portion thereof on which the CITY has ordered the CONTRACTOR to discontinue Work, then the City shall have the power to work it and to complete the Work herein described, furnishing the necessary labor and material therefor, without advertising for bids or letting a contract, or to contract to complete the same as herein provided for, in the manner provided by law for the letting of contracts by the CITY. All costs for completing the Work and any damages resulting from non-completion of the Work within the contract time shall be deducted from any money due the original CONTRACTOR or paid by him and/or his Surety.

103.36 Extra and Force Account Work. The CONTRACTOR shall perform extra work for which there is no price included in the Contract whenever it is deemed necessary or desirable by the CITY in order to fully complete the Work.

103.361 The CONTRACTOR shall perform all extra work under the direction of the ENGINEER. Changes or credits for the Work covered by the approved change shall be determined by one or more, or a combination of, the following methods:

- (a) By agreed unit prices; or
- (b) By agreed lump sum; or
- (c) If neither (a) or (b) is agreed upon before the extra work is started, the CONTRACTOR shall be paid the "Actual Field Cost" of the Work plus fifteen percent (15%) for Work which he performs himself, or plus twenty percent (20%) for Work performed by the Subcontractor.

103.362 Where Extra Work is performed under paragraph 103.361(c), the term "Actual Field Cost" of such Extra Work is hereby defined to be and shall include:

- (a) The cost of all workmen, such as foreman, timekeeper, mechanics, and laborers;
- (b) all materials and supplies;
- (c) all tractors, trucks, and rentals on machinery and equipment for the item actually employed or used in the performance of said Extra Work;
- (d) any transportation charges necessarily incurred in connection with any equipment authorized by the ENGINEER for use on said Extra Work and which is not already on the job;
- (e) all power, fuel, lubricants, water and similar operation expenses;
- (f) all incidental expenses incurred as a direct result of such Work, including payroll taxes and reasonable proportion of premiums on construction bonds and, where the premiums therefore are based on payroll costs, on public liability and property damage, Workers' Compensation, and other insurance required by the Contract.

103.363 The ENGINEER may direct the CONTRACTOR as to the form in which

accounts of the Actual Field Cost shall be kept and may also specify in writing, before the Work commences, the method of doing Work and the type and kind of machinery and equipment, if required, which shall be used in the performance of Extra Work under paragraph 37.2(c). In the event that machinery and heavy construction equipment are required for such Extra Work, the authorization and basis for payment for the use, thereof shall be stipulated in the written Extra Work order. The applicable additional percentage (15% - 20%) of the Actual Field Cost to be allowed and paid to the CONTRACTOR shall cover and be full compensation for, profit (to CONTRACTOR and to Subcontractor, if any), overhead, superintendence, field office expense, and all other elements of cost not embraced with the "Actual Field Cost" herein defined.

103.364 No claim for Extra Work of any kind will be allowed unless the Extra Work is ordered in writing by the ENGINEER. In case any orders or instructions, either oral or written, appear to the CONTRACTOR to involve Extra Work for which he should receive compensation, he shall make a written request to the ENGINEER for a written order authorizing such Extra Work. Should a difference of opinion arise as to what does or does not constitute Extra Work, or concerning the payment thereof, and the ENGINEER insists on its performance, the CONTRACTOR shall proceed with the Work after making a written request for a written Extra Work order and shall keep an accurate account on the Actual Field Cost thereof as provided for in Extra Work.

103.365 If Extra Work orders are given in accordance with the provisions of this contract, such Work shall be considered a part hereof and subject to each and all of its terms and requirements.

103.366 Without invalidating the Contract, the CITY may order additional Work of the kind bid upon, the Contract sum being adjusted accordingly. All Work of the kind bid upon shall be paid for at the price stipulated in the Proposal.

103.37 Partial Payments to Contractors. The CITY will pay the Contractor once each month an amount equivalent to ninety-two percent (92%) of the Estimate made that month for Work and materials in place to date. The CONTRACTOR will submit to the ENGINEER a partial payment Estimate filled out and signed by the CONTRACTOR covering the work performed during the period covered by the partial payment estimate and supported by such data as the ENGINEER may reasonably require. The ENGINEER will, within five (5) working days after receipt of each partial payment Estimate, either indicate in writing his approval of payment or return the partial payment Estimate to the CONTRACTOR indicating in writing his reasons for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment Estimate. The CITY will, within twenty (20) days of presentation of an approved partial payment Estimate, accompanied by proper certified payroll records and any other required documentation, pay the CONTRACTOR a progress payment on the basis of the approved partial Estimate.

103.371 The CITY shall retain eight percent (8%) of the amount of each payment

until final completion and acceptance of all Work covered by the Contract Documents except, the CITY at any time, after fifty percent (50%) of the Work has been completed, and if satisfactory progress is being made, may reduce retainage to four percent (4%) on the current (including all accepted work to date) and remaining Estimates.

103.372 Before the payment of any Estimate is made, the CONTRACTOR shall certify under oath:

- (a) The names and addresses of all Subcontractors and Suppliers furnishing labor, material or services of all persons furnishing material included in such Estimate,
- (b) That all bills for materials and labor included in the preceding Estimates have been paid in full (or if not paid in full, a list of unpaid bills giving the amount paid to each Supplier or Subcontractor, together with the reason for non-payment), and
- (c) That all bills for materials and labor included in such Estimate have been or will be paid from the proceeds thereof.

103.373 In addition to the foregoing, the ENGINEER or the CITY may require the CONTRACTOR to furnish waivers of lien signed by all persons furnishing labor or materials included in any Estimate submitted by or on behalf of the CONTRACTOR.

103.374 Retainage. The provisions of Sections 153.12 through 153.14 and Section 153.63 of the Ohio Revised Code shall not apply to this project's AGREEMENT. No retainage shall be escrowed and the CONTRACTOR shall not be entitled to receive any interest earned on retainage. Interest earned on retainage shall belong to the OWNER.

103.38 **Payment for Material on Hand.** If payment is required on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the CITY as will establish the CITY'S title to the material and equipment and protect its interest therein, including applicable insurance.

103.381 Material delivered on the site of the Work, or a railroad station, siding, or other point in the vicinity of the Work, or other approved storage site during the previous month shall be paid for at the rate of ninety-two percent (92%) of its value, as shown by manufacturer's invoices, with the amount not to exceed any applicable Bid price for the material, and provided that such material has been inspected and found to meet the Specifications, and, in addition, for material held at an "off-site" location, the CONTRACTOR furnishes the following information to the ENGINEER:

- (a) A list of the materials consigned to the Project, (which shall be clearly identified), giving the place of storage, together with copies of manufacturer's invoices.
- (b) Certificate that all items have been tagged for delivery to the Project, that they will not be used for any other purpose, and that they will be fully protected during storage.
- (c) A letter from the Surety indicating agreement to the arrangements and that payment to the CONTRACTOR shall not relieve either party of their responsibility to complete the facility.

- (d) Evidence of insurance covering the replacement value of the material in storage.
- (e) Evidence that representatives of the ENGINEER have visited the CONTRACTOR'S place of storage and checked all items on the CONTRACTOR'S certificate.

103.382 Bonding, profit, overhead and other markup costs shall not be included in any payment for material stored.

103.383 Material so paid for shall become the property of the CITY, but if such material is stolen, destroyed or damaged by casualty before being used, the CONTRACTOR shall be required to replace it at his own expense.

103.384 The balance of the involved value will be paid when such material is incorporated into and becomes a part of the Contract.

103.385 No partial payment will be made on living or perishable materials until planted.

103.39 Final Inspection and Acceptance. When the CONTRACTOR indicates that the Work has been completed, the ENGINEER shall be notified and final inspections made. If there remain items to be completed or remedied, the CONTRACTOR shall perform the Work immediately. The Work must pass final inspection before it will be accepted by the CITY.

103.40 Final Estimate. Upon completion and acceptance of the Work by the CITY, the entire balance found to be due the CONTRACTOR, including the retained percentages, but except such sums as may be lawfully retained by the CITY, shall be paid to the CONTRACTOR within thirty (30) days of completion and acceptance of the Work providing the CONTRACTOR shall first have submitted to the CITY the following four (4) separate affidavits (forms provided in the Proposal) fully executed:

- (a) Material and Labor Affidavit (must be signed by Surety)
- (b) Prevailing Wage Law Compliance Affidavit (State or Federal, as applicable).
- (c) City Income Tax Compliance Affidavit.
- (d) Performance Bond to cover one (1) year Guarantee Period.

103.401 The affidavits are to show that (a) all claims and obligations relevant to the performance of the Contract have been satisfactorily settled and that all claims and obligations for labor and materials have been settled, (b) that CONTRACTOR and Subcontractors have complied in all respects with Section 4115 of the Revised Code of Ohio pertaining to Prevailing Wage Rates and/or the Federal Labor Standards, (c) that CONTRACTOR and Subcontractors have complied with all ordinances of the CITY of Springfield, Ohio, pertaining to Municipal Income Taxation, and (d) guarantee that all defects in Work done by CONTRACTOR will be corrected within the Guarantee Period.

103.402 No payment shall be made for any unauthorized work.

103.41 Guarantee. The CONTRACTOR hereby agrees that all defects in the Work done under this Contract or damage to utilities or other property which become apparent during the period of one (1) year after the date of acceptance for the project by the CITY and which, in its opinion, are traceable to the use of defective materials or improper workmanship, shall be remedied by the CONTRACTOR without cost to the CITY. The CONTRACTOR further agrees to make such repairs when and as directed by the CITY, such direction to be in writing. If after receiving such notice CONTRACTOR fails to make such repairs within five (5) days, the CITY may cause said repairs to be made and charge the expense thereof to the CONTRACTOR, its Surety, or withhold such amounts as may be necessary to pay for such repairs from any retained moneys. All engineering, inspection, legal and other costs and expense to the CITY occasioned by or resulting from such defect or failure shall be paid by the CONTRACTOR upon demand by the CITY.

103.411 In case of an emergency where, in the opinion of the ENGINEER, delay would cause serious loss or damage, the CITY may make repairs, without previous notice, and at the expense of the CONTRACTOR or its Surety.

103.412 Such Work may include, but is not limited to, resetting of castings, pipe repair or replacement, refilling and leveling off of sunken trenches, replacement of sidewalk, curb and gutter, repair of pavement and repair of utilities.

103.413 The Performance Bond covering the one (1) year guarantee period shall be in effect until the CITY shall evidence release of the Performance Bond in writing.

103.42 Insurance Requirements. Prior to commencing any work under this Contract, the CONTRACTOR shall obtain and shall require each Subcontractor to obtain, at no additional cost to the CITY, the following insurance:

- (a) Workers' Compensation in accordance with the laws of the State of Ohio. Successful bidder will be required to furnish a copy of the Certificate issued by the Industrial Commission and Bureau of Workers' Compensation, which shall be current.
- (b) Owner's Protective Liability Insurance with the CITY as the Named Insured and the limits of coverage being not less than (\$250,000) per person and (\$500,000) per occurrence for bodily injury, including death, and not less than (\$300,000) for property damage; however, in lieu of requiring a Subcontractor to obtain his own Owner's Protective Liability insurance policy with the CITY as the Named Insured, the CONTRACTOR may, if he chooses, provide for such Subcontractor to be included as a designated Contractor performing work for the CITY in the Owners Protective Liability insurance policy obtained by the CONTRACTOR.
- (c) Comprehensive General And Automobile Liability Insurance with the CONTRACTOR and Subcontractor as the Named Insured; however, in lieu of requiring a Subcontractor to obtain his own Comprehensive General and Automobile Liability insurance policy, the CONTRACTOR may, if he chooses, provide for such Subcontractor to be named as an additional insured in the

Comprehensive General and Automobile Liability insurance policy obtained by the CONTRACTOR. Coverage shall include owned, non-owned and hired automobiles under the Automobile Liability Insurance policy, and shall include, but not be limited to, premises operations, independent Contractors and complete operations under the Comprehensive General Liability insurance policy. The limits of coverage for each of the Named Insureds to any such policy shall be not less than (\$250,000) per person and (\$500,000) per occurrence for bodily injury including death, and not less than (\$300,000) for property damage.

- (d) The CONTRACTOR shall maintain the foregoing insurance during the entire time he is performing work under this contract, and shall require each Subcontractor to maintain the same during this Contract. Moreover, each insurance policy shall be endorsed to cover property damage arising from blasting, or use of mechanical equipment for excavating or drilling if any such work is performed by the CONTRACTOR. (A Blasting permit must be obtained from the Fire Chief before blasting begins).
- (e) Prior to commencing any work under this Contract, the CONTRACTOR and each Subcontractor shall submit to the Law Director of the CITY, for his approval, Certificates of Insurance indicating that all of the foregoing insurance has been obtained. All policies and certificates shall contain a provision that said insurance will not be modified or cancelled during the term thereof until ten (10) days written notice has been given to the CITY.
- (f) Should any insurance described in any certificate expire or be terminated during any period when the same is required under this Contract, the CITY shall be notified immediately and such expired or terminated insurance must be replaced with new insurance and new certificates prior to date of such expiration or termination.
- (g) If the Legal Department shall so request, the original policies of insurance or certified copies thereof shall be submitted by the CONTRACTOR to the CITY for examination.

103.43 Delinquent Personal Property Tax Affidavit. Bidders, if awarded a contract, must agree that if this contract is awarded to them they will execute and submit the affidavit required by Section 5719.042 of the Ohio Revised Code. The affidavit is to be incorporated into and made a part of the contract, and no payment shall be made with respect to this contract unless such statement has been completed (form of affidavit included in the Proposal).

103.44 Prevailing Wages. CONTRACTOR and each of its subcontractors are required under Sections 4115.03 to 4115.16 of the Ohio Revised Code, and are obligated in performance of the Work to pay not less than the prevailing rate of wages applicable under the laws of the State of Ohio and under the terms of the Contract to each laborer, workman, or mechanic, employed by the CONTRACTOR or subcontractor about or upon the public work described in these specifications. The CONTRACTOR and each of its subcontractors shall make full payment of such wages in legal tender, without any deduction for food, sleeping accommodations, transportation, use of small tools, or any

other thing of any kind or description. This section does not apply where the employer and employee enter into an agreement in writing at the beginning of any term of employment covering deduction for food, sleeping accommodations, or other similar item, provided such agreement is submitted by the employer to the CITY and is approved by the CITY as fair and reasonable. The schedule of prevailing wages, included in the Proposal for the work, are made a part of and incorporated in to these specifications by this reference as if fully rewritten herein.

103.441 CONTRACTOR and each of its subcontractors subject to Sections 4115.03 to 4115.16 of the Ohio Revised Code, shall keep full and accurate payroll records with respect to wages paid each employee and the number of hours worked by each employee, covering all disbursements of wages to their employees to whom they are required to pay not less than the prevailing rate of wages. Such payroll records shall be open to inspection by any authorized representative of the CITY, including the CITY'S prevailing wage coordinator or the Ohio Department of Industrial Relations at any reasonable time and as often as may be necessary, and such records shall not be destroyed or removed from the state for the period of one year following the completion of the public improvement in connection with which the records are made. There shall be posted in a prominent and accessible place on the site of the work a legible statement of the schedule of wage rates specified in the Contract to the various classifications of laborers, workmen, and mechanics employed, said statement to remain posted during the life of the Contract. The CONTRACTOR shall file with the CITY, upon completion of the public improvement and prior to final payment therefor, for itself and for each of its subcontractors, affidavits stating that the CONTRACTOR and each of its subcontractors have fully complied with Sections 4115.03 to 4115.16 of the Ohio Revised Code.

103.442 The CONTRACTOR and each of its subcontractors who are subject to Sections 4115.03 to 4115.16 of the Ohio Revised Code shall, as soon as it begins performance of the Work under this contract, supply to the CITY'S prevailing wage coordinator a schedule of the dates during the life of this Contract on which it is required to pay wages to employees. The CONTRACTOR and each of its subcontractors shall also deliver to the CITY'S prevailing wage coordinator a certified copy of its payroll, within two weeks after the initial pay date, and supplemental reports for each month thereafter which shall exhibit for each employee paid any wages, his name, current address, social security number, number of hours worked during each day of the pay periods covered and the total for each week, his hourly rate of pay, his job classification, fringe payments, and deductions from his wages. If the life of the Contract is expected to be no more than four months from the beginning of performance by the CONTRACTOR, such supplemental reports shall be filed each week after the initial report. The certification of each payroll shall be executed by the certifying employer, or its duly appointed agent and shall recite that the payroll is correct and complete and that the wage rates shown are not less than those required by this Contract.

103.443 Employers who are subject to Sections 4115.03 to 4115.16 of the Ohio Revised Code and who have not established a plan, by a labor agreement or otherwise, for

the provision of wages as defined in division (E) (2) of Section 4115.03 of the Ohio Revised Code shall pay the prevailing rates of wages in full in cash.

103.444 On the occasion of the first pay date for the Work performed pursuant to these specifications, the CONTRACTOR and each of its subcontractors shall furnish each employee not covered by a collective bargaining agreement or understanding between his employer and a bona fide organization of labor with individual written notification of the job classification to which the employee is assigned, the prevailing wage determined to be applicable to that classification, separated into the hourly rate of pay and the fringe payments, and the identity of the CITY'S prevailing wage coordinator. The CONTRACTOR and each of its subcontractors shall furnish the same notification to each affected employee every time the job classification of the employee is changed.

103.445 The CONTRACTOR shall enter in to written contracts with each of its subcontractors and shall incorporate into each such contract the duties imposed upon the subcontractor under Sections 4115.03 to 4115.16 of the Ohio Revised Code and the duties required to be performed by the subcontractor as described in these specifications. The CONTRACTOR shall indemnify and save the CITY harmless from any and all claims, judgments, awards rendered through arbitration, requirements to make payment to employees of CONTRACTOR or any of its subcontractors imposed by the director of the Ohio Department of Industrial Relations, or any other liability for any back wages, fines, damages, court costs, and attorney fees associated with the enforcement of Chapter 4115 of the Ohio Revised Code.

103.446 Sections 4115.03 to 4115.16 of the Revised Code, governing prevailing wages in Ohio, do not apply to public improvements in any case where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided the federal government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements.

ITEM 104 SUPPLEMENTAL CONDITIONS FOR FEDERALLY FUNDED PROJECTS

104.01 General. This project is funded by a Federal Grant Program (identified by name in the detailed technical specifications) and all rules and regulations related to such grant funding apply. Questions regarding the applicability of any of the items under this Section should be directed to the buyer assigned to this purchase, who will in turn direct your question to the appropriate department. Any additional Federal conditions relating to this project not listed below will be noted in the detailed technical specifications.

104.02 Equal Employment Opportunity. The Proposer agrees to abide by the requirements under Executive Order No. 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60), including specifically the provisions of the equal opportunity clause set forth in the Supplemental General Conditions, as applicable. (Applicable to all construction contracts awarded in excess of \$10,000 by the City and its contractors of sub-grantees).

104.03 Review By The City And Department Of Housing And Urban Development. The City and its authorized representative shall, at all times, have access to and be permitted to observe and inspect all work, materials, and equipment pertaining to the contract provided all instructions with respect to the work will be given to the contractor by the authorized representative of the City.

The authorized representatives and agent of the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

104.04 Health and Safety Instructions for Construction. The U.S. Department of Labor "Safety and Health Regulations for Construction" identified as Chapter XVII of Title 29, Code of Federal Regulations (CFR) Part 1926 (formerly Part 1518) and subsequent amendments are hereby made a part of these specifications.

104.05 Records. Contractors shall be required to maintain all required records for three years after receipt of final payment and all other pending matters are closed.

104.06 Federal Regulations. Wherever in this specification Federal regulations and guidelines exceed or are more definitive than those herein, such rules, regulations, and guidelines shall apply.

104.07 Employment Opportunities for Lower Income Persons. The Contractor, in connection with work covered by the contract, to the greatest extent feasible, shall provide opportunities for training and employment to lower income persons residing in the project area.

104.08 Minority Business Enterprises. It is the policy of the Government that the maximum practicable opportunity to participate in the performance of Government contracts be provided to Minority Business Enterprises as rendering services as prime contractors or subcontractors under Government procurement contracts. Contractors shall take affirmative steps to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services.

104.09 Interest of Certain Federal and Other Officials. No Member of or Delegate to the Congress of the United States and no Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise from the same; Provided, that the foregoing provisions of this Section shall not be construed to extend to this Contract if made with a corporation for its general benefit.

104.10 State Energy Conservation Plans. Contractors shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P. L. 94-163).

104.11 Contract restrictions with Subcontractors. Any proposed work agreement between the firm which receives the bid award and a firm which they wish to subcontract with, shall be reviewed and approved in writing by the City of Springfield prior to its execution, and a written original executed copy of the agreement shall be retained in the contractor's files.

104.12 Copeland Anti-Kickback Act. Contractors and subcontractors shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (Applies to all contracts and sub-grants by the City for construction or repair).

104.13 Davis Bacon Act. Contractors and subcontractors shall comply with the Davis-Bacon Act (40 U.S.C.276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Applies to all construction contracts in excess of \$2,000 awarded by the City when required by Federal grant program legislation).

104.14 Contract Work Hours and Safety Standards Act. Contractors and subcontractors shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 324-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Applies to construction contracts awarded by the City in excess of \$2,000, and in excess of \$2,500 for other contracts, which involve the employment of mechanics or laborers).

104.15 Clean Air Act. Contractors and subcontractors shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of Clean Air Act (33 U.S.C. 1368), Executive Order

11738, and Environmental Protection Agency regulations (40 CFR Part 15). (Applies to contracts and subcontracts of amount in excess of \$100,000).

104.16 Civil Rights Act. The contractor shall comply with Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and HUD regulations with respect thereto including the regulations under 24 CFR Part I.

104.17 Anti-Lobbying Form. The Anti-lobbying form must be completed and submitted with any bid where the procurement is federally funded (form attached to this document).

104.18 Compliance With Provision Of Training, Employment And Business Opportunities. In all Community Development funded projects, the Contractor shall comply with the following regulations of Title 24, Part 135.20.

Every applicant, recipient, contracting party, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a Section 3 covered project, the following clause (referred to as a Section 3 clause):

(a) The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the area of the project.

(b) The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.

(c) The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advertising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

(d) The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135 and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.