

100 GENERAL PROVISIONS

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

109.02 Scope of Payment. The Contractor shall receive and accept compensation provided for in the Contract as full payment for furnishing all materials and equipment for performing all work under the Contract in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof, except as otherwise provided in Sections 104.02, 105.21 and 107.14.

If the "Basis of Payment" clause in the specifications relating to any unit price in the bid schedule requires that the said unit price cover and be considered compensation for certain work or material essential to the item, this same work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the specifications.

109.03 Compensation for Altered Quantities. When the accepted quantities of work vary from the quantities in the bid schedule, the Contractor shall accept as payment in full, so far as Contract items are concerned, payment at the original contract unit prices for the accepted quantities of work done. No allowance except as provided in 104.02 will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor resulting either directly from such alterations or indirectly from unbalanced allocation among the Contract items of overhead expense on the part of the bidder and subsequent loss of expected reimbursements therefore or from any other cause.

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

For Unit Price Items, if the actual quantity of a unit price item in the Contract varies more than 25 percent above or below the estimated quantity, an equitable adjustment in the unit price may be requested by either the City or the Contractor. The equitable adjustment will be based upon any increase or decrease in costs due solely to the variation above 125 percent or below 75 percent of the estimated quantity.

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

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

1. **Labor.** For all labor and for all foremen in direct charge of the specific operations, the Contractor shall receive the rate of wage and fringe benefits currently in effect at the time the work is performed for each and every hour that said labor and foremen are actually engaged in such work, to which may be added an amount equal to 38 percent of the sum thereof. In addition to the above the Contractor shall *itemize* the actual cost of Social Security Tax, Worker's Compensation and State and Federal Unemployment Insurance. In lieu of itemizing these 4 items, 15 percent of the sum of wages and fringe benefits may be added.
2. **Materials.** For materials accepted by the Engineer and used, the Contractor shall receive the actual cost of such materials delivered *to the project and used. To this, the sum of 15 percent may be added.*
3. **Equipment: (Owned).** For any machinery or special equipment other than small tools which it may be deemed necessary or desirable to use *for the Force Account*, the Contractor shall *receive payment for said equipment actually engaged in such work (hourly, daily, weekly or monthly).* For all machinery or special equipment already employed on the project site at the time of said work, the Rental Rate Blue Book shall apply. The monthly rate will be divided by 176 to arrive at the hourly rate.

Equipment: (Stand-By or Idled). *With the Engineer's approval, all equipment that was idled, the hourly rate of compensation will be the*

monthly rental rate times a factor of 0.50 divided by 176 hours per month with no operating costs added.

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

4. **Supervisor's Transportation.** *A flat hourly rate, which includes fuel and lubricants, will be calculated from the Rental Rate Blue Book. The monthly rate will be divided by 176 hours to arrive at the hourly rate.*
5. **Operating Costs.** *For all equipment except the supervisor's transportation for every hour worked, the Contractor may add the estimated operating cost as outlined in the Rental Rate Blue Book.*
6. **Subcontract Work.** *For work performed by an approved Subcontractor, the prime Contractor will be to add 5 percent to cover administrative costs not to exceed \$5,000.00.*
7. **Compensation.** *The compensation to the Contractor as above provided in (a), (b), (c), (d), (e), and (f) shall constitute payment in full for extra work done on a force account basis including administration, superintendence, overhead, use of tools and equipment for which no rental is allowed, profit, taxes other than sales tax, premium on insurance, and any other expense incidental to performing the force account work. Sales tax will not be allowed on any item for which tax exemption may be obtained.*
8. **Statements.** *Final payment will not be made for work performed on a force account basis until the Contractor has furnished the Engineer with quadruplicate itemized statements of the cost of such force account work detailed as follows:*
 - A. *Name, classification, date, daily hours, total hours, rate, and extension for each laborer and supervisor.*
 - B. *Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment.*
 - C. *Quantities of materials, prices, and extensions.*
 - D. *Transportation of materials.*

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

Statements shall be accompanied and supported by proper invoices for all materials used and transportation charges, and rented equipment performing work on force account operations. However, if materials used on the force account work are not specifically purchased for such work but are produced by the Contractor or taken from the Contractor's stock, then in lieu of the invoices the Contractor shall furnish an affidavit certifying that such materials were produced by or taken from the Contractors stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the Contractor. Statements shall be filed not later than 30 days following that in which the work was actually performed.

The above described force account provisions will also apply to work performed at agreed unit prices and agreed lump sums when the agreed prices are based on analysis of cost of labor, material and equipment.

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

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

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

The Contractor is hereby put on notice that the City will neither deposit retainage in an escrow account, nor pay interest on such retainage.

Partial payments may, at any time, be withheld, if in the opinion of the Engineer, the work is not proceeding in accordance with the provisions in Section 108.03.

Partial payments may be allowed twice each month, if in the judgment of the Engineer, the amount of work in place is sufficient to so warrant.

Before the second partial payment estimate is processed and for each subsequent partial estimate thereafter, the Contractor will be required to submit a notarized affidavit confirming that all bills for materials and for subcontracted work represented by the previous partial payment have been paid. Should any defective work, material or acceptable work that has been damaged by the Contractor's operations be discovered previous to the final acceptance or should a reasonable doubt arise previous to the final acceptance as to the integrity of any part of the completed work, the estimate and payment for such defective or questioned work shall not be allowed until the defect has been remedied and cause for doubt removed, by and at the expense of the Contractor upon the order of the Engineer.

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

The Contractor shall make application for payment for materials on hand or stored on a form provided by the City. Information will be required as to the cost of the materials, when such materials will be incorporated in the work and such other information which will be considered for approval of advance payment. Consideration will only be given to materials for major items of the Contract.

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

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

Where the City has made a final inspection and has accepted any portion of the work, the retained percentage for the entire Contract will be appropriately reduced for the portion of the work accepted.

Acceptance-Traffic Detoured.

1. **Acceptance and Opening to Traffic-Part of Project.** When a portion of a highway or structure covered by contract is substantially completed, a partial acceptance may be made by the Engineer and that portion opened to traffic when such opening will benefit the public interest. When all items on a portion of the highway are completed, upon written authorization by the Engineer, the Contractor may cease to maintain barriers, lights and traffic control devices covering the accepted portion.
2. **Acceptance and Opening to Traffic when Progress is Unsatisfactory or Work is Suspended.** When a portion of a highway or a structure is completed and the progress schedule of work has not been met or the Contractor suspends work for over 14 days during the normal construction season the Engineer on written notice to the Contractor may order the road or structure to be opened for travel and the Contractor shall place the highway, bridge or culvert or portions thereof in such condition for travel as the Engineer may order and shall remove all barriers and obstructions at no cost to the City of Columbus.
3. **Acceptance and Opening to Traffic when Ordered by the Engineer.** Upon written notice from the Engineer directing that the highway, bridge, or culvert, or any part thereof be opened for travel, the Contractor shall put the highway, bridge or culvert or such portions thereof as the Engineer may direct in such condition for travel as the Engineer may direct, and shall remove all barriers and obstructions. Acceptance of the work in whole or in part is not involved in this case, but the Contractor will not be held responsible for damage by such traffic to completed or partially completed portions of the work. Additional costs to the Contractor by such action shall be reimbursed in an agreed manner.

Acceptance-Traffic Maintained.

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

A portion of the project shall be defined as a section of highway or structure on which all items of work have been completed, or, a substantial part or feature of the work that is completed, or, a substantial part or feature of the work that is completed and that is not dependent for its stability and integrity upon other uncompleted items of work and that can be received for public usage prior to completion of all work in the contract. Acceptance of a portion of the project will relieve the Contractor of responsibility for maintenance and damage due to traffic and all retained percentages shall be released and paid to the Contractor for those portions of the project named in the acceptance notice. The Contractor shall not be required to maintain portions of the highway or structures

which have been completed and accepted, but he is required to repair any damage caused by his operations, defective work, or noncompliance with the plans specifications and contract until the final estimate has been approved by the Director.

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

109.11 Release of Liability. No person or corporation other than the signer of this Contract as Contractor, has any interest hereunder and no claim shall be made or be valid, and neither the City, nor any official or agent thereof, shall be liable for or be held to pay any money except as provided herein. The acceptance by the Contractor of payment shall operate as and shall be a release to the City, and every officer and agent thereof, from all claims and liability to the Contractor for anything done or furnished for, or relating to the work, or for any act or neglect of the City, or of any person relating to or affecting the work.

109.12 Guarantee. When any work is accepted by the City there shall be a guarantee period extending for one year from the date of acceptance of the work. The City will designate on the plans or in the proposal those portions of the project which may be accepted prior to completion of the entire project. If during the course of the construction, the City desires to accept and place in operation any additional portions of the work, written notification will be given to the Contractor by the City.

At any time during the guarantee period, the City may notify the Contractor and his Surety that certain repairs are necessary. Within 10 days after being so notified, the Contractor shall make such repairs as are declared necessary to restore the work to a good and serviceable condition. In the event that the Contractor fails to comply with the order to repair as provided, said repairs may be made by the City and it is hereby agreed by the Contractor that reimbursement shall be made to the City for said expense so incurred within ten days following the receipt of a statement rendered to the Contractor by the City for said expense. Specifications for the work performed under this Contract shall govern in the making of repairs under this section.

If the cost of providing security to the City of Columbus for the one year guarantee period is prohibitive, the Contractor may, with approval of the Director, make an assignment of bonds or other form of acceptable security to the City in the amount of 5 percent of the contract cost for the duration of the guarantee period.