

Standards for Street and Utility Construction



ROCHESTER

PUBLIC WORKS

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Rochester, MN

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Section 1001 SCOPE

1001.1 Contract Wording

The Contract stipulations that follow are general in scope and may refer to conditions that will not be encountered on the work covered by the Contract. Any provision of these general requirements that pertains to a nonexistent condition or is not applicable to the work to be performed here under, or that conflicts with any provision of the Special Provisions or with any special instructions to bidders, shall have no meaning in the Contract and shall be disregarded.

1001.2 Reference Documentation

Reference Documentation shall be the latest edition, including amendments and published updates, issued prior to the date of advertisement for bids or the date of request for quotations, of the following:

Minnesota Department of Transportation (Mn/DOT) Standard Specifications for Construction.
City of Rochester Ordinances.
City of Rochester Standard Detail Plates.

Section 1002 DESIGNATION OF PARTIES

1002.1 “City”

“City” shall mean the City of Rochester.

1002.2 “Owner”

“Owner” shall mean the City of Rochester or as named in the contract documents.

1002.3 “Engineer”

“Engineer” shall mean the City Engineer or other authorized representative of the Owner as named in the contract documents.

1002.4 “Inspector”

“Inspector” shall mean the Engineer’s authorized representative assigned to make inspections of Contract performance.

1002.5 “Bidder”

“Bidder” shall mean any individual or entity submitting a Proposal for the advertised work.

1002.6 “Contractor”

“Contractor” shall mean the individual or entity designated in the Contract documents to construct the project pursuant to plans and specifications.

1002.7 “Sub-Contractor”

“Sub-Contractor” shall mean the individual or entity acting for or on behalf of the Contractor in performing any part of the Contract.

Section 1003 DEFINITIONS AND TERMS

1003.1 Abbreviations

Wherever these Specifications, the Plans, or other Contract documents use the following abbreviations, these abbreviations have the following meaning:

Agg: Aggregate
APWA: American Public Works Association
ASA: American Standards Association
CB: Catch Basin
C to C. : Center to Center
C&G.: Curb and Gutter
CIP-Cast Iron Pipe
Const.-Construct
CL-Center Line
DIP-Ductile Iron Pipe
DL: Deflection Left
DR: Deflection Right
F&I: Furnish and Install
FL: Flow Line
Inpl: In place
Inst.: Install
Inv.: Invert
L: Length
LV: Loose Volume
MH: Manhole
MJ: Mechanical Joint
Mn/DOT: Minnesota Department of Transportation
NPDES: National Pollutant Discharge Elimination System
PE: Plain End
PL: Property Line
R/W: Right Of Way
VC: Vertical Curve

1003.2 Definition of Terms

A. Amount of Contract

For the purpose of awarding the Contract and determining the amount of the Bond, the Contract amount shall be the total amount of the bid.

B. Date of Acceptance

Date of Acceptance shall be the day when final inspection reveals that the work has been completed in strict accordance with the provisions of the Plans and other Contract documents, and with previous inspection documents.

C. Date of Final Acceptance

Date of Final Acceptance shall be a day, at least two (2) years after the Date of Acceptance, at which time the City determines that the work continues to be in strict accordance with the provisions of the Plans and other Contract and inspection documents. The Date of Final Acceptance denotes the termination of Contractor's maintenance obligation.

D. Liquidated Damages

Liquidated damages are the amount prescribed in Mn/DOT Section 1807 to be paid to the Owner, or to be deducted from any payments due or to become due to the Contractor, for each day that work remains uncompleted after expiration of the Contract time as determined and extended in accordance with Mn/DOT Section 1806.

E. "Or Approved Equal" Clause

Whenever in any section of the Contract documents, Plans or Specifications, any article, material or equipment is defined by describing a proprietary product, or by using the name of manufacturer or vendor, the term "or approved equal" if not inserted, shall be implied.

The specific article, material, or equipment mentioned shall be understood as indicating the type, function, minimum standard of design, efficiency, and quality required and shall not be construed in such a manner as to exclude manufactured products of comparable quality, design, and efficiency. The Engineer shall determine the acceptability of articles, materials, or equipment proposed "as equal".

F. Standard Documents

Standard Documents are those that are referred to but not included in the Plans, Specifications and Special Provisions. Standard Documents are available to the public and it is the Contractor's sole responsibility to obtain and understand the requirements of any Standard Documents noted in the Plans, Specifications and Special Provisions. Examples of Standard Documents include but are not limited to:

- 1 Bid documents (Information to Bidders, Proposal and Bid Security)
- 2 Performance and Payment Bond forms
- 3 Project Specifications and Special Provisions
- 4 City of Rochester, Minnesota, Department of Public Works documents:
 - a Standard Specifications for Street and Utility Construction
 - b Standard Detail Plates
- 5 Minnesota Department of Transportation documents:
 - a Standard Specifications for Construction
 - b Standard Plates Manual
- 6 ASTM Material Specifications

G. Aggregate Base

Aggregate Base shall meet the requirements of Mn/DOT Specification 3138. Recycled aggregates will not be allowed for use as pipe bedding or within two (2) feet of any pipe.

H. Expansion Joint Material (Preformed Joint Fillers)

Isolation/expansion material for joints in concrete construction shall refer to Mn/DOT Section 3702 and be listed on Mn/DOT approved/qualified products list. Other joint materials require prior authorization from the Engineer.

I. New Material

New material shall apply to all manufactured products and conform to requirements of the referenced specifications for the class, kind, type, size, grade, and other details indicated in the Contract. Unless otherwise indicated, all materials furnished by the Contractor shall be new, unused and undamaged. If any options are provided for, as to type, grade, or design of the material, the choice shall be limited as may be stipulated in the Plans, Specifications, or Special Provisions.

The Contractor shall submit in writing a list of materials and suppliers for approval prior to use. Suppliers shall submit a Certificate of Compliance that the materials have been manufactured within 12 months, properly stored to prevent degradation, and have been tested and are in compliance with the specifications.

New material delivered to the project shall show no evidence of prolonged exposure to weather and shall be free of any defects.

The Engineers decision to reject the materials shall be based on the provisions of this section and is final.

1003.3 Contract Wording

Whenever in these Contract documents the words “As Ordered”, “As Directed”, “As Required”, “As Permitted”, “As Allowed”, or words or phrases of like import are used, it shall be understood that the order, direction, requirement, permission, or allowance of the Owner and Engineer is intended.

Similarly, the words “Approved”, “Reasonable”, “Suitable”, “Acceptable”, “Properly”, “Satisfactory”, or words of like effect and import, unless otherwise particularly specified therein, shall mean approved, reasonable, suitable, acceptable, proper, or satisfactory in the judgment of the Owner and Engineer.

Section 1004 BIDDING REQUIREMENTS AND CONDITIONS

1004.1 Online Bidding

Electronic online bidding is the primary method accepted for bidding on some of the City of Rochester's construction projects.

The City announces its Public Works construction projects:

- 1 On the City's [OneOffice Construction Project Management website](#)
- 2 And/or the States [eAdvert](#) website

1004.2 Preparation of Proposal

For projects not bid online, the Bidder shall submit their proposal on the Bid Form obtained from the City or by a third party employed by the City to prepare and/or supply the Bid Form and other bid documents. The Bid Form will identify the Project and may describe the Work by listing estimated quantities, units of measure, items of work, and Materials to be furnished. The bidder shall specify unit prices, extensions, a total of the extensions and summations, initialing any and all changes made. The bidder must acknowledge receipt of and agree that the proposal is based on all addenda received after receipt of the initial bid packet.

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

All bids must state the price bid for all items listed on the Bid Forms. The price shall include all labor and materials required for the complete execution of the work. All prices must be stated in figures. The unit prices will be considered to be the offer in case of any variation between unit prices and totals stated by the bidder. All amounts and totals will be subject to verification by the City of Rochester.

All bid prices must be clear, legible and must be written in ink or typed. If prices and/or totals are unclear, illegible, or written in pencil, the City reserves the right to not read the bid and/or reject it. The place of residence of each bidder must be given after their signature, which must be written in full. Two (2) proposals under different names will not be received from one firm or association and shall be cause for each bid to be rejected.

1004.3 Bid Submittal

Bids shall be submitted electronically online through [BidVault](#): follow the interactive guide on the site for assistance. To log in, you must have an account on: [Connex](#) follow the guide on the site for assistance.

If unable to attach necessary bid documents, the Bidder shall submit them by email to [Bidding](#) prior to the bid opening time and date.

For projects not bid online, the authorized Bid Forms shall be submitted at the time and place specified in the Advertisement for Bids.

In submitting the bid, you must:

- 1 Return the Bid Form together with the Bid Guaranty and such other documentation as is required, in a sealed envelope to:
City Clerk, City of Rochester
201 4th St. SE, Room 135
Rochester, Minnesota 55904-3742
- 2 Write the Project title, the name and address of the bidder, and the date of the opening on the sealed envelope.
- 3 Fill in all blanks in the Schedule of Prices and initial any and all changes made.
- 4 Acknowledge any and all addenda.
- 5 Enclose the Proposal Guaranty: submit a bid bond, cashier's check or a certified check payable to the City of Rochester, Minnesota, for at least five (5) percent of the amount of the bid.
- 6 Visit the Site and become familiar with the general, local and site conditions that may affect cost, progress, and performance of the Work.

If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope, with a notation "BID ENCLOSED" on the face of the envelope. The Bidder shall assume full responsibility for the timely delivery at the location designated in the Advertisement for Bids for receipt of Bids. Bids turned in or received after that time will not be read and will be returned, unopened.

1004.4 Qualifications of Bidders

BIDDERS may be required to submit satisfactory evidence that they have a practical knowledge of the particular work bid upon and that they have necessary financial and material resources to complete the proposed work. Such data shall be submitted upon request of the Owner. In determining the responsibility of a particular bidder, the following elements will be considered:

Whether the Bidder:

- 1 maintains a permanent place of business;
- 2 has adequate equipment and personnel to do work properly and expeditiously within the Contract time;
- 3 has suitable financial status to meet obligations incident to the work; and
- 4 appropriate technical experience.

Each Bidder may be required to show that former work performed by Bidder's company has been handled in such a manner that there are no just or proper claims pending against such work. No Bidder will be considered responsible if it is engaged in other work that impairs its ability to finance this Contract or to provide adequate labor and equipment for the proper execution of the work required. Each Bidder shall demonstrate their ability to meet all requirements of the Contract by evidence satisfactory to the City.

1004.5 Proposal Registration

All persons requesting a Proposal will be required to register as a Plan holder and provide the Owner with their name, address, phone number, fax number, and email address. Failure to provide the requested information will relieve the City of any responsibility to provide that Plan holder with any Addenda that may be issued.

1004.6 Bid Security

A certified check, cashier's check or bidders bond in an amount equal to at least five percent (5%) of the total bid amount must accompany each bid as a guarantee that the Bidder will execute the Contract and give a Performance Bond as required if awarded the Contract. The Rochester Home Rule Charter requires this bid security, and failure to comply is a material bid defect that may not be waived.

The Bid Security shall be made payable to the City of Rochester, Minnesota.

Upon failure or refusal on the part of the successful Bidder to enter into the Contract and furnish the necessary Bond within the time specified, the Bid Security shall be forfeited to the City.

1004.7 Written Addenda

Written Addenda is the only method acceptable for changes to the Contract Documents prior to the Bid Date. Verbal comments, statements, or instructions made by any representative of the Owner shall not be considered a part of the Contract Documents. Written Addenda shall be made part of the Contract Documents. The Engineer may either fax, mail or email, the Addenda to all registered Plan holders. The Bidder shall acknowledge receipt of each Addendum on the Bid Form.

1004.8 Additives, Alternates, Deductives

The Engineer reserves the right to arrange the Bid Form with Alternates, Additives, or Deductives. The Bidder shall Bid on all Alternates, Additives, or Deductives set forth in the Bid Form unless otherwise specified in the Project Manual.

1004.9 Responsible Contractor

BIDDERS are required to submit the Responsible Contractor Verification and Certification of Compliance on contracts in excess of \$50,000. A "responsible contractor" is defined in Minnesota Statutes §16C.285, subdivision 3.

Section 1005 AWARD AND EXECUTION OF CONTRACT

1005.1 Payment and Performance Bonds

The successful Bidder, at the time of the execution of the Contract, shall furnish a Payment Bond equal to the Contract amount and a Performance Bond equal to the Contract amount, as required by Minn. Stat. Section 574.26. The bonds shall be issued by sureties satisfactory to the City and authorized to do business in the State of Minnesota.

The Payment Bond and Performance Bond shall guarantee that the Contractor will perform each and every part of the agreement, cover all guarantees called for in these Specifications, including the provisions for maintenance and repair, and insure the prompt payment to all persons furnishing material and labor required in the prosecution of the work. The Performance Bond shall be written in such a manner that it shall remain effective until the Date of Final Acceptance (two (2) years after the Date of Acceptance by the City, provided the work is in accordance with the Specifications and any inspection instructions, and all defects identified during the two (2) year period have been corrected).

In the event the Surety on any Bond furnished by the Contractor is declared bankrupt or becomes insolvent, or its right to do business in Minnesota is terminated, or it otherwise ceases to meet the requirements set forth herein, the Contractor shall, within five (5) days thereafter, substitute another Bond and Surety, both of which shall be subject to Owner's acceptance.

If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the Contractor's responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. Contractor shall furnish proof of such adjustment to the Owner.

1005.2 Execution of Contract

The Contractor shall not, under any circumstance, sublet, sell, transfer, delegate, or assign the Contract or any payments due there under without written permission by the City.

The Contract will be made on the forms used by the City of Rochester and made a part of the General Requirements and Covenants, copies of which are also on file at the office of the City Clerk, Room 135, City Hall, Rochester, Minnesota.

Upon execution of Contract, if not previously completed, the Contractor shall register company information and banking information with City Finance Department for use in processing all payments electronically.

Section 1006 CONTROL OF WORK

1006.1 Drawing and Specification

The Specifications and Plans are intended to supplement, but not necessarily duplicate each other, and together, they constitute one complete set of Specifications and Plans. Any work exhibited in the one and not in the other shall be executed as if it has been set forth in both, in order that the work shall be completed according to the complete design or designs, as decided and determined by the Engineer.

Should anything be omitted from the Specifications and Plans that is necessary to a clear understanding of the work, or should it appear various instructions are in conflict, the Contractor shall secure written instructions from the Engineer before proceeding with the construction affected by such omissions or discrepancies. It is understood and agreed that the work shall be performed and completed according to the true spirit, meaning, and intent of the Contract, Plans, and Specifications.

All Drawings, Specifications and copies thereof furnished by the City are its property. They are not to be used on other work and, with the exception of the signed Contract, plan sets are to be returned to the City upon request at the completion of the work.

Contractor shall keep and maintain one complete set of all drawings and specifications, addenda, approved shop drawings, change orders and other modifications at the job site that shall be available to the Engineer at all times.

1006.2 Surveys, Staking and Monument Preservation

The Contractor shall give the Engineer at least two (2) working days' notice before requiring any stakes to be set or before commencing work on any portion of the Contract, or at any new place, as well as at any place where work has been relinquished or stopped for any reason.

Any work done without being properly located and established by baselines, offset stakes, benchmarks, or other basic reference points located, established, or checked by the Engineer, may be ordered removed and replaced at the Contractor's cost and expense.

Contractor shall carefully protect and preserve any permanent monuments or benchmarks that must of necessity be removed or disturbed in the construction of the work, until they can be properly referenced for relocation.

1006.3 Other Contracts and Contractors

The Owner reserves the right to award contracts to other Contractors who do additional work at the site of this Project pursuant to Mn/DOT section 1505.

1006.4 Testing of Completed Work

Before final acceptance, all parts of the work shall be tested, and each part shall be in good condition and working order or shall be placed in such condition and order at the expense of

the Contractor. All tests of completed work required under this Contract shall be made under the direction of the Engineer or others so designated and at the expense of the Contractor, who shall repair at its own expense all damage resulting therefrom.

Section 1007 LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

1007.1 Permits, Public Utilities and Code Requirements

The Contractor shall make the necessary arrangements for the use or installation of, and shall pay for, any and all utility service that may be necessary in conducting its work. The Contractor must obtain permission from the City of Rochester Water Department if it is necessary to use City water and said use of water shall be under the City's direction and supervision. The use of existing private water services adjacent to the work shall be arranged and paid for by the Contractor.

If work is to be performed in State of Minnesota Right of Way, the City shall apply for a "Utilities on Trunk Highway" Permit from the Minnesota Department of Transportation. If work is to be performed in Olmsted County Right-Of-Way, the City shall apply for a Permit from the Olmsted County Highway Division. The Contractor shall not initiate the work prior to receipt of the permit. All regulations and rules contained in this permit shall apply and will be considered a part of the Special Provisions. The Contractor shall furnish a certified check or surety bond in the amount required by and in favor of the State of Minnesota, Commissioner of Transportation.

1007.2 Contractor's Insurance

The Contractor shall not commence work under this Contract until it has obtained and submitted to the City written evidence of all insurance required under this paragraph and until such insurance has been approved by the City. Nor shall the Contractor allow any sub-Contractor to commence work on its subcontract until all similar insurance required of the sub-Contractor has been obtained and approved.

A. Compensation Insurance

Worker's Compensation Insurance shall be as required by the laws of the State of Minnesota.

B. General Liability and Property Damage Insurance

The Contractor shall take out and maintain during the life of the Contract such General Liability and Property Damage Insurance as shall protect them and any sub-Contractor from claims while performing work covered by this Contract. The certificates of insurance shall indicate that the City is an additional insured. The required amounts of such insurance are as follows:

General Liability, Personal injury and Property damage

- 1 Injury or death of one person: 2,000,000
- 2 Injury to more than one person in a single accident or occurrence: \$2,000,000
- 3 Property damage: \$2,000,000
- 4 Products – Comp/Op Aggregate: \$2,000,000
- 5 General Aggregate: \$4,000,000

C. X-C-U Hazards

Same limits as above. Basic exclusions for explosions, Collapse, and Underground hazards shall be removed from the policy, and so indicated as covered in the declarations on the certificates of insurance.

D. Automobile Liability and Property Damage Insurance

The Contractor shall take out and maintain during the life of the Contract, Automobile Liability and Property Damage Insurance on all self-propelled vehicles used in connection with the Contract whether owned, non-owned, or hired on site and the amounts of such insurance shall be as follows:

Injury or death of one person: \$2,000,000

Injury to more than one person in a single accident or occurrence: \$2,000,000

Property damage: \$2,000,000

E. Satisfactory Coverage

In the event that the form of any policy or certificates or the amount of the insurance is not satisfactory to the City, the Contractor shall secure other policies or certificates in a form and amount satisfactory to the City.

The Contractor shall not cause any policies to be canceled or permit them to lapse, and all insurance policies shall include a clause to the effect that the policy shall not be canceled or changed until 30 days after the City has received written notice as evidenced by the return receipt of registered letter.

F. Proof of Carriage of Insurance

Written evidence of insurance shall contain true transcripts from the policy, authenticated by the proper officer of the insurer, evidencing in particular those insured, the extent of the insurance, the location and operations to which the insurance applies, the effective date and expiration date and the notice of cancellation clause mentioned herein above.

The Contractor shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this agreement. The Contractor shall defend, save and hold harmless the City of Rochester and its officers, agents, employees, and members, from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of the Contractor or its subcontractors, agents, or employees under the Contract.

1007.3 Mediation

The resolution of any dispute, controversy or claim arising out of or relating to this Contract or the relationship between the parties shall first be attempted through a mediation process. Such mediation shall be conducted in the City of Rochester, Minnesota, or such other location as the parties may mutually agree. The parties shall share the mediator's fee equally. The mediation shall be conducted by a mediator mutually agreed upon between the parties. If the parties are unable to agree upon a single mediator within thirty days after one party has delivered written

notice to the other party requesting mediation of a stated dispute, each party shall select one mediator and the selected mediator shall select a third mediator who alone shall attempt resolution of the dispute. Either party may take action in Olmsted District Court should mediation not result in a resolution of the dispute.

1007.4 Use of Explosives

The Contractor shall obtain a User Permit from the Office of the Fire Chief for use of explosives in the City of Rochester prior to the transporting, storage or use of explosives, and shall comply with all conditions imposed therein.

1007.5 Noise Control

The Contractor shall comply with the requirements of Chapter 8-7, Section 8-7-8 of the Rochester Code of Ordinances: [Sec. 8-7-8. - Noises prohibited.](#)

- 1 Unnecessary noises. No person shall make, continue, or cause to be made or continued any loud, unnecessary or unusual noise which unreasonably annoys, disturbs, injures or endangers the comfort, convenience, safety, health, welfare or repose of reasonable persons of ordinary sensibilities in the vicinity thereof, unless the making, continuing, or causing to be made or continued of such noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person. The receipt of a sound amplification permit under the provisions of [chapter 8-11](#) is a defense to this section so long as the permittee complies with the conditions contained in the permit. Law enforcement may issue citations for noise that exceeds or is otherwise in violation of this subsection or the conditions contained in a sound-amplification permit, and may order the person violating this subsection to stop making the noise or using the sound-amplification device.
- 2 Construction or repair of buildings, or construction work.
 - a The erection (including excavation), demolition, alteration or repair of any building requiring a building permit or the performance of any construction work occurring between the hours of 10:00 p.m. and 7:00 a.m. on Monday through Saturday, from 10:00 p.m. Saturday through 12:00 noon Sunday, and from 10:00 p.m. Sunday through 7:00 a.m. Monday is a violation of this section. For purposes of this section, the term "construction work" means any and all activity incidental to the erection of buildings, structures, roads, flood control facilities, or appurtenances thereto, including land clearing, grading, excavating, and filling.
 - b Notwithstanding this section, a permit may be obtained to allow construction work to occur during the prohibited hours described in subsection (b)(1) of this section in cases of urgent necessity in the interest of public health and safety. The permit shall be granted for a period not to exceed three days, shall continue only so long as the necessity continues, and may be extended for additional periods of three days or less so long as the necessity continues.
 - c Notwithstanding this section, a permit may be obtained to allow construction work to occur during the prohibited hours described in subsection (b)(1) of this section if it is determined that the public health and safety is not impaired by the erection,

demolition, alteration, or repair of any building, or the performance of construction work occurring during such hours, and further, that no loss or inconvenience would result to any party in interest. Application for a permit may be made at the time the permit for the work is awarded or during the progress of the work.

- d The permits described in subsections (b)(2) and (3) of this section shall be issued by the building inspector in cases involving a building for which a building permit is required. In all other cases, the permit shall be issued by the city engineer.

Section 1008 MEASUREMENT & PAYMENT

1008.1 Partial Payment

Unless the terms of the contract provide otherwise, progress payments shall be made monthly as the work progresses. Payments shall be based upon estimates of work completed as approved by the City. A progress payment shall not be considered acceptance or approval of any work or waiver of any defects therein.

The City may reserve as retainage from any progress payment an amount not to exceed five percent of the payment. The City may reduce the amount of the retainage and may eliminate retainage on any monthly contract payment if, in the City's opinion, the work is progressing satisfactorily.

For further details refer to Mn/DOT specification 1906 "Partial Payments".

1008.2 Acceptance and Final Payment

When final inspection reveals that the work has been completed in strict accordance with the provisions of the Plans, other Contract documents, and previous inspection instructions, the Engineer shall, within ninety (90) days thereafter, prepare a final estimate which shall be based on accurate measurements of all work performed, and shall submit such estimate together with recommendations to the City Council of the City of Rochester for approval. Payment shall then be made for all work performed under the Contract, less any partial payments already made and any legal deductions or forfeitures for the satisfaction of liens or other claims against the Contract.

1008.3 Correction of Work After Final Payment

Neither acceptance and occupancy by the Owner, final payment, nor any other provision in the Contract documents, shall relieve the Contractor of its maintenance obligation as hereinafter set forth and as identified in the Specifications.

1008.4 Maintenance and Repair

The Contractor shall guarantee all work relating to the Specifications for a period of at least two (2) years from the date of written acceptance of the work or project. The Contractor shall make all needed repairs arising out of defective workmanship or materials that, in the judgment of the City, become necessary during such period. Final acceptance and termination of the maintenance obligation shall occur on the date two (2) years after initial acceptance, provided that the work is in accordance with the Specifications and any inspection instructions. The maintenance obligation shall otherwise continue until all defects, including defective equipment installed therein, have been corrected.

At any time prior to Final Acceptance (the time during which the maintenance obligation is in effect as provided herein) the City may demand that the Contractor make any noted repairs. If Contractor fails to undertake repairs within ten days after the mailing of a notice of the need to

make such repairs, the City may either take action against the performance bond or make the repairs itself and recover the cost from Contractor or the surety under the performance bond.