

**ADDENDUM TO THE
CITY OF AKRON
AKRON ENGINEERING BUREAU
CONSTRUCTION AND MATERIAL SPECIFICATIONS
2008 EDITION**

109 Acceptance, Measurement and Payment

The following replaces CMS Acceptance, Measurement and Payment 109.06 and 109.09.

109.06 Partial Payments. If satisfactory progress is being made, the Contractor will receive monthly payments amounting to ninety percent of the value of work and materials in place, less any previous payments made. The monthly payment is approximate only, and all partial estimates and payments shall be subject to correction in the sub-final estimate and payment. Should any defective work or material or acceptable work that has been damaged by the Contractor's operations be discovered previous to sub-final estimate, or should a reasonable doubt arise previous to the sub-final estimate 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.

After 50% of the Work is in place, City shall refrain from withholding retainage on future payments unless City determines that Contractor or any Subcontractor is not making satisfactory progress or that Contractor or any Subcontractor is in default under any of the terms and provisions of the Contract Documents. If City determines that Contractor or any Subcontractor is not making satisfactory progress or that Contractor or any Subcontractor is otherwise in default under the terms of the Contract Documents, then City may continue or reinstate retainage.

109.09 Retainer. Upon the sub-final acceptance of the project by the Engineer, City shall retain an amount equal to two times the amount reasonably determined by City for unsettled third party claims against City, including the liquidated damages, for which Contractor may be liable (unless bonded off by Contractor), punch list Work or other incomplete Work for the specified guarantee period of one year from the date of the sub-final acceptance of the project by the Engineer.

At the end of the specified guarantee period the Contractor shall fill all joints in rigid pavement and seal all cracks in flexible pavement with approved materials as directed by the Engineer, and repair all other defects as determined by the Engineer to the Engineer's satisfaction.

If the Contractor shall have complied with all the requirements of his contract in keeping said Work in good and proper repair, then at the end of his guarantee period, upon order of the Director of Public Service, the Contractor shall receive the retainer.

If, however, the Contractor shall fail to make all necessary repairs, as indicated by the Engineer, at any time during the above period, then the Director of Public Service shall have power to expend all or such part of the amount so retained as the said Director of Public Service may see fit, and apply the same to making the necessary repairs. Should the amount retained not be sufficient to make the required repairs, the Contractor shall at once make good the deficiency. At the expiration of

the guarantee period, whatever remains to the credit of the Contractor, provided all repairs shall have been made satisfactory to the Engineer, shall be paid to the Contractor as final estimate and full settlement of any balance due on said contract, as herein provided, whereupon and not until then, shall the Contractor be released from the obligation assumed in this contract and his Surety discharged.