

File No. 6563 Continued.

CORRESPONDENCE.

"earth excavation" on page 95 is not applicable and payment must be made in accordance with the provisions of pp. 23, 34, 35 and 36 of specifications and page 102, paragraphs 50 and 51 of bid.

We have advised our client that under his contract with the City he could not be required to build a tunnel nor had he the right to build a tunnel, except by and with the consent of the Engineer; that for the purposes of the contract it is clear that a tunnel with the consent of the engineer might be accepted as a substitute for the open trench, subject to only one condition, and that is: That the City should not be required to suffer or pay any additional cost under its contract by reason of such substitution and the contract nowhere contemplates that the compensation to be paid to the contractor shall be different or less than the amount which would have been paid to him had the open trench method of providing for drain been adhered to.

We, therefore, respectfully submit that the conclusions reached by the City Solicitor have probably been based on an insufficient presentation of the facts in the case and as you have referred this particular matter to him for construction, it would be most agreeable to us, with your permission, to take the matter up with the City Solicitor before instituting the proceedings which we have advised Mr. Peoples are necessary and appropriate for the full protection of his rights. There are other equities in Mr. Peoples' position and of which, in due course, he will avail himself, but to which it is not necessary to advert at this time as we believe that on the mere wording of the specifications and contract we can convince the City Solicitor that his ~~conclusions as to the proper interpretation of the same~~ will not prove maintainable.

Yours truly,

(Signed) Willis & Homer.

OPINION.

File No. 6563.

LAW DEPARTMENT.

Baltimore, November 26, 1907.

Calvin W. Hendrick, Esq.,
Chief Engineer of the Sewerage Commission,
City.

Dear Sir:-

Replying to your favor of November 23, 1907, relative to the