

File No. 9668 Continued.

OPINION.

7205

anted and kept in repair, free from all inequalities or defects except ordinary wear, for five years from date of final acceptance, which will be the date of the final voucher. The contractor must make all repairs to cuts made in the street, at a price not to exceed x x x x x including all necessary material, except new blocks and bricks, x x x x and when the repairs are so made by the contractor he must maintain the street as above."

This makes it clear that the guarantee also applies to the repairs.

Sections 33, 34, and 35 are as follows:

7206

33. "Lines and grades will be determined by the City Engineer and no work will be commenced before the same are given. The bed of the street will be graded to the depth and must conform to the cross section furnished by the City Engineer. Excavation outside the curb line will usually be to the true grade of the footway. Embankment must be made of good soil or other material satisfactory to the City Engineer, and in layers twelve inches and thoroughly compacted by a five-ton roller or by ramming."

34. "All soft and spongy material below the sub-grade shall be removed and filled with clean sharp sand or gravel, or other material satisfactory to the City Engineer, and thoroughly rammed and rolled. In excavating, care must be taken not to disturb the sub-foundation except where necessary to remove soft and spongy material."

7207

35. "The entire sub-foundation must be compact and hard and the contractor will be required to thoroughly ram or roll it with a steam roller weighing not less than five (5) tons, unless the Engineer in charge shall be satisfied that the sub-foundation is sufficiently hard without it. The excavation between the sub-grade and the finished surface to be included in the price for paving. All other grading to be paid for one way at a price per cubic yard".

These specifications make it appear to me that it is the duty of the contractor, when making repairs, to see to it that the sub-foundation, and every other portion of the work, is in such condition as to enable him to do the work in accordance with the specifications; if, for any reason, the conditions are such as to prevent this, and he goes ahead and does the work, he does so at his peril. If he should desire limitations upon his obligation, he should certainly notify the City