



Relief Piping Modifications

Duluth Energy Systems
1 Lake Place Drive
Duluth, MN 55802

February 5, 2016

Bid #: 16-0188

Bid Opening Date: March 10th, 2016 at 2:00 PM CST

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CITY OF DULUTH INVITATION TO BID

PROJECT NAME/DESCRIPTION: Relief Piping Modifications

BID NUMBER: 16-0188

BID OPENING: March 10th, 2016 AT 2:00 PM

PROJECT DESCRIPTION: The project will include extending boiler #1 safety relief vents through the roof, properly supporting the pipe, installation of three new drip pan elbows and the existing relief pipe through the roof will be replaced.

PRE-BID/WALK-THROUGH: A **mandatory** pre-bid walk-through will be conducted on Thursday, February 25th at 9am at the Steam Plant Office, 1 Lake Place Drive, Duluth, MN 55802. All interested bidders must attend. Please contact Kevin Traster at 218-723-3601 with pre-bid walk-through questions only.

QUESTIONS: Please submit any questions regarding this project via e-mail to purchasing@duluthmn.gov. Responses will be provided to all interested bidders as an addendum to this solicitation.

ADDITIONAL INFORMATION: Provide a description of any proposed alternative configuration as an additional sheet to be attached to bid form.

The selected contractor will be issued a construction contract (draft attached). Notice to Proceed will be issued once the agreement is fully executed.

Please note that the City of Duluth Supplemental Conditions apply to this project and will be included in the contract. This document can be found online at <http://www.duluthgov.info/engineering/documents/SupplementalGenConditions4-15-11.pdf> . Hard copies may be made available upon request.

Proposal forms, contract documents, plans and specifications are on file at the following offices: Duluth Builder's Exchange, Minnesota Builder's Exchange, BXWI-Fox Valley Plan Room, Blue Book Building and Construction Network, and Meda Construction Connection.

INSTRUCTIONS TO BIDDERS

All bids must be complete, signed, and transmitted in a sealed envelope plainly marked with the bid number, subject matter, and opening date. The City of Duluth reserves the right to split the award where there is a substantial savings to the City, to waive informalities and to reject any and all bids. Bidder must state in their proposal if bid price is based on acceptance of the total order. Do not include sales tax in the unit price. Price may not be the only consideration for bid award. Bids must be firm for a minimum of 60 days.

Bids must be received in Purchasing before 2:00 PM local time on the bid opening date specified on the Invitation for Bids. The City Purchasing Agent or her designee will conduct a public bid opening in Room 100 immediately following receipt of the bids.

No alternatives to the specification will be considered unless specifically requested. Erasures or other changes to the bid must be initialed and dated.

The following documents must be submitted with your bid:

1. **Bid Bond** - A certified check or bank draft, payable to the order of the City of Duluth, negotiable U.S. Government Bonds (at par value), or a satisfactory bid bond executed by the bidder and acceptable surety, in an amount equal to five per cent (5%) of the total bid. Bids may be withdrawn without forfeiture of surety if the request is submitted by the Bidder and received at the Purchasing Office in writing or by telephone prior to the scheduled bid opening.
2. **Acknowledgment of Addendum** (if applicable) – any changes to this solicitation will be announced via Addendum. A signature on the Bid Form acknowledging the Addendum(s) must be submitted with your bid.
3. **Responsible Contractor** - No construction contract in excess of \$50,000 will be awarded unless the Bidder is a "responsible contractor" as defined in Minnesota Statute §16C.285, subdivision 3. All Bidders submitting a proposal for this project must verify that they meet the minimum criteria specified in the statute by submitting a Responsible Contractor Verification and Certification of Compliance form (attached). The owner or officer of the company must sign the form under oath verifying compliance with each of the minimum criteria. Making a false statement under oath will render the Bidder or subcontractor that makes the false statement ineligible to be awarded a construction project and may result in termination of a contract awarded to a Bidder or subcontractor that submits a false statement. Bidders must obtain verification of compliance from all subcontractors. Bidders must submit signed copies of verifications and certifications of compliance from subcontractors at the City's request.

Please note that the following requirements also apply to this project, and any additional required documents must be submitted prior to award/contract execution. Submitting these documents with your bid will assist in expediting the process.

1. **Insurance** – Contractor must provide proof of Public Liability and Automobile Liability Insurance with limits not less than \$1,500,000 Single Limit prior to the commencement of work. The City of Duluth must be named as an additional insured. Please refer to the draft Contract, Section 7.
2. **Affidavit of Non-Collusion** – The successful bidder shall be required to execute the attached affidavit stating that he/she has not entered into a collusive agreement with any other person, firm, or corporation in regard to any bid submitted.
3. **Performance & Payment Bonds** – The awarded contractor will be required to submit performance and payments bonds in the full amount of the project cost prior to award.
4. **Affirmative Action/EEO** - The contractor must take affirmative action to ensure that the employees and applicants for employment are not discriminated against because of their race, color, creed, sex or national origin, and must meet the affirmative action goals. Contractors are encouraged to subcontract with Disadvantaged Business Enterprises (DBEs) when possible. A current list of certified DBEs is available on the Minnesota Unified Certification website at <http://mnucp.metc.state.mn.us> . Contractor will comply with all applicable Equal Employment Opportunity laws and regulations. Awarded contractor will

submit the attached Equal Employment Opportunity (EEO) Affirmative Action Policy Statement & Compliance Certificate.

5. **Out of State Contractor** - Unless a State of Minnesota Certificate of Exemption is provided, any out-of-state bidder receiving a bid award will have 8% retained from invoice payments on any contracts over \$50,000. Submit a signed copy of the signed exemption form when submitting Payment and Performance Bonds. This form may be found at the following web address: http://www.revenue.state.mn.us/Forms_and_Instructions/sde.pdf

6. **Prevailing Wage** - Not less than the minimum salaries and prevailing wages as set forth in the contract documents must be paid on this project.

The City of Duluth is an Equal Opportunity Employer. Contractor shall comply with all applicable Equal Employment Opportunity laws and regulations.

CITY OF DULUTH

Andrew Field	Amanda Ashbach
Financial Analyst	Purchasing Agent

16-0188 Bid Form

Relief Piping Modifications \$ _____

Bid amount written out: _____

Acknowledgment of Addendum

Addendum 1:

Addendum 2:

Addendum 3:

Addendum 4:

Name and Title: _____

Vendor Name: _____

Address: _____

Phone Number: _____

Email: _____

Signature: _____

**ATTACHMENT A
PRIME CONTRACTOR RESPONSE**

RESPONSIBLE CONTRACTOR VERIFICATION AND CERTIFICATION OF COMPLIANCE

STATE PROJECT NUMBER: _____

This form includes changes by statutory references from the Laws of Minnesota 2015, chapter 64, sections 1-9. This form must be submitted with the response to this solicitation. A response received without this form, will be rejected.

<p>Minn. Stat. § 16C.285, Subd. 7. IMPLEMENTATION. ... any prime contractor or subcontractor or motor carrier that does not meet the minimum criteria in subdivision 3 or fails to verify that it meets those criteria is not a responsible contractor and is not eligible to be awarded a construction contract for the project or to perform work on the project...</p>	
<p>Minn. Stat. § 16C.285, Subd. 3. RESPONSIBLE CONTRACTOR, MINIMUM CRITERIA. "Responsible contractor" means a contractor that conforms to the responsibility requirements in the solicitation document for its portion of the work on the project and verifies that it meets the following minimum criteria:</p>	
(1)	<p>The Contractor:</p> <ul style="list-style-type: none">(i) is in compliance with workers' compensation and unemployment insurance requirements;(ii) is in compliance with Department of Revenue and Department of Employment and Economic Development registration requirements if it has employees;(iii) has a valid federal tax identification number or a valid Social Security number if an individual; and(iv) has filed a certificate of authority to transact business in Minnesota with the Secretary of State if a foreign corporation or cooperative.
(2)	<p>The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 177.24, 177.25, 177.41 to 177.44, 181.13, 181.14, or 181.722, and has not violated United States Code, title 29, sections 201 to 219, or United States Code, title 40, sections 3141 to 3148. For purposes of this clause, a violation occurs when a contractor or related entity:</p> <ul style="list-style-type: none">(i) repeatedly fails to pay statutorily required wages or penalties on one or more separate projects for a total underpayment of \$25,000 or more within the three-year period, provided that a failure to pay is "repeated" only if it involves two or more separate and distinct occurrences of underpayment during the three-year period;(ii) has been issued an order to comply by the commissioner of Labor and Industry that has become final;(iii) has been issued at least two determination letters within the three-year period by the Department of Transportation finding an underpayment by the contractor or related entity to its own employees;(iv) has been found by the commissioner of Labor and Industry to have repeatedly or willfully violated any of the sections referenced in this clause pursuant to section 177.27;(v) has been issued a ruling or findings of underpayment by the administrator of the Wage and Hour Division of the United States Department of Labor that have become final or have been upheld by an administrative law judge or the Administrative Review Board; or(vi) has been found liable for underpayment of wages or penalties or misrepresenting a construction worker as an independent contractor in an action brought in a court having jurisdiction. Provided that, if the contractor or related entity contests a determination of underpayment by the Department of Transportation in a contested case proceeding, a violation does not occur until the contested case proceeding has concluded with a determination that the contractor or related entity underpaid wages or penalties;*

(3)	The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 181.723 or chapter 326B. For purposes of this clause, a violation occurs when a contractor or related entity has been issued a final administrative or licensing order;*
(4)	The contractor or related entity has not, more than twice during the three-year period before submitting the verification, had a certificate of compliance under section 363A.36 revoked or suspended based on the provisions of section 363A.36, with the revocation or suspension becoming final because it was upheld by the Office of Administrative Hearings or was not appealed to the office;*
(5)	The contractor or related entity has not received a final determination assessing a monetary sanction from the Department of Administration or Transportation for failure to meet targeted group business, disadvantaged business enterprise, or veteran-owned business goals, due to a lack of good faith effort, more than once during the three-year period before submitting the verification;*
	* Any violations, suspensions, revocations, or sanctions, as defined in clauses (2) to (5), occurring prior to July 1, 2014, shall not be considered in determining whether a contractor or related entity meets the minimum criteria.
(6)	The contractor or related entity is not currently suspended or debarred by the federal government or the state of Minnesota or any of its departments, commissions, agencies, or political subdivisions that have authority to debar a contractor; and
(7)	All subcontractors and motor carriers that the contractor intends to use to perform project work have verified to the contractor through a signed statement under oath by an owner or officer that they meet the minimum criteria listed in clauses (1) to (6).

Minn. Stat. § 16C.285, Subd. 5. SUBCONTRACTOR VERIFICATION.	
<p>A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project. Prior to execution of a construction contract, and as a condition precedent to the execution of a construction contract, the apparent successful prime contractor shall submit to the contracting authority a supplemental verification under oath confirming compliance with subdivision 3, clause (7). Each contractor or subcontractor shall obtain from all subcontractors with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each subcontractor.</p> <p>If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors.</p> <p>A prime contractor shall submit to the contracting authority upon request copies of the signed verifications of compliance from all subcontractors of any tier pursuant to subdivision 3, clause (7). A prime contractor and subcontractors shall not be responsible for the false statements of any subcontractor with which they do not have a direct contractual relationship. A prime contractor and subcontractors shall be responsible for false statements by their first-tier subcontractors with which they have a direct contractual relationship only if they accept the verification of compliance with actual knowledge that it contains a false statement.</p> <p>Subd. 5a. Motor carrier verification. A prime contractor or subcontractor shall obtain annually from all motor carriers with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each motor carrier. A prime contractor or subcontractor shall require each such motor carrier to provide it with immediate written notification in the event that the motor carrier no longer meets one or more of the minimum criteria in subdivision 3 after submitting its annual verification. A motor carrier shall be ineligible to perform work on a project covered by this section if it does not meet all the minimum criteria in subdivision 3. Upon request, a prime contractor or subcontractor shall submit to the contracting authority the signed verifications of compliance from all motor carriers providing for-hire transportation of materials, equipment, or supplies for a project.</p>	

Minn. Stat. § 16C.285, Subd. 4. **VERIFICATION OF COMPLIANCE.**

A contractor responding to a solicitation document of a contracting authority shall submit to the contracting authority a signed statement under oath by an owner or officer verifying compliance with each of the minimum criteria in subdivision 3, with the exception of clause (7), at the time that it responds to the solicitation document.

A contracting authority may accept a signed statement under oath as sufficient to demonstrate that a contractor is a responsible contractor and shall not be held liable for awarding a contract in reasonable reliance on that statement. A prime contractor, subcontractor, or motor carrier that fails to verify compliance with any one of the required minimum criteria or makes a false statement under oath in a verification of compliance shall be ineligible to be awarded a construction contract on the project for which the verification was submitted.

A false statement under oath verifying compliance with any of the minimum criteria may result in termination of a construction contract that has already been awarded to a prime contractor or subcontractor or motor carrier that submits a false statement. A contracting authority shall not be liable for declining to award a contract or terminating a contract based on a reasonable determination that the contractor failed to verify compliance with the minimum criteria or falsely stated that it meets the minimum criteria. A verification of compliance need not be notarized. An electronic verification of compliance made and submitted as part of an electronic bid shall be an acceptable verification of compliance under this section provided that it contains an electronic signature as defined in section 325L.02, paragraph (h).

CERTIFICATION

By signing this document I certify that I am an owner or officer of the company, and I swear under oath that:

- 1) My company meets each of the Minimum Criteria to be a responsible contractor as defined herein and is in compliance with Minn. Stat. § 16C.285, and**
- 2) if my company is awarded a contract, I will submit Attachment A-1 prior to contract execution, and**
- 3) if my company is awarded a contract, I will also submit Attachment A-2 as required.**

Authorized Signature of Owner or Officer:

Printed Name:

Title:

Date:

Company Name:

NOTE: Minn. Stat. § 16C.285, Subd. 2, (c) If only one prime contractor responds to a solicitation document, a contracting authority may award a construction contract to the responding prime contractor even if the minimum criteria in subdivision 3 are not met.

ATTACHMENT A-1

FIRST-TIER SUBCONTRACTORS LIST

SUBMIT PRIOR TO EXECUTION OF A CONSTRUCTION CONTRACT

STATE PROJECT NUMBER: _____

Minn. Stat. § 16C.285, Subd. 5. A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project. Prior to execution of a construction contract, and as a condition precedent to the execution of a construction contract, the apparent successful prime contractor shall submit to the contracting authority a supplemental verification under oath confirming compliance with subdivision 3, clause (7). Each contractor or subcontractor shall obtain from all subcontractors with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each subcontractor.

FIRST TIER SUBCONTRACTOR NAMES* (Legal name of company as registered with the Secretary of State)	Name of city where company home office is located

*Attach additional sheets as needed for submission of all first-tier subcontractors.

SUPPLEMENTAL CERTIFICATION FOR ATTACHMENT A-1	
By signing this document I certify that I am an owner or officer of the company, and I swear under oath that: All first-tier subcontractors listed on attachment A-1 have verified through a signed statement under oath by an owner or officer that they meet the minimum criteria to be a responsible contractor as defined in Minn. Stat. § 16C.285.	
Authorized Signature of Owner or Officer:	Printed Name:
Title:	Date:
Company Name:	

ATTACHMENT A-2

ADDITIONAL SUBCONTRACTORS LIST

PRIME CONTRACTOR TO SUBMIT AS SUBCONTRACTORS ARE ADDED TO THE PROJECT

STATE PROJECT NUMBER: _____

This form must be submitted to the Project Manager or individual as identified in the solicitation document.

Minn. Stat. § 16C.285, Subd. 5. ... If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors. ...

ADDITIONAL SUBCONTRACTOR NAMES* (Legal name of company as registered with the Secretary of State)	Name of city where company home office is located

*Attach additional sheets as needed for submission of all additional subcontractors.

SUPPLEMENTAL CERTIFICATION FOR ATTACHMENT A-2	
By signing this document I certify that I am an owner or officer of the company, and I swear under oath that: All additional subcontractors listed on Attachment A-2 have verified through a signed statement under oath by an owner or officer that they meet the minimum criteria to be a responsible contractor as defined in Minn. Stat. § 16C.285.	
Authorized Signature of Owner or Officer:	Printed Name:
Title:	Date:
Company Name:	

AFFIDAVIT AND INFORMATION REQUIRED OF BIDDERS

Affidavit of Non-Collusion:

I hereby swear (or affirm) under penalty of perjury:

- 1) That I am the bidder (if the bidder is an individual), a partner in the bidder (if the bidder is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the bidder is a corporation);
- 2) That the attached bid or bids have been arrived at by the bidder independently and have been submitted without collusion with and without agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition;
- 3) That the contents of the bid or bids have not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the bid or bids and will not be communicated to any such person prior to the official opening of the bid or bids;
- 4) That a family relationship between a City of Duluth employee and bidder/proposer are in non-collusion; and
- 5) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Signed: _____

Firm Name: _____

Subscribed and sworn to me before this _____ day of _____, _____

NOTARY PUBLIC _____

My commission expires: _____

Bidder's Federal Identification Number _____

**EQUAL EMPLOYMENT OPPORTUNITY EEO AFFIRMATIVE ACTION
POLICY STATEMENT & COMPLIANCE CERTIFICATE**

TO: City of Duluth, MN PROJECT NUMBER & DESCRIPTION _____

FROM: _____

(Vendor's name, address, telephone number)

A) Employment: It is the policy of the above named FIRM to afford equal opportunity for employment to all individuals regardless of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance and/or disability. The FIRM will take affirmative action to ensure that we will: (1) recruit, hire, and promote all job classifications without regard to race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, and/or disability, except where sex is a bona fide occupational qualification; (2) base decisions on employment so as to further the principle of equal employment opportunity; (3) ensure that promotion decisions are in accord with the principles of equal employment opportunity by imposing only valid requirements for promotional opportunities; (4) ensure that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, FIRM sponsored training, education tuition assistance, social and recreational programs will be administered without regard to race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, and/or disability. The FIRM also intends full compliance with Veteran affirmative action requirements. Additionally, minority and female employees shall be encouraged to participate in all FIRM activities and refer applicants.

I have designated (name) _____ to direct the establishment of and to monitor the implementation of personnel procedures to guide the FIRM's affirmative action program. Where PROJECTS exceed \$500,000, this official shall also serve as the liaison officer that administers the FIRM's "Minority Business Enterprise Program." This official is charged with designing and implementing audit and reporting systems that will keep management informed on a monthly basis of the status of the equal opportunity area.

Supervisors have been made to understand that their work performance is being evaluated on the basis of their equal opportunity efforts and results, as well as other criteria. It shall be the responsibility of the FIRM and its supervisors to take actions to prevent harassment of employees placed through affirmative action efforts.

B) Reports: Unless exempted by law and regulation, the FIRM shall make available and file those reports related to equal opportunity as may be required by the City of Duluth and State and Federal compliance agencies. Requirements and Reports are defined in 41CFR60 "Compliance Responsibility for Equal Opportunity" published by the U. S. Department of Labor which is incorporated herein by reference. Additional requirements are defined in various State and Federal Civil Rights Legislation and Rules promulgated thereunder.

C) Nonsegregated Facilities: The FIRM certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The FIRM certifies that it will not maintain or provide for its employees any segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The FIRM agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this certificate. As used in this Certification, the term "segregated

facilities" means any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation for entertainment area, transportation, and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise.

- D) Affirmative Action Compliance Program:** Unless exempted by regulation and law, the FIRM—if the FIRM has 50 or more employees and if the value of current contracts with the City of Duluth exceeds \$50,000—shall prepare and maintain a written affirmative action compliance program that meets the requirement as set forth in 41CFR60.
- E) Non-Compliance:** The FIRM certifies that it is not currently in receipt of any outstanding letters of deficiencies, show cause, probable cause, or other such notification of non-compliance with EEO Laws and Regulations.
- F) Employment Goals - "Construction" Projects:** It shall be the goal of the FIRM if the PROJECT is of a construction nature that in all on-site employment generated that no less than 3% of the on-site workforce will be minority employees and that no less than 7% of the on-site workforce will be female employees. Further, it is the goal of the FIRM if the PROJECT is of a construction nature that in all on-site employment generated that no less than 3% of the work hours generated shall be worked by minority employees and that no less than 7% of the work hours generated shall be worked by female employees.
- G) Subcontractors:** The FIRM will for all its PROJECT subcontractors regardless of tier (unless exempted by law and regulation) that received in excess of \$2,500 require that: (1) the subcontractor shall execute an "EEO Statement and Certification" similar in nature to this "Statement and Certification", (2) said documentation to be maintained on file with the FIRM or subcontractor as may be appropriate.

Executed this _____ day of _____, 20__ by:

Printed name and title

Signature

NOTE: In addition to the various remedies prescribed for violation of Equal Opportunity Laws, the penalty for false statements is prescribed in 18 U.S.C. 1001.

General Decision Number: MN160041 01/08/2016 MN41

Superseded General Decision Number: MN20150041

State: Minnesota

Construction Type: Building

County: St Louis County in Minnesota.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number Publication Date
0 01/08/2016

ASBE0049-007 06/01/2014

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (Includes the application of all insulating materials, protective coverings, coatings & finishes to all types of mechanical systems).....	\$ 26.82	23.80

BOIL0647-007 01/01/2013

	Rates	Fringes
BOILERMAKER.....	\$ 32.40	25.37

BRMN0001-050 05/01/2015

ST LOUIS (Remaining Northern part)

	Rates	Fringes
TILE SETTER.....	\$ 24.59	20.98

BRMN0003-008 05/01/2014

ST. LOUIS COUNTY (City of Duluth and South of a line between Townships #54 & #55, 2 miles north of Cotton)

	Rates	Fringes
BRICKLAYER.....	\$ 32.20	20.10

BRMN0003-011 05/01/2008

ST. LOUIS (City of Duluth and south of Township Line 55)

	Rates	Fringes
TILE SETTER.....	\$ 24.13	17.38

BRMN0016-002 05/01/2014

ST. LOUIS COUNTY (North of a line between Townships #54 & #55, 2 miles north of Cotton)

	Rates	Fringes
BRICKLAYER.....	\$ 31.75	20.55

 CARP0068-005 07/01/2012

	Rates	Fringes
SOFT FLOOR LAYER.....	\$ 30.94	11.75

 * CARP0361-012 05/01/2015

DULUTH AREA including Alborn, Arnold, Bartlett, Birch, Brookstone, Canyon, Clinton, Culver, Floodwood, Gowan, Island, Kelsey, Lakewood, Meadowlands, Munger, Palmers, Payne, Prasit, Shaw, Taft)

	Rates	Fringes
CARPENTER (Including Acoustical Installation, Drywall Hanging, Form Work & Overhead Door Installation).....	\$ 29.55	16.08

 * CARP0606-001 05/01/2015

EXCLUDING DULUTH AREA

	Rates	Fringes
CARPENTER (Including Acoustical Installation, Drywall Hanging, Form Work & Overhead Door Installation).....	\$ 29.45	14.37

 ELEC0242-012 06/01/2014

ST. LOUIS (South part bounded on the north by the north line of Kelsey Township extended east & west)

	Rates	Fringes
ELECTRICIAN.....	\$ 32.54	24.07

 ELEC0294-006 05/31/2015

ST. LOUIS (North part bounded on the south by the south line of Ellsburg Township, extended east & west)

	Rates	Fringes
ELECTRICIAN.....	\$ 34.68	61.54%

 ENGI0049-045 05/01/2015

	Rates	Fringes
OPERATOR: Power Equipment		
GROUP 1.....	\$ 37.74	17.15
GROUP 2.....	\$ 37.40	17.15
GROUP 3.....	\$ 35.99	17.15
GROUP 4.....	\$ 35.65	17.15
GROUP 5.....	\$ 35.48	17.15
GROUP 6.....	\$ 33.97	17.15
GROUP 7.....	\$ 32.85	17.15
GROUP 8.....	\$ 30.84	17.15

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Truck & Crawler Crane with 200' of Boom & Over, including Jib (\$.50 premium with 300' of Boom & over, including jib); & Tower Crane 250' & Over.

GROUP 2: Truck & Crawler Crane with 150' of Boom, up to but not including 200' of Boom, including Jib; & Tower Crane 200' & Over.

GROUP 3: Traveling Tower Crane; Truck & Crawler Crane, up to

but not including 150' of Boom, including Jib; Tower Crane (Stationary) up to 200'; All-Terrain Vehicle Crane, Boom Truck over 100 ft.

GROUP 4: Backhoe/Track/Trackhoe, Hoist (3 drums or more); Overhead Crane (inside building perimeter), Excavator.

GROUP 5: Asphalt Spreader, Bulldozer, Curb Machine, Drill, Forklift, Compressor 450 CFM or over (2 or more machines); Boom Truck up to 100 ft, Loader over 1 cu yd, Hoist (1 or 2 drums); Mechanic; Milling Machine, Roller, Scraper, Tractor over D2.

GROUP 6: Bobcat/Skid Loader, Loader up to 1 cu. yd., Tractor D2 or similar size.

GROUP 7: Compressor 600 CFM or over, Crane Oiler.

GROUP 8: Oiler.

IRON0512-018 05/01/2015

	Rates	Fringes
IRONWORKER, ORNAMENTAL, REINFORCING, AND STRUCTURAL.....	\$ 31.04	23.45

LABO1091-011 01/01/2014

	Rates	Fringes
LABORER (ASBESTOS ABATEMENT) Removal from Floors, Walls & Ceilings.....	\$ 27.89	16.31

LABO1091-013 05/01/2012

ST. LOUIS (South of T 55 N)

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 21.95	14.93
GROUP 2.....	\$ 22.10	14.93
GROUP 3.....	\$ 22.35	14.93
GROUP 4.....	\$ 22.65	14.93

LABORER CLASSIFICATIONS

GROUP 1: Common or General, Asphalt Shoveler, Carpenter Tender, Form Stripping

GROUP 2: Vibrating Plate

GROUP 3: Pipelayer

GROUP 4: Mason Tender (Brick, Cement/Concrete)

LABO1097-008 05/01/2012

ST.LOUIS (North of T 55N)

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 20.62	16.25
GROUP 2.....	\$ 21.02	16.25

LABORERS CLASSIFICATIONS

GROUP 1 - Common or General, Asphalt Shoveler, Carpenter Tender, Form Stripping, Mason Tender (Brick, Cement/Concrete)

GROUP 2 - Pipelayer, Vibrating Plate

PAIN0106-001 05/01/2013

	Rates	Fringes
GLAZIER.....	\$ 26.28	15.47

FOOTNOTE:

1 to 4 years service - 1 week paid vacation; 5 to 11 years -
2 weeks paid vacation; 11 years or more - 3 weeks paid
vacation

PAIN0106-013 05/01/2014

	Rates	Fringes
Painters:		
New:		
Brush, Roller.....	\$ 28.81	15.27
Spray, Drywall		
Finisher/Taper.....	\$ 29.41	15.27
Repaint:		
Brush, Roller.....	\$ 27.31	15.27
Spray, Drywall		
Finisher/Taper.....	\$ 27.91	15.27

PLAS0633-024 05/01/2012

ST. LOUIS (North of White Face River) COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 26.71	14.64

PLAS0633-059 05/01/2012

CARLTON & ST. LOUIS (South of T 55N) COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 29.69	16.30

PLUM0011-019 05/12/2014

ST. LOUIS (South of an east-west line drawn through Cotton)

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 37.27	14.03

PLUM0589-007 05/01/2015

ST. LOUIS (North of an East- West line drawn through Cotton)

	Rates	Fringes
PLUMBER/PIPEFITTER		
Contracts \$90,000.00 and		
under.....	\$ 38.65	17.46
Contracts over \$90,000.00...	\$ 38.65	17.46

ROOF0096-024 07/01/2015

ST. LOUIS (South of Hwy 16, excluding City of Forbes)

	Rates	Fringes
ROOFER.....	\$ 32.15	14.67

ROOF0096-025 05/01/2015

ST. LOUIS (Remaining Northern two-thirds)

	Rates	Fringes
ROOFER.....	\$ 28.89	11.13

SHEE0010-045 05/01/2009

ST. LOUIS (Southern one-third)

Rates	Fringes
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SHEET METAL WORKER (Including HVAC Duct Installation).....	\$ 31.61	16.52
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SHEE0010-056 05/01/2008

ST. LOUIS (Northern two-thirds)

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation).....	\$ 29.99	16.08

SUMN2009-050 07/27/2009

	Rates	Fringes
LABORER: Landscape.....	\$ 12.88	4.61
TRUCK DRIVER: Dump Truck.....	\$ 19.15	5.70

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

CONTRACTOR & CITY OF DULUTH

THIS AGREEMENT, effective as of the date of attestation by the City Clerk, is made by and between the **CITY OF DULUTH**, a municipal corporation, hereinafter referred to as the "CITY," party of the first part, and **Contractor, address**, hereinafter referred to as the "Contractor," party of the second part;

WITNESSETH: That the Contractor and the City agree as follows:

1. The following shall be deemed to be part of this contract:
 - a. The annexed resolution and legal advertisement of the City Council.
 - b. The bid request and specifications, as modified by irreconcilable language in this written contract.
 - c. The bid by Contractor, as modified by irreconcilable language in this written contract.
 - d. The performance bond and payment bond certification.
 - e. All provisions of law applicable to a contract of this nature.
2. The Contractor agrees to furnish and deliver to the **Department** all labor, supervision, material, equipment, supplies, insurance, performance bond, payment bond and everything else necessary for general construction of **Project** at **location**, all in strict accordance with plans and specifications prepared by **design co. or city architect**, your bid of \$ and **resolution no. passed on date**. Contractor shall not commence performance of any work under this contract until Contractor receives authorization from the City's Purchasing Agent in writing and dated.
3. The City agrees to pay progress payments and make final payments to the Contractor as stated in the contract specifications. The total amount payable under this contract shall not exceed **dollar amount spelled out (\$)** unless the contract is modified by formal amendment or change order. Payments under this Agreement shall be made from the following accounts **funding** and **RQ no.**
4. The Contractor shall furnish and maintain in full force and effect until this contract is completely performed by the Contractor, a performance bond and payment bond if and when required by law, or if and when required by the City.
5. Inasmuch as this contract concerns work, materials and equipment needed for the public benefit, the provisions of this contract relating to the time of performance and completion of work and delivery of materials or equipment are of the essence of this contract.
6. The Contractor will defend, indemnify and save the City harmless from all costs, charges, damages, and loss of any kind that may grow out of the matters covered by this contract. Said obligation does not include indemnification of the City for claims of liability arising

out of the sole negligent or intentional acts or omissions of City but shall include but not be limited to the obligation to defend, indemnify and save harmless the City in all cases where claims of liability against the City arise out of acts or omissions of City which are derivative of the negligence or intentional acts or omissions of Contractor such as, and including but not limited to, the failure to supervise, the failure to warn, the failure to prevent such act or omission by Contractor and any other such source of liability. In addition Contractor will comply with all local, state and federal laws, rules and regulations applicable to this contract and to the work to be done and things to be supplied hereunder.

7. Insurance

a. Contractor shall provide the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota, which insurance shall indemnify Contractor and City from all liability described in Paragraph 6 above, subject to provisions below.

- (1) Workers' compensation insurance in accordance with the laws of the State of Minnesota.
- (2) Public Liability and Automobile Liability Insurance with limits not less than **\$1,500,000** Single Limit, and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance; shall be in a company approved by the city of Duluth; and shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability.
- (3) City of Duluth shall be named as **Additional Insured** under the Public Liability, Excess/Umbrella Liability* and Automobile Liability, or as an alternate, Contractor may provide Owners-Contractors Protective policy, naming itself and the City of Duluth. Contractor shall also provide evidence of Statutory Minnesota Workers Compensation Insurance. Contractor to provide Certificate of Insurance evidencing such coverage with 30-days notice of cancellation, non-renewal or material change provisions included. The City of Duluth does not represent or guarantee that these types or limits of coverage are adequate to protect the Contractor's interests and liabilities.

**An umbrella policy with a "following form" provision is acceptable if written verification is provided that the underlying policy names the City of Duluth as an additional insured.*

- (4) If a certificate of insurance is provided, the form of the certificate shall contain an unconditional requirement that the insurer notify the City without fail not less than 30 days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to City will render any such change or changes in said policy or coverages ineffective as against the City.

- (5) The use of an “ACORD” form as a certificate of insurance shall be accompanied by two forms – 1) ISO Additional Insured Endorsement (CG-2010 pre-2004) and 2) Notice of Cancellation Endorsement (IL 7002) or equivalent, as approved by the Duluth City Attorney’s Office.
- b. The insurance required herein shall be maintained in full force and effect during the life of this Agreement and shall protect Contractor, its employees, agents and representatives from claims and damages including but not limited to personal injury and death and any act or failure to act by Contractor, its employees, agents and representatives in the negligent performance of work covered by this Agreement.
- c. Certificates showing that Contractor is carrying the above described insurance in the specified amounts shall be furnished to the City prior to the execution of this Contract and a certificate showing continued maintenance of such insurance shall be on file with the City during the term of this Contract.
- d. Contractor shall be required to provide insurance meeting the requirements of this Paragraph 7 unless Contractor successfully demonstrates to the satisfaction of the City Attorney, in the exercise of his or her discretion, that such insurance is not reasonably available in the market. If Contractor demonstrates to the satisfaction of the City Attorney that such insurance is not reasonably available, the City Attorney may approve an alternative form of insurance which is reasonably available in the market which he or she deems to provide the highest level of insurance protection to the City which is reasonably available.
8. No claim whatsoever shall be made by the Contractor against any officer, agent or employee of the City for, or on account of, anything done, or omitted to be done, in connection with this contract. If this contract is not made in conformity with mandatory provisions of any statute or of the ordinances and charter of the City of Duluth, the Contractor agrees to raise no defense and make no claim against the City on the basis of ratification, laches, estoppel, or implied contract.
9. The Contractor shall not assign, transfer, convey or otherwise dispose of this contract, or his right to execute it, or his right, title or interest in or to it, or any part thereof, without the consent of the City, evidenced by a resolution duly adopted by the City Council. The prohibition contained in this paragraph shall not be deemed to prevent the contractor from subcontracting. Contractor shall remain primarily responsible for all work performed by any subcontractor.
10. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this contract, Contractor will not discriminate by reason of race, creed or color, religion, national origin, sex, marital status, status with regard to public assistance, disability or age.
11. The Contractor agrees that Contractor shall not in any manner discriminate against or intimidate or prevent the employment of any person or persons, or on being hired, prevent or conspire to prevent any person or persons from the performance or work under this contract on account of race, creed or color, religion, national origin, sex, marital status, status with regard to public assistance, disability or age.

12. The contractor agrees that, as provided in Minnesota Statutes 16C.05, Subd. 5, contractor's books, records, documents, and accounting procedures and practices are subject to examination by the City or the state auditor for six years from the date of final payment under this contract.
13. This contract may be cancelled or terminated by the City and all moneys due or to become due hereunder may be forfeited for any failure to perform any terms or conditions of this contract including but not limited to any violation of the terms or conditions of Section 10 or 11 of this contract.
14. Any waiver by any party of any provision of this contract shall not imply a subsequent waiver of that or any other provision.
15. This contract is made in the state of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis, County, Minnesota, and the parties to this Agreement waive objection to the jurisdiction of this court, whether based on convenience or otherwise.
16. This Agreement constitutes the entire agreement between the City and the Contractor on the subject matter hereof. It may not be changed, modified, discharged or extended except by written instrument duly executed on behalf of the City and the Contractor. The Contractor agrees that no representations or warranties made by the City shall be binding upon the City unless expressed in writing herein.
17. This Agreement shall not be in force and effect, or in any way binding upon the City until the same shall have been approved by the Department Head, signed by the Mayor, attested by the Clerk, and countersigned by the City Auditor.
18. The Contractor unconditionally guarantees to perform all work pursuant to this contract in a good and workmanlike manner, in strict compliance with the specifications and instructions hereto attached, and to the satisfaction of the City of Duluth.
19. This Agreement may be executed in counterparts, each of which shall be deemed to be original and all of which together shall constitute the binding and enforceable agreement of the parties hereto. This Agreement may be executed and delivered by a party by facsimile or PDF transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party.

Countersigned:

CITY OF DULUTH-Client

By

City Auditor
Approved this _____ day of _____

Mayor

Attest:

Department Director
Approved this _____ day of _____

City Clerk
Attested this _____ day of _____

Purchasing Agent
Approved this _____ day of _____

Contractor
Consultant (Service Provider)

By

Assistant City Attorney
Approved this _____ day of _____

Company Representative

Its

Title of Representative
Approved this _____ day of _____

GENERAL CONDITIONS 4-15-11

PART I

101. DEFINITIONS

Wherever used in any of the Contract Documents, the following meanings shall be given to the terms herein defined:

- a. The term "Contract" means the Contract executed by the City of Duluth in its capacity as agent for the City of Duluth and the Contractor, of which these GENERAL CONDITIONS form a part.
- b. The term "City" means the City of Duluth, Minnesota, which is authorized to undertake this Contract and within which the Project Area is situated or any employee of the City of Duluth designated by the City of Duluth for the purpose of inspecting, directing, or having in charge the work embraced in this Contract.
- c. The term "Contractor" means the person, firm, or corporation entering into the Contract with the City to construct and install the Improvements embraced in this Contract.
- d. The term "Project Area" means site within which is specified Contract limits of the Improvements contemplated to be constructed in whole or in part under this Contract.
- e. The term "Architect" means the architect or engineer licensed to practice architecture or engineering and serving the City with architectural or engineering services, or his authorized representative or successor.
- f. The term "Change Order" means a written order to the Contractor, signed by the City, issued after execution of the Contract, authorizing and directing a change in the Work or an adjustment in the contract sum or the contract time. The contract sum and the contract time may be changed only by Change Order.
- g. The term "Contract Documents" means and shall include the following: Executed Agreement, Addenda (if any), Invitation for Bids, Instructions to Bidders, Signed Copy of Bid, General Conditions, Special Conditions, Technical Specifications, and Drawings (as listed in the Schedule of Drawings), and all requested submittals such as Certificate of Insurance, performance and payment bonds, EEO Affirmative Action Policy Statement & Compliance Certificate, Certificate of Non-Collusion.
- h. The term "Drawings" means the drawings listed in the Schedule of Drawings.
- i. The term "Field Order" means a written interpretation necessary for the proper execution of the Work, in the form of drawings or otherwise issued to the Contractor by the City or the Architect.
- j. The term "Technical Specifications" means that part of the Contract Documents which describes, outlines and stipulates the quality of the materials to be furnished, the quality of workmanship required, and the methods to be used in carrying out the construction work to be performed under this Contract.
- k. The term "Addenda" or "Addendum" means any changes, revisions or clarifications of the Contract Documents which have been duly issued by the City to prospective Bidders prior to time of receiving Bids.
- l. The term "Work" means all labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated in such construction.

102. SUPERINTENDENCE BY CONTRACTOR

- a. Except where the Contractor is an individual and gives his personal superintendence to the work, the Contractor shall provide a competent superintendent, satisfactory to the City and the Architect, on the work at all times during working hours with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work.
- b. The Contractor shall lay out his own work and he shall be responsible for all work executed by him under the Contract. He shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from his failure to do so.

103. SUBCONTRACTS

- a. The Contractor shall not execute an agreement with any subcontractor, or permit any subcontractor to perform any work included in this contract until he has submitted a noncollusion affidavit from the subcontractor in substantially the form attached and has received written approval of such subcontractor from the City.
- b. No proposed subcontractor shall be disapproved by the City except for cause.
- c. The Contractor shall be as fully responsible to the Owner for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
- d. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with the applicable provisions of this Contract.
- e. Nothing contained in this Contract shall create any contractual relationship between the subcontractor and the City.

104. OTHER CONTRACTS

The City may award, or may have awarded, other contracts for additional work, and the Contractor shall cooperate fully with such other Contractors, by scheduling his own work with that to be performed under other Contracts as may be directed by the City. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor as scheduled.

105. FITTING AND COORDINATION OF THE WORK

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors, or materialmen engaged upon this Contract. He shall be prepared to guarantee to each of his subcontractors the locations and measurements which they may require for the fitting of their work to all surrounding work.

106. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts or neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor shall settle with such other Contractor or subcontractor by agreement or arbitration, if such other Contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against the City on account of damage alleged to have been so sustained, the City shall notify this Contractor, who shall defend at his own expense any suit based upon such claim, and, if any judgment or claims against the City shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith.

107. PROGRESS SCHEDULE

The Contractor shall submit for approval immediately after execution of the Agreement, a carefully prepared Progress Schedule, showing the proposed dates of starting and of completing each of the various sections of the work, the anticipated monthly payments to become due the Contractor and the accumulated percent of progress each month.

108. PAYMENTS

1) Partial Payments.

- a. The Contractor shall prepare his requisition of partial payment as of the last day of the month and submit it, with the required number of copies, to the City contracting officer for his approval. The amount of the payment due the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting (1) five percent (5%) of the total amount, this sum to be retained until final payment and (2) the amount of all previous payments. The total value of the work completed to date shall be based on the estimated quantities of work completed and on the unit prices

contained in the agreement. The value of materials properly stored on site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be available for the inspection of the Architect and the City.

b. Monthly or partial payments made by the City to the Contractor are moneys advanced for the purpose of assisting the Contractor to expedite the work of construction. The Contractor shall be responsible for the care and protection of all materials and work upon which payments have been made until final acceptance of such work and materials by the City. Such payments shall not constitute a waiver of the right of the City to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this Contract complete and satisfactory to the City in all details.

2) Final Payment.

a. After final inspection and acceptance by the Architect and the City of all work under the Contract, the Contractor shall prepare his requisition for final payment which shall be based upon the carefully measured and computed quantity of each item of work at the applicable unit prices stipulated in the Agreement. The total amount of the final payment due the Contractor under this Contract shall be the amount computed as described above less all previous payments. Final payment to the Contractor shall be made subject to his furnishing the City with a release in satisfactory form of all claims against the City arising under and by virtue of his contract, other than such claims, if any, as may be specifically excepted by the Contractor from the operation of the release as provided under Section 113 hereof.

b. The City, before paying the final estimate, may require the Contractor to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the Project) and services to the Contractor, if the City deems the same necessary in order to protect its interest. The City, however, may if it deems such action advisable make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments so made shall in no way impair the obligations of any surety or sureties furnished under this Contract.

c. Withholding of any amount due the City under Section 403, entitled "Liquidated Damages," under SPECIAL CONDITIONS, shall be deducted from the final payment due the Contractor.

3) Withholding Payments

The City may withhold from any payment otherwise due the Contractor so much as may be necessary to protect the City and, if it so elects, may also withhold any amounts due from the Contractor to any subcontractors or material dealers for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the City and will not require the City to determine or adjust any claims or disputes between the Contractor and his subcontractors or material dealers, or to withhold any moneys for their protection unless the City elects to do so. The failure or refusal of the City to withhold any moneys from the Contractor shall in no wise impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

4) Payments Subject to Submission of Certificates.

Each payment to the Contractor by the City shall be made subject to submissions by the Contractor of all written certifications required of him and his subcontractors by Section II, Part II Supplementary General Conditions for Federally, State of Minnesota, and/or City Assisted Activities.

109. CHANGES IN THE WORK

a. The City may make changes in the scope of work required to be performed by the Contractor under the Contract by making additions thereto, or by omitting work therefrom, without invalidating the Contract, and without relieving the Contractor from any of his obligations under the Contract or any guarantee given by him pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without

relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless is expressly provided otherwise.

b. Except for the purpose of affording protection against any emergency endangering health, life, or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the Improvements or supply additional labor, services, or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the City authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract Price will be valid unless so ordered.

c. If applicable unit prices are contained in the Agreement (established as a result of either a unit price bid or a Supplement Schedule of Unit Prices), the City shall order the Contractor to proceed with desired changes in the work, the value of such changes to be determined by the measured quantities involved and the applicable unit prices specified in the Contract; provided that, in case of a unit price contract the net value of all changes does not increase or decrease the original total amount shown in the Agreement by more than twenty-five percent (25%) in accordance with Section entitled Unit Prices, under INSTRUCTIONS TO BIDDERS.

d. If applicable unit prices are not contained in the Agreement or if the total net change increases or decreases the total Contract Price more than twenty-five (25%), the City shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from him covering the work involved in the change after which the procedure shall be as follows:

(1) If the proposal is acceptable, the City will prepare the change order in accordance therewith for acceptance by the Contractor.

(2) If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the City may order the Contractor to proceed with the work on a cost-plus limited basis; provided that this basis shall not apply to costs incurred by Contractor for any work done by any subcontractor, which work may proceed under the basis set forth in sub-subparagraph (3) below. A cost-plus-limited basis is defined as the net cost of the Contractor's labor, materials, and insurance plus fifteen percent (15%) of said net cost to cover overhead and profit, the total cost not to exceed a specified limit.

(3) If the proposal of the Contractor is not acceptable in whole or part because of the proposals of one or more of the subcontractors and prompt agreement between the two parties cannot be reached, the City may order the Contractor to proceed with the work and reimburse Contractor for work done by any subcontractor on the basis of that subcontractor's net cost of labor, materials, and insurance plus twenty percent (20%) of said net cost to cover overhead and profit, the total cost not to exceed a specified limit. Contractor shall supply all data to City which is necessary to determine any such subcontractor's net costs.

e. Each change order shall include in its final form:

(1) A detailed description of the change in the work.

(2) The Contractor's proposal (if any) of a confirmed copy thereof.

(3) A definite statement as to the resulting change in the Contract price and/or time.

(4) The statement that all work involved in the change shall be performed in accordance with the Contract requirements except as modified by the change order.

110. CLAIMS FOR EXTRA COST

a. If the Contractor claims that any instructions by Drawings or otherwise involve extra cost or extension of time, he shall, within ten (10) days after the receipt of such instructions, and in any event, before proceeding to execute the work, submit his protest thereto in writing to the City, stating clearly and in detail the basis of his objections. No such claim will be considered unless so made.

b. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be recognized unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted, or would result, in handling more material, or performing more work, than would be reasonably estimated from the Drawings and maps issued.

- c. Any discrepancies which may be discovered between actual conditions and those represented by the documents shall at once be reported to the City and work shall not proceed, except at the Contractor's risk, until written instructions have been received by him from the City.
- d. If, on the basis of the available evidence, the City determines that an adjustment of the Contract Price and/or time is justifiable, the procedure shall then be as provided in Section 109 hereof.

111. TERMINATION, DELAYS, AND LIQUIDATED DAMAGES

a. Termination of Contract.

If the Contractor refuses or fails to execute the work with such diligence as will insure its completion within the time specified in these Contract Documents, or as modified as provided in these Contract Documents, the City, by written notice to the Contractor, may terminate the Contractor's right to proceed with the work. Upon such termination, the City may take over the work and prosecute the same to completion, by contract or otherwise, and the Contractor and his sureties shall be liable to the City for any additional cost incurred by the City in its completion of the work and they shall also be liable to the City for liquidated damages for any delay in the completion of the work as provided below. If the Contractor's right to proceed is terminated, the City may take possession of and utilize in completing the work such materials, tools, equipment, and plant as may be on the site of the work and necessary therefore.

b. Liquidated Damages for Delays.

If the work is not completed within the time stipulated in Section 7 (Special Conditions) hereof, including any extensions of time for excusable delays as herein provided, the Contractor shall pay to the City as fixed, agreed, and liquidated damages (it being impossible to determine the actual damages occasioned by the delay) for each calendar day of delay, until the work is completed, the amount as set forth in Section 7 (Special Conditions) hereof and the Contractor and his sureties shall be liable to the City for the amount thereof.

c. Excusable Delays.

The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due: (1) To any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency;

(2) To any acts of the City;

(3) To causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in their performance of some other contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones, and other extreme weather conditions; and

(4) To any delay of any subcontractor occasioned by any of the causes specified in subparagraphs (1), (2) and (3) of this paragraph "c". Provided, however, that the Contractor promptly notify the City in writing within ten (10) days the cause of the delay. Upon receipt of such notification, the City shall ascertain the facts and the cause of the delay. If, upon the basis of facts and the terms of the Contract, the delay is properly excusable, the City shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

112. ASSIGNMENT OR NOVATION

The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the City; provided, however, that assignments to banks, trust companies, or other financial institutions may be made without the consent of the City. No assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this Contract

in favor of all persons, firms, or corporations rendering such labor or services or supplying such materials, tools, or equipment.

113. DISPUTES

a. All disputes arising under this Contract or its interpretation, whether involving law or fact or both, or extra work, and all claims for alleged breach of contract shall, within ten (10) days of the first event giving rise to the dispute, be presented by the Contractor to the City for decision. All papers pertaining to claims shall be filed in quadruplicate. Such notice need not detail the amount of the claim but shall state the facts surrounding the claim in sufficient detail to identify the claim together with its character and scope. In the meantime, the Contractor shall proceed with the work as directed by the City. Any claim not presented within the time limit specified within this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of the first event giving rise to it, the claim will be considered only for a period commencing ten (10) days prior to the receipt by the City of notice thereof.

b. The Contractor shall submit in detail his claim and his proof thereof. Each decision by the City will be in writing and will be mailed to the Contractor by registered or certified mail, return receipt requested, directed to his last known address or actually delivered to Contractor or its managing agent. All interpretations or decisions of the City shall be consistent with the Contract and its intent.

c. If the Contractor does not agree with any decision of the City, he shall in no case allow the dispute to delay the work but shall notify the City promptly that he is proceeding with the work under protest and he may then accept the matter in question from the final release. If the Contractor does not agree with any decision of the City, he may submit the matter to arbitration no later than thirty (30) days after the date on which the Contractor received the City's decision; provided, however, that the City shall not be required to submit to arbitration without its prior written consent; and if the City does consent to arbitration, then the Contractor shall pay all costs of such arbitration.

114. TECHNICAL SPECIFICATIONS AND DRAWINGS

Anything mentioned in the Technical Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Technical Specifications, shall be of like effect as if shown on or mentioned in both. In case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy on Drawings or Technical Specifications, the matter shall be immediately submitted to the City, without whose decision, said discrepancy shall not be adjusted by the Contractor, save only at his own risk and expense.

115. SHOP DRAWINGS

a. All required shop drawings, machinery details, layout drawings, etc. shall be submitted to the Architect or the City, as directed by the City, in two copies for approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and rechecking if necessary. The Contractor may proceed, only at his own risk, with manufacture or installation of any equipment or work covered by said shop drawings, etc. until they are approved and no claim, by the Contractor, for extension of the Contract time will be granted by reason of his failure in this respect.

b. Any drawing submitted without the Contractor's stamp of approval will not be considered and will be returned to him for proper resubmission. If any drawings show variations from the requirements of the Contract because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment of contract price and/or time, otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been approved.

c. If a shop drawing with the Contractor involves only a minor adjustment in the interest of the City not involving a change in Contract price or time, the Architect may approve the drawing. The approval shall be

general, shall not relieve the Contractor from his responsibility for adherence to the Contract or for any error in the drawing and shall contain in substance the following: "The modification shown on the attached drawing is approved in the interest of the City to effect an improvement for the Project and is ordered with the understanding that it does not involve any change in the Contract price or time; that it is subject generally to all Contract stipulation and covenants; and that it is without prejudice to any and all rights of the City under the Contract and surety bond or bonds."

116. REQUEST FOR SUPPLEMENTARY INFORMATION

It shall be the responsibility of the Contractor to make timely requests of the City for any additional information not already in his possession which should be furnished by the City under the terms of this Contract, and which he will require in the planning and execution of the work. Such requests may be submitted in writing from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two (2) weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the City may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in his work or to others arising from his failure to comply fully with the provisions of this Section.

117. MATERIALS AND WORKMANSHIP

- a. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in the Technical Specifications as an equal to any particular standard, the City shall decide the question of equality.
- b. The Contractor shall furnish to the City for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required, and shall likewise submit for approval as required full information concerning all other materials or articles which he proposes to incorporate in the work. (See Section 118 hereof)
- c. Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.
- d. Materials specified by reference to the number or symbol of a specific standard, such as A.S.T.M. Standard, a Federal Specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as limited to type, class or grade, or modified in such reference. The Standards referred to, except as modified in the Technical Specifications shall have full force and effect as though printed therein.
- e. The City may require the Contractor to dismiss from the work such employee or employees as the City may deem incompetent, or careless, or insubordinate.

118. SAMPLES, CERTIFICATES AND TESTS

- a. The Contractor shall submit all material or equipment samples, certificates, affidavits, etc. as called for in the Contract Documents or required by the Architect, promptly after award of the Contract and acceptance of the Contractor's Bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor's own risk, until the required samples or certificates have been approved in writing by the City or the Architect. Any delay in the work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the contract time. Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with Contract requirements, shall give the name and brand of the product, its place of origin,

the name and address of the producer and all specifications or other detailed information which will assist the Architect or the City in passing upon the acceptability of the sample promptly. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.

b. Approval of any materials shall be general only and shall not constitute a waiver of the City's right to demand full compliance with Contract requirements. After actual deliveries, the City or the Architect will have such check tests made as they deem necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and equipment have been given general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the City or the Architect will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable.

c. Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:

(1) The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by the City or the Architect; (2) The Contractor shall assume all costs of retesting materials which fail to meet Contract requirements;

(3) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient; and

(4) The City will pay for all other testing expenses.

119. CARE OF WORK

a. The Contractor shall be responsible for all damages to persons or property that occur as a result of his fault or negligence in connection with the prosecution of the work and shall be responsible for the proper care and protection of all work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the City.

b. In an emergency affecting the safety of life, limb or property, including adjoining property, the Contractor, without special instructions or authorization from the City is authorized to act at his own discretion to prevent such threatened loss or injury, and he shall so act. He shall likewise act if instructed to do so by the City. Any compensation claimed by the Contractor on account of such emergency work will be determined by the City as provided in Section 109 hereof.

c. The Contractor shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and he shall at his own expense completely repair any damage thereto caused by his operations.

d. The Contractor shall shore up, brace, underpin, secure and protect as may be necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of the Improvements embraced in this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjacent or adjoining property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the City from any damages on account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the City may become liable in consequence of such injury or damage to adjoining structures and their premises.

120. ACCIDENT PREVENTION

a. The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his fault or negligence in connection with the prosecution of the work. The safety provisions of applicable Federal, State and local laws and ordinances and building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures as the City may determine to be reasonably necessary. Machinery, equipment, and all hazards shall be guarded in accordance

with the safety provisions of the A Manual of Accident Prevention in Construction published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.

b. The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the Owner with reports concerning these matters.

121. SANITARY FACILITIES

The Contractor shall furnish, install, and maintain ample sanitary facilities for the workmen. As the needs arise a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the sanitary codes of the State and Local Government. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

122. USE OF PREMISES

a. The Contractor shall confine his equipment, storage of materials, and construction operations to the Contract limits as shown on the Drawings and as prescribed by ordinances or permits, or as may be directed by the City, and shall not unreasonably encumber the site or public rights of way with his materials and construction equipment.

b. The Contractor shall comply with all reasonable instructions of the City and the ordinances and codes of the Local Government regarding signs, advertising, traffic, fires, explosives, danger signals, barricades.

123. REMOVAL OF DEBRIS, CLEANING, ETC.

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonably clear. Upon completion of the work, he shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition. Trash burning on the site of the work will be subject to prior approval of the City and existing State and local regulations.

124. INSPECTION

a. All materials and workmanship shall be subject to inspection, examination or test by the City or the Architect at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The City shall have the right to reject defective or substandard material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material of specified quality without charge therefor. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the City may contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any moneys which may be due the Contractor, without prejudice to any other rights or remedies of the City.

b. The Contractor shall furnish promptly all materials reasonably necessary for any tests which may be required. (See Section 118 hereof). All tests by the City will be performed in such a manner as not to delay the work unnecessarily and will be made in accordance with the provisions of the Technical Specifications.

c. The Contractor shall notify the City sufficiently in advance of back-filling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent by the City, the Contractor shall uncover for inspection and recover such facilities all at his own expense, when so requested by the City.

Should it be considered necessary or advisable by the City at any time before final acceptance of the entire work to make an examination of work already completed by uncovering the same, the Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective in any important or essential respect, due to fault of the Contractor or his subcontractors the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, plus 15 percent of such costs to cover superintendence, general expenses and profit, shall be allowed the Contractor and he shall, in addition, if completion of the work of the entire Contract has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.

d. Inspection of materials and appurtenances to be incorporated in the Improvements embraced in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity justifies it, and such inspection and acceptance, unless otherwise stated in the Technical Specifications, shall be final, except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the Project Site.

e. Neither inspection, testing, approval nor acceptance of the work in whole or in part, by the City or its agents shall relieve the Contractor or his sureties of full responsibility for materials furnished or work performed not in strict accordance with the Contract.

125. REVIEW BY THE CITY

The City, its authorized representatives and agents, and the Architect, shall, at all times have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, and other relevant data and records pertaining to this Contract; provided, however, that all instructions and approvals with respect to work will be given to the Contractor only by the City through its authorized representative or agents.

126. FINAL INSPECTION

When the work embraced in this Contract is substantially completed, the Contractor shall notify the City in writing that the work will be ready for final inspection on a definite date which shall be stated in such notice. The notice shall bear the signed concurrence of the representative of the City having charge of inspection. If the City determines that the status of the Improvements is as represented, it will make the arrangements necessary to have final inspection commenced on the date stated in such notice, or as soon thereafter as is practicable.

127. DEDUCTION FOR UNCORRECTED WORK

If the City deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, an equitable deduction from the Contract Price will be made by agreement between the Contractor and the City and subject to settlement, in case of dispute, as herein provided.

128. TIME

a. The Contract Time is the period of time allotted in the Contract for completion of the Work. The date of commencement of the Work is the date established in a notice to proceed issued by the City to the Contractor. The Contractor shall begin the Work upon receipt of the notice to proceed.

b. The term "day" as used herein shall mean calendar day.

c. If a date of completion is included in the Contract, it shall be the Date of Substantial Completion of the Work, including authorized extensions thereto. The "Date of Substantial Completion of the Work" is the date certified by the City when construction is sufficiently complete, in accordance with the Contract, so the City may occupy the Work for the use for which it is intended.

129. INSURANCE

The Contractor shall carry the following insurance, at his expense and no direct payment for premiums shall be made by the City. Carriage of such insurance shall in no way alleviate the Contractor of his responsibilities under the contract.

a. The Contractor will be required to carry insurance of the kinds and in the amounts hereinafter specified. The Contractor shall not commence work under the contract until he has obtained all the insurance required by these specifications and until such insurance has been approved by the City Attorney, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved.

b. Insurance

The Contractor shall provide Commercial General Liability in an amount not less than \$1,500,000.00 combined single limit and Automobile Liability Insurance in an amount not less than \$1,500,000.00 combined single limit shall be in a company licensed to do business in Minnesota; and shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability. Property damage coverage for explosion, collapse, and underground Axcu to be included. City of Duluth shall be named as Additional Insured under the Commercial General Liability policy. Contractor shall also provide evidence of Statutory Worker's Compensation Insurance. Contractor to provide Certificate of Insurance evidencing such coverage with 30-day notice of cancellation, non-renewal, or material change provision included.

c. Subcontractor's Insurance

In the event any work contemplated by the contract is sublet, the Contractor shall have the duty to assure that the subcontractors provide insurance in accord with the minimum requirements hereinabove imposed on the Contractor.

d. Proof of Insurance

The Contractor shall not proceed with the work contemplated in this contract until he has furnished the City Attorney of the City of Duluth with satisfactory proof of the existence and carriage of insurance of the kinds and in the amounts specified.

e. Indemnification

The Contractor shall defend, indemnify and save harmless the City and all of its officers, agents and employees from all suits, actions or claims of any character, name and description brought for on account of any injuries or damages received or sustained by any person, persons or property, by or from the act or acts of said Contractor, or by or in consequence of any negligence in safeguarding the work, or through the use of unacceptable materials in constructing the work, or by or on account of any act or omission, neglect or misconduct of said Contractor, or from any claims or amount arising or recovered under the Workmen's Compensation Law or any other law, by-law, ordinance, order or decree, and so much of the money due the said Contractor under and by virtue of his contract, as shall be considered necessary by the City may be retained for the use of the City or in case no money is due, his surety shall be held until such suit or suits, action or actions, claim or claims, for injuries or damages as aforesaid, shall have been settled and suitable evidence to that effect furnished to the City. The Contractor shall indemnify and save harmless the City from any and all losses caused by or on account of any claims or amounts recovered for any infringement of patent, trademark, or copyright. The unauthorized use by the Contractor of public or private property for any purpose may be considered an injury or damage to the property so used.

130. PATENTS

The Contractor shall hold and save the City, its officers, employees, representatives and agents, and the Architect, harmless from liability of any nature or kind, including costs and expenses, for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the City, unless otherwise specifically stipulated in the Technical Specifications.

131. WARRANTY

No material, supplies, or equipment to be installed or furnished under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease-purchase or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same together with all improvements and appurtenances constructed or placed thereon by him to the City free from any claims, liens, or charges. Neither the Contractor nor any person, firm or corporation furnishing any material or labor for any work covered by this Contract shall have any right to a lien upon any improvement or appurtenance thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the Contractor for their protection or any rights under any law permitting such persons to look to funds due the Contractor in the hands of the City. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notices for the work when no formal contract is entered into for such materials.

132. GENERAL GUARANTY

- a. Neither the final certificate of payment nor any provisions in the Contract nor partial or entire use of the improvements embraced in this Contract by the City or the public shall constitute an acceptance of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which subsequently appears. The City will give notice of defective materials and work with reasonable promptness.
- b. If, within one year after the Date of Substantial Completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract, any of the Work is found to be defective or not in accordance with the specifications of the Contract, the Contractor shall correct it promptly upon receipt of a written notice from the City to do so, unless the City has previously given the Contractor a written acceptance of such condition or work.

133. ENVIRONMENTAL CONDITIONS

Waste Disposal: The SUBRECIPIENT shall comply with the most recent Minnesota Pollution Control Agency (MPCA) waste disposal requirements and include said disposal requirements in the project's base bid specifications. Waste material, including but not limited to: construction/demolition debris, asbestos-containing material, residential lead paint waste, hazardous waste, and above- and under-ground tanks, shall be disposed of at MPCA-permitted landfill sites only. Copies of all notification, shipment, and landfill receipt records shall be maintained in the subrecipient's project file.

Minnesota Pollution Control Agency
520 Lafayette Rd., St. Paul, MN 55155
(800) 657-3864

a. Construction/Demolition Waste.

Construction/demolition debris will be disposed of at a Minnesota Pollution Control Agency (MPCA) permitted landfill site only, with copies of all landfill receipts for said debris maintained in the subrecipient's project file.

(Solid Waste Management Rules, Chapter 7001 & 7035)

b. Asbestos-Containing Waste.

All asbestos removal and disposal shall be in strict accordance with all applicable permits. The contract bidder shall include the price of all permits, testing, removal, and disposal in the project base bid.

- Project asbestos-containing material removal pursuant to USEPA 40 CFR 61.145 Standard for Demolition and Renovation.
- All asbestos-containing waste material shall be disposed of pursuant to USEPA 40 CFR 61.150 at a MPCA permitted landfill site only, in accordance with the provisions of USEPA 40 CFR 61.154.

Statement of Work
Duluth Steam Project DUL-PLANT-16-02
Relief Piping Modifications
Duluth, MN 55802

1. Project Overview:

Each of Duluth Energy System's four boilers has three safety relief vents. Currently only boiler #4 has all three relief vents extended through the roof. The project will include extending boiler #1 safety relief vents through the roof, properly supporting the pipe, installation of three new drip pan elbows, and replace the existing relief pipe through the roof.

2. Contract Documents:

This Statement of Work and Drawing P-1.01 comprise the technical requirements for this project.

3. Project Description:

- a. Contractor shall complete modifications to the safety relief drip pan elbows and piping on boiler #1 as shown on Drawing P-1.01.
- b. Specific replacements to be accomplished in this project are:
 1. Drip pan elbow:
 - i. Remove three existing drip pan elbows and replace with three new. Drain shall discharge to top of boiler. Owner will provide new drip pan elbows.
 2. Relief piping:
 - i. Abate the asbestos ceiling insulation where necessary to extend the relief piping through the roof.
 - ii. Remove existing 8" relief piping through the roof. Replace piping and support at roof structure. Roof support shall safely secure and support entire pipe from safety to discharge point. Flash roof penetration.
 - iii. Install three new 8" relief pipes from safety to the exterior of the building as shown on Drawing P-1.01. Extend piping 7'-0" above roof deck. Support relief piping from underside of roof structure. Do not support pipe with roof membrane. Roof structure shall support the entire weight of pipe. Flash roof penetrations and create water tight penetration.

4. Material and Equipment Requirements:

- a. With the exception of the material and labor listed in Section 4.b., the Contractor shall supply and include in the bid the cost of all equipment, material, and labor required to complete the project.
- b. Material and labor to be provided by Duluth Energy Systems:
 - 1. Drip pan elbows
- c. Material, equipment, and labor to be provided by Contractor:
 - 1. Asbestos abatement
 - 2. Any pipe and/or pipe fittings required
 - 3. All rigging and temporary supports
 - 4. Removal of existing pipe and drip pan elbows
 - 5. Removal and reinstallation of any interference as required to complete installation of relief piping.

5. Project Schedule:

- a. Project to start when boiler #1 is shut-down for summer maintenance. Typically during the month of May.
- b. Project must be completed within 30 days after start.

- For all asbestos-containing material, a copy of the MPCA Notification of Demolition and Renovation record and all Waste Shipment records shall be maintained in the subrecipient's project file.

c. Hazardous Waste Material.

The MPCA shall be contacted for instructions on handling and disposing of materials containing Polychlorinated Biphenyls (PCBs) or any other identified/encountered hazardous materials. A copy of all correspondence and disposal records shall be maintained in the subrecipient's project file.

- MPCA Hazardous Waste Compliance Guide -- October 1989, Revised January 1991

- MPCA Hazardous Waste Fact Sheet Checklist -- August 1993

d. Above and Below Ground Storage Tanks.

The MPCA Tanks and Spills Section shall be contacted for instructions on handling or removal of all above- and underground tanks identified/encountered. A copy of all correspondence and disposal records shall be maintained in the subrecipient's project file.

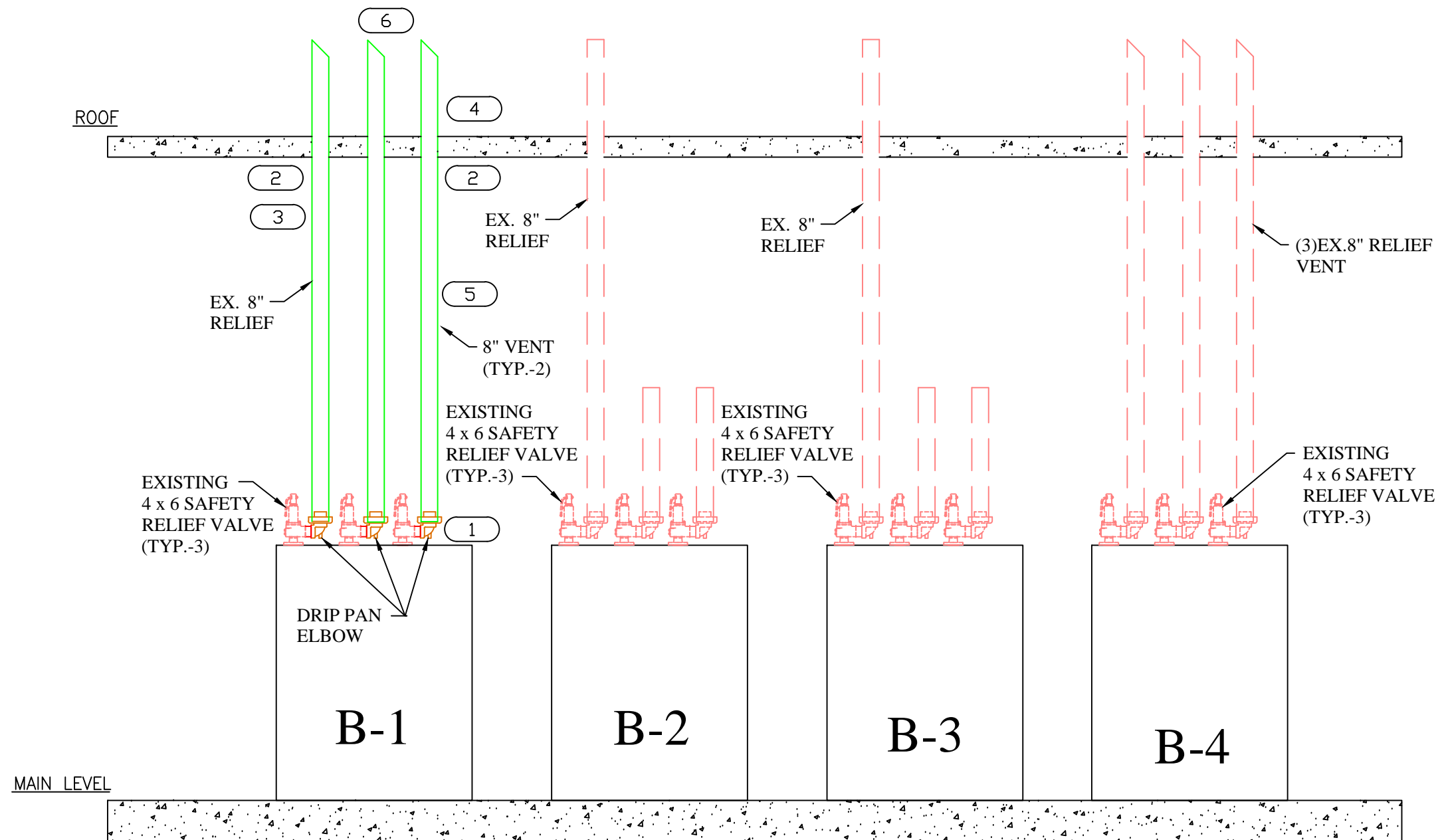
e. Residential Lead Paint Waste.

Projects whose activities produce residential lead paint waste are responsible for the management and proper disposal of the waste at an MPCA permitted landfill site only, pursuant to Minn. Stat. sections 116.87, 116.875, 116.88. A copy of the Residential Lead Abatement Notification and Shipping forms shall be maintained in the subrecipient's project file.

134. CONTRACTOR'S RECORDS

The contractor agrees that, as provided in Minnesota Statutes 16C.05, Subd. 5, contractor's books, records, documents, and accounting procedures and practices are subject to examination by the city or the state auditor for three years from the date of execution of this contract.

(End of Document)



NOTES:

- ① INSTALL NEW DRIP PAN ELBOW, TOTAL OF EIGHT (3). VERIFY ELBOW IS NOT SUPPORTING RELIEF PIPE. DRIP PAN ELBOW SHALL BE PROVIDED BY OWNER.
- ② SUPPORT RELIEF PIPE FROM UNDERSIDE OF ROOF STRUCTURE. DO NOT SUPPORT PIPE WITH ROOF MEMBRANE.
- ③ REPLACE EXISTING PIPE.
- ④ EXTEND RELIEF PIPING A MINIMUM OF 7'-0" ABOVE ROOF. PROVIDE WATER TIGHT FLASHING AROUND RELIEF PIPING AT ROOF PENETRATION.
- ⑤ PIPE SHALL BE SCHEDULE 40 STEEL WITH WELDED JOINTS. PIPE AND WELDED JOINTS SHALL BE PAINTED WITH HIGH TEMP. PAINT, COORDINATE COLOR WITH B-4 RELIEF PIPE. COORDINATE ALL WELDING AND LIFTING WITH OWNER AND CONTRACTORS ONSITE.
- ⑥ CHAFFER AT TOP OF PIPE SHALL MATCH BOILER #4 RELIEF PIPE.



DULUTH ENERGY SYSTEMS

SAFETY RELIEF PIPING MODIFICATIONS

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

Signature: _____

Typed or Printed: _____

Name: _____ Date: _____ Reg. No.: 47511

DWG. TITLE:
SAFETY RELIEF PIPING MODIFICATION

PROJ. NO: PLANT-16-02

DRAWN BY: DFC

CHECKED BY:

DRAWING NO: P-1.01