

CITY OF SAULT STE. MARIE

REQUEST FOR PROPOSAL City Hall Lighting Upgrade, Phase II B-07-24

The City of Sault Ste. Marie will receive sealed bids in the office of the City Clerk, City Hall - 225 East Portage Ave., Sault Ste. Marie, Michigan 49783, for City Hall Lighting Upgrade, Phase II.

Sealed bids will be publicly opened on **Wednesday, May 29, 2024, at 3pm (Local Time)** in the City Clerk's office.

To order bid documents or for questions regarding the bidding process please contact the City Clerk's Office at (906) 632-5715 or visit www.saultcity.com.

The City reserves the right to reject any and all bids and to waive irregularities in bids and to accept any bids which in the opinion of the City Commission may be most advantageous to the City of Sault Ste. Marie and in accordance with the City's "Award Process" and other bidding documents.

ROBIN R. TROYER MMC, DEPUTY CITY MANAGER

PROPOSAL

CITY OF SAULT STE. MARIE

City Hall Lighting Upgrade, Phase II

B-07-24

PROPOSAL OPENING DATE

Wednesday, May 29, 2024

3:00 p.m. EST

City of Sault Ste. Marie
Engineering Department
225 E. Portage Avenue
Sault Ste. Marie, MI 49783
(906) 632-5734

CITY OF SAULT STE. MARIE
CITY HALL LIGHTING UPGRADE, PHASE II

B-07-24

TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGE</u>
Project Summary	3
Information for Bidders	4-8
Bid Form	9-16
Agreement	17-20
Insurance Requirements	21-23
Notice of Award	24
Notice to Proceed	25
General Conditions Index/General Conditions	26-57
Attachments.....	58

CITY OF SAULT STE. MARIE

CITY HALL LED LIGHTING UPGRADE, PHASE I

B-07-24

Project Summary

This project will be Phase II, the final phase of the project. This phase will be the 1st, 2nd, and 3rd floor and select other areas. The project will consist of the removal or repurposing of existing fluorescent light fixtures to facilitate replacement with LED bulbs, and replacement of other various fixtures with new LED lighting.

Funding will be 100% provided by the Michigan Department of Environment Great Lakes and Energy Community Energy Management Grant.

City Hall will coordinate with the contractors to schedule time frames when the office spaces are unoccupied, allowing contractors to be uninterrupted on the job.

Increasing material costs and budgetary limitations require the use of alternates to provide flexibility in the final decision-making process in this renovation project. There are a few issues that need to be investigated and a proposal plan of action with a cost estimate. To this, additional work will be added as funds allow. Submitted bids, to be valid, will have the following four additive alternates priced separately:

ADDITIVE ALTERNATE 1 - A1: INVESTIGATE LOAD AND PROVIDE A NARRATIVE TO HAVE THE CURRENT GENERATOR POWER THE ENTIRE BUILDING. IF UNABLE, MAKE LOGICAL DECISION ON WHAT COULD BE SUPPORTED. CURRENT GENERATOR OUTPUT 20 KWH.

ADDITIVE ALTERNATE 2 - A2: INVESTIGATE IF WORK AREAS ON THE 1ST FLOOR CAN BE SPLIT IN TO SEPARATE CIRCUITS TO ALLOW INDIVIDUAL OFFICE SPACE HEATERS.

ADDITIVE ALTERNATE 3 - A3: INVESTIGATE THE LIGHTS (EMERGENCY LIGHTING) IN THE PLANNING DEPARTMENT THAT WILL NOT SHUT OFF. THIS WILL BE ON THE 2ND FLOOR. INSTALL SWITCH IF POSSIBLE TO CORRECT.

ADDITIVE ALTERNATE 4 - A4: INSPECT LIGHTING CONTROLLER IN THE CEILING ABOVE THE CUSTOMER SERVICE COUNTER IN THE PLANNING DEPARTMENT - 2ND FLOOR. IF POWER PACK IS BAD, QUOTE REPLACEMENT.

INFORMATION FOR BIDDERS

1. PROPOSALS

Each Proposal shall be made on a form prepared therefore by the CITY and included as one of the Contract Documents, and shall be submitted, in a sealed envelope bound together with the other Contract Documents, except the Plans, bearing the title of the Project and the name of the Bidder. The Plans do not need to be returned, however, if the contractor wishes to return them, they shall be returned in a separate package.

Proposals shall be delivered by the time and to the place stipulated in the Advertisement. It is the sole responsibility of any Bidder to see that his Proposal is received at the proper time. Any Proposal received after the scheduled time for opening of Proposals shall be returned to the Bidder unopened.

Proposals will be opened and publicly read aloud at the time and place set forth in the Advertisement.

Any Bidder may withdraw his Proposal, either personally or by telegraphic or written request, at any time prior to the scheduled time for opening of Proposals. In case of a difference between the stipulated amounts in the Proposal written in words and the stipulated amount written in figures, the stipulated amounts in written words shall govern.

Proposals shall not contain any recapitulations of the work to be done. Alternate proposals will not be considered unless expressly requested. Oral proposals or modifications will not be considered.

2. EXAMINATION OF DOCUMENTS AND VISIT TO SITE

Before submitting a Proposal, Bidders shall carefully examine the Plans, read the elements of the Contract Documents, shall visit the site of the work, and shall fully inform themselves as to all existing conditions to be encountered, the nature of the ground, the difficulties and limitations involved in completing the Project and all other factors affecting the work proposed on this Project. All specifications for fixtures and bulbs must be submitted to city at completion of project to submit to Cloverland Energy for rebate.

It is the intent of the Contract Documents to provide that the Project to be constructed under this Proposal shall be complete and ready for use, in every respect. Any minor items not specifically called for in the Plans or Specifications, but which are clearly necessary, are to be included, at no increase in the Contract Price.

The Proposal shall include a sum to cover the cost of all items of work to be performed such that the Project to be constructed under this Proposal shall be complete and ready for use in every respect. The Bidder to whom this Project is awarded will not be entitled to any additional compensation or extension of time by reason of his failure to fully acquaint himself with the conditions at the site or by his failure to fully examine the Contract Documents.

To schedule a site visit, call **Robin Troyer: (906) 632-5717**

3. SUBCONTRACTS; MATERIAL AND EQUIPMENT QUOTATIONS

The Bidder to whom the award is made will not be entitled to additional compensation or extension of time by reason of his failure to fully understand all subproposals or quotations the Bidder is responsible for all coordination between Subcontractors and suppliers during the bidding and construction so that a complete Project is furnished for the Contract Price and within the Contract Time. The completed Project includes the furnishing of all equipment, accessories, and appurtenances necessary for the proper operation and maintenance of the Project.

4. AWARD OR REJECTION

The Contract will be awarded to the lowest and/or best qualified and responsible Bidder complying with these instructions and with the Advertisement. The CITY reserves the right to reject any or all Proposals or to waive any irregularities or technicality in any Proposal in the best interest of the CITY.

5. INTERPRETATION OF DOCUMENTS

Interpretations of the meaning of the Plans, Specifications or other elements of the Contract Documents will not be valid if made orally to any Bidder. Oral interpretations, if given, shall be at the Bidder's risk and responsibility.

If any person contemplating submitting a Proposal is in doubt as to the true meaning of any part of the Contract Documents or finds discrepancies in or omissions from the Contract Documents, he shall request a written interpretation or corrections thereof, from the CITY.

Every request for such interpretation must be in writing, and to receive consideration, must be delivered to the CITY at least five (5) days prior to the date fixed for the opening of the Proposals.

All such interpretations and any other supplemental instructions will be in the form of written addenda to the Contract Documents which, if issued, will be mailed by certified mail with return receipt requested to all prospective Bidders at the addresses furnished for such purpose, not later than three days prior to the date fixed for the opening of Proposals. Failure of any Bidder to receive any such addendum or interpretation shall not relieve such Bidder from any obligations under his Proposal as submitted.

The CITY will not be responsible for any other explanations or interpretations of the Contract Documents.

Any addenda issued during the time of bidding or forming a part of the Contract Documents shall be included in the Proposal and shall be made a part of the Contract Documents. Receipt of each Addendum shall be acknowledged in the Proposal.

6. TIME

Time is of the essence in the performance of this Contract. The work to be done shall be started upon receipt of the Notice to Proceed and shall be prosecuted expeditiously for completion at the earliest possible date prior to the completion date or dates so specified in the contract documents.

7. PROPOSAL GUARANTY

Each Proposal shall be accompanied by a cashier's check, certified check, money order or a bid bond by a recognized surety company, in an amount of five percent (5%) of the total amount of the Proposal, payable to the CITY. The Proposal guaranty may be forfeited to the CITY in case of failure on the part of the successful Bidder to enter into the attached form of Agreement to do the work covered by the Proposal at the price and within the time stated therein.

8. QUALIFICATIONS OF BIDDERS

It is the intention of the CITY to award this Contract to the Bidder most fully capable, both financially and as regards to experience, to perform and complete all work in a satisfactory manner. Evidence of such competency must be furnished, if desired, including a listing of similar projects which the Bidder has satisfactorily undertaken and completed.

9. REQUIREMENT FOR SIGNING PROPOSALS

Proposals which are not signed by the individual making them shall have attached thereto a power of attorney evidencing authority to sign the Proposal in the name of the person for whom it is signed.

Proposals which are signed by a partnership shall be signed by all of the partners or by an attorney-in-fact. If signed by an attorney-in-fact, there shall be attached to the Proposal a power of attorney evidencing authority to sign the Proposal, executed by the partners.

Proposals which are signed for a corporation shall have the correct corporate name thereof and the signatures of the president or other authorized officers of the corporation manually written below the corporate name following the word "By". If such a Proposal is manually signed by an officer other than the president of the corporation, a certified copy of a resolution of the Board of Directors evidencing the authority of such an official to sign the Proposal shall be attached to it. Such a Proposal shall also bear the attested signature of the secretary of the corporation and the impression of the corporate seal.

10. EXECUTION OF AGREEMENT

The Bidder to whom an award is made will be required to enter into a written Agreement in the form hereto annexed, within ten (10) days, Sundays and legal holidays excepted, after being notified of the acceptance of his Proposal and receipt by him of copies of the Contract Documents to be executed.

In case of failure to comply with this requirement, he shall be considered to have abandoned all rights and interest in the award, his Proposal guaranty may be declared forfeited to the CITY and the Contract may be awarded to another.

11. INSURANCE AND BONDS

The successful Bidder will be required to carry insurance in the amounts and kinds specified in Section I 1-2 of the Bid Documents. Such insurance must be with companies and in a form satisfactory to the CITY, and certificates of such insurance must be attached to each copy of the executed Contract Documents.

12. PERMITS AND LOCAL CODES

The successful Bidder shall obtain, at his expense, all required local and state construction permits and shall comply with all local and state building, electrical and plumbing codes, and inspection requirements as applicable to this project.

13. NONDISCRIMINATION

Contracts for work under this Proposal will obligate the contractors and subcontractors not to discriminate in employment practices.

Bidders must, if requested, submit a compliance report concerning their employment practices and policies to maintain their eligibility to receive the award of the contract.

Successful Bidders must, if requested, submit a list of all subcontractors who will perform work on the project and written signed statements from authorized agents of the labor pools with which they will or may deal for employees on the work together with supporting information to the effect that said labor pools practices and policies are in conformity with Executive Order No. 11246, as amended, and that said labor pools will affirmatively cooperate in or offer no hindrance to the recruitment, employment, and equal treatment of employees seeking employment and performing work under the contract or, a certification as to what efforts have been made to secure such statements when such agents or labor pools have failed or refused to furnish same prior to the award of the contract.

14. HEALTH AND SAFETY

The successful Bidder shall comply with the Health and Safety Regulations, Chapter XVII of Title 29 CFR, Part 1926, as promulgated by the Department of Labor, and/or applicable state and local Safety and Health Regulations. All questions regarding compliance and enforcement, as well as requests for the Regulations should be directed to the Department of Labor, and/or local agencies.

15. EXISTING INFORMATION

Any notations shown on the plans are for general information purposes only and are not intended to relieve the Contractor of his responsibility of investigating all local conditions affecting the work. Such locations of public utilities as are shown on the plans are taken from sources believed to be reliable. The CITY will not be responsible for any omissions of, or

variations from, the indicated location of existing utilities which may be encountered in the work.

No plea of ignorance of conditions which exist, or which may hereafter exist, or of any difficulties which may be encountered will be accepted as the basis for any failure or omission on the part of the Contractor to fulfill all the requirements of this Contract, nor will such failure or omission be accepted as the basis for any claims of any nature for extra compensation or extension of time. The submission of a bid shall be considered as prima facie evidence of compliance with this section.

Name of Bidder: _____

**BID FORM
FOR
CITY HALL LIGHTING UPGRADE
BID NUMBER B-07-24
FOR
CITY OF SAULT STE. MARIE, MICHIGAN**

To the City of Sault Ste. Marie (herein referred to as CITY):

The undersigned as Bidder hereby declares that this Bid is made in good faith, without fraud or collusion with any person or persons bidding on the same Contract; that he/she has read and examined the Advertisement, Information for Bidders, Agreement, Forms for Bonds (where applicable), Specifications and plans, as prepared by the CITY, and understands all of the same; that he/she or his/her representative has informed himself/herself fully with regard to the conditions to be met in the execution of the Contract, and the undersigned proposes to furnish all labor, materials, tools, power, transportation and construction equipment necessary for completing this project as herein specified for the CITY and perform related work in full accordance with aforesaid Contract Documents, including any and all Addenda officially issued; the receipt of which is hereby acknowledged:

Addendum No.

Date

Signature

_____	_____	_____
_____	_____	_____
_____	_____	_____

Bid Price: The Bidder agrees to complete the Work required for this construction project in accordance with the Contract Documents for the following unit prices and or lump sums as indicated starting on page BF-3.

**NAME, ADDRESS, LEGAL STATUS,
AND SIGNATURE OF BIDDER**

This Bid is submitted in the name of:

(Print) _____

The undersigned hereby designates below his/her business address to which all notices, directions or other communications may be served or mailed:

Street _____

City _____

State _____ Zip Code _____

The undersigned hereby declares that he/she has the legal status checked below:

- ☐ INDIVIDUAL
- ☐ INDIVIDUAL DOING BUSINESS UNDER AN ASSUMED NAME
- ☐ CO-PARTNERSHIP
The Assumed Name of the Co-Partnership is registered in
The County of _____, Michigan
- ☐ CORPORATION INCORPORATED UNDER THE LAWS OF THE STATE OF
_____, The Corporation is,
- ☐ LICENSED TO DO BUSINESS IN MICHIGAN
- ☐ NOT NOW LICENSED TO DO BUSINESS IN MICHIGAN

The names, titles and home addresses of all persons who are officers or Partners in the organization are as follows:

NAME AND TITLE	HOME ADDRESS
_____	_____
_____	_____
_____	_____

BID FORM
CITY OF SAULT STE. MARIE, MICHIGAN
B-07-24
Project Title: CITY HALL LED LIGHTING UPGRADE
Location: 225 EAST PORTAGE AVENUE



ITEM	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	COST (\$)	TOTAL (\$)
1	MOBILIZATION	1	LSUM		
2	FIXTURE TYPE FB	24	EACH		
3	FIXTURE TYPE FC	33	EACH		
4	FIXTURE TYPE FD4	20	EACH		
5	FIXTURE TYPE FD8	33	EACH		
6	FIXTURE TYPE FD12	4	EACH		
7	FIXTURE TYPE FE8	21	EACH		
8	FIXTURE TYPE FE12	6	EACH		
9	FIXTURE TYPE FF	61	EACH		
10	FIXTURE TYPE FH	7	EACH		
11	FIXTURE TYPE FJ	1	EACH		
12	FIXTURE TYPE FK	10	EACH		
1	A1 Alternative	1	LSUM		
2	A2 Alternative	1	LSUM		

3	A3 Alternative	1	LSUM		
4	A4 Alternative	1	LSUM		
TOTAL					

DESCRIPTION OF WORK: This project will be for the removal of existing interior fluorescent lighting, applicable repurposing of existing fluorescent light fixtures to facilitate replacement with LED bulbs, and replacement with new LED lighting throughout City Hall.: **All new LED lighting MUST be DLC (Design Lights Consortium) or Energy Star listed when applicable. Model numbers and specification sheets on all LED bulbs, tube lamps, and fixtures must be provided. Contractors must cooperate with City and Cloverland Electric's Energy Optimization Program representative to provide information and documentation required for rebates.**

1. Fixture Type FB: Replace two (2) F32T8/SP35/ECO lamps with 2 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
2. Fixture Type FC: Replace two (2) F32T8/SP35/ECO lamps with 2 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
3. Fixture Type FD4: Replace two (2) F32T8/SP35/ECO lamps with 2 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
4. Fixture Type FD8: Replace four (4) F32T8/SP35/ECO lamps with 4 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
5. Fixture Type FD12: Replace six (6) F32T8/SP35/ECO lamps with 6 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
6. Fixture Type FE8: Replace six (6) F32T8/SP35/ECO lamps with 6 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
7. Fixture Type FE12: Replace nine (9) F32T8/SP35/ECO lamps with 9 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired. Lamp to be direct wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
8. Fixture Type FF: Replace two (2) F32T8/SP35/ECO lamps with 2 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
9. Fixture Type FH: Replace two (2) F32T8/SP35/ECO lamps with 2 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
10. Fixture Type FJ: Replace two (2) F32T8/SP35/ECO lamps with 2 Type B T8 lamps in light fixture. Ballast will be removed and light fixture to be directly wired, rated 2800 initial lumens (minimum), color temperature as indicated on associated bid drawings.
11. Fixture Type FK: Replace one (1) CFL/2/42 Compact Fluorescent Light with (1) BASE GX2 4 Pin Type B equivalent LED lamps in light fixture. Remove ballast from light fixture and direct wire light fixture. Lamp to be rated 3200 initial lumens (minimum), color temperature as indicated on associated bid drawings.

ADDITIVE ALTERNATES:

The following items will make up the alternative items. The city is looking for a cost to look into individual electrical issues to get a narrative and cost to correct. These items may be added by change order later if budget allows.

1. ADDITIVE ALTERNATE 1 - A1: INVESTIGATE LOAD AND PROVIDE A NARRATIVE TO HAVE THE CURRENT GENERATOR POWER THE ENTIRE BUILDING. IF UNABLE, MAKE LOGICAL DECISION ON WHAT COULD BE SUPPORTED. CURRENT GENERATOR OUTPUT 20 KWH.
2. ADDITIVE ALTERNATE 2 - A2: INVESTIGATE IF WORK AREAS ON THE 1ST FLOOR CAN BE SPLIT IN TO SEPARATE CIRCUITS TO ALLOW INDIVIDUAL OFFICE SPACE HEATERS.
3. ADDITIVE ALTERNATE 3 - A3: INVESTIGATE THE LIGHTS (EMERGENCY LIGHTING) IN THE PLANNING DEPARTMENT THAT WILL NOT SHUT OFF. THIS WILL BE ON THE 2ND FLOOR. INSTALL SWITCH IF POSSIBLE TO CORRECT.
4. ADDITIVE ALTERNATE 4 - A4: INSPECT LIGHTING CONTROLLER IN THE CEILING ABOVE THE CUSTOMER SERVICE COUNTER IN THE PLANNING DEPARTMENT - 2ND FLOOR. IF POWER PACK IS BAD, QUOTE REPLACEMENT

The BIDDER agrees to complete all work as described herein and as shown on the plan sheets and specifications for the total sum of:

_____ Dollars (\$ _____)

(Amounts shall be shown in both words and figures; in case of discrepancy, the amount shown in words shall govern. Total will be checked using units & unit prices shown above.)

GENERAL NOTES

Measurement and payment shall be at the Contract Unit Price per pay item in the Proposal.

The undersigned as BIDDER, hereby declares that this Proposal is made in good faith, without fraud or collusion with any person bidding on the same contract.

The undersigned CONTRACTOR and CITY acknowledge for certain public agency construction contracts Michigan Statutes (Act No. 524, Public Acts of 1980) require the payment of interest on retainage. The parties hereto agree, however, to waive the requirements of Act No. 524 (MCLA 125.1561) if a contract is entered into between them to perform the construction improvements. In lieu of application of the Statute, the parties adopt the retainage terms and conditions contained in these contract General Conditions for their mutual convenience. The CITY agrees to pay, and the CONTRACTOR agrees to accept the applicable sum as indicated in the following table as a stipulated interest on the retained amounts under the terms and conditions of this contract pursuant to the applicable Statute mentioned above. Such sums shall be paid at completion of the project and will be included in the last payment applicable to the project:

ORIGINAL CONTRACT AMOUNT	STIPULATED INTEREST ON RETAINAGE (\$)
\$0 TO 49,999	25
50,000 to 99,999	50

100,000 to 249,000	100
250,000 to 499,999	150
500,000 to 749,999	250
750,000 to 999,999	400
1,000,000 and Over	Act No 524 will apply

The undersigned has examined the specifications and other contract documents, and the location of the work described herein and, on the drawings, and is fully informed as to the nature of the work and the conditions relating to its performance and understands that the quantities shown are approximate only and are subject to either increase or decrease.

The undersigned hereby proposes to furnish all necessary equipment, perform all the work including traffic control, furnish all the materials and for the unit prices named in the Bid Form, to complete the work as herein described in accordance with the project plans, specifications (referenced or included), the contract Special Provisions and Supplemental Specifications. All materials used will be in strict conformity with the requirements of the specifications and such other supplemental specifications and Special Provisions as may be a part of the Contract Documents.

The undersigned agrees that if the foregoing BID shall be accepted by the CITY, he/she will within ten (10) days (Sundays and legal holidays excepted) after receiving Notice of Award, enter into a Contract Agreement and will complete the project ready for use, at the prices and within the time stated in this Bid Form, and that he/she will furnish the CITY with satisfactory certificates of insurance coverage, Payment Bond, and Performance Bond in amounts as herein specified.

The undersigned further agrees that should this Bid be accepted by the CITY, he/she will complete work by or before December 31, 2024 including completion of all work items included in this project.

The "completed by" dates as specified has been set with the understanding that the Contract Award is approved through the city commission meeting to be held on June 17, 2024.

The undersigned also agrees that for each and every calendar day that he/she may be in default of substantial completion of the work, within the time specified in this Proposal or within the time to which said time of completion may be extended for good cause shown, the CITY will suffer a damage of one hundred fifty dollars (\$150.00) per day, and said CITY shall be compensated therefore at that rate as liquidated damages in accordance with the Agreement Form.

In submitting this Bid, it is understood that the CITY reserves the right to accept or reject any or all Bids, waive irregularities in any Bid and make the award in any manner deemed for the best interest of the CITY.

Dated and signed at _____, this the _____ day of _____, 2024.

Bidders Name

Official Address

By

Signature

Title

Telephone

CITY OF SAULT STE. MARIE, MICHIGAN

AGREEMENT

B-07-24

THIS AGREEMENT, made as of the _____ day of _____, 2024, by and between the CITY OF SAULT STE. MARIE, MICHIGAN, hereinafter called the OWNER OR CITY, and _____, hereinafter called the CONTRACTOR.

WITNESSETH, that whereas the CITY intends to contract for **City Hall Lighting Upgrade, Phase II**

NOW, THEREFORE, THE CITY AND CONTRACTOR for the considerations hereinafter set forth, agree as follows:

- I. THE CONTRACTOR AGREES to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete, in a workmanlike manner, all work required for pavement marking, including traffic control, in accordance with the Special Provisions of the Bid Proposal and the current Michigan Manual of Uniform Traffic Control Devices, and in strict compliance with applicable local, state and federal codes and the Contract Documents herein mentioned, which are hereby made a part of the Contract, including the following Addenda:

ADDENDUM NO.

DATED:

- A. Contract Time: Work under this Agreement shall be commenced upon the CONTRACTOR'S receipt of the executed Agreement signed by the CITY or upon the date as specified in the written Notice to Proceed (if such date is different from the date of the executed Agreement) and the work shall be completed according to the following schedule:

Final Completion: 12/31/2024

- B. Liquidated Damages: The CONTRACTOR shall pay the CITY the sum of One Hundred Dollars (\$100.00) per day as fixed, agreed and liquidated damages for each calendar day that the CONTRACTOR may be in default of the completion date as specified in this agreement. Provided, however, that the right of the CONTRACTOR to proceed shall not be terminated or the CONTRACTOR charged with liquidated damages because of any delays in the completion of the Project due to unforeseeable causes 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 the CITY, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of Subcontractors due to such causes, if the CONTRACTOR shall, within ten days from the beginning of any such delay (unless the CITY shall grant a further period of time prior to the date of final settlement of the Contract) notify the CITY in writing of the cause of delay, who shall ascertain the facts and the extent of the delay and extend the time for completing the work, when, in its judgment, the findings of facts justify such an extension and its findings of facts thereon shall be final and conclusive on the parties thereto.
- C. Sub-contractors: The CONTRACTOR agrees to bind every sub-contractor by the terms of the Contract Documents. The Contract Documents shall not be construed as creating any contractual relation between any sub-contractor and the CITY.

- II. THE CITY AGREES to pay, and the CONTRACTOR agrees to accept, in full payment for the performance of this Contract an amount to be determined by the actual constructed quantities and the Unit Prices and Lump Sums set forth in the Proposal. This amount is estimated to be _____ Dollars (\$_____)

- A. Progress payments will NOT be made. Final payment will be processed upon completion and acceptance of work.

- III. **AUTHORITY AND RESPONSIBILITY OF THE CITY:** The CITY shall decide all questions which may arise relating to the quality and acceptability of materials furnished and work performed, the manner of performance and the rate of progress of the work, all questions which may arise as to the interpretations of the Plans and Specifications; and all questions as to the acceptable fulfillment of the terms of the Contract. The CITY shall decide all questions as to the rights of different Contractors on the Project.
- IV. **SUCCESSORS AND ASSIGNS:** This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the CITY and the CONTRACTOR respectively and his/her partners, successors, assignees and legal representatives. Neither the CITY nor the CONTRACTOR shall have the right to assign, transfer or sublet his/her interests or obligations hereunder without written consent of the other party.
- V. **SPECIAL PROVISIONS:** The CITY and the CONTRACTOR mutually agree that this Agreement shall be subject to the included Special Provisions, if any, which shall supersede other conflicting provisions of this Agreement.

IN WITNESS WHEREOF, the parties have made and executed this Agreement, on the day and year first above written.

**(CONTRACTOR'S COMPANY
NAME)**

(Signature)

(Signature)

(Print)

(Print)

(Print)

CITY OF SAULT STE. MARIE, MICHIGAN

CITY MANAGER (Brian Chapman) Approved

CITY OF SAULT STE. MARIE

PROJECT INSURANCE REQUIREMENTS

The Contractor/Consultant shall not commence work under this contract until he/she has obtained the insurance required as outlined following this paragraph. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverage shall be with the insurance carriers rated A- or better with A. M. Best Company and acceptable to the City of Sault Ste. Marie, Michigan.

1. Worker's Compensation Insurance: The Contractor/Consultant shall procure and maintain during the life of this contract, Worker's Compensation and Employers Liability Coverage, including waiver of subrogation in accordance with all applicable Statutes of the State of Michigan. Limits of liability for Employers Liability shall be:

\$500,000 Bodily Injury Each Accident

\$500,000 Disease Policy Limit and

\$500,000 Disease Each Employee

2. Commercial General Liability and Umbrella Liability Insurance: The Contractor/Consultant shall procure and maintain during the life of this contract, Commercial General Liability Insurance on an "Occurrence Basis" including a per project aggregate with the following limits:

General Aggregate (other products/completed operations)	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000
Damage to Rented Premises	\$500,000
Medical Expense	\$5,000

The Contractor/Consultant shall continue to carry Completed Operations Liability Insurance for at least three (3) years after either 90 days following Substantial Completion of the Work or final payment to the Contractor on any individual Project, whichever is later. Coverage shall include the following:

- a. Contractual Liability
- b. Products and Completed Operations

- c. Independent Contractors Coverage
 - d. Broad Form General Liability Extensions or equivalent
 - e. Explosion, Collapse and Underground (XCU) shall not be excluded.
 - f. Coverage shall be Primary and Noncontributory
3. Business Auto and Umbrella Liability Insurance: The Contractor/Consultant shall procure and maintain during the life of this contract Business Auto Liability Insurance, including Michigan No-Fault Coverage, and if necessary, umbrella liability, with limits of liability of not less than \$1,000,000.00 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles (Symbol 1).
4. Additional Insured: Commercial General Liability, Business Auto and Umbrella Insurance, as described above, shall include an endorsement stating the following shall be "Additional Insureds": the City of Sault Ste. Marie, all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. Policies shall contain the following Additional Insured forms (and/or equivalent):
- a. General Liability: On-Going Operations form CG 2010 07/04 or equivalent, Completed Operations form CG 2037 07/04 or equivalent.
 - b. Business Auto: CA 20 48
5. Professional Liability (Errors and Omissions) Insurance (*Professional Architectural and Engineering Services Only*): The Consultant shall procure and maintain during the life of this contract Professional Liability (Errors and Omissions) Insurance, with limits of liability of not less than \$1,000,000.00 per claim.
6. Cancellation Notice: Worker's Compensation Insurance, Commercial General Liability Insurance and Business Auto Liability Insurance and Umbrella Liability Insurance, Professional Liability Insurance (if applicable), as described above, shall include an endorsement stating the following: "It is understood and agreed that Thirty (30) days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to:

City Clerk

City of Sault Ste. Marie

225 E. Portage Ave.

Sault Ste. Marie, MI 49783

7. Waiver of Subrogation: Contractor/Consultant shall obtain and provide waiver of subrogation on Commercial General Liability, Auto Liability, Workers Compensation and Umbrella in favor of City of Sault Ste. Marie with respect to losses arising out of or in connection with the work.
8. Proof of Insurance Coverage: The Contractor/Consultant shall provide the City of Sault Ste. Marie at the time the contracts are returned by him/her for execution, certificates and policies as listed below:
 - a. Two (2) copies of Certificate of Liability Insurance (ACORD 25) for Worker's Compensation Insurance, Commercial General Liability Insurance, Business Auto Liability Insurance and Umbrella Liability Insurance. This Certificate shall cite the specific endorsement(s) relative to the "Additional Insured" and "Cancellation Notice" as required above.

If any of the above coverages expire during the term of this contract, the Contractor/Consultant shall deliver renewal certificates and/or policies to the City of Sault Ste. Marie at least ten (10) days prior to the expiration date.

The Contractor/Consultant shall not cancel or reduce the coverage or any insurance without providing written notice to the City. The Contractor shall cease operations immediately on the occurrence of any such reduction or cancellation and shall not resume operations until new insurance, approved by the City, is in force.

Contractors/Consultants on City projects shall furnish certificates of insurance **before** work has begun.

Revised 2/03/2023

NOTICE OF AWARD

TO: _____

PROJECT DESCRIPTION: **B-07-24 City Hall Lighting
Upgrade, Phase II**

The OWNER has considered the PROPOSAL submitted by you for the above-described WORK in response to its Advertisement for Bids dated _____ day, _____, 2024, and Information for Bidders.

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Certificates of Insurance Coverage, in amounts as specified in the Proposal, within ten (10) calendar days from the date of this Notice to you. Enclosed herewith is an unsigned copy of the Agreement prepared for your signature. The NOTICE TO PROCEED will not be issued until the CITY receives the required **Insurance** and executed **Agreement** from the CONTRACTOR and until such documents are in accordance with the contract requirements and approved by the CITY.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this _____ day of _____, 2024.

Owner: City of Sault Ste. Marie

BY:

David S. Boyle, P.E. - City Engineer

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged.

By: _____ this the _____ day of _____, 2024

By: _____

(SIGNATURE)

NOTICE TO PROCEED

TO: _____ DATE: _____

PROJECT: **B-07-24 City Hall**
Lighting Upgrade

You are hereby notified to commence WORK in accordance with the Agreement dated
_____, ___, 2023 and you are to complete the WORK in accordance with the Agreement by
_____, _____, **2024**

You are required to return an acknowledged copy of this NOTICE TO PROCEED to the OWNER.

CITY OF SAULT STE. MARIE, MICHIGAN

Owner

BY:

David S. Boyle, P.E. - City Engineer

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by

(CONTRACTORS COMPANY NAME)

this the _____ day of _____, **2024**

BY: _____

(SIGNATURE)

(PRINT)

TITLE: _____

(PRINT)

GENERAL CONDITIONS

SECTION 1 - DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:

AGREEMENT - The written agreement between the CITY and the CONTRACTOR covering the Work to be performed, including the CONTRACTOR'S Bid and the Bonds.

APPLICATION FOR PAYMENT - The form furnished by the CITY which is to be used by the CONTRACTOR in requesting progress payments and which is to include the schedule of values required by Section 26 and an affidavit of the CONTRACTOR that progress payments theretofore received from the CITY on account of the Work have been applied by the CONTRACTOR to discharge in full all of the CONTRACTOR'S obligations incurred in connection with the Work covered by all prior Applications for Payment.

BID - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

BIDDER - Any person, firm or corporation submitting a Bid for the Work to the CITY.

BONDS - Bid, performance and payment bonds and other instruments of security, furnished by the CONTRACTOR and his surety in accordance with the Contract Documents.

CHANGE ORDERS - A written order to the CONTRACTOR signed by the CITY authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.

CONTRACT DOCUMENTS - The complete bound book describing the Work to be done by the CONTRACTOR, including the Agreement, Specifications, Plans, Addends (whether issued prior to opening of bids or execution of the Agreement) and Modifications.

CONTRACT PRICE - The total moneys payable to the CONTRACTOR under the Contract Documents.

CONTRACT TIME - The number of calendar days stated in the Agreement for the completion of the Work.

CONTRACTOR - The person, firm, or corporation with whom the CITY has executed the Agreement.

FIELD ORDER - A written order issued by the CITY which clarifies or interprets the Contract Documents in accordance with Section 14 or orders minor changes in the Work in accordance with Section 20.

MODIFICATION - (a) a written amendment of the Contract Documents signed by the CITY and the CONTRACTOR, (b) a Change Order, (c) a written clarification or interpretation issued by the CITY in accordance with Section 14 or (d) a written order for a minor change or alteration in the work issued by the CITY pursuant to Section 20. A modification may only be issued after execution of the Agreement.

CITY - The Municipality of Sault Ste. Marie, Michigan.

PLANS - The drawings and plans which show the character and scope of the Work to be performed and which have been prepared or approved by the CITY and are referred to in the Contract Documents.

PROJECT - The entire construction to be performed as provided in the Contract Documents.

PROJECT REPRESENTATIVE - The authorized representative of the CITY who is assigned to the Project or any part thereof.

SHOP DRAWINGS - All plans, drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the CONTRACTOR, a Subcontractor, manufacturer, supplier, or distributor and which illustrate the equipment, material or some portion of the Work.

SPECIFICATIONS - The Information for Bidders, these General Conditions, Detailed Specifications, Special Conditions and Technical Provisions.

SUBCONTRACTOR - An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

SUBSTANTIAL COMPLETION - The date, as certified by the CITY, when the construction of the Project or a specified part thereof is sufficiently completed in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it was intended; or if there is on such certification, the date when final payment is due in accordance with Section 30.

WORK - Any and all obligations, duties, and responsibilities necessary to the successful completion of the Project assigned to or undertaken by the CONTRACTOR under the Contract Documents, including the furnishing of all labor, materials, tools, equipment and other incidentals.

SECTION 2 - AWARD, EXECUTION OF DOCUMENTS, DELIVERY OF BONDS, ETC.

- 2.1 The award of the contract, if it is awarded, will be to the lowest responsible Bidder whose qualifications indicate the award will be in the best interest of the CITY and whose proposal complies with all the prescribed requirements. No award will be made until the CITY has concluded such investigations as it deems necessary to establish the responsibility, qualifications and financial ability of the Bidders to do the Work in accordance with the Contract Documents to the satisfaction of the CITY within the time prescribed. The CITY reserves the right to reject the Bid of any Bidder who does not pass the investigation to the CITY'S satisfaction. In analyzing Bids, the CITY may take into consideration alternates and unit prices if requested by the Bid forms. If the contract is awarded, the CITY will give the successful Bidder written notice of the award within the time set forth in the Advertisement. The notification of award will be in the form of Two (2) counterparts of the Notice of Award document that will be signed by the CITY and the CONTRACTOR.
- 2.2 At least Three (3) counterparts of the Agreement and such other Contract Documents as practicable will be signed by the CITY and the CONTRACTOR. The unsigned Agreement forms will be provided to the CONTRACTOR when the Notice of Award is issued. The CITY will identify those portions of the Contract Documents not so signed and such identification will be binding on all parties. The CONTRACTOR and the CITY will each receive an executed counterpart of the Contract Documents.
- 2.3 Simultaneously with the CONTRACTOR'S execution and delivery of the Agreement to the CITY, the CONTRACTOR will deliver to the CITY the required Bonds and Insurance. Within ten (10) days thereafter, the CITY shall deliver one fully signed counterpart of the Agreement to the CONTRACTOR

- 2.4 Failure of the successful Bidder to execute the Agreement and deliver the required Bonds and Insurance within ten (10) days of the issuance of the Notice of Award shall be just cause for the CITY to annul the award and declare the Bid and any guarantee thereof forfeited.

SECTION 3 - PROGRESS AND SUBMISSION SCHEDULES: PRECONSTRUCTION CONFERENCE: TIME OF STARTING THE WORK

- 3.1 Within ten (10) days after the execution of the Agreement, the CONTRACTOR will submit to the CITY for approval, an estimated progress schedule indicating the starting and completion dates of the various stages of the Work, and a schedule of Shop Drawings submissions. At least ten (10) days prior to submitting the first Application for Payment he shall also submit a schedule of values as required by Section 26.
- 3.2 Before starting the Work, a Pre-construction conference will be held to review the above schedules, to establish procedures for handling shop drawings and other submittals, for processing Applications for Payment, to establish a working understanding between the parties, and to discuss the construction safety requirements of the project. Present at the conference will be delegated representatives of the CONTRACTOR, the CITY, and, when possible, other interested parties. The Preconstruction conference will be scheduled by the CITY as soon as possible after the issuance of the Notice of Award to the CONTRACTOR.
- 3.3 Prior to starting the Work the CONTRACTOR will furnish the CITY certificates of insurance as required by Section 34.
- 3.4 The CONTRACTOR will start the Work on the date on which the Agreement is executed by the CITY and delivered, or on such other date, if any, as may be specified in the Agreement. However at the time of the execution and delivery of the Agreement the CITY may give the CONTRACTOR a written notice to proceed, stating the different date on which it is expected that the CONTRACTOR will start the Work, but such date shall not be more than thirty (30) days after the date of execution and delivery of the Agreement. No work shall be done prior to the date on which the work is to start.
- 3.5 The Contract Time shall commence to run on the date when the Work is to start as provided in Section 3.

SECTION 4 - CORRELATION, INTERPRETATION AND INTENT OF CONTRACT DOCUMENTS

- 4.1 It is the intent of the Specifications and Plans to describe a complete Project to be constructed in accordance with the Contract Documents.

- 4.2 The Contract Documents comprise the entire Agreement between the CITY and the CONTRACTOR. They may be altered only by a Modification.
- 4.3 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If the CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, he will call it to the CITY'S attention in writing before proceeding with the work affected thereby except at his (CONTRACTOR'S) own risk and expense. In resolving such conflicts, errors, and discrepancies, the documents shall be given precedence in the following order: Agreement, Specifications, Plans. Within the Specifications the order of precedence shall be as follows: Special Conditions, Information for Bidders, General Conditions, Detailed Specifications, Technical Provisions. Figure dimensions on Plans shall govern over scale dimensions, and detailed Plans shall govern over general Plans. Any work that may reasonably be inferred from the Specifications or Plans as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. The CONTRACTOR assumes full responsibility for having familiarized himself with the nature and extent of the Contract Documents, Work, locality, and local conditions that may in any manner affect the Work to be done.

SECTION 5 - OWNERSHIP AND COPIES OF DOCUMENTS: RECORD DOCUMENTS

- 5.1 All Specifications, Plans and copies thereof furnished by the CITY shall remain its property. They shall not be used on another Project, and, with the exception of those sets which have been signed in connection with the execution of the Agreement, shall be returned to them on request upon completion of the Project.
- 5.2 The CITY will furnish to the CONTRACTOR up to five (5) copies of the Specifications and Plans as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.
- 5.3 The CONTRACTOR will keep one record copy of all Specifications, Plans, Addenda, Modifications, and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. These shall be available to the CITY and shall be delivered to the same upon completion of the Project.

SECTION 6 - WORK BY OTHERS

- 6.1 The CITY may perform additional work related to the Project by itself or it may let other direct contacts therefore which shall contain General Conditions similar to these. The CONTRACTOR will afford the other contractors who are parties to such direct contracts (or the CITY, if it is performing the additional work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his Work with theirs.
- 6.2 If any part of the CONTRACTOR'S Work depends for proper execution or results upon the work of any such other contractor (or the CITY), the CONTRACTOR will inspect and promptly report to the CITY in writing any defects or deficiencies in such work that render it unsuitable for such proper execution and results. His failure so to report shall constitute an acceptance of the other work as fit and proper for the relationship of his Work except as to defects and deficiencies which may appear in the other work after the execution of his Work.
- 6.3 The CONTRACTOR will do all cutting, fitting and patching of his Work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. The CONTRACTOR will not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with written consent of the CITY.
- 6.4 If the performance of additional work by other contractors or the CITY is not noted in the Contract Documents prior to the award of the contract, written notice thereof shall be given to the CONTRACTOR prior to starting any such additional work. If the CONTRACTOR believes that the performance of such additional work by the CITY or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Sections 21 and 23.

SECTION 7 – SUBCONTRACTS

- 7.1 Prior to the execution and delivery of the Agreement, the successful Bidder will submit to the CITY for acceptance a list of the names of Subcontractors and such other persons and organizations (including those who are to furnish materials or equipment fabricated to a special design) proposed for those portions of the Work as to which the identity of the Subcontractors and other persons and organizations must be submitted as specified in the Contract Documents. Prior to the execution and delivery of the Agreement, the CITY will notify the successful Bidder in writing if the CITY, after due investigation, has reasonable objection to any Subcontractor, person or organization on such list. The failure of the CITY to make objection to any Subcontractor, person or organization on the list prior to the execution and delivery of the Agreement shall constitute an acceptance of such Subcontractor, person or organization. Acceptance of any such Subcontractor, person or organization shall not constitute a waiver of any right of the CITY to reject defective Work, material or equipment, or Work, material or equipment not in conformance with the requirements of the Contract Documents.

- 7.2 If, prior to the execution and delivery of the Agreement, the CITY has reasonable objection to and refuses to accept any Subcontractor, person, or organization on such list, the successful Bidder shall prior to such execution and delivery, submit an acceptable substitute without an increase in his Bid Price. If, after the execution and delivery of the Agreement, the CITY refuses to accept any Subcontractor, person or organization on such list, the CONTRACTOR will submit an acceptable substitute and the Contract Price shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate

Change Order shall be issued; however, no such increase in the Contract Price shall be allowed in respect of any substitution unless the CONTRACTOR has acted promptly and reasonably in submitting a name of the Subcontractor prior to the execution and delivery of the Agreement.

- 7.3 The CONTRACTOR will not employ any Subcontractor (whether initially or as a substitute) against whom the CITY may have reasonable objection, nor will the CONTRACTOR be required to employ any Subcontractor against whom he has reasonable objection. The CONTRACTOR will not make any substitution for any Subcontractor who has been accepted by the CITY unless the CITY determines that there is good cause for doing so.
- 7.4 The CONTRACTOR will be fully responsible for all acts and omissions of his Subcontractors and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor and the CITY or any obligation on the part of the CITY to pay or to see to the payment of any moneys due any Subcontractor, except as may otherwise be required by law. The CITY may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to the CONTRACTOR on account of specific work done in accordance with the schedule of values.
- 7.5 The divisions and sections of the Specifications and the identifications of any Plans shall not control the CONTRACTOR in dividing the Work among Subcontractors or delineating the Work to be performed by any trade.
- 7.6 The CONTRACTOR agrees to specifically bind every Subcontractor to all of the applicable terms and conditions of the Contract Documents. Every Subcontractor, by undertaking to perform any of the Work, will thereby automatically be deemed to be bound by such terms and conditions.
- 7.7 All work performed for the CONTRACTOR by a subcontractor shall be pursuant to an appropriate agreement between the CONTRACTOR and the Subcontractor which shall contain provisions that waive

all rights the contracting parties may have against one another for damages caused by fire or other perils covered by insurance provided in accordance with Section 36, except such rights as they may have to the proceeds of such insurance held by the CITY as trustee under Section 36. The CONTRACTOR will pay each Subcontractor a just share of any insurance moneys received by the CONTRACTOR under Section 36.

SECTION 8 - MATERIALS, EQUIPMENT AND LABOR: SUBSTITUTE MATERIAL OR EQUIPMENT

- 8.1 The CONTRACTOR will provide and pay for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.
- 8.2 All materials and equipment shall be new. If required by the CITY, the CONTRACTOR will furnish satisfactory evidence as to the kind and quality of materials and equipment.
- 8.3 If it is indicated in the Specifications that the CONTRACTOR may furnish or use a substitute that is equal to any material or equipment specified, and if the CONTRACTOR wishes to furnish or use a proposed substitute, he shall promptly after the award of the contract, make written application to the CITY for approval of such a substitute certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. No substitute shall be ordered or installed without the written approval of the CITY who shall be the judge of equality.
- 8.4 All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise specifically provided in the Contract Documents.

SECTION 9 - PATENT FEES AND ROYALTIES

- 9.1 The CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights held by others. He will indemnify and hold harmless the CITY and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorney's fees) arising out of any infringement of such rights during or after completion of the Work, and shall defend all such claims in connection with any alleged infringement of such rights.

SECTION 10 - PERMITS, LAWS, TAXES AND REGULATIONS

- 10.1 The CONTRACTOR will secure and pay for all construction permits and licenses and will pay all governmental and public utility charges and inspection fees necessary for the prosecution of the Work.
- 10.2 The CONTRACTOR will give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the CONTRACTOR observes that the Specifications or Plans are at variance therewith, he will give the CITY prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Modification. If the CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the CITY, he will bear all costs arising therefrom.
- 10.3 The CONTRACTOR will pay all State Sales, Use and other Taxes that are lawfully assessed against the CONTRACTOR on materials and equipment to be incorporated in the Work.
- 10.4 In the event that the Work involved with this contract specifies that the CITY will furnish certain materials that are to be installed by the CONTRACTOR, the CONTRACTOR shall be responsible for payment of any State of Michigan User Tax for such materials. The original cost of such materials shall be used as the basis for computing the User Tax based upon current State of Michigan rates. The CITY will provide such cost information during the bidding phase of the project and will include an allowance in the bid Proposal for the full amount of User Tax for CITY furnished materials. When the costs of any CITY furnished materials are not known during the bidding phase of the project, the CITY will issue a Change Order to the CONTRACTOR to include the amount of such specific User Tax as required based upon the costs of materials, when such costs are subsequently determined. In any event, the CONTRACTOR will be responsible for the payment of the User Tax to the State of Michigan and documentation of the CONTRACTOR'S payment of the User Tax shall be furnished to the CITY.

SECTION 11 - AVAILABILITY OF LANDS: PHYSICAL AND SUBSURFACE CONDITIONS: REFERENCE POINTS

- 11.1 The CITY shall endeavor to provide as indicated in the Contract Documents, not later than the date when needed by the CONTRACTOR, the land upon which the Work is to be done, rights of way for access thereto, and such other lands which are designated for the use of the CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be secured and paid for by the CITY unless otherwise specified in the Contract Documents. If the CONTRACTOR believes that any delay in the CITY'S furnishing these lands or providing such easements entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Section 23. The CONTRACTOR will

provide all additional lands and access thereto that may be required for temporary construction facilities or storage of material and equipment. The CONTRACTOR shall confine his operations, equipment and material to lands on which the CITY or the CONTRACTOR has secured the right to perform the Work. Trespassing on private property shall be the sole responsibility of the CONTRACTOR.

- 11.2 The CITY will, upon request, furnish to the CONTRACTOR copies of all available boundary surveys and subsurface tests.
- 11.3 Any soil borings, if taken, are located as indicated on the plans and Test Boring Reports, for general informational purposes only are included under "Test Boring Reports". These Test Boring Reports shall not relieve the CONTRACTOR of his responsibility in investigating all local conditions affecting the work. The CONTRACTOR shall obtain such additional information as he deems necessary before bidding, as no claims for extra work or damage will be considered if it is found during construction that the actual soil or material conditions vary from those shown on the plans or in the Test Boring Reports.
- 11.4 The CITY will establish such general reference points as in its judgment will enable the CONTRACTOR to proceed with the Work. The CONTRACTOR will be responsible for the layout of the Work and will protect and preserve the established reference points and will make no changes or relocations without the prior written approval of the CITY. He will report to the CITY whenever any reference point is lost or destroyed or requires relocations because of necessary changes in grades or locations. The CONTRACTOR will replace and accurately relocate all reference points so lost, destroyed or moved.
- 11.5 All elevations shown on the Plans or referred to herein are in feet above mean sea level datum as established by the United States Geological Survey, unless otherwise noted. The CONTRACTOR shall verify all the existing structure locations and elevations at points of connection or possible interference between his work and the existing structures and shall report at once to the CITY any interferences or discrepancies discovered.

SECTION 12 - USE OF PREMISES

- 12.1 The CONTRACTOR will confine his equipment, the storage of materials and equipment, and the operations of his workmen to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with materials or equipment.
- 12.2 The CONTRACTOR will not load nor permit any part of the structure to be loaded with weights that will endanger the structure, nor will he subject any part of the Work to stresses or pressures that will endanger it.

- 12.3 The CONTRACTOR shall use every reasonable precaution to prevent injury to the new structures being constructed hereunder. He shall be responsible for the correction of all injury or damage resulting from his operations and/or occurring while the Project is under his supervisory control. He shall furnish and install such guards, coverings and other protection as may be needed to insure that the structures remain undamaged prior to completion of the entire Project. In the event damage does occur to the finished portions of the Project, or to the work in progress, the CONTRACTOR shall take such corrective action and measures as may be necessary to repair the damage to the satisfaction of the CITY.
- 12.4 The CONTRACTOR shall be solely responsible for any damage to any existing underground services, utilities, or structures, or to structures, utilities and roadways above the ground caused by his operations or those of his Subcontractors and/or suppliers.

SECTION 13 - CITY'S STATUS DURING CONSTRUCTION

- 13.1 The CITY shall be the representative during the construction period. All instructions of the CITY to the CONTRACTOR shall be issued through the CITY'S REPRESENTATIVE. The duties and responsibilities and the limitations of authority of CITY during construction are set forth in Sections 1 through 42 of these General Conditions.
- 13.2 The CITY'S REPRESENTATIVE will make periodic or infrequent visits to the site to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. He will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work nor will he be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions incident thereto. His efforts will be directed toward providing assurance for the CITY OF SAULT STE. MARIE that the completed Project will conform to the requirements of the Contract Documents, but he will not be responsible for the CONTRACTOR'S failure to perform the Work in accordance with the Contract Documents. On the basis of his on-site observations as an experienced and qualified design professional, he will keep informed of the progress of the Work and will endeavor to guard against defects and deficiencies in the Work of contractors.
- 13.3 The CITY'S REPRESENTATIVE will have authority to disapprove of or reject Work which is defective; i.e., it is unsatisfactory, faulty or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in Section 16. He will also have authority to require special inspection or testing of the Work as provided in Section 19, whether or not the Work is fabricated, installed or completed.

- 13.4 The CITY'S REPRESENTATIVE shall have permissive authority over the work which is proposed to be done during the winter months. The CONTRACTOR shall provide adequate weather protection, temporary heating and take any other measures which are necessary to insure that the work performed during the winter months is properly installed and protected against damage from freezing. When and if temporary heating is used, the CONTRACTOR shall take every precaution to insure that the hazard of fire is reduced to a minimum, and the CONTRACTOR shall bear full responsibility for any damage which may result from the use of temporary heating devices.
- 13.5 Neither the CITY REPRESENTATIVE'S authority to act under this Section 13 nor any decision made by him in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the CITY to the CONTRACTOR, any Subcontractor, any of their agents or employees or any other person performing any of the Work.

SECTION 14 - CITY'S INTERPRETATIONS AND DECISIONS

- 14.1 The CITY REPRESENTATIVE will issue with reasonable promptness such written clarifications or interpretations (in the form of plans or otherwise) as he may determine necessary for the proper execution of the Work, such clarifications and interpretations to be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the CONTRACTOR believes that a written clarification and interpretation entitles him to an increase in the Contract Price, he may make a claim therefore as provided in Section 21.
- 14.2 The CITY REPRESENTATIVE will be the initial interpreter of the terms and conditions of the Contract Documents and the judge of the performance thereunder. In his capacity as interpreter and judge he will exercise his best efforts to insure faithful performance by the CONTRACTOR. He shall not be liable for the result of any interpretation or decision rendered in good faith. Claims, disputes and other matters relating to the execution and progress of the Work or the interpretation of or performance under the Contract Documents shall be referred to the CITY'S REPRESENTATIVE for decision, which he shall render in writing within a reasonable time.
- 14.3 Either the CITY or CONTRACTOR may demand arbitration with respect to any such claim, dispute or other matter that has been referred to the CITY, except any which may have been waived by the making or acceptance of final payment as provided in Section 31. Such arbitration to be in accordance with Section 42. However, no request for arbitration of any such claim, dispute or other matter shall be made until either (a) the date on which the CITY has rendered its decision or (b) the 10th day after the parties have presented their evidence to the CITY if it has not rendered its written decision before that date, whichever should occur first. No request for arbitration shall be made later than thirty (30) days after the date on which the CITY rendered its written decision in respect of the claim, dispute or other matter as to which arbitration is sought; and the failure to request arbitration within said thirty (30) days' period shall

result in the CITY'S decision being final and binding upon the CITY and CONTRACTOR. If the CITY renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence but shall not supersede the arbitration proceedings, except where the decision is acceptable to the parties concerned.

SECTION 15 - SHOP DRAWINGS AND SAMPLES

- 15.1 The CONTRACTOR shall submit to the CITY for review, all required shop drawings with such promptness as to cause no delay in the Work under this contract. After checking and verifying all field measurements, the CONTRACTOR will submit to the CITY for review, in accordance with the accepted schedule of Shop Drawing submissions, five (5) copies (or at the CITY'S option, one reproducible copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of the CONTRACTOR and identified as the CITY may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction, brochures, layout and installation drawings, manufacturer, pertinent catalog numbers and the use for which intended and the like to enable the CITY to review the information as required.
- 15.2 The CONTRACTOR will also submit to the CITY for review, with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and stamped with the approval of the CONTRACTOR, identified clearly as to material, manufacturer, and pertinent catalog numbers and the use for which intended.
- 15.3 At the time of each submission, the CONTRACTOR will in writing call the CITY'S attention to any deviations that the Shop Drawings or sample may have from the requirements of the Contract Documents.
- 15.4 The CITY will review with reasonable promptness Shop Drawings and samples, but its review shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The review of a separate item as such will not indicate approval of the assembly in which the item functions. The CONTRACTOR will make any corrections required by the CITY and will return the required number of corrected copies of Shop Drawings and resubmit new samples. The CONTRACTOR shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections called for by the CITY on previous submissions.
- 15.5 No work requiring a Shop Drawing or sample submission shall be commenced until the submission has been reviewed by the CITY.

- 15.6 The CITY'S review of Shop Drawings or samples shall not relieve the CONTRACTOR from his responsibility for any deviations from the requirements of the Contract Documents unless the CONTRACTOR has in writing called the CITY'S attention to such deviations at the time of submission and the CITY has given written approval to the specific deviations, nor shall any review by the CITY relieve the CONTRACTOR from responsibility for errors or omissions in the Shop Drawings.

SECTION 16 - TESTS AND INSPECTIONS

- 16.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested, or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the CITY timely notice of readiness therefore. The CONTRACTOR will furnish the CITY the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organization as may be required by law or the Contract Documents. If any such Work required so to be inspected, tested or approved is covered up without written approval or consent of the CITY, it must, if directed by the CITY, be uncovered for observation at the CONTRACTOR'S EXPENSE. The cost of all such inspections, tests and approvals shall be borne by the CONTRACTOR unless otherwise provided.
- 16.2 Any work which fails to meet the requirements of any such test, inspection or approval and any Work which meets the requirements of any such test or approval but does not meet the requirements of the Contract Documents shall be considered defective. Such defective Work may be rejected, corrected or accepted as provided for in Section 25.
- 16.3 Neither observations by the CITY nor inspections, tests, or approvals by persons other than the CONTRACTOR shall relieve the CONTRACTOR from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

SECTION 17 - CONTRACTOR'S SUPERVISION AND SUPERINTENDENCE

- 17.1 The CONTRACTOR shall supervise and direct the Work efficiently and with his best skill and attention. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. Before undertaking the Work he will carefully study and compare the Contract Documents. He will at once report in writing to the CITY any conflict, error or discrepancy which he may discover. The CONTRACTOR will be responsible to see that the finished Work complies accurately with the Contract Documents.
- 17.2 The CONTRACTOR will keep on the Work all time during its progress a resident superintendent satisfactory to the CITY. The superintendent shall not be replaced without the consent of the CITY except under extraordinary circumstances. The superintendent will be the CONTRACTOR'S representative at

the site and shall have authority to act on behalf of the CONTRACTOR. All communications given to the superintendent shall be as binding as if given to the CONTRACTOR.

- 17.3 The CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the work and to perform construction as required by the Contract Documents. He will, at all times, maintain discipline and order among his employees and workmanlike conditions at the site.
- 17.4 The CITY will not be responsible for the acts or omissions of the CONTRACTOR, or any Subcontractors, or any of his or their agents or employees, or any other persons performing any of the Work.

SECTION 18 - SAFETY AND PROTECTION: EMERGENCIES

- 18.1 The CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. This is to include all signing, barricades and safety devices related to this Project at the CONTRACTOR'S expense. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:
- a) All employees on the Work and other person(s) who may be affected thereby,
 - b) All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and
 - c) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation or replacement in the course of construction.
- 18.2 The CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. The CONTRACTOR will erect and maintain, at his own expense, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection, including posting danger signs and other warnings against hazards and promulgating safety regulations. He will notify owners of adjacent utilities when prosecution of the work may affect them. When the use of storage of explosives or other hazardous materials is necessary for the prosecution of the Work, the CONTRACTOR will exercise the utmost care and will carry on such activities under the supervision of properly qualified personnel. All damage, injury or loss to any property referred to in Section 18 caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any Subcontractor of anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by the CONTRACTOR.

- 18.3 The CONTRACTOR will designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the CONTRACTOR'S superintendent unless otherwise designated in writing by the CONTRACTOR to the CITY.
- 18.4 In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the CITY is obligated to act, at his discretion to prevent threatened damage, injury or loss. If at any time, the CONTRACTOR or his authorized representative cannot be contacted to correct an emergency or deficiency affecting the safety of persons or the Work or property at the site or adjacent thereto, the CITY shall correct the emergency or deficiency and charge the costs incurred thereto against the CONTRACTOR. He will give the CITY prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If the CONTRACTOR believes that additional work done by him in an emergency which arose from causes beyond his control entitles him to an increase in the Contract Price or an extension of the Contract Time, he may make a claim therefore as provided in Sections 21 and 23.

SECTION 19 - ACCESS TO THE WORK: UNCOVERING FINISHED WORK

- 19.1 The CITY and his representatives will at all times have access to the Work. The CONTRACTOR will provide proper facilities for such access and observations of the Work and also for any inspection, or testing thereof by others.
- 19.2 If any Work is covered contrary to the request of the CITY, it must, if requested by the CITY, be uncovered for its observation and replaced at the CONTRACTOR'S expense.
- 19.3 If any Work has been covered which the CITY has not specifically requested to observe prior to its being covered, or if the CITY considers it necessary or advisable that covered work be inspected or tested by others, the CONTRACTOR, at the CITY'S request, will uncover, expose or otherwise make available for observation, inspection or testing as the CITY may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective or does not meet the requirements of the Contract Documents, the CONTRACTOR will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate Change Order shall be issued deducting all such costs from the Contract Price. If, however, such work is found to be non-defective and meet the requirements of the Contract Documents, the CONTRACTOR will be allowed an increase in the Contract Price or extension of the Contract Time directly attributable to such uncovering, exposure, observation, inspection and testing if he makes a claim therefore as provided in Sections 21 and 23.

SECTION 20 - CHANGES IN THE WORK

- 20.1 Without invalidating the Agreement, the CITY may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, the CONTRACTOR will proceed with the Work involved. All such work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, and equitable adjustment will be made as provided in Sections 21 or 23. The CITY reserves the right to decrease the contract quantities up to twenty five percent (25%) without penalty. The CITY may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the CONTRACTOR believes that any minor change or alteration authorized by the CITY entitles him to an increase in the Contract Price, he may make a claim therefore as provided in Section 21.
- 20.2 Additional work performed by the CONTRACTOR without authorization of a Change Order will not entitle him to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided in Section 18 and except as provided in Sections 16, 19, and 20.
- 20.3 The CITY reserves final approval authority on any Change Order prepared covering changes in the Work to be performed as provided in Section 11 and Work performed in an emergency as provided for in Section 18 and any other claim of the CONTRACTOR for a change in the Contract Time or the Contract Price.
- 20.4 It is the CONTRACTOR'S responsibility to notify his surety of any changes affecting the general scope of the Work or change in the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly. The CONTRACTOR will furnish proof of such adjustment to the CITY.

SECTION 21 - DISPUTED CLAIMS FOR EXTRA COMPENSATION

- 21.1 Any and all claims for extra compensation, whether on behalf of the CONTRACTOR or SUBCONTRACTOR, shall be signed and made directly by the CONTRACTOR. Failure of the CONTRACTOR to file a claim within the following time frames and according to both the CITY's written claim procedures in effect at the time that the CONTRACTOR files the claim and the following process shall constitute waiver of the claim regardless of whether it can be proven that the CITY was prejudiced. When the CONTRACTOR claims extra compensation, which is disputed by the ENGINEER, the following process applies:
- 1) Notice of Claim. All notices of intent to file a claim for extra compensation shall be signed by the CONTRACTOR. If the CONTRACTOR intends to seek extra compensation for any reason not specifically covered elsewhere in the contract, the time requirements for notification shall be as

follows:

1. The CONTRACTOR shall notify the ENGINEER in writing before beginning the work or upon or encountering a circumstance on which the CONTRACTOR intends to base a claim.
2. The CONTRACTOR shall notify the ENGINEER in writing within two business days after the commencement of a delay, for which the CONTRACTOR intends to seek compensation. Failure of the CONTRACTOR to give written notification will constitute a waiver of the claim for extra compensation except to the extent that claims are both substantiated by records created by the CITY as to liability and amount, and are for extra costs that were unforeseeable. The determination of extra compensation made by the CITY'S claims process, where the CONTRACTOR has failed to give proper written notice of its claim for extra compensation as provided herein or has failed to afford the ENGINEER proper information for keeping strict account of actual costs, shall be final and binding on the CONTRACTOR.

Neither the refusal of the CONTRACTOR to sign a written Contract Modification or Work Order, nor the CONTRACTOR'S signing a Contract Modification or Work Order under protest, shall constitute the notice required.

- 2) Keeping Records. If a CONTRACTOR files a notice of intent to file a claim, the CONTRACTOR shall keep accurate records of all costs of the work or delay and shall afford the ENGINEER all needed information for keeping costs of the work or delay that is the subject matter of the claim. The CONTRACTOR and ENGINEER shall compare records and bring them into agreement at the end of each day.
- 3) Validity of Claim. The validity of a claim shall not be established either by the filing of notice of intent to file a claim by a CONTRACTOR or the keeping of the cost records by the ENGINEER.
- 4) Timing for Filing of Claim. In addition to filing a timely notice of intent to file a claim, the CONTRACTOR shall file with the ENGINEER every claim for extra compensation within the following time frames (whichever comes first):
 1. No later than 90 days after the work involved in the claim is completed, or the delay, loss of efficiency, loss of productivity, or similar event is terminated; or
 2. No later than 60 days after the contract work is completed.
- 5) No extension of arbitration demand time. The time allowed for filing a claim shall not extend the time allowed for requesting arbitration of a dispute.
- 6) Content of the Claim. The CONTRACTOR'S claim shall include:
 1. All facts which gave rise to the claim;

2. A copy of the specific provisions of the contract which support the claim; and
3. When practical, the dollar amount if the claim with an explanation of how the amount was calculated.

The ENGINEER will review timely filed claims pursuant to the CITY'S written claim procedures in effect at the time the claims are filed.

SECTION 22 - CHANGE OF CONTRACT PRICE

- 22.1 The Contract Price constitutes the total compensation payable to the CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the CONTRACTOR shall be at his expense without change in the Contract Price.
- 22.2 The Contract Price may only be changed by Change Order. If the CONTRACTOR shall claim compensation or extension of time for any losses, damages or delays sustained by reason of the acts of the CITY, or its agents or other causes he shall make a written statement of the nature of the loss, damage or delay sustained to the CITY under Section 21 of the General Conditions. At the time of delivery and as a part of the Application for Payment as hereinafter provided, the CONTRACTOR shall file with the CITY an itemized statement of the details and amount of loss, damage, or delay and unless these statements shall be made as thus required, the CONTRACTOR'S claim for compensation or extension of time shall be forfeited and invalidated, and he shall not be entitled to payment or extension of time on account of any such loss, damage, or delay. Any change resulting from any such claim shall be incorporated in a Change Order.
- 22.3 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:
- a) Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.
 - b) By mutual acceptance of a lump sum.
 - c) By cost and a mutually acceptable fixed amount for overhead and profit.
 - d) If none of the above methods is agreed upon, the value shall be determined on the basis of costs and a percentage for overhead and profit. Costs shall include only labor (payroll, payroll taxes, fringe benefits, workmen's compensation, etc.), materials, equipment and other incidentals directly related to the Work involved. The maximum percentage which shall be allowed for CONTRACTOR'S combined overhead and profit, shall be as follows:

- e) For all such Work done by his own organization, the CONTRACTOR may add up to ten percent (10%) of his actual net increase in cost, and
 - f) For all such Work done by Subcontractors, each Subcontractor may add up to ten percent (10%) of his actual net increase in costs for combined overhead and profit and the CONTRACTOR may add up to five percent (5%) of the Subcontractor's total for his combined overhead and profit; provided that no overhead or profit shall be allowed on costs incurred in connection with premiums for public liability insurance or other special insurance directly related to such Work.
- 22.4 In such case and also under paragraph 21c the CONTRACTOR will submit in form prescribed by the CITY an itemized cost breakdown together with supporting data.
- 22.5 The amount of credit to be allowed by the CONTRACTOR to the CITY for any such change which results in a net decrease in cost will be the amount of the actual net decrease as determined by the CITY. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any. The CITY reserves the right to decrease the contract quantities up to ten percent (10%) without penalty.

SECTION 23 - CASH ALLOWANCES

- 23.1 The CONTRACTOR shall include in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such suppliers or Subcontractors and for such sums as the CITY may approve. Upon final payment the Contract Price shall be increased or decreased, as required and an appropriate Change Order issued for changes in the Contract Price to cover the difference in cost between the work provided in the allowance and the actual work performed. The CONTRACTOR agrees that the original Contract Price includes such sums as he deems proper for overhead and profit on account of cash allowances. No demand for additional overhead or profit in connection therewith will be allowed.

SECTION 24 - CHANGE OF THE CONTRACT TIME

- 24.1 The Contract Time may only be changed by a Change Order. If the CONTRACTOR is entitled by the Contract Documents to make a claim for an extension in the Contract Time, his claim shall be in writing delivered to the CITY within ten (10) days of the occurrence of the event giving rise to the claim. All claims for adjustment in the Contract Time shall be determined by the CITY. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- 24.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the CONTRACTOR if he makes a claim therefore as provided in Section 23. Such delays shall include,

but not be restricted to acts of neglect by any separate contractor employed by the CITY, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

- 24.3 All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Section 23 shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party.

SECTION 25 - NEGLECTED WORK

- 25.1 If the CONTRACTOR should neglect to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, the CITY after three (3) days' written notice to the CONTRACTOR may, without prejudice to any other remedy he may have, make good such deficiencies and the cost thereof (including compensation for additional professional services) shall be charged against the CONTRACTOR, in which case a Change Order shall be issued incorporating the necessary revisions in the Contract Documents including an appropriate reduction in the Contract Price. If the payments then or thereafter due the CONTRACTOR are not sufficient to cover such amount, the CONTRACTOR will pay the difference to the CITY.

SECTION 26 - WARRANTY AND GUARANTEE: CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

- 26.1 The CONTRACTOR warrants and guarantees to the CITY that all materials and equipment will be new unless otherwise specified and that all work will be of good quality and free from faults or defects and in accordance with the requirements of the Contract Documents and of any inspections, tests or approvals referred to in Section 16. All unsatisfactory Work, all faulty or defective Work and all Work not conforming to the requirements of the Contract Documents or of such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the CONTRACTOR. All defective Work, whether or not in place, may be rejected.
- 26.2 If required by the CITY prior to approval of final payment, the CONTRACTOR will promptly, without cost to the CITY, either correct any defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the CITY, remove it from the site and replace it with non-defective Work. If the CONTRACTOR does not correct such defective Work or remove and replace such rejected Work within a reasonable time, all as required by written notice from the CITY, the CITY may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect costs of such correction or removal and replacement, including compensation for additional professional services shall be paid by the CONTRACTOR, and an appropriate Change Order shall be issued deducting all such costs from the Contract Price.
- 26.3 The CONTRACTOR will also bear the expenses of making good all work of others destroyed or damaged by his correction, removal or replacement of his defective Work.

- 26.4 If, after the approval of final payment and prior to the expiration of one year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective the CONTRACTOR will, promptly without cost to the CITY and in accordance with the CITY'S written instructions, either correct such defective work, or, if it has been rejected by the CITY, remove it from the site and replace it with non-defective Work. If the CONTRACTOR does not promptly comply with the terms of such instructions, the CITY may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, will be paid by the CONTRACTOR. If, instead of requiring correction or removal and replacement of defective Work, the CITY prefers to accept it, it may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price; or, if the acceptance occurs after approval in the Contract Price; or, if the acceptance occurs after approval of final payment, an appropriate amount shall be paid by the CONTRACTOR.

SECTION 27 - APPLICATIONS FOR PROGRESS PAYMENTS

- 27.1 At least ten (10) days prior to submitting the first Application for Payment, the CONTRACTOR will submit a schedule of values of the Work including quantities and unit prices, aggregating the Contract Price. This schedule shall be satisfactory in form and substance to the CITY and shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Upon approval of the schedule of values by the CITY, it shall be incorporated into the form of Application for Payment furnished by the CITY.
- 27.2 At least ten (10) days before each progress payment will be requested (but not more often than once a month), the CONTRACTOR will submit to the CITY for review the Application for Payment and Certificate of the CONTRACTOR filled out and signed by the CONTRACTOR covering the Work performed as of the date of the Application and supported by any such data as the CITY may reasonably require. Ten percent (10%) of all Applications for Payment will be retained until final completion and acceptance of the Work. If Payment is requested on the basis of material and equipment not incorporated in the Work but delivered and suitably stored at the site or at the locations agreed to in writing, the Application for Payment shall also be accompanied by such supporting data satisfactory to the CITY as will establish the CITY'S title to the materials and equipment and protect its interest therein including applicable insurance.
- 27.3 The CONTRACTOR and CITY acknowledge that for certain public agency construction contracts Michigan Statutes (Act No. 524, Public Acts of 1980) require the payment of interest on retainage. The parties hereto agree however, to waive the requirements of Act No. 524 (MCLA 125.1561) if a contract is entered into between them to perform the construction improvements. In lieu of application of the

Statute, the parties adopt the retainage terms and conditions contained in these contract General Conditions for their mutual convenience. The CITY agrees to pay and the CONTRACTOR agrees to accept the applicable sum as indicated in the following table as a stipulated interest on the retained amounts under the terms and conditions of this contract pursuant to the applicable Statute mentioned above. Such sums shall be paid at completion of the project and will be included in the last payment applicable to the project.

ORIGINAL CONTRACT AMOUNT	STIPULATED INTEREST ON RETAINAGE (\$)
\$0 TO 99,999	50
100,000 to 249,000	100
250,000 to 499,999	150
500,000 to 749,999	250
750,000 to 999,999	400
1,000,000 and Over	Act No 524 will apply

- 27.4 The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will have passed to the CITY prior to the making of the Application for Payment, free and clear of all liens, claims, security interests and encumbrances and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the CONTRACTOR or by any other person performing the Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the CONTRACTOR or such other person.
- 27.5 The CITY will, within ten (10) days after receipt of each Application for Payment, either indicate in writing its recommendation for payment or return the Application to the CONTRACTOR indicating in writing its reasons for refusing to recommend payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the Application. The CITY will, within thirty (30) days of presentation to it of a CITY recommended Application for Payment, pay the CONTRACTOR the amount recommended.

SECTION 28 - RECOMMENDATION OF PAYMENTS

- 28.1 The CITY'S recommendation of any payment requested in an Application for Payment shall be based on the CITY'S on-site observations of the Work in Progress with an experienced and qualified design department and on its review of the Application for Payment and the supporting data, that the Work has

progressed to the point indicated; that, to the best of its knowledge, information and belief, the equality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and any qualifications stated in its recommendation); and that the CONTRACTOR is entitled to payment of the amount approved. However, by recommending any such payment the CITY shall not thereby be deemed to have represented that it made exhaustive or continuous on-site inspections to check the quality or the quantity of the Work, or that it has reviewed the means, methods, techniques, sequences, and procedures of construction or that it has made any examination to ascertain how or for what purpose the CONTRACTOR has used the moneys paid or to be paid to him on account of the Contract Price.

- 28.2 The CITY'S recommendation of final payment shall constitute that the conditions precedent to the CONTRACTOR'S being entitled to final payment as set forth in Section 30 have been fulfilled.
- 28.3 The CITY may refuse the whole or any part of any payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in its opinion to protect the CITY from loss because:
- a) The Work is defective,
 - b) Claims have been filed or there is reasonable evidence indicating the probably filing thereof,
 - c) The Contract Price has been reduced because of Modifications.
 - d) The CITY has been required to correct defective Work or complete the Work in accordance with Section 24, or
 - e) Unsatisfactory prosecution of the Work, including failure to clean up as required by Section 37.

SECTION 29 - SUBSTANTIAL COMPLETION

- 29.1 Prior to final payment, the CONTRACTOR may, in writing to the CITY, certify that the entire Project is substantially complete and request that the CITY issue a Certificate of Substantial Completion. Within a reasonable time thereafter, the CITY and CONTRACTOR will make an inspection of the Project to determine the status of completion. If the CITY does not consider the Project substantially complete, it will notify the CONTRACTOR in writing, giving its reasons therefore. If the CITY considers the Project substantially complete, it will prepare a tentative Certificate of Substantial Completion which shall fix the date of Substantial Completion and the responsibilities between the CITY and the CONTRACTOR for maintenance, heat and utilities. There shall be attached to the certificate a tentative list (PUNCH LIST) of items to be completed or corrected before final payment, and the certificate shall fix the time within which such items shall be completed or corrected, said time to be within the Contract Time.

- 29.2 The CITY shall have the right to exclude the CONTRACTOR from the Project after the date of Substantial Completion, but the CITY will allow the CONTRACTOR reasonable access to complete or correct items on the tentative list.

SECTION 30 - PARTIAL UTILIZATION

- 30.1 Prior to final payment, the CITY may request the CONTRACTOR in writing to permit it to use a specified part of the Project which it believes it may use without significant interference with construction of the other parts of the Project. If the CONTRACTOR agrees, he will certify to the CITY that said part of the Project is substantially complete and request the CITY to issue a certificate of Substantial Completion for that part of the Project. Within a reasonable time thereafter the CITY and the CONTRACTOR will make an inspection of that part of the Project to determine its status of completion. If the CITY does not consider that it is substantially complete, it will notify the CONTRACTOR in writing giving its reasons therefore. If the CITY considers that part of the Project to be substantially complete, it will execute and deliver to the CONTRACTOR a certificate to that effect, fixing the date of Substantial Completion as to that part of the Project, attaching thereto a tentative list (PUNCH LIST) of items to be completed or corrected before final payment and fixing the responsibility between the CITY and CONTRACTOR for maintenance, heat and utilities as to that part of the Project.
- 30.2 The CITY shall have the right to exclude the CONTRACTOR from any part of the Project which the CITY has so certified to be substantially complete, but the CITY will allow the CONTRACTOR reasonable access to complete or correct items on the tentative list.

SECTION 31 - FINAL PAYMENT

- 31.1 Upon written notice from the CONTRACTOR that the project is complete, the CITY will make a final inspection with the CONTRACTOR and will notify the CONTRACTOR in writing of any particulars in which this inspection reveals that the Work is defective. The CONTRACTOR shall immediately make such corrections as are necessary to remedy such defects.
- 31.2 After the CONTRACTOR has completed any such corrections to the satisfaction of the CITY and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection and other documents - all as required by the Contract Documents, he may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by such supporting data as the CITY may require, together with complete and legally effective releases or waivers (satisfactory to the CITY) of all claims arising out of the Contract Documents and the labor and services performed and the material and equipment furnished thereunder. In lieu thereof and as approved by the CITY, the CONTRACTOR may furnish receipts or releases in full; an affidavit of the CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a claim could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which the CITY or its property might in any way be responsible,

have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If the Subcontractor or supplier fails to furnish a release or receipt in full, the CONTRACTOR may furnish a bond satisfactory to the CITY to indemnify it against claims.

- 31.3 If, on the basis of its observation and review of the Work during construction, its final inspection and its review of the final Application for Payment - all as required by the Contract Documents, the CITY is satisfied that the Work has been completed and the CONTRACTOR has fulfilled all of his obligations under the Contract Documents, it will, within ten (10) days after receipt of the final Application for Payment, indicate in writing its recommendation of payment. Otherwise, it will return the Application to the CONTRACTOR, indicating in writing its reasons for refusing to recommend final payment, in which case the CONTRACTOR will make the necessary corrections and resubmit the Application. The CITY will, within thirty (30) days of presentation to it of a CITY recommended final Application for Payment, pay the CONTRACTOR the amount recommended.
- 31.4 If after Substantial Completion of the Work final completion thereof is materially delayed through no fault of the CONTRACTOR, and the CITY so confirms, the CITY shall, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for work not fully completed or corrected is less than the retainage stipulated, and if Bonds have been furnished as required in Section 33, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the CONTRACTOR to the CITY prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

SECTION 32 - WAIVERS OF CLAIMS AND CONTINUING OBLIGATIONS

- 32.1 The CONTRACTOR'S obligations to perform the Work and complete the Project in accordance with the Contract Documents shall be an absolute. Neither recommendation of any progress or final payment by the CITY, nor the issuance of a certificate of Substantial Completion, nor any payment by the CITY to the CONTRACTOR under the Contract Documents nor any use or occupancy of the Project or any part thereof by the CITY, nor any act of acceptance by the CITY nor any failure to do so, nor any correction of faulty or defective work by the CITY shall constitute an acceptance of Work not in accordance with the Contract Documents.
- 32.2 The making and acceptance of final payment shall constitute:
- a) A waiver of all claims by the CITY against the CONTRACTOR other than those arising from unsettled claims for labor or materials furnished in the Project, for faulty or defective work appearing after Final Payment or from failure to comply with the requirements of the Contract Documents or the terms of any special guarantees specified therein. Neither Final Payment or partial or entire occupancy of the premises by the CITY shall relieve the CONTRACTOR of

negligence or faulty materials or workmanship and upon written notice he shall repair any defects or deficiencies due thereto and pay for any damages due to other work resulting therefrom which shall appear within one year after Substantial Completion and acceptance.

- b) A waiver of all claims by the CONTRACTOR against the CITY other than those previously made in writing and still unsettled.

SECTION 33 - INDEMNIFICATION

- 33.1 The CONTRACTOR shall indemnify and hold harmless the CITY and its agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 33.2 If any and all claims against the CITY or any of its agents or employees by any employee of the CONTRACTOR, and Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section 32 shall not be limited in any way by any limitation in the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any Subcontractor under workman's compensation acts, disability benefit acts or other employee benefit acts.

SECTION 34 - CONTRACT BONDS

- 34.1 The CONTRACTOR will furnish performance and payment Bonds as security for the faithful performance and payment of all his obligations under the Contract Documents. These Bonds shall be in amounts at least equal to the Contract Price and in such form and with such sureties as are acceptable to the CITY. Prior to execution of the Contract Documents the CITY may require the CONTRACTOR to furnish such other Bonds, in such form and with such sureties as it may require. If such Bonds are required by written instructions given prior to opening of Bids, the premiums shall be paid by the CONTRACTOR; if subsequent thereto, they shall be paid by the CITY. Bonds required as specified in the Information For Bidders will not be paid for as a contract item.

SECTION 35 - CONTRACTOR'S LIABILITY INSURANCE

- 35.1 The CONTRACTOR shall not commence work under this Contract until he has obtained all the insurance required under this Section and such insurance has been approved by the CITY, nor shall the CONTRACTOR allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.

- 35.2 The CONTRACTOR shall procure and shall maintain during the life of this Contract Workmen's compensation Insurance for all of his employees to be engaged in Work on the Project under this Contract. In case such work is sublet, the CONTRACTOR shall require the Subcontractor similarly to provide insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the CONTRACTOR'S Workman's Compensation Insurance. In case any class of employees engaged in hazardous work on the Project under this Contract is not protected under the Workmen's Compensation statute, the CONTRACTOR shall provide and shall cause each Subcontractor to provide adequate insurance for the protection of such of his employees not otherwise protected.
- 35.3 The CONTRACTOR shall procure and shall maintain during the life of this Contract, Insurance coverages as specified in Section I-1 of the Bid Documents.
- 35.4 The CONTRACTOR shall either (a) require each of his Subcontractors to procure and to maintain during the life of his Subcontract, Subcontractor's Public Liability Property Damage and Vehicle Liability Insurance of the type and amount specified in the above paragraphs of this Section hereof or, (b) insure the activities of his Subcontractors in his policy, specified in the above paragraphs of this Section hereof.
- 35.5 The insurance required under the above paragraphs of this section hereof shall provide adequate protection for the CITY against damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by him. This paragraph is construed to require the procurement of CONTRACTOR'S protective insurance (or Contingent Public Liability and Property Damage Policies) by a CONTRACTOR, whose Subcontractor has employees working on the Project, unless the General Public Liability and Property Damage Policy (or rider attached thereto) of the CONTRACTOR provides adequate protection against claims arising from operations by anyone indirectly employed by him.

SECTION 36 - CITY'S LIABILITY COVERAGE

- 36.1 The CONTRACTOR shall procure, as a rider on his liability insurances, additional coverage to protect the CITY against claims which may arise from operations under the Contract Documents.

SECTION 37 - PROPERTY INSURANCE

- 37.1 Unless otherwise provided, the CONTRACTOR will purchase and maintain property insurance upon the Project to the full insurable value thereof. The insurance shall include the interests of the CITY, the CONTRACTOR and Subcontractors, in the Work and shall insure against the perils of Fire, Extended Coverage, Vandalism and Malicious Mischief.

- 37.2 The CITY upon notification from the CONTRACTOR that such facilities are operative, purchase and maintain such steam boiler and machinery insurance as may be required by the Contract Documents or by law. This insurance shall include the interest of the CITY, the CONTRACTOR and Subcontractors in the Work.
- 37.3 Any insured loss under the policies of insurance required by Section 36, is to be adjusted with the CITY and made payable to the CITY as trustee for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clauses.
- 37.4 The CONTRACTOR will file a copy of all policies with the CITY before an exposure to loss may occur.
- 37.5 If the CITY requests in writing that other special insurance be included in the property insurance policy, the CONTRACTOR will, if possible, include such insurance, and the cost thereof shall be charged to the CITY by appropriate Change Order.
- 37.6 The CITY and CONTRACTOR waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under this Section 36, except such rights as they may have to the proceeds of such insurance held by the CITY as trustee. The CONTRACTOR shall require similar waivers by Subcontractors in accordance with Section 7.
- 37.7 The CITY as trustee will have power to adjust and settle any loss with the insurers.

SECTION 38 - CLEANING UP

- 38.1 The CONTRACTOR will keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work and at the completion of the Work he will remove all his materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the CITY. The CONTRACTOR will restore to their original condition those portions of the site not designated for alteration by the Contract Documents.

SECTION 39 - CITY'S RIGHT TO STOP OR SUSPEND WORK

- 39.1 If the Work is defective, or the CONTRACTOR fails to supply sufficient skilled workmen, or suitable materials or equipment, or if the CONTRACTOR fails to make prompt payments to the Subcontractors, or for labor, materials or equipment, the CITY may order the CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated.
- 39.2 The CITY may, at any time and without cause, suspend the work or any portion thereof for a period of not more than ninety (90) days by notice in writing to the CONTRACTOR which shall fix the date on which Work shall be resumed. The CONTRACTOR will resume the Work on the date so fixed. The CONTRACTOR may be allowed an increase in the Contract Price or an extension of the Contract Time directly attributable to any suspension making a claim therefore as provided in Section 21 and 23.

SECTION 40 - CITY'S RIGHT TO TERMINATE

- 40.1 If the CONTRACTOR is adjudged a bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of his property, or if he files a petition to take advantage of any debtors' act, or to reorganize under the bankruptcy or similar laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to Subcontractors, or for labor, materials, or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if he disregards the authority of the CITY, or if he otherwise violates any provision of the Contract Documents, then the CITY may, without prejudice to any other right or remedy and after giving the CONTRACTOR and his surety seven (7) days' written notice, terminate the services of the CONTRACTOR and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR, and finish the Work by whatever method it may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the CITY. Such costs incurred by the CITY will be determined and incorporated into a Change Order.
- 40.2 Where the CONTRACTOR'S services have been so terminated by the CITY, said termination shall not affect any rights of the CITY against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys by the CITY due the CONTRACTOR will not release the CONTRACTOR from liability.

- 40.3 Upon seven (7) days' written notice to the CONTRACTOR the CITY may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Agreement. In such case, the CONTRACTOR shall be paid for all work executed and any expense sustained plus a reasonable profit.

SECTION 41 - CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE

- 41.1 If, through no act or fault of the CONTRACTOR, the Work is suspended for a period of more than ninety (90) days by the CITY or under an order of court or other public authority, or the CITY fails to pay the CONTRACTOR any sum approved or awarded by arbitrators within ninety (90) days of its approval and presentation, then the CONTRACTOR may, upon seven (7) days' written notice to the CITY, terminate the Agreement and recover from the CITY payment for all Work executed and any expense sustained plus a reasonable profit.

SECTION 42 - (NOT APPLICABLE TO THIS CONTRACT)

SECTION 43 - ARBITRATION

- 43.1 All claims, disputes and other matters in question arising out of or relating to this Agreement except claims which have been waived by the making or acceptance of final payment as provided in Section 31 shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Any award rendered hereunder shall be final and judgment may be entered based upon said award in accordance with the Michigan Statutes and General Court Rules pertaining thereto. Any award rendered hereunder may be vacated solely upon the grounds specified in said statute and court rules and in addition on the basis that the award is contrary to law.
- 43.2 Notice of the request for arbitration shall be filed in writing with the CITY (and any other party to the Agreement) and with the American Arbitration Association. The request for arbitration shall be made within the thirty (30) day period specified in Paragraph 14.3 where applicable, and in all other cases within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after six (6) months from that date. The location for any such mediation or arbitration shall be the City of Sault Ste. Marie.
- 43.3 CONTRACTOR shall continue to perform the Work and maintain the progress schedule during the pendency of any claim or dispute which may be subject to arbitration and during the pendency of any arbitration proceedings, unless otherwise agreed between the CITY and CONTRACTOR in writing, which agreement shall not extend the delay beyond the time when the arbitrator shall have an opportunity to determine whether the Work shall continue to be suspended.

- 43.4 The CITY may also include the CITY'S consultant(s) involved with the design and/or construction engineering of the project, as a third party defendant in any mediation or arbitration process regarding any claims, disputes or other matters in question related to this project.

SECTION 44 - MISCELLANEOUS

- 44.1 Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an office of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to him who gives the notice.
- 44.2 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and, in particular, but without limitation, the warranties, guarantees and obligations imposed upon the CONTRACTOR by Sections 25 and 32 and the rights and remedies available to the CITY thereunder, shall be in addition to and not a limitation of any otherwise imposed or available by law, by special guarantee or other provisions of the Contract Documents.
- 44.3 Should the CITY or the CONTRACTOR suffer injury or damage to its persons or property because of any error, omission or act of the other or of any of his employees or agents or others for whose acts he is legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage.
- 44.4 The Contract Documents shall be governed by the law of the place of the Project.
- 44.5 The CONTRACTOR shall not assign the whole or any part of this Contract or any moneys due or to become due hereunder without written consent of the CITY. In case the CONTRACTOR assigns all or any part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to the CONTRACTOR shall be subject to prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.

Attachments:

1. PLANS
2. CLOVERLAND INCENTIVE APPLICATION
3. MAPS
4. EXISITING FIGURE SPECS

EXISITING FIGURE CUT SHEETS