



GRAIN BELT MARSHALL STREET SITE
Inspection of Office Building Work – July 15, 2011
Meeting Notes and Q & A

Notes from July 15th Inspection:

1. Kevin Carroll (CPED Business Development) made a short presentation about the improvements that have been completed on the building. A representative from SPS Infrastructure (the City's roofing contractor) also explained the roof improvements and materials that were used.
2. During the inspection, there was some interchange between Kevin Carroll, Steve Maki (CPED Engineering, and SPS Infrastructure, and the attendees regarding the improvements to Office Building. However, it was not possible to capture a record of all of this interaction. Therefore, the City is providing the bid proposals/scopes from the City's contractors (INSERT LINK TO 3 DOCS), which will serve as a detailed summary of the Office Building improvements.
3. Kevin indicated that the City will soon be installing a new gutter on the south side of building and downspouts which will direct water further down the berm.
4. Northeast Bank has expressed interest in seeing the berm removed. The developer who is selected for the Office Building may wish to pursue the removal of this berm as well as the lowering of 1-foot thick retaining wall, which would increase natural light in the building.
5. The only tuck pointing that done was on the parapet of the upper roof of the west building and its east wall. The rest of the building may require tuck pointing.
6. There were approximately 675 new brick installed: about 425 on the upper roof and 250 on the west wall in the mid-roof area.
7. Kevin explained that the legacy grant addressed the high priority items (i.e. water infiltration and roof repairs). However, there is still a wish list of other items that developers will probably need to address in their proposals. Also, if additional grant funding is available in the future for other items, the City will work with the selected developer of the Office Building to seek such funding.
8. The old HVAC equipment on the roof has been removed. However, the reroof job was done in such a way to facilitate the installation of new utility equipment and hookup to the existing ductwork.
9. **Question:** When was the Office Building last sand blasted? **Answer:** City staff has no evidence of any past sand blasting on the Office Building.

Additional Notes:

- Although not mentioned during the inspection, Steve Maki indicated later that the drive lane along the north side of the Office Building would be redone by the City. This will address the water ponding issues that were evident on the day of the inspection given the heavy rains.
- Following the July 15th inspection, City staff noticed some water leakage in the basement on the south side of the building. It was a minor leak in a storage room near the front of the building that resulted in a small area of wet carpet. The leak in this section of the building is due to old abandoned pipe penetration with associated utility trench, and not a groundwater issue like the lower section of the basement. Heavy rains probably collected in the trench and taking the easiest route came out of the insulation around the pipe. Groundwater infiltration has not been a concern in this section of the building since the floor level is above the ground water level. Removal of the lines protruding thru the wall and wall restoration should prevent future leakage into the basement.

Upgrade the Grain Belt Office interior/exterior drainage system.

General Background.

1. Contractor shall be responsible for demolition, waste collection and disposal, design build installation, excavation, electrical, all permits, dewatering, cleanup, etc. for the complete installation of the drainage collection/discharge systems.
2. Interior floor shall be replaced with 4-inch thick concrete with smooth finish matching existing floor elevations.
3. Contractor shall provide specification for sump pumps to CPED engineer prior to installation for approval.
4. All discharge piping shall be connected to common discharge outside building North of North Sump location with exact layout approved by CPED Engineer.

Plans/Scope.

For Base Bid and all alternates, see plans C1-1(Existing Condition), C1-2(Demolition Exhibit), C3-1(Grading & Drainage Exhibit), C4-1(Utility Exhibit), & C8-1(Details) for system details and layout.

Schedule.

All work shall be completed by May 27th, 2011, *assuming a notice to proceed is issued on or before May 2?????*

Base Bid (includes Alternate #1).

Base bid shall include upgrades of North sump, installation of SE sump system, regrade South window wells with drain, SE window well drain, all associated drain tile, and all items designated as "ALTERNATE #1" on the plans.

Alternate #2- shall be for South sump collection system installation.

Alternate #3 shall be for installation of individual high water alarms in a sump pit.

Addendum #1
Grain Belt Office Phase II Drainage Improvements

March 16, 2011

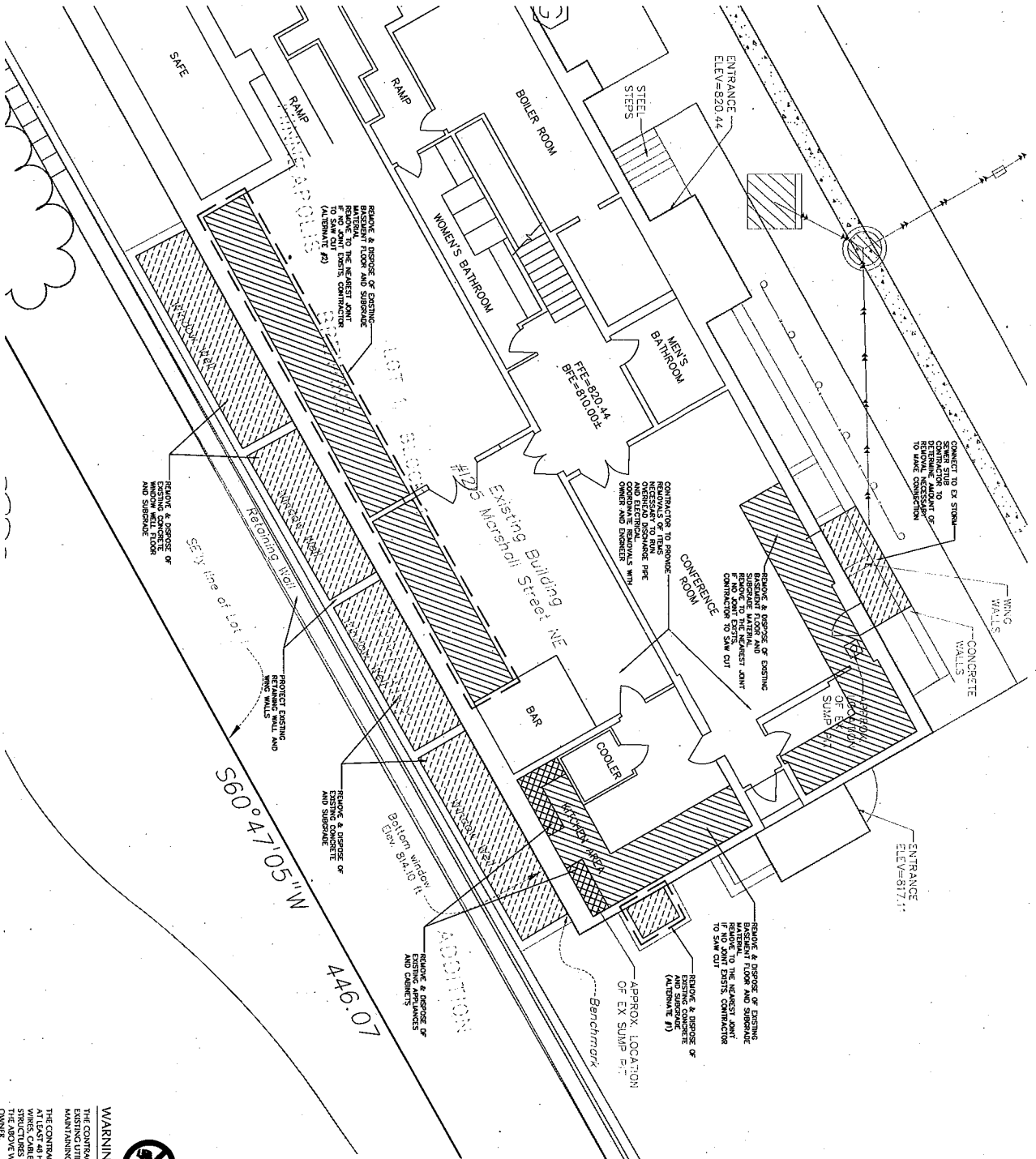
Call for bids Publication No. 7434

Ebid doc # 1492480

Bids due 10 AM, Local time, March 24th, 2011

Include the following items with bid item 1.:

- **Install NEW sump basin in North sump pit.**
- **Install heat tape in discharge piping going to catch basin out side the building.**
- **Install new electrical breaker box for sump pumps, heat tape and alarms.**



DEMOLITION LEGEND:

- REMOVE & DISPOSE OF EXISTING BASEMENT FLOOR AND SUBGRADE MATERIAL
- REMOVE & DISPOSE OF EXISTING CONCRETE AND SUBGRADE MATERIAL
- REMOVE & DISPOSE OF EXISTING APPLIANCES AND CABINETS

NOTES:

EXISTING CONDITIONS SHOWN IS A COMBINATION OF INFORMATION PROVIDED BY LOCUS ASSOCIATES AND OTHERS.

CONTRACTOR TO FIELD VERIFY ALL BUILDING DIMENSIONS, FLOOR ELEVATIONS, FOUNDATION ELEVATIONS, AND UTILITY INFORMATION.

CONTRACTOR TO REPLACE ALL REMOVED BASEMENT FLOORING WITH CONCRETE PAVEMENT, MATCH EXISTING FLOOR THICKNESS AND SUBGRADE MATERIAL.

CONTRACTOR TO REPLACE ALL CONCRETE WING WALLS REMOVED AS PART OF THIS PROJECT, MATCH EXISTING WALL MATERIALS, HEIGHT, THICKNESS, AND STRUCTURAL COMPONENTS.

CONTRACTOR RESPONSIBLE FOR ACQUIRING ALL PERMITS REQUIRED TO CONSTRUCT PROJECT.

PROTECT EXISTING FLOORS, WALLS AND FIXTURES DURING CONSTRUCTION UNLESS NOTED OTHERWISE.

THESE EXHIBITS ARE FOR GENERAL REFERENCE ONLY AND NOT TO BE CONSIDERED AN ENGINEERING DESIGN FOR THIS PROJECT. THIS PROJECT IS A DESIGN BUILD PROJECT AND IT IS ANTICIPATED THE CONTRACTOR WILL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, APPROVALS AND DESIGN STANDARDS TO COMPLETE THIS PROJECT AS GENERALLY SHOWN, IF NECESSARY, CONTRACTOR TO PROVIDE STRUCTURAL, MECHANICAL, AND ELECTRICAL ENGINEERING SERVICES THAT MAY BE REQUIRED IN ORDER TO COMPLETE THE PROJECT AS INDICATED.

WARNING:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES. THEY SHALL COOPERATE WITH ALL UTILITY COMPANIES IN MAINTAINING THEIR SERVICE AND/OR RELOCATION OF LINES.

THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-454-4002 AT LEAST 48 HOURS IN ADVANCE FOR THE LOCATIONS OF ALL UNDERGROUND WATERS, CABLES, CONDUITS, PIPES, MANHOLES, TANKS OR OTHER BURIED FACILITIES. THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.

CALL BEFORE YOU DIG

Gopher State One Call

ONE CALL CENTER
 24 HOURS A DAY
 651-454-4002

**GRAIN BELT OFFICE
 PHASE 2
 DRAINAGE &
 STORM SEWER
 IMPROVEMENTS**

Minneapolis, Minnesota
 City of Minneapolis
 1215 Marshall Street NE
 Minneapolis, MN 55413



LOCUS ASSOCIATES
 3200 Hennepin Avenue, Suite 200
 Minneapolis, Minnesota 55412
 Phone: 612-338-8888
 Fax: 612-338-8887
 www.locusassociates.com

CONTRACT INFORMATION:

Project: Grain Belt Office Phase 2 Drainage & Storm Sewer Improvements

Contract No.: 05051E

Contract Date: 01/17/2011

Contract Value: \$1,000,000.00

Contract Status: In Progress

Contractor: Gopher State One Call

Contractor License No.: 05051E

Contractor Address: 1215 Marshall Street NE, Minneapolis, MN 55413

Contractor Phone: 651-454-4002

Contractor Fax: 651-454-4002

Contractor Email: gopherstateonecall.com

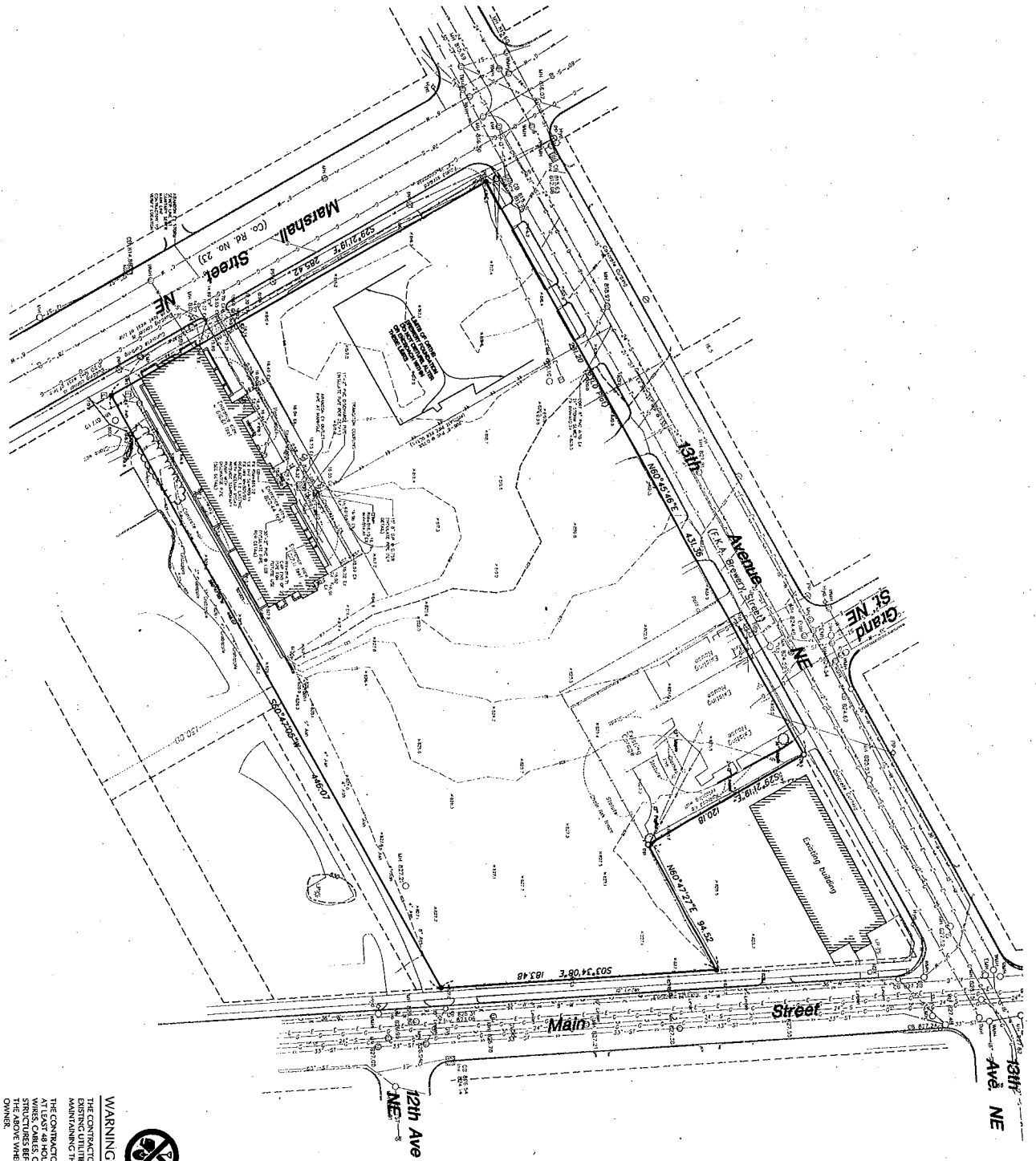
Contractor Website: gopherstateonecall.com

Contractor Description: Demolition

Contractor Contact: [Name], [Title], [Phone], [Email]

DEMOITION EXHIBIT

Item No.	Description	Quantity	Unit	Notes
1	Demolition of Existing Basement Floor and Subgrade		SQ. FT.	
2	Demolition of Existing Concrete and Subgrade		SQ. FT.	
3	Demolition of Existing Appliances and Cabinets		EA.	
4	Demolition of Existing Wing Walls		EA.	
5	Demolition of Existing Men's Bathroom		EA.	
6	Demolition of Existing Women's Bathroom		EA.	
7	Demolition of Existing Boiler Room		EA.	
8	Demolition of Existing Conference Room		EA.	
9	Demolition of Existing Bar		EA.	
10	Demolition of Existing Cooler		EA.	
11	Demolition of Existing Sump Pits		EA.	
12	Demolition of Existing Wing Walls		EA.	
13	Demolition of Existing Concrete		SQ. FT.	
14	Demolition of Existing Subgrade		SQ. FT.	
15	Demolition of Existing Appliances		EA.	
16	Demolition of Existing Cabinets		EA.	
17	Demolition of Existing Material		SQ. FT.	
18	Demolition of Existing Foundation		SQ. FT.	
19	Demolition of Existing Utility		SQ. FT.	
20	Demolition of Existing Information		SQ. FT.	
21	Demolition of Existing Floor		SQ. FT.	
22	Demolition of Existing Pavement		SQ. FT.	
23	Demolition of Existing Match		SQ. FT.	
24	Demolition of Existing Thickness		SQ. FT.	
25	Demolition of Existing Subgrade		SQ. FT.	
26	Demolition of Existing Material		SQ. FT.	
27	Demolition of Existing Foundation		SQ. FT.	
28	Demolition of Existing Utility		SQ. FT.	
29	Demolition of Existing Information		SQ. FT.	
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97	Demolition of Existing Subgrade		SQ. FT.	
98	Demolition of Existing Material		SQ. FT.	
99	Demolition of Existing Foundation		SQ. FT.	
100	Demolition of Existing Utility		SQ. FT.	



NOTE:
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COMBINATION OF INFORMATION PROVIDED
BY LOCUS ASSOCIATES AND OTHERS.



CALL BEFORE YOU DIG
Gopher State One Call
TOLL FREE 1-800-552-7888

WARNING:
THE CONTRACTOR SHALL BE RESPONSIBLE FOR DIGGING FOR LOCATIONS OF ALL
MAINTAINING THEIR SERVICE AND/OR RELOCATION OF LINES.
THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-252-6002
BEFORE ANY EXCAVATION WORK IS PERFORMED TO IDENTIFY ALL EXISTING
UTILITIES (GAS, WATER, SEWER, TELEPHONE, CABLE, FIBER OPTIC, AND
STRUCTURES) BEFORE DISCONNECTION. THE CONTRACTOR SHALL REPAIR OR REPLACE
THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE
OWNER.

CRAIN BELT OFFICE
PHASE 2
DRAINAGE &
STORM SEWER
IMPROVEMENTS

Minneapolis, Minnesota
City of Minneapolis
1215 Marshall Street NE
Minneapolis, MN 55413

Minneapolis
City of Minneapolis
LOCUS ASSOCIATES
Locus - Civil Engineering & Land Surveying
12000 Hennepin Avenue, Suite 200
Minneapolis, MN 55412
www.locusassociates.com

PROJECT NO.	05051E
DATE	05/05/11
SCALE	AS SHOWN
PROJECT LOCATION	CRAIN BELT OFFICE PHASE 2 DRAINAGE & STORM SEWER IMPROVEMENTS
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SCALE	AS SHOWN
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PROJECT NO.	05051E
DATE	05/05/11
SCALE	AS SHOWN
PROJECT LOCATION	CRAIN BELT OFFICE PHASE 2 DRAINAGE & STORM SEWER IMPROVEMENTS



69 Empire Drive
St. Paul, MN 55103
Phone 651-280-4260
Fax 651-288-4751
www.spsinfrastructure.net

SPS Infrastructure, Inc.

Proposal No. 401345

May 26, 2011

Revised

June 15, 2011

Mr. Carroll
City of Minneapolis

Re: Grain Belt Building – Middle Roof Area Work

Attention: Kevin Carroll

We propose to furnish necessary labor, material, equipment, and supervision, except as noted below, to perform the following items of work:

Scope of work on Lower/Middle Roof Repairs and Brick Repair

1. Remove HVAC units from roof and install sheet metal caps
2. Install sheet metal caps on walls where duct work is going into walls
3. Install plastic cement and rag all visible areas that may be leaking on built up roof
4. Remove and replace spalled or deteriorated brick on back wall of 1893 building. Replacement brick to match color and texture as close as possible and pending approval by owner. Replacement brick to match color and texture as close as possible and pending approval by owner. Saws to be used on horizontal joints only, vertical joints will be cut by drilling or hand raking. Replacement mortar to be type N from Spec Mix.
5. Tuckpoint deteriorated mortar joints to minimum ¾" depth. Replacement mortar to match color, texture, joint width and profile as close as possible and pending approval by owner. Replacement mortar to be type N from Spec Mix. Saws to be used on horizontal joints only, vertical joints will be cut by drilling or hand raking.

Base Bid: \$40,100.00

Scope of work on shingle repair

1. Inspect shingle work on East end
2. Repair visible area where leaking. Replacement shingles to match existing shingle composition in terms of materials, size, color, etc.

Base Bid: \$750.00

WORKING CONDITIONS:

1. Daytime Work Hours 8
2. Five (5) day Week MTWTF
3. Union

SUPPORT BY OTHERS (at no cost to SPSI) SHALL INCLUDE THE FOLLOWING:

1. 110V electric
2. Electrical disconnect/reconnect
3. Available at Existing Outlets/Panels
4. Parking for service vehicles
5. Construction permits if required
6. SPS not responsible for damage to embedded utilities

SCHEDULE:

Work could commence on or about per owners schedule and be substantially complete within 25 working days.

PAYMENT TERMS:

1. Invoices shall be submitted monthly and are payable within 30 days from date of invoice. One and one-half (1.5%) interest due on unpaid balance after thirty (30) days.

WARRANTY

SPSI's liability for warranty of defective workmanship shall be limited to one (2) year from Substantial Completion of SPSI's work. Any warranties for materials or products shall be provided sole source from the respective manufacturer/supplier as a direct pass through to Client in accordance with the available product warranties provided to SPSI for Client's benefit.

GENERAL CONDITIONS:

See Attachment "A".

Grain Belt Building
May 26, 2011
Revised June 15, 2011
Page 3

EXPIRATION:

This proposal may be withdrawn if not accepted by June 26, 2011

Very truly yours,

SPS INFRASTRUCTURE, INC.

Todd Huebner
Roofing and Waterproofing Manager
Cell # 651-226-8146
thuebner@structural.net

ACCEPTANCE OF PROPOSAL:

The above Conditions, Specifications, Prices and General Conditions are hereby accepted. You are authorized to proceed to do this work and payment will be as stated above.

ACCEPTED BY:

Authorized Signature	Title	Date
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ATTACHMENT "A" - GENERAL CONDITIONS

1. Commencement of Work:

- 1.1. Acceptance of this Proposal shall be acceptance of all terms and conditions, recited herein or incorporated by reference. Client's issuance of a Notice to Proceed or a Letter of Intent shall constitute acceptance by Client of this Proposal and corresponding General Conditions.
- 1.2. After acceptance of this Proposal, and unless otherwise stated, SPS Infrastructure, Inc. (hereinafter referred to herein as ("SPSI")) shall be given a reasonable time in which to make delivery of materials or labor to commence and complete its performance.
- 1.3. Client is required to prepare all work areas so as to be accessible and acceptable for SPSI's work. SPSI will not be called upon to commence work until sufficient areas are ready to allow logical, continued and efficient progress of work until completion.

2. Form of Agreement

- 2.1. If an alternative form of contract or subcontract is to be used, then such form shall be the unmodified 1997 revision of the AIA Standard Form Contract Document A101 or unmodified Subcontract Document A401.

3. Permits:

- 3.1. Client will determine need for and provide all necessary permits, fees, and inspections for the contracted work unless otherwise provided herein.

4. Bonds & Insurance:

- 4.1. The cost of bonds are not included in this proposal unless otherwise provided herein. Should Performance & Payment bonds be required, Client shall be responsible for all associated bond premiums. In addition, certain information is required by Client to satisfy SPSI's bonding company underwriting requirements including but not limited to confirmation of project funding. SPSI shall furnish said bonds only on standard AIA A312 Performance & A311 Payment bond forms.
- 4.2. SPSI shall furnish evidence of insurance in the form of a standard ACORD Certificate of Insurance. Such Insurance Certificate shall include the Client as Certificate Holder and shall provide evidence of the coverages and corresponding limits as follows: Workers' Compensation - Statutory, Employer's Liability - \$1M, General Liability - \$2M aggregate, Auto Liability - \$1M and Excess Liability - \$10M. Any other insurance required of SPSI is not included and shall be furnished at Client's sole cost and at SPSI's discretion.
- 4.3. SPSI shall not be required to comply with any insurance requirements presented post contract signing, including but not limited to, subsequent requests made to SPSI to include additional insureds. In the event Client withholds payment, SPSI shall be entitled to pursue all remedies available including but not limited to lien rights and/or payment bond claims and shall be entitled to interest and collection fees.

5. Payment:

- 5.1. Payment by Client for SPSI's performance is not, under any circumstances, subject to any contingencies or conditions precedent or subsequent other than SPSI's performance pursuant to this proposal.
- 5.2. All sums not paid when due shall bear interest at the rate of 1 1/2% per month from due date until paid or the maximum legal rate permitted by law, whichever is less, plus all costs of collection, including reasonable attorneys' fees.
- 5.3. Payment is a material issue. If payment is not made to SPSI as herein provided, then SPSI may stop work with three (3) days written notice to client without prejudice to any other remedy it may have including the right to file a lien, claim, or notice thereof on its behalf.
- 5.4. Client shall not be entitled to withhold payments on account of third party general liability claims if the liability for such claim(s) has been accepted by SPSI's insurer.
- 5.5. No back charges or claims shall be valid unless agreed to in writing by SPSI. Client shall only be entitled to withhold payment from SPSI if, and for so long as SPSI fails to perform any of its obligations hereunder or otherwise is in default under any of

the Contract Documents; provided Client forwards written notice to SPSI of intent to withhold payment and affords SPSI five (5) business days to mitigate same. Any such holdback shall be limited to an amount sufficient to cure any such default or failure of performance by SPSI and any undisputed work items shall be paid in accordance with the contract provisions.

6. Prosecution of the Work

- 6.1. Client agrees to furnish fresh water, electricity and staging area (and plant site) for SPSI's operation as well as drawings showing locations of all services, utility lines and underground structures unless specifically provided for otherwise herein.
- 6.2. Work called for herein is to be performed during SPSI's regular working hours. Overtime rates will be charged for all work performed outside such hours unless the cause giving rise to having to work overtime is a result of SPSI caused delays.
- 6.3. SPSI shall perform the work in a diligent manner and without interruptions (weather permitting). SPSI shall be entitled to extensions of time for weather delays. In addition, should adverse weather conditions prohibit SPSI from properly applying specified products, including but not limited to waterproofing membranes, deck coatings, and expansion joints per manufacturer's specifications, then the contract time shall be extended accordingly.
- 6.4. SPSI shall not be responsible for delays caused by the Client, Owner, a General Contractor, other contractors or subcontractors, Architect, Engineers, armed conflict or economic dislocation resulting therefrom; embargoes of labor, raw materials, production facilities or transportation; labor difficulties, civil disorders of any kind; action of civil or military authorities; vendor priorities and allocations, fires, floods, accidents and acts of God.
- 6.5. SPSI's liability for delay damages shall be limited to liquidated damages in an amount mutually agreed upon by SPSI and Client as Client's sole and exclusive remedy and in no event shall SPSI be liable for actual, punitive, indirect, incidental or consequential damages of any kind. Conversely, should SPSI be delayed in any manner by the acts, errors, or omissions of the Client, Engineer, or by an employee of either of them, then, in addition to any applicable extension of time, SPSI shall be entitled to receive from them compensation for any reasonable damages caused by the delay.
- 6.6. SPSI shall be entitled to stop work if they consider the jobsite conditions unsafe or if another Contractor working around SPSI is being unsafe.

7. Changes

- 7.1. A Change Order is a written instrument prepared by SPSI and signed by the Client, SPSI and Engineer (if applicable) stating agreement of 1) a change in the work; 2) the amount of adjustment, if any, in the contract sum; and 3) the extent of the adjustment, if any, in the contract time.
- 7.2. Information used has been provided to SPSI by the Client, representatives of Client or others. If conditions are not in accordance with the information furnished, the recommended procedures and scope of work of this proposal may not necessarily apply. The responsibility for delays, liabilities and expenses due to conditions other than represented to SPSI is not assumed by SPSI but is assumed by the Client. All expenses incurred by SPSI due to conditions other than as represented shall be paid to SPSI including overhead and profit.
- 7.3. If SPSI, during its work, encounters 1) subsurface or latent physical conditions which differ from those indicated in this Agreement, or 2) unknown physical conditions of an unusual nature, differing from those ordinarily encountered, then SPSI shall be entitled to an equitable price and schedule adjustment to compensate it for such changed condition.

8. Hazardous Materials:

- 8.1. Client warrants that a reasonable effort has been made to inform SPSI of known or suspected hazardous materials on the project site. Any hazardous waste uncovered during construction shall be the sole responsibility of the Client, including but not limited to the ultimate disposal of any samples secured by SPSI which are found to be contaminated.
- 8.2. SPSI and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition, and may mandate a re-negotiation of the scope of work and compensation for additional costs incurred or other measures including decontamination of SPSI's equipment and/or termination of services. SPSI and Client also agree that the discovery of unanticipated hazardous materials may make it necessary for SPSI to take immediate measures to protect the health and safety of employees.

- 8.3. Notwithstanding any other provision of the Agreement, Client waives any claim against SPSI with respect to the provisions of Article 8 contained herein and, to the maximum extent permitted by law, agrees to defend, indemnify, and save SPSI harmless from any claim, liability, and/or defense costs for injury or loss arising from SPSI's discovery of unanticipated hazardous materials or suspected hazardous materials including any costs created by delay of the project and any cost associated with the possible reduction of the property's value.
- 8.4. SPSI agrees to notify Client when unanticipated hazardous materials or suspected hazardous materials are encountered. Client agrees to make any disclosures required by law to the appropriate governing agencies. Client recognizes that it is the Client's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials, in the event the project site is not owned by Client. Client also agrees to defend, indemnify, and hold SPSI harmless for any and all consequences relating to disclosures made by SPSI, which are required by governing law.

9. **Standard of Care:**

- 9.1. SPSI will strive to perform services under this Agreement in a manner consistent with the level of care and skill ordinarily exercised by SPSI or industry standards, whichever is higher.

10. **Termination by Contractor:**

- 10.1. SPSI may terminate the contract if the work is stopped for a period of thirty (30) days through no act or fault of SPSI, a subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable for the following reasons: 1) issuance of a court order or other public authority to stop work, 2) an act of government which requires work to be stopped, 3) because Engineer has not issued a Certificate of Payment and has not notified SPSI of reason for withholding certification or because Client has not made payment on a Certificate of Payment within the time stated within the contract.

11. **Warranty:**

- 11.1. SPSI warrants to the Client that the work described herein will be free from defects in material and workmanship and will conform to the specifications / contract documents as herein set forth. If within one (2) year from Substantial Completion, or as otherwise mutually agreed upon in writing between SPSI and Client, SPSI receives from the Client prompt written notice that the material or workmanship does not meet such warranties, SPSI shall thereupon commence to cure, within a reasonable amount of time, each such defect including nonconformance with the specifications, weather permitting. In no event shall SPSI's liability to warrant materials exceed the standard warranties provided by each respective supplier or manufacturer. Once the project is Substantially Complete, SPSI shall provide executed warranty documents within thirty (30) days in exchange for final payment. SPSI's responsibility and obligation to perform warranty work shall become enforceable only upon full payment by Client in accordance with the terms of the contract and said warranty shall become null and void if anyone not expressly authorized by SPSI performs any of the covered repairs during the period of the warranty. The total liability of SPSI to Client whether under warranty, contract, negligence or otherwise, shall not in any case exceed the cost of correcting defects in the material or workmanship as herein provided and upon the expiration of said warranty, all such liability shall terminate. **THERE ARE NO OTHER REMEDIES, LIABILITIES (INCLUDING NEGLIGENCE) OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLICABLE TO THE MATERIAL AND/OR SERVICES.** SPSI's sole responsibility and Client's exclusive remedy hereunder, shall be limited to such repair or replacement as above provided.

12. **Liability:**

- 12.1. Liability or damages associated with water leakage shall be the responsibility of the Client unless caused by SPSI's sole negligence.
- 12.2. Client shall be responsible for any and all property damage and/or bodily injuries (including but not limited to injuries to SPSI's employees) that result from damage to interior and/or exterior underground/overhead/surface mounted/embedded utilities or structures unless caused by SPSI's sole negligence.
- 12.3. SPSI shall not in any event be liable to any party for claims of any kind related to asbestos, lead paint, EIFS or mold.
- 12.4. Client warrants that a reasonable effort has been made to inform SPSI of known or suspected mold on the project site. Any mold uncovered during construction shall be the sole responsibility of the Client and SPSI shall cease operations until the mold is remediated by a certified and licensed mold remediation contractor under the direction of an environmental engineer hired by the Client. SPSI shall have the right to also perform post-testing of the affected area prior to resuming Work. It is understood and agreed that SPSI shall not be liable or in any way responsible for any conditions or any claims arising from or associated with unknown or undiscovered mold growth or future mold growth at the premises, and Client agrees to waive any claim and indemnify and hold harmless SPSI, its affiliates, subsidiaries, officers, qualifiers and employees from any and all claims,

causes of actions and liability, whatsoever arising out of or related to mold and all costs and expenses associated with any legal action, including but not limited to mediation, arbitration or litigation and all associated legal fees and costs, including any costs created by delay of the project.

- 12.5. Whether attributable to contract, warranty, tort (including negligence), strict liability or otherwise, SPSI's responsibility for any claims, damages, losses or liabilities arising out of or related to its performance of this contract, including but not limited to any correction of defects under the Warranty, shall not exceed the contract price. In no event shall SPSI be liable for any special, indirect, incidental, consequential, or punitive damages of any character, including but not limited to damages claimed for loss of use of productive facilities or equipment, lost profits, governmental fines or penalties, lost production, or non-operation or increased expense of operation, irrespective of whether claims or actions for such damages are based upon contract, warranty, negligence, strict liability or otherwise

13. Indemnification:

- 13.1. To the fullest extent permitted by law, SPSI shall indemnify and hold harmless the Client, Engineer and employees of either of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by negligent acts or omissions of SPSI, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, except as otherwise provided in Item 12 above.

14. Dispute Resolution & Governing Law:

- 14.1. All claims, disputes, and other matters and questions arising out of, or relating to this Contract or any breach thereof, which cannot be resolved through negotiation, may be submitted to mediation before the American Arbitration Association at SPSI's sole option. If said dispute is not resolved through mediation, SPSI may, at its sole option, elect to proceed to binding arbitration before the American Arbitration Association in accordance with the Construction Industry Arbitration Rules then in effect. Hearings shall be held at the office of the American Arbitration Association as determined by SPSI. Otherwise, SPSI may elect to litigate said dispute in a jurisdiction of its choice.
- 14.2. This contract shall be governed by the law of the place where the project is located.
- 14.3. In any legal action arising from this Contract or connected herewith, including but not limited to enforcement of lien rights, the prevailing party shall be entitled to recover all costs and reasonable attorneys fees incurred (whether pre-litigation, at mediation, arbitration or trial level and in any appeals.)

15. Miscellaneous:

- 15.1. Should any of the Conditions of the Agreement be void for any reason, only such void portions shall be inapplicable; the remaining Conditions or portions thereof shall have full force and effect.
- 15.2. This Agreement and any previous or subsequent agreement between SPSI and Client is not intended to inure to the benefit of any party other than Client; provided, however, that obligations imposed upon Client shall bind its successors, assigns, sureties, insurers, officers, principals and heirs.
- 15.3. No assignment hereunder is allowed without written approval of SPSI.
- 15.4. All specifications, drawings, price and technical data submitted by SPSI are to be treated as confidential and shall not be used for any purpose other than the evaluation of this bid, nor shall such information be disclosed to any third party for any purposes without the express written consent of SPSI. Such information shall remain SPSI's property and be returned to SPSI upon demand.

16. For Geotechnical Work (if applicable):

- 16.1. If on-site work is required, Client is to prepare all work areas so as to be accessible and acceptable for SPSI's work. SPSI will not be called upon to work until sufficient areas are ready to allow logical, continued and efficient progress of the work until completion.
- 16.2. Information used has been furnished to SPSI by the Client, representatives of the Client or others. If the soil/rock/over burden or other geotechnical conditions are not in accordance with the information furnished to SPSI, the recommended procedures and scope of work of this proposal may not necessarily apply. The responsibility for delays, liabilities and expenses due to conditions other than those represented to SPSI is not assumed by SPSI but is assumed by the Client. All expenses incurred by SPSI due to conditions other than as represented shall be paid to SPSI including overhead and profit.
- 16.3. If, during the course of performance of the work under this Agreement, soil/rock/over burden, or other geotechnical conditions or circumstances vary from the borings or other information provided prior to proposal/bid, and which adversely affect the performance of SPSI's equipment, personnel or scope of work, the Client shall be advised immediately in writing of these changed conditions and the adverse effect thereof. Client shall renegotiate, in good faith, the Terms & Conditions of this Agreement within three (3) days of notice. If amended Terms & Conditions cannot be agreed upon within such time frame, this agreement may be terminated and SPSI will be compensated for work performed.
- 16.4. It is understood that SPSI's operations, which represent an effort to alleviate an aggravated and serious condition, have been successful in other instances. Reasonable precautions will be taken to protect structures, drains, sewers and conduits, but nothing can prevent unintended grout migration due to, but not limited to, uncompacted fill, broken sewer lines, damage due to heave, open joints, open utility trenches, and geologic conditions or formations. The Client hereby assumes entire responsibility and liability for personal injuries, property damage and/or consequential damages (including loss of use) sustained by either the Client, it's employees or third parties as a result the unintended grout migration described above. Therefore, it is understood and agreed that SPSI is relieved of the responsibility for any conditions which may result from SPSI's corrective measures unless such is a result of SPSI's sole negligence.
- 16.5. No liability can be accepted by SPSI, nor shall SPSI accept as in any way responsibility for defects of any kind whatsoever arising from a cause which is outside SPSI's immediate control or knowledge, or for any fault in the junction between SPSI's work and subsequent work carried out by others.
- 16.6. General Contractor/Client is responsible for providing washout area.
- 16.7. Fencing, gates, curbing, sidewalks and aprons must be removed, prepared or reinforced to provide access to equipment used on site, at General Contractor's/Client's expense.
- 16.8. In situ materials excavated from site will be returned/reused to provide a semi-restored condition, suitable for further landscaping. Grass, topsoil, trees, bushes, flowers, decorative fixtures, and any other landscaping items is not SPSI's responsibility.



69 Empire Drive
St. Paul, MN 55103
Phone 651-280-4260
Fax 651-288-4751
www.spsinfrastructure.net

SPS Infrastructure, Inc.

Proposal No. 401345

May 26, 2011

Revised

June 15, 2011

Mr. Carroll
City of Minneapolis

Re: Grain Belt Building – Upper Roof Work

Attention: Kevin Carroll

We propose to furnish necessary labor, material, equipment, and supervision, except as noted below, to perform the following items of work:

Scope of work for Upper Coal Tar Pitch Roof and Brick Repairs

1. Remove existing HVAC unit on upper roof and install sheet metal cap
2. Remove flag pole from the west side of building and lower to ground for owner to store
3. Remove old flashings from parapet walls
4. Remove existing gutter for brick work to start, install temp to keep area dry until upper roof is complete
5. Remove and replace severely damaged, deteriorated or missing brick on interior parapet walls and chimneys. (up to 100 ea) Replacement brick to match color and texture as close as possible and pending approval by owner. Saws to be used on horizontal joints only, vertical joints will be cut by drilling or hand raking. Replacement mortar to be type N from Spec Mix.
6. Remove existing sealant at capstones and re-point. Replacement mortar to be type N from Spec Mix.
7. Tuckpoint deteriorated mortar joints on interior parapets, chimneys and finials that can be safely reached from roof to minimum $\frac{3}{4}$ " depth. Replacement mortar to match color, texture, joint width and profile as close as possible and pending approval by owner. Replacement mortar to be type N from Spec Mix. Saws to be used on horizontal joints only, vertical joints will be cut by drilling or hand raking.
8. Install low profile sheet metal cap to existing chimneys. Sheet metal color to be approved by owner.
9. Install wood blocking at low end of roof to meet insulation height "after brick work is complete"
10. Install 1.5" of Isocyanurate insulation (This is needed to keep the coal tar pitch from its melting point on the sloped roof)
11. Install $\frac{1}{2}$ " fiber board
12. Fasten insulation layers with 3" metal plates and screws every 2 square feet/per manufacture
13. Fully adhered .60 mil EPDM rubber per manufactures specifications
14. Flash parapet walls with .60 mil EPDM 18" high and terminate with aluminum termination bar
15. Install a Reglet metal above the termination bar (color to match existing brick work)

16. Flash all vent pipes and stacks
17. Install new sheet metal cap on South wall where something was abandoned years ago
18. Re-install gutter on East end, taper gutter to run all water to the North side of building
19. Install kicker down spout from the upper roof down spout to the existing gutter on North side of building
20. Warranty for EPDM roof 10 years on materials by manufacture, typical warranty is two year contractor and the rest of the warranty is with the manufacture

Base Bid: \$49,362.00

WORKING CONDITIONS:

1. Daytime Work Hours 8
2. Five (5) day Week MTWTF
3. Union

SUPPORT BY OTHERS (at no cost to SPSI) SHALL INCLUDE THE FOLLOWING:

1. 110V electric
2. Available at Existing Outlets/Panels
3. Parking for service vehicles
4. Construction permits if required
5. SPS not responsible for damage to embedded utilities

SCHEDULE:

Work could commence on or about per owners schedule and be substantially complete within 25 working days.

PAYMENT TERMS:

1. Invoices shall be submitted monthly and are payable within 30 days from date of invoice. One and one-half (1.5%) interest due on unpaid balance after thirty (30) days.

WARRANTY

SPSI's liability for warranty of defective workmanship shall be limited to one (2) year from Substantial Completion of SPSI's work. Any warranties for materials or products shall be provided sole source from the respective manufacturer/supplier as a direct pass through to Client in accordance with the available product warranties provided to SPSI for Client's benefit.

GENERAL CONDITIONS:

See Attachment "A".

EXPIRATION:

Grain Belt Building
May 26, 2011
Revised June 15, 2011
Page 3

This proposal may be withdrawn if not accepted by June 26, 2011

Very truly yours,

SPS INFRASTRUCTURE, INC.

Todd Huebner
Roofing and Waterproofing Manager
Cell # 651-226-8146
thuebner@structural.net

ACCEPTANCE OF PROPOSAL:

The above Conditions, Specifications, Prices and General Conditions are hereby accepted. You are authorized to proceed to do this work and payment will be as stated above.

ACCEPTED BY:

Authorized Signature	Title	Date
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ATTACHMENT "A" - GENERAL CONDITIONS

1. Commencement of Work:

- 1.1. Acceptance of this Proposal shall be acceptance of all terms and conditions, recited herein or incorporated by reference. Client's issuance of a Notice to Proceed or a Letter of Intent shall constitute acceptance by Client of this Proposal and corresponding General Conditions.
- 1.2. After acceptance of this Proposal, and unless otherwise stated, SPS Infrastructure, Inc. (hereinafter referred to herein as ("SPSI")) shall be given a reasonable time in which to make delivery of materials or labor to commence and complete its performance.
- 1.3. Client is required to prepare all work areas so as to be accessible and acceptable for SPSI's work. SPSI will not be called upon to commence work until sufficient areas are ready to allow logical, continued and efficient progress of work until completion.

2. Form of Agreement

- 2.1. If an alternative form of contract or subcontract is to be used, then such form shall be the unmodified 1997 revision of the AIA Standard Form Contract Document A101 or unmodified Subcontract Document A401.

3. Permits:

- 3.1. Client will determine need for and provide all necessary permits, fees, and inspections for the contracted work unless otherwise provided herein.

4. Bonds & Insurance:

- 4.1. The cost of bonds are not included in this proposal unless otherwise provided herein. Should Performance & Payment bonds be required, Client shall be responsible for all associated bond premiums. In addition, certain information is required by Client to satisfy SPSI's bonding company underwriting requirements including but not limited to confirmation of project funding. SPSI shall furnish said bonds only on standard AIA A312 Performance & A311 Payment bond forms.
- 4.2. SPSI shall furnish evidence of insurance in the form of a standard ACORD Certificate of Insurance. Such Insurance Certificate shall include the Client as Certificate Holder and shall provide evidence of the coverages and corresponding limits as follows: Workers' Compensation - Statutory, Employer's Liability - \$1M, General Liability - \$2M aggregate, Auto Liability - \$1M and Excess Liability - \$10M. Any other insurance required of SPSI is not included and shall be furnished at Client's sole cost and at SPSI's discretion.
- 4.3. SPSI shall not be required to comply with any insurance requirements presented post contract signing, including but not limited to, subsequent requests made to SPSI to include additional insureds. In the event Client withholds payment, SPSI shall be entitled to pursue all remedies available including but not limited to lien rights and/or payment bond claims and shall be entitled to interest and collection fees.

5. Payment:

- 5.1. Payment by Client for SPSI's performance is not, under any circumstances, subject to any contingencies or conditions precedent or subsequent other than SPSI's performance pursuant to this proposal.
- 5.2. All sums not paid when due shall bear interest at the rate of 1 1/2% per month from due date until paid or the maximum legal rate permitted by law, whichever is less, plus all costs of collection, including reasonable attorneys' fees.
- 5.3. Payment is a material issue. If payment is not made to SPSI as herein provided, then SPSI may stop work with three (3) days written notice to client without prejudice to any other remedy it may have including the right to file a lien, claim, or notice thereof on its behalf.
- 5.4. Client shall not be entitled to withhold payments on account of third party general liability claims if the liability for such claim(s) has been accepted by SPSI's insurer.
- 5.5. No back charges or claims shall be valid unless agreed to in writing by SPSI. Client shall only be entitled to withhold payment from SPSI if, and for so long as SPSI fails to perform any of its obligations hereunder or otherwise is in default under any of

the Contract Documents; provided Client forwards written notice to SPSI of intent to withhold payment and affords SPSI five (5) business days to mitigate same. Any such holdback shall be limited to an amount sufficient to cure any such default or failure of performance by SPSI and any undisputed work items shall be paid in accordance with the contract provisions.

6. Prosecution of the Work

- 6.1. Client agrees to furnish fresh water, electricity and staging area (and plant site) for SPSI's operation as well as drawings showing locations of all services, utility lines and underground structures unless specifically provided for otherwise herein.
- 6.2. Work called for herein is to be performed during SPSI's regular working hours. Overtime rates will be charged for all work performed outside such hours unless the cause giving rise to having to work overtime is a result of SPSI caused delays.
- 6.3. SPSI shall perform the work in a diligent manner and without interruptions (weather permitting). SPSI shall be entitled to extensions of time for weather delays. In addition, should adverse weather conditions prohibit SPSI from properly applying specified products, including but not limited to waterproofing membranes, deck coatings, and expansion joints per manufacturer's specifications, then the contract time shall be extended accordingly.
- 6.4. SPSI shall not be responsible for delays caused by the Client, Owner, a General Contractor, other contractors or subcontractors, Architect, Engineers, armed conflict or economic dislocation resulting therefrom; embargoes of labor, raw materials, production facilities or transportation; labor difficulties, civil disorders of any kind; action of civil or military authorities; vendor priorities and allocations, fires, floods, accidents and acts of God.
- 6.5. SPSI's liability for delay damages shall be limited to liquidated damages in an amount mutually agreed upon by SPSI and Client as Client's sole and exclusive remedy and in no event shall SPSI be liable for actual, punitive, indirect, incidental or consequential damages of any kind. Conversely, should SPSI be delayed in any manner by the acts, errors, or omissions of the Client, Engineer, or by an employee of either of them, then, in addition to any applicable extension of time, SPSI shall be entitled to receive from them compensation for any reasonable damages caused by the delay.
- 6.6. SPSI shall be entitled to stop work if they consider the jobsite conditions unsafe or if another Contractor working around SPSI is being unsafe.

7. Changes

- 7.1. A Change Order is a written instrument prepared by SPSI and signed by the Client, SPSI and Engineer (if applicable) stating agreement of 1) a change in the work; 2) the amount of adjustment, if any, in the contract sum; and 3) the extent of the adjustment, if any, in the contract time.
- 7.2. Information used has been provided to SPSI by the Client, representatives of Client or others. If conditions are not in accordance with the information furnished, the recommended procedures and scope of work of this proposal may not necessarily apply. The responsibility for delays, liabilities and expenses due to conditions other than represented to SPSI is not assumed by SPSI but is assumed by the Client. All expenses incurred by SPSI due to conditions other than as represented shall be paid to SPSI including overhead and profit.
- 7.3. If SPSI, during its work, encounters 1) subsurface or latent physical conditions which differ from those indicated in this Agreement, or 2) unknown physical conditions of an unusual nature, differing from those ordinarily encountered, then SPSI shall be entitled to an equitable price and schedule adjustment to compensate it for such changed condition.

8. Hazardous Materials:

- 8.1. Client warrants that a reasonable effort has been made to inform SPSI of known or suspected hazardous materials on the project site. Any hazardous waste uncovered during construction shall be the sole responsibility of the Client, including but not limited to the ultimate disposal of any samples secured by SPSI which are found to be contaminated.
- 8.2. SPSI and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition, and may mandate a re-negotiation of the scope of work and compensation for additional costs incurred or other measures including decontamination of SPSI's equipment and/or termination of services. SPSI and Client also agree that the discovery of unanticipated hazardous materials may make it necessary for SPSI to take immediate measures to protect the health and safety of employees.

- 8.3. Notwithstanding any other provision of the Agreement, Client waives any claim against SPSI with respect to the provisions of Article 8 contained herein and, to the maximum extent permitted by law, agrees to defend, indemnify, and save SPSI harmless from any claim, liability, and/or defense costs for injury or loss arising from SPSI's discovery of unanticipated hazardous materials or suspected hazardous materials including any costs created by delay of the project and any cost associated with the possible reduction of the property's value.
- 8.4. SPSI agrees to notify Client when unanticipated hazardous materials or suspected hazardous materials are encountered. Client agrees to make any disclosures required by law to the appropriate governing agencies. Client recognizes that it is the Client's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials, in the event the project site is not owned by Client. Client also agrees to defend, indemnify, and hold SPSI harmless for any and all consequences relating to disclosures made by SPSI, which are required by governing law.
9. **Standard of Care:**
- 9.1. SPSI will strive to perform services under this Agreement in a manner consistent with the level of care and skill ordinarily exercised by SPSI or industry standards, whichever is higher.
10. **Termination by Contractor:**
- 10.1. SPSI may terminate the contract if the work is stopped for a period of thirty (30) days through no act or fault of SPSI, a subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable for the following reasons: 1) issuance of a court order or other public authority to stop work, 2) an act of government which requires work to be stopped, 3) because Engineer has not issued a Certificate of Payment and has not notified SPSI of reason for withholding certification or because Client has not made payment on a Certificate of Payment within the time stated within the contract.
11. **Warranty:**
- 11.1. SPSI warrants to the Client that the work described herein will be free from defects in material and workmanship and will conform to the specifications / contract documents as herein set forth. If within one (2) year from Substantial Completion, or as otherwise mutually agreed upon in writing between SPSI and Client, SPSI receives from the Client prompt written notice that the material or workmanship does not meet such warranties, SPSI shall thereupon commence to cure, within a reasonable amount of time, each such defect including nonconformance with the specifications, weather permitting. In no event shall SPSI's liability to warrant materials exceed the standard warranties provided by each respective supplier or manufacturer. Once the project is Substantially Complete, SPSI shall provide executed warranty documents within thirty (30) days in exchange for final payment. SPSI's responsibility and obligation to perform warranty work shall become enforceable only upon full payment by Client in accordance with the terms of the contract and said warranty shall become null and void if anyone not expressly authorized by SPSI performs any of the covered repairs during the period of the warranty. The total liability of SPSI to Client whether under warranty, contract, negligence or otherwise, shall not in any case exceed the cost of correcting defects in the material or workmanship as herein provided and upon the expiration of said warranty, all such liability shall terminate. **THERE ARE NO OTHER REMEDIES, LIABILITIES (INCLUDING NEGLIGENCE) OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLICABLE TO THE MATERIAL AND/OR SERVICES.** SPSI's sole responsibility and Client's exclusive remedy hereunder, shall be limited to such repair or replacement as above provided.
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- 12.1. Liability or damages associated with water leakage shall be the responsibility of the Client unless caused by SPSI's sole negligence.
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- 12.4. Client warrants that a reasonable effort has been made to inform SPSI of known or suspected mold on the project site. Any mold uncovered during construction shall be the sole responsibility of the Client and SPSI shall cease operations until the mold is remediated by a certified and licensed mold remediation contractor under the direction of an environmental engineer hired by the Client. SPSI shall have the right to also perform post-testing of the affected area prior to resuming Work. It is understood and agreed that SPSI shall not be liable or in any way responsible for any conditions or any claims arising from or associated with unknown or undiscovered mold growth or future mold growth at the premises, and Client agrees to waive any claim and indemnify and hold harmless SPSI, its affiliates, subsidiaries, officers, qualifiers and employees from any and all claims,

causes of actions and liability, whatsoever arising out of or related to mold and all costs and expenses associated with any legal action, including but not limited to mediation, arbitration or litigation and all associated legal fees and costs, including any costs created by delay of the project.

- 12.5. Whether attributable to contract, warranty, tort (including negligence), strict liability or otherwise, SPSI's responsibility for any claims, damages, losses or liabilities arising out of or related to its performance of this contract, including but not limited to any correction of defects under the Warranty, shall not exceed the contract price. In no event shall SPSI be liable for any special, indirect, incidental, consequential, or punitive damages of any character, including but not limited to damages claimed for loss of use of productive facilities or equipment, lost profits, governmental fines or penalties, lost production, or non-operation or increased expense of operation, irrespective of whether claims or actions for such damages are based upon contract, warranty, negligence, strict liability or otherwise

13. Indemnification:

- 13.1. To the fullest extent permitted by law, SPSI shall indemnify and hold harmless the Client, Engineer and employees of either of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by negligent acts or omissions of SPSI, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, except as otherwise provided in Item 12 above.

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- 14.1. All claims, disputes, and other matters and questions arising out of, or relating to this Contract or any breach thereof, which cannot be resolved through negotiation, may be submitted to mediation before the American Arbitration Association at SPSI's sole option. If said dispute is not resolved through mediation, SPSI may, at its sole option, elect to proceed to binding arbitration before the American Arbitration Association in accordance with the Construction Industry Arbitration Rules then in effect. Hearings shall be held at the office of the American Arbitration Association as determined by SPSI. Otherwise, SPSI may elect to litigate said dispute in a jurisdiction of its choice.
- 14.2. This contract shall be governed by the law of the place where the project is located.
- 14.3. In any legal action arising from this Contract or connected herewith, including but not limited to enforcement of lien rights, the prevailing party shall be entitled to recover all costs and reasonable attorneys fees incurred (whether pre-litigation, at mediation, arbitration or trial level and in any appeals.)

15. Miscellaneous:

- 15.1. Should any of the Conditions of the Agreement be void for any reason, only such void portions shall be inapplicable; the remaining Conditions or portions thereof shall have full force and effect.
- 15.2. This Agreement and any previous or subsequent agreement between SPSI and Client is not intended to inure to the benefit of any party other than Client; provided, however, that obligations imposed upon Client shall bind its successors, assigns, sureties, insurers, officers, principals and heirs.
- 15.3. No assignment hereunder is allowed without written approval of SPSI.
- 15.4. All specifications, drawings, price and technical data submitted by SPSI are to be treated as confidential and shall not be used for any purpose other than the evaluation of this bid, nor shall such information be disclosed to any third party for any purposes without the express written consent of SPSI. Such information shall remain SPSI's property and be returned to SPSI upon demand.

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- 16.3. If, during the course of performance of the work under this Agreement, soil/rock/over burden, or other geotechnical conditions or circumstances vary from the borings or other information provided prior to proposal/bid, and which adversely affect the performance of SPSI's equipment, personnel or scope of work, the Client shall be advised immediately in writing of these changed conditions and the adverse effect thereof. Client shall renegotiate, in good faith, the Terms & Conditions of this Agreement within three (3) days of notice. If amended Terms & Conditions cannot be agreed upon within such time frame, this agreement may be terminated and SPSI will be compensated for work performed.
- 16.4. It is understood that SPSI's operations, which represent an effort to alleviate an aggravated and serious condition, have been successful in other instances. Reasonable precautions will be taken to protect structures, drains, sewers and conduits, but nothing can prevent unintended grout migration due to, but not limited to, uncompacted fill, broken sewer lines, damage due to heave, open joints, open utility trenches, and geologic conditions or formations. The Client hereby assumes entire responsibility and liability for personal injuries, property damage and/or consequential damages (including loss of use) sustained by either the Client, it's employees or third parties as a result the unintended grout migration described above. Therefore, it is understood and agreed that SPSI is relieved of the responsibility for any conditions which may result from SPSI's corrective measures unless such is a result of SPSI's sole negligence.
- 16.5. No liability can be accepted by SPSI, nor shall SPSI accept as in any way responsibility for defects of any kind whatsoever arising from a cause which is outside SPSI's immediate control or knowledge, or for any fault in the junction between SPSI's work and subsequent work carried out by others.
- 16.6. General Contractor/Client is responsible for providing washout area.
- 16.7. Fencing, gates, curbing, sidewalks and aprons must be removed, prepared or reinforced to provide access to equipment used on site, at General Contractor's/Client's expense.
- 16.8. In situ materials excavated from site will be returned/reused to provide a semi-restored condition, suitable for further landscaping. Grass, topsoil, trees, bushes, flowers, decorative fixtures, and any other landscaping items is not SPSI's responsibility.