



Duluth Seaway Port Authority

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REQUEST FOR PROPOSALS FOR CONSTRUCTION MANAGER AT RISK EAST ANNEX WAREHOUSE EXPANSION

**CONSTRUCTION MANAGER AT RISK FOR
EAST ANNEX WAREHOUSE EXPANSION PROJECT**

REQUIREMENTS
PERFORMANCE BOND
PAYMENT BOND
PROJECT LABOR AGREEMENT

ISSUED March 9, 2022

PROPOSALS DUE THURSDAY, April 14, 2022 AT 4:30 PM

SUBMIT TO

**DULUTH SEAWAY PORT AUTHORITY
ATTN: DEAN LEMBKE
802 GARFIELD AVE
DULUTH, MN 55802**

PART 1 - GENERAL INFORMATION

- 1.1. Project Overview.** The Duluth Seaway Port Authority (the “Authority”) is seeking to select a Construction Manager at Risk (“CMAR”) for the East Annex Warehouse Expansion (the “Project”) where the basis of payment is the cost of the work plus a fee with a guarantee maximum price. The Project includes an approximately 56,000-square foot addition to the East Annex Warehouse located at 1120 Port Terminal Drive, Duluth, MN. The Project includes but is not limited to: piling, concrete, cmu wall, structural steel, roofing, mechanical, electrical, and fire suppression as well as utility and site work.

The Project is funded in part with a grant from the State of Minnesota Port Development Assistance Program (“PDAP Grant”) funds and a grant from the U.S. Department of Transportation Maritime Administration (“MARAD Grant”). Contractor shall comply with all grant requirements and the contract will include an obligation to comply with all applicable grant requirements related to the PDAP Grant and MARAD Grant. Information regarding the PDAP Grant and the MARAD Grant requirements will be issued via addendum. In accordance with the Minnesota Department of Administration’s guidance, the CMAR will not be permitted to self-perform any work on the Project.

The CMAR will be required to enter into a Project Labor Agreement (“PLA”) in the form of the one attached hereto with the Duluth Building Trades as Exhibit 1.1 – Project Labor Agreement and all contractors selected to perform work on the Project will be required to execute an Agreement to be Bound to the PLA.

- 1.2. RFP Schedule.** The Authority will make every effort to adhere to the following schedule:

Activity	Date
Pre-proposal conference at 10:00 am at 802 Garfield Ave, Duluth, MN 55802	03.22.2022
Deadline to submit Questions via email to dlembke@duluthport.com	03.28.2022
Answers to questions will be answered via addendum no later than this date.	04.01.2022
Proposals must be received by the Authority by 4:30 PM on this date.	04.14.2022
Interviews if necessary	Week of 04.18.2022
Selection and Board Approval	04.27.2022

- 1.3. Rejection of Proposals.** The Authority reserves the right, in its sole and complete discretion, to reject any and all proposals ("Proposal or Proposals") or cancel this RFP, at any time prior to the time a contract is fully executed, for any reason. The Authority is not liable for any costs the proposer ("Proposer") incurs in preparation and submission of its Proposal, in participating in the RFP process or in anticipation of award of the contract.
- 1.4. Pre-proposal Conference.** The Authority will hold a Pre-Proposal conference as specified in the RFP Schedule. Interested proposers are encouraged to attend.
- 1.5. Questions & Answers.** Any questions regarding this RFP must be submitted by e-mail to the Facilities Manager at dlembke@duluthport.com **no later than** the date indicated on the RFP Schedule. Answers to the questions will be posted as an Addendum to the RFP.
- 1.6. Addenda to the RFP.** If the Authority deems it necessary to revise any part of this RFP before the Proposal response date or respond to questions, the Authority will post an addendum to its website duluthport.com/request_for_proposal/. It is the Proposer's responsibility to periodically check the website for any new information. Addenda notifications will not be sent.
- 1.7. Proposals.** To be considered, hard copies of Proposals must arrive at the Authority on or before the time and date specified in the RFP Schedule. Please submit one (1) paper copy of the Technical Submittal and one (1) paper copy of the Cost Submittal. **The Cost Submittal should be in a separate sealed envelope.** The Authority will not accept Proposals via email or facsimile transmission. Late Proposals will be not be accepted or considered.

Proposals must be signed by an authorized official of the Proposal. If the official signs the Proposal Cover Sheet attached as Exhibit 1.7.1 – Proposal Cover Sheet, this requirement will be met. Proposals must remain valid for at least 60 days.

All materials submitted in response to this RFP will become property of the Authority and will become public record. The Tennessen Warning attached hereto as Exhibit 1.7.2 - Tennessen Warning must be included with any Proposal.

- 1.8. Term of Contract.** The term of the contract will begin once the contract is fully executed and is anticipated to end by December 31, 2023. The selected CMAR shall not start the performance of any work nor shall the Authority be liable to pay the selected Proposer for any service or work performed or expenses incurred before the contract is executed.
- 1.9. Mandatory Disclosures.** By submitting a Proposal, each Proposer understands, represents, and acknowledges that:
- 1.9.1.** The Proposal has been developed by the Proposer independently and has been submitted without collusion with and without agreement, understanding, or planned common course of action with any other vendor or suppliers of

materials, supplies, equipment, or services described in the RFP, designed to limit independent bidding or competition, and that the contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer.

1.9.2. Proposer has no conflict of interest with the Authority or in any matter related to the Proposal. A conflict of interest exists if a Proposer has any interest that would actually conflict, or has the appearance of conflicting, in any manner or degree with the performance of work on the Project. If there are potential conflicts, identify the municipalities, developers, and other public or private entities with whom Proposer is currently, or have been, employed and which may be affected.

1.9.3. Proposer is not currently under suspension or debarment by the State of Minnesota, any other state or the federal government.

1.9.4. Proposer is either organized under Minnesota law or has a Certificate of Authority from the Minnesota Secretary of State to do business in Minnesota, in accordance with the requirements in M.S. 303.03.

1.10. Notification of Selection. Proposers whose Proposals are not selected will be notified in writing.

PART 2 - PROPOSAL REQUIREMENTS

Proposals shall be limited to no more than 12 sheets (or 24 printed pages cover to cover) and shall include a cover letter, background and experience of the Proposer, resumes for all individuals who will be working on the Project, a proposed work plan with a timeline, and at least three references from similar projects.

The Proposer's cost submittal shall be in a separate sealed envelope from the technical Proposal, and shall be broken down into the following components:

- 2.1.** Firm, fixed fee for Preconstruction Phase Services, including any Construction Manager consultants and subcontractors, including all hourly billing rates and other employee-related costs.
- 2.2.** Fee for providing construction phase services (state whether Proposer is proposing a lump sum percentage of cost of the work or other method)
- 2.3.** Fee for providing purchasing agent services. (state whether Proposer is proposing a lump sum percentage of cost of purchased materials or other methods)
- 2.4.** Fee for changes in the work or changes in the purchased materials.
- 2.5.** Rental rates for Construction Manager owned equipment.

The Proposal shall identify at what point a Guaranteed Maximum Price will be provided and the mechanism by which a Guaranteed Maximum Price will be determined.

The Guaranteed Maximum Price shall include purchased materials.

Identify Proposer's supervisory and administrative personnel whose services are included in the fees set forth in Sections 2.1 through 2.4 above. Include all supervisory and administrative personnel whose services are not included in the fees set forth above and include an itemized sheet showing the supervisory and administrative personnel billing rates if they are not included in the fees set forth in Sections 2.1 through 2.4 above.

Provide a field staff billing rate schedule regarding any work not included in the fees set forth in Sections 2.1 through 2.4 above.

Provide an itemization of all general condition requirements that CMAR will charge as Costs of Work, including builder's risk insurance, other insurance required under the general conditions, including building permits, testing services and payment and performance bonds.

The cost of Proposer providing builder's risk insurance must be separately identified. Authority reserves the right to delete builder's risk insurance from the general condition requirements to be performed by Proposer.

An itemization of all costs for debris removal, rental charges for temporary facilities, machinery, tools and equipment and consumables and other such costs.

An itemization of all permits, structural and environmental tests, surveys and reports that Proposer will require Authority to provide.

The determination of whether Authority or Proposer will obtain the building permit for the Project will be determined at the time of award of the Contract for CMAR Services.

PART 3 – CRITERIA FOR SELECTION

The Proposals will be reviewed by Authority staff. Contract award will be subject to the Duluth Seaway Port Authority Purchasing and Contracting Policy available upon request. The intent of the selection process is to review Proposals and make an award based upon qualifications as described therein. A 100-point scale will be used to create the final evaluation recommendations. The factors and weighting on which Proposals will be judged are:

Qualifications of the Company & Personnel	30%
Understanding/Approach to the CMAR Process	20%
Work Plan/Schedule	20%
References	10%
Cost	20%

PART 4 – WORK STATEMENT

- 4.1. Objectives.** The new warehouse space (“Addition”) will be a direct add on to the existing “East Warehouse Annex,” a 103,000 SF facility (88,800 SF of warehouse area and 14,800 SF of rail car unloading dock area) built in 2001. The East Warehouse Annex features 8 truck docks and rail siding to accommodate six (6) rail cars.

The proposed Addition includes 48,000 SF of warehouse area with new truck docks and approximately 8,000 SF of expanded, enclosed rail dock which will accommodate approximately 3 additional rail cars for loading and unloading.

The construction design for the Addition will be similar to that of the existing system, utilizing a pre-engineered rigid steel and columns supported frame system matching clearance heights of the existing building (20 ft minimum clearance at low slope side of building and 29 ft at the peak). Steel pilings will be used to support the foundations at the column locations and expanded loading dock platforms. The main floor will be raised utilizing engineered fill to set the Addition floor elevation to match the existing floor elevation and will be constructed of 7-inch structurally reinforced concrete slab for the majority of the warehouse area. The floor will be elevated approximately 4 feet above the surrounding grade to provide for the rail dock to accommodate 3 additional cars, two truck loading docks, each with drive-in ramps and overhead doors to accommodate semi-trucks.

The Project is ready for the design development phase of pre-construction, and the current budget for the Project is estimated at \$5,300,000. Preliminary design work for the Project is completed and a concept plan is attached as Exhibit 4.1 – Concept Plan. John Erickson with DSGW in Duluth MN is the selected Architect for the Project and will be the Architect of Record. It is expected that the successful Proposer will become an integral member of the “Project Team” as the Authority and DSGW seek to maintain an integrative approach throughout the project life cycle. Contracts for both Architects and Engineers will be held by the Authority.

- 4.2. Certification.** The awarded Proposer will be issued a standard form of Agreement between Owner and Construction Manager as Contractor where the basis of payment is the Cost of the Work plus a fee with a guaranteed maximum price using AIA Document A-133 2019 as the basis for the contract, the first page of the form of such document is attached hereto as Exhibit 4.3.1 – AIA Document A-133 2019 as modified by an Addendum provided by Authority that incorporates the provisions of the accepted Proposal, this RFP, the Authority’s Purchasing Policy and other required matters. The form of the Project Labor Agreement to be utilized by the CMAR as shown on Exhibit 1.1 – Project Labor Agreement attached hereto.
- 4.3. Proposer’s Proof of Insurance.** The proposing firm shall furnish a draft contract, using the AIA form described in Section 4.2 as the basis, with their proposal and will be required to provide proof of insurance for the insurance required by Part 6.

- 4.4. Tasks.** The selected firm shall be qualified to provide the following range of services including but not limited to:

4.4.1. Pre-Construction Phase

- 4.4.1.1.** Assist the Authority and Authority Architect (“Project Team”) in review of design of the Project and make recommendations as necessary.
- 4.4.1.2.** Work with the Project Tea, to develop and coordinate a master schedule and update as necessary.
- 4.4.1.3.** Attend Project Team meetings.
- 4.4.1.4.** Prepare cost estimates to confirm owner and Architect’s budget at the following milestones:
 - 4.4.1.4.1.** 30% design development drawings
 - 4.4.1.4.2.** 60% design development drawings
 - 4.4.1.4.3.** 90% design development drawings
- 4.4.1.5.** Provide technical review of the design documents prior to issuance for bidding.
- 4.4.1.6.** Provide for construction phasing and scheduling that will minimize interruption to Authority operations.
- 4.4.1.7.** Advise Authority on ways to gain efficiencies in delivery of the Project, including phased construction elements.
- 4.4.1.8.** Provide long-lead procurement studies and initiate procurement of long-lead items.
- 4.4.1.9.** Assist in permitting for the Project.
- 4.4.1.10.** Review all subcontractor and vendor bids with the Authority and Architect and make recommendations for award in compliance with State of Minnesota and Duluth Seaway Port Authority purchasing policies.
- 4.4.1.11.** Provide a Guaranteed Maximum Price proposal for Authority’s and Architect’s review at the time specified in the Proposal.
- 4.4.1.12.** Provide other services as proposed or required by Authority or Architect.

4.4.2. Construction Phase

- 4.4.2.1.** Provide a full-time Project superintendent for the duration of the Project. The Authority requires the same Project superintendent for the duration of the Project.
- 4.4.2.2.** Coordinate with the Project Team to facilitate weekly construction meetings at the site and to furnish meeting minutes.
- 4.4.2.3.** Schedule and manage site operations.
- 4.4.2.4.** Provide quality controls.
- 4.4.2.5.** Provide regular contract and budget updates throughout construction.
- 4.4.2.6.** Coordinate, maintain and update the schedule during the Project.
- 4.4.2.7.** Maintain a safe work site for all Project participants.
- 4.4.2.8.** Assist in all aspects of construction Project management.
- 4.4.2.9.** Provide other services as proposed or required by Authority.

4.4.3. Contract Awarding.

The construction of the Project is subject to Minnesota Statutes, § 471.345 that contracts awarded for Work for the construction of the Project will be solicited, bid and awarded as required by law and pursuant to a bidding process ("Bidding Process") developed by the Authority, Architect and Construction Manager ("Contract Bidding Process"). Authority shall then enter into contracts ("Construction Contracts") with the successful bidders ("Construction Contractors") and subsequently assign the Construction Contracts to the Construction Manager and Construction Manager shall accept the assignment. After assignment, the Construction Manager shall have a direct contractual relationship with the Construction Contractors and the Construction Contractors shall be considered subcontractors to Construction Manager. Such designation does not, however, change the status of the Construction Manager as a Construction Manager only.

4.4.4. Purchasing.

Construction Manager and Authority also intend to cause the purchase of certain materials to be made in a manner that allows the purchase of such materials to be exempt from the payment of sales tax ("Authority Purchased Materials"). The Construction Manager will purchase tax-exempt materials as defined at the time that the Guaranteed Maximum Price Proposal is provided as the Authority's Purchasing Agent in accordance with an owner purchased

materials bidding process ("Materials Bidding Process") developed by Authority, Architect and Construction Manager. The Authority Purchased Materials will be bid and awarded in accordance with the Materials Bidding Process. Authority will award contracts for the purchase of portions of the Authority Purchased Materials to vendors. After award by Authority, of a contract for a portion of the Authority Purchased Materials, Authority will assign its right to enter into a vendor purchasing agent agreement with the vendor of such materials to Construction Manager. Construction Manager will then enter into a purchase agreement with the Vendor for the purchase of such materials.

4.4.5. Post-Construction Phase

4.4.5.1. Work with Project Team to completely close out the project.

4.4.5.2. Work with Project Team to complete building as-builts. Compile operation and maintenance manuals and warranties for delivery to the Authority.

Provide other services as proposed or required by Authority or Architect.

PART 5 – ADDITIONAL REQUIREMENTS

The following conditions shall be included by reference in the final terms of the contract let by the Authority:

- 5.1.** All work will be performed in a safe, workmanlike manner.
- 5.2.** No tradesmen, laborers, mechanics or apprentice trainees employed directly upon the project work site by the contractor shall be permitted or required to work at a rate of pay less than the "prevailing wage rate", as appropriate, for the area where the construction work is being done, which rate is defined as the basic hourly rate plus fringe benefits prevailing in the City of Duluth as determined by the U.S. Secretary of Labor pursuant to the Davis-Bacon Act, as amended.
- 5.3.** No such employee shall be permitted to be required to work more than eight (8) hours in any work day or forty (40) hours in any work week, unless he is paid at a rate of at least one and one-half times the basic hourly rate for all hours in excess of eight (8) per day or forty (40) per week, and unless he received fringe benefits that are at least equal to those in the prevailing wage rate.
- 5.4.** Employees on Authority projects shall be paid at least weekly. Fringe benefits shall be paid either in cash or to an employee benefit plan that has been approved by the U.S. Department of Labor.
- 5.5.** All labor and materials connected with the contract shall be obtained locally as far as possible and practicable.

PART 6 - CONTRACTOR'S INSURANCE

Proposer shall not commence work under the CMAR Contract until the Proposer has obtained all the insurance required under this Part 6 and such insurance has been approved by the Authority, nor shall Proposer allow any subcontractor to commence work on any subcontract until the insurance required of the subcontractor has been obtained and approved. For the purposes of the following provisions of Part 6, whenever the term "Contractor" is used it shall mean the Proposer selected as CMAR.

- 6.1. Compensation Insurance:** The Contractor shall procure and shall maintain during the term of the contract Worker's Compensation Insurance as required by applicable Minnesota law for all employees to be engaged in work at the site of the Project. In case any class of employees engaged in hazardous work on the Project is not protected under the Worker's Compensation Statute, the Contractor shall provide adequate employer's liability insurance for the protection of such employees as are not otherwise protected. Contractor shall maintain "stop gap" coverage if Contractor obtains Workers' Compensation coverage from any state fund if Employer's liability coverage is not available.
- 6.2. Contractor's Commercial general liability and Property Damage Insurance and Vehicle Liability Insurance:** The Contractor shall procure and shall maintain during the term of the Contract Contractor's Property Damage Insurance and Vehicle Liability Insurance and Contractor's Commercial general liability Insurance in the amounts specified in Section 6.7 and coverages as set forth in Section 6.7 below.
- 6.3. Professional Liability Insurance.** Contractor shall maintain a professional liability insurance policy with limits as set forth in Section 6.7 below. Said policy need not name the Authority as an additional insured. It shall be Contractor's responsibility to pay any retention or deductible for the professional liability insurance. Contractor agrees to maintain the professional liability insurance for a minimum of two (2) years following termination of the CMAR Contract.
- 6.4. Scope of Insurance and Special Hazards:** The insurance required under this Section 6.4 hereof shall provide adequate protection for the Contractor, respectively against damage claims which may arise from operations under this contract, whether such operations be by the insured or by any one directly or indirectly employed by the insured and, also against any of the special hazards which may be encountered in the performance of this Contract as enumerated in Section 6.7 below.
- 6.5. Indemnification.** The Contractor shall indemnify and save harmless the Authority from all claims and actions of any kind arising from, or incidental to the performance of the Contract and expenses incidental to such claims and actions, including attorneys' fees, and shall assume without expense to the Authority, the defense of any such claims or actions. Except to the extent prohibited by law, this indemnity applies regardless of any strict liability or negligence attributable to the Authority (including sole negligence) and regardless of the extent to which the underlying occurrence (i.e., the event giving rise to a claim which would have been covered by the specified insurance) is attributable

to the negligent or otherwise wrongful act or omission (including breach of contract) of Authority, its agents, employees or delegates. Contractor agrees that this indemnity shall be construed and applied in favor of indemnification. Contractor also agrees that if applicable law limits or precludes any aspect of this indemnity, then the indemnity will be considered limited only to the extent necessary to comply with that applicable law. The stated indemnity continues until all applicable statutes of limitation have run.

If a claim arises within the scope of the stated indemnity, the Authority may require Contractor to:

6.5.1. Furnish and pay for a surety bond, satisfactory to the Authority, guaranteeing performance of the indemnity obligation; or

6.5.2. Furnish a written acceptance of tender of defense and indemnity from Contractor's insurance company.

Contractor will take the action required by the Authority within fifteen (15) days of receiving notice from the Authority.

6.6. Proof of Insurance: The Contractor shall furnish the Authority with a certificate showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such certificates shall contain substantially the following statement: "The insurance covered by this certificate will not be canceled, materially altered, or not renewed, except after thirty (30) days written notice or ten (10) days for non-payment of premium, has been received by the Authority." Authority is to be named as an additional insured on such Certificate and not merely as a Certificate holder. Contractor must provide Authority with appropriate endorsements to its policy(ies) of insurance reflecting the status of Authority as an additional insured and requiring that the foregoing notice of cancellation, material alteration or non-renewal be provided to Authority by the insurance company providing such insurance policy(ies) to Contractor. In addition, all policies shall contain a waiver of subrogation in favor of Authority. All policies shall apply on a "per project" basis. Contractor agrees to maintain all coverage required herein throughout the term of the Contract and for a minimum of two (2) years following Authority's written acceptance of the Contract.

6.7. Limits of Insurance:

Worker's Compensation:	As required by Minnesota law with an "all states" endorsement
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Employer's Liability	Per Occurrence	\$2,000,000.00
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Independent Contractor's protective coverage liability:

Bodily Injury:	Per Occurrence	\$2,000,000.00
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Property Damage	Per Occurrence	\$2,000,000.00
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Products and completed operations coverage to be kept in place for the duration of any contract guarantee period:

Bodily Injury	Per Occurrence	\$2,000,000.00
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Property Damage	Per Occurrence	\$2,000,000.00
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Comprehensive General Liability, Premises and Operations:

Bodily Injury	Per Occurrence	\$2,000,000.00
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Comprehensive General Liability, Property Damage and Bodily Injury:

	Per Occurrence	\$2,000,000.00
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Products – Completed Operations

Per Occurrence	\$2,000,000.00
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Fire Legal Liability

Each Occurrence	\$100,000.00
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Medical Expense:

\$5,000.00

Contractual Liability covering customary Construction Contract and subcontract indemnity provisions:

Bodily Injury	Per Occurrence	\$2,000,000.00
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Contractual Liability covering customary Construction Contract and subcontract indemnity provisions:

Property Damage	Per Occurrence	\$2,000,000.00
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Comprehensive Automobile Liability

\$2,000,000.00

Combined single limit each accident (shall include coverage for all owned, hired and non-owned vehicles).

Property Damage

Per Occurrence	\$2,000,000.00
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E & O Insurance

\$2,000,000.00

Builder's Risk

Completed value form

(note: may be deleted by Authority)

Umbrella covering all above risks

\$5,000,000.00

- 6.8. Commercial General Liability:** The Commercial General Liability Policy shall be written on an "occurrence basis" on ISO form CG 00 01 12 07 or CG 00 01 04 13, or the equivalent with "broad form" damage liability coverage with the XCU exclusion removed in limits specified in Section 6.7 above. Such insurance shall cover liability

arising from premises, operations, independent contractors, products- completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) and proteanyone employed by Contractor or by anyone for whose acts any of them may be liable.

- 6.9. Claim Form: Contractor shall obtain and provide to Authority, with the Certificate of Insurance, a Claim Form for use by parties with claims against Contractor arising out of the performance of work by Contractor under the Contract with Authority.
- 6.10. Primary Policies. All policies shall be primary and non-contributory.
- 6.11. Deductible Responsibilities. It shall be Contractor's responsibility to pay any retention or deductible for the coverages required herein.
- 6.12. Insurance Company Rating. Contractor shall maintain in effective all insurance coverages required under this section at Contractor's sole expense and with insurance companies licensed to do business in the state of Minnesota and having a current A.M. best rating of no less than A-, unless specifically accepted by Authority in writing.

PART 7 - SPECIAL CONDITIONS

- 7.1. Liability and Indemnity: It is agreed that the employees and officers of the Authority shall not be personally liable or responsible in any manner to the contractor, sub-contractors, suppliers, laborers, or to any other person or persons for any claim, demand, damages, action or causes of action of any kind or character arising out of or by reason of this contract the performance and completion of the work.
- 7.2. CMAR to Indemnify: It is agreed that the CMAR shall indemnify and hold harmless the Authority from any and all loss or damages sustained, and from any and all liability for injury to any persons and damage to any property incurred by the Authority by reason of any act or omission of the CMAR, its consultants, subcontractors, agents or employees, in connection with the performance of this contract, unless the same shall be due to the negligence of the Authority, its agents or employees.
- 7.3. CMAR Warranty. CMAR shall warranty and guarantee all work and materials furnished for any project as required herein for a period of one (1) year from the date of completion and the Project shall, in every respect, conform to all applicable laws, regulations and codes.
- 7.4. Compliance with Applicable Law: The Contractor shall conform to all rules and regulations of OSHA and state and local authorities as they apply to services provided pursuant to the Contract for CMAR Services. Contractor covenants and agrees to also comply with all applicable laws and regulations in performing the contract, including but not limited to applicable equal opportunity of employment provisions.

EXHIBIT 1.1- PROJECT LABOR AGREEMENT

PROJECT LABOR AGREEMENT

ARTICLE I PURPOSE

This Agreement is entered into this _____ day of _____, 20__ by and between _____, its successors or assigns (hereinafter "Project Contractor") and the Duluth Building and Construction Trade Council, on behalf of its affiliated local unions described on Exhibit A attached hereto, hereinafter called the "Union or collectively "Unions," with respect to the construction of the _____, hereinafter "Project".

It is understood by the parties to this Agreement that it is the policy of the Seaway Port Authority of Duluth (hereinafter the "Owner") that the construction work on the Project covered by this Agreement shall be contracted to contractors who agree to be bound by the terms of this Agreement by execution of the "Agreement to be Bound" in the form attached hereto as Exhibit B. Project Contractor shall monitor compliance with this Agreement by all subcontractors who, through the execution of this Agreement, have become bound hereto.

The term "Contractor" or "Contractors" shall include all construction contractors and subcontractors of whatever tier engaged in construction work within the scope of this Agreement, including the Project Contractor when it performs construction work within the scope of this Agreement. Where specific reference to _____ [name of Project Contractor] alone is intended, the term "Project Contractor" is used.

The parties recognize the need for the timely completion of the Project without interruption or delay. This Agreement is intended to establish a framework for labor-management cooperation and stability. The Contractor(s) and the Unions agree that the timely construction of this Project will require substantial numbers of employees from construction and supporting crafts possessing skills and qualifications that are vital to its completion. They will work together to furnish skilled, efficient craft workers for the construction of the Project.

Further, the parties desire to mutually establish and stabilize wages, hours and working conditions for the craft workers on this construction project, to encourage close cooperation between the Contractor(s) and the Unions to the end that a satisfactory, continuous and harmonious relationship will exist between the parties to this Agreement.

Therefore, in recognition of the special needs of this Project and to maintain a spirit of harmony, labor-management peace, and stability during the term of this Agreement, the parties agree to abide by the terms and conditions in this Agreement, and to establish effective and binding methods for the settlement of all misunderstandings, disputes or grievances which may arise. Further, the Contractor(s) and all contractors of whatever tier, agree not to engage in any lockout, and the Unions agree not to engage in any strike, slow-down, or interruption or other disruption of or interference with the work covered by this Agreement.

ARTICLE II SCOPE OF AGREEMENT

Section 1. This Project Labor Agreement (“PLA”) shall apply and is limited to all construction work included in all bid categories for the Project under the direction of and performed by the Contractor(s), of whatever tier, which may include the Project Contractor, who have contracts awarded for such work on the Project. Such work shall include site preparation work and dedicated off-site work.

The Project is defined as: _____.

Section 2. It is agreed that the Project Contractor shall require all Contractors of whatever tier who have been awarded contracts for work covered by this Agreement to accept and be bound by the terms and conditions of this Project Labor Agreement by executing the “Agreement to be Bound” form attached as Exhibit B prior to commencing work. This Project Labor Agreement is a material term of the bid specifications for the Project and therefore, regardless of whether a contractor executes this Agreement, by virtue of the Project Contractor accepting the bid offer of the Contractor, a Contractor who performs work on this Project is bound to this PLA regardless of their execution of this Agreement. The Project Contractor shall assure compliance with this Agreement by the Contractors. It is further agreed that, where there is a conflict, the terms and conditions of this PLA shall supersede and override terms and conditions of any and all other national, area, or local collective bargaining agreements, except for all work performed under the NTL Articles of Agreement, The National Stack/Chimney Agreement, the National Cooling Tower Agreement, all instrument calibration work and loop checking shall be performed under the terms of the US/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article V, VI and VII of this Project Labor Agreement, which shall apply to such work. It is understood that this is a self-contained, stand alone, Agreement and that by virtue of having become bound to this Project Agreement, neither the Project Contractor nor the Contractors will be obligated to sign any other local, area or national agreement.

Section 3. Nothing contained herein shall be construed to prohibit, restrict or interfere with the performance of any other operation, work, or function which may occur at the Project site or be associated with the development of the Project.

Section 4. This Agreement shall only be binding on the signatory parties hereto and shall not apply to their parents, affiliates or subsidiaries.

Section 5. The Owner and/or Project Contractor have the absolute right to select any qualified bidder for the award of contracts on this Project without reference to the existence or nonexistence of any agreements between such bidder and any party to this Agreement; provided, however, only that such bidder is willing, ready and able to become a party to and comply with this Project Agreement, should it be designated the successful bidder.

Section 6. As areas and systems of the Project are inspected and construction tested by the Project Contractor or Contractors and accepted by the Owner, the Project Labor Agreement will not have further force or effect on such items or areas, except when the Project Contractor or

Contractors are directed by the Owner to engage in repairs, modifications, check-out, and warranty functions required by its contract with the Owner during the term of this Agreement.

Section 7. It is understood that the Owner, at its sole option, may terminate, delay and/or suspend any or all portions of the Project at any time.

Section 8. It is understood that the liability of any Contractor and the liability of the separate unions under this Agreement shall be several and not joint. The unions agree that this Agreement does not have the effect of creating any joint employer status between or among the Project Contractor or any Contractor.

Section 9. The provisions of this Project Labor Agreement shall apply to all craft employees represented by any Union listed in Schedule A hereto attached and shall not apply to other field personnel or managerial or supervisor employees as defined by the National Labor Relations Act. No Contractor party is required to sign any other agreement as a condition of performing work within the scope of this Agreement. However, any Contractor performing work on the Project which is not party to a Local Area Labor Agreement for a craft employed by the Contractor, agrees to install hourly wage rates, hours, fringe benefit contributions, referral procedures (which shall not contain a preference for local or in-state labor) and all other terms and conditions of employment as fully set forth in the applicable Local Area Agreement as attached as Schedule A for work on the Project for each craft employed by the Contractor. The Contractor shall be required to pay the greater of the total package of wages and benefits as set forth in the Local Area Labor Agreements attached as Schedule A or the wages and benefits required by any applicable state or federal prevailing wage law. All employees covered by this Agreement shall be classified in accordance with the work performed. Nothing in this Agreement requires employees to join a union or pay dues or fees to a union as a condition of working on the covered project. This Agreement is not, however, intended to supersede independent requirements in applicable local union agreements as to contractors that are otherwise signatory to those agreements and as to employees of such employers performing covered work.

Section 10. The Contractors agree to pay contributions to the established employee benefit funds in the amounts designated in the Local Area Labor Agreements attached as Schedule A.

Section 11. All workers delivering fill, sand, gravel, crushed rock, transit/concrete mix, ready mix, asphalt or other similar material and all workers removing any materials from the construction site shall receive a total package of wages and benefits at least and not lower than the wages and benefits provided for in the then current Highway, Heavy Construction Agreement between Teamsters Local 346 and the Associated General Contractors of America, or the Highway Heavy Prevailing Wage Schedule, whichever is greater.

ARTICLE III UNION RECOGNITION AND ACCESS

Section 1. Subject to the last sentence of Section 2 of Article II and the last two sentences of Section 9 of Article II, Contractors recognize the signatory Unions as the sole and exclusive

bargaining representatives of all craft employees within their respective jurisdictions working on the Project within the scope of this Agreement.

Section 2. Authorized representatives of the Union shall have access to the Project, provided they do not interfere with the work of employees and further provided that such representatives comply fully with the posted visitor and security and safety rules of the Project.

ARTICLE IV REFERRAL OF EMPLOYEES

Applicants, for the various classifications covered by this Agreement required by the Contractors on the Project shall be referred to the Contractors by the Unions. The Unions represent that its local unions administer and control their referrals and it is agreed that these referrals will be made in a non-discriminatory manner and in full compliance with Federal and State Laws.

ARTICLE V MANAGEMENT'S RIGHTS

The Project Contractor and Contractors of whatever tier retain full and exclusive authority for the management of their operations. Except as otherwise limited by the terms of this Agreement or the applicable local area agreements, the Contractors shall direct their working forces at their prerogative, including, but not limited to hiring, promotion, transfer, lay-off or discharge for just cause.

ARTICLE VI WORK STOPPAGES AND LOCKOUTS

Section 1. During the term of this Agreement there shall be no strikes, picketing, work stoppages, slow downs or other disruptive activity for any reason by the Unions or by any employee, and there shall be no lockout by the Contractor. Failure of any Union or employee to cross any picket line established at the Project site is a violation of this Article.

Section 2. The Unions shall not sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity at the Contractor's project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to disciplinary action, including discharge, and if justifiably discharged for the above reasons, shall not be eligible for rehire on the Project for a period of not less than thirty (30) days.

Section 3. The Unions shall not be liable for acts of employees for whom it has no responsibility. The International Union General President or Presidents will immediately instruct, order and use the best efforts of his office to cause the Local Union or Unions to cease any violations of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its Local Union. The principal officer or officers of a Local Union will immediately instruct, order and use the best efforts of his office to cause the employees the Local Union represents to

cease any violations of this Article. A Local Union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the Contractor to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.

Section 4. Any party alleging a breach of this Article shall have the right to petition a court for temporary and permanent injunctive relief. The moving party need not show the existence of irreparable harm and shall be required to post bond only to secure payment of court costs and attorney fees as may be awarded by the Court.

ARTICLE VII DISPUTES AND GRIEVANCES

Section 1. This Agreement is intended to provide close cooperation between management and labor. Each of the Unions will assign a representative to this Project for the purpose of completing the construction of the Project economically, efficiently, continuously, and without interruptions, delays, or work stoppages.

Section 2. The Contractors, Unions, and the employees, collectively and individually realize the importance to all parties to maintain continuous and uninterrupted performance of the work on the Project and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Article.

Section 3. Any question or dispute arising out of and during the term of this Project Labor Agreement (other than trade jurisdictional disputes) shall be considered a grievance and subject to resolution under the following procedures:

Step 1. (a) When an employee subject to the provisions of this Agreement feels he or she is aggrieved by a violation of this Agreement, he or she, through his or her local union business representative or job steward, shall, within ten (10) working days after the occurrence of the violation, or knowledge of the violation, give notice to the work-site representative of the involved Contractor stating the provision(s) of the Local Area Agreement and/or this PLA alleged to have been violated. The business representative of the local union or the job steward and the work-site representative of the involved Contractor and the Project Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. The representative of the Contractor shall keep the meeting minutes and shall respond to the Union representative in writing (copying the Project Contractor) at the conclusion of the meeting but not later than twenty-four (24) hours thereafter. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the Grievance Procedure, provided the grievance is reduced to writing, setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the Local Area Agreement and/or this PLA alleged to have been violated.

(b) Should the Local Union(s) or the Project Contractor or any Contractor have a dispute with the other party and, if after conferring, a settlement is not reached within seven (7)

working days, the dispute may be reduced to writing and proceed to Step 2 in the same manner as outlined herein for the adjustment of an employee complaint.

Step 2. The Business Manager or his or her designee of a Local Union and the involved Contractor shall meet within seven (7) working days of the referral of a dispute to this second step to arrive at a satisfactory settlement thereof. Meeting minutes shall be kept by the Contractor. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days thereafter.

Step 3. (a) If the grievance has been submitted but not adjusted under Step 2, either party may request in writing, within seven (7) calendar days thereafter, that the grievance be submitted to an Arbitrator mutually agreed upon by them. The Contractor and the involved Union shall attempt mutually to select an arbitrator, but if they are unable to do so, they shall request the Federal Mediation and Conciliation Service to provide them with a list of seven (7) neutral arbitrators from which the Arbitrator shall be selected. The parties shall alternatively strike arbitrators from the list until one remains, who shall preside at the hearing. The party striking first shall be determined by the flip of a coin. The decision of the Arbitrator shall be final and binding on all parties. The fee and expenses of such Arbitration shall be borne equally by the Contractor and the involved Local Union(s).

(b) Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the parties involved at the particular step where the extension is agreed upon. The Arbitrator shall have the authority to make decisions only on issues presented to him or her, and he or she shall not have authority to change, amend, add to or detract from any of the provisions of this Agreement.

Section 4. The Project Contractor shall be notified of all actions at Steps 2 and 3 and shall, upon its request, be permitted to participate in all proceedings at these steps.

ARTICLE VIII JURISDICTIONAL DISPUTES

Section 1. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

Section 2. All jurisdictional disputes on this Project, between or among Building and Construction Trades Unions and employers, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions parties to this Agreement.

Section 3. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 4. Each Contractor will conduct a pre-job conference with the appropriate Building and Construction Trades Council prior to commencing work. The Project Contractor will be advised in advance of all such conferences and may participate if they wish.

ARTICLE IX SUBCONTRACTING

The Project Contractor agrees that neither it nor any of its contractors or subcontractors will subcontract any work to be done on the Project except to a person, firm or corporation who is or agrees to become party to this Agreement. Any contractor or subcontractor working on the Project shall, as a condition to working on said Project, become signatory to and perform all work under the terms of this Agreement.

ARTICLE X HELMETS TO HARDHATS

Section 1. The Contractors and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

Section 2. The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XI LABOR HARMONY CLAUSE

The Project Contractor shall furnish labor that can work in harmony with all other elements of labor employed on the Project and shall submit a labor harmony plan to demonstrate how this will be done. "Harmony" shall include the provision of labor that will not, either directly or indirectly, cause or give rise to any work disruptions, slow downs, picketing, stoppages, or any violence or harm to any person or property while performing any work, or activities incidental thereto at the Project. The labor harmony plan should include the company's labor management policies, collective bargaining agreements if any and their expiration dates, past labor relations history, a listing of activities anticipated under this contract that may potentially cause friction with on-site workers, and procedures the company will undertake to eliminate this friction.

The Project Contractor agrees that it shall require every lower-tier subcontractor to provide labor that will work in harmony with all other elements of labor employed in the work and will include the provisions contained in the paragraph above, in every lower-tier subcontract let for work for the Project.

The requirement to provide labor that can work in harmony with all other elements of labor employed in the Project throughout the construction of the Project is a material element of this PLA. Failure by the Project Contractor or any of its lower-tier subcontractors to comply with this requirement shall be deemed a material breach of the PLA which will subject the violating contractor to all rights and remedies the Project Contractor may have, including without limitation the right to terminate the contract of Contractor.

ARTICLE XII NO DISCRIMINATION

Section 1. Contractors and Union agree that they will not discriminate against any employee or applicant for employment because of his or her membership or non-membership in a Union or based upon race, color, religion, sex, national origin or age in any manner prohibited by law or regulation.

Section 2. Any complaints regarding application of the provisions of Section 1, should be brought to the immediate attention of the involved Contractor for consideration and resolution.

Section 3. The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

ARTICLE XIII SAVINGS AND SEPARABILITY

It is not the intention of the parties to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provisions of the Agreement are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Contractors and Union agree that if and when any and all provisions of this Agreement are finally held or determined to be illegal or void by a Court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of an applicable law and the intent of the parties hereto.

ARTICLE XIV DURATION OF THE AGREEMENT

The Project Labor Agreement shall be effective _____, 20__ and shall continue in effect for the duration of the Project construction work described in Article II hereof. Construction of any phase, portion, section or segment of the Project shall be deemed complete when such phase, portion, section or segment has been turned over to the Owner and has received the final

acceptance from the Owner's representative. Since there are provisions herein for no strikes or lockouts in the event any changes are negotiated and implemented under a Local Area Agreement during the term of this Agreement, the Contractors agree that, except as specified herein, such changes shall be recognized and shall apply retroactively to the termination date in the particular Local Agreement involved. Each Contractor which has a Local Agreement with a Union at the time that its contract at the Project commences shall continue it in effect with each said Union so long as the Contractor remains on the Project. In the event any such Local Area Agreement expires, the Contractor shall abide by all of the terms of the expired Local Agreement until agreement is reached on a new Local Agreement, with any changes being subject to the provisions of this Agreement.

The Union agrees that there will be no strikes, work stoppages, sympathy actions, picketing, slowdowns or other disruptive activity affecting the Project by any Union involved in the negotiation of a Local Area Agreement nor shall there be any lockout on this Project affecting the Union during the course of such negotiations.

IN WITNESS WHEREOF, the parties have entered into this Agreement to be effective as of the day and year above written.

DULUTH BUILDING &
CONSTRUCTION TRADES COUNCIL

PROJECT CONTRACTOR

By: _____
Its: _____

By: _____
Its: _____

EXHIBIT A

ACCEPTED BY:

- A-1 Asbestos Workers Local
- A-2 Boilermakers Local
- A-3 BAC Local 1 Chapter 3 Duluth & Iron Range
- A-4 Carpenters Local 361
- A-5 Cements Masons/Plasterers Local 633
- A-6 Elevator Constructors Local 9
- A-7 IBEW Local 242
- A-8 Iron Workers Local 512
- A-9 Laborers Local 1091
- A-10 Millwrights Local 1348
- A-11 Operating Engineers Local 49
- A-12 Painters & Allied Trades Local 106
- A-13 Plumbers & Fitters Local 11
- A-14 Roofers Local 96
- A-15 Sheet Metal Workers Local 10
- A-16 Sprinkler Fitters Local 669
- A-17 Teamsters Local 346

EXHIBIT B

AGREEMENT TO BE BOUND

PROJECT LABOR AGREEMENT

The undersigned Contractor agrees that it has reviewed a copy of the Project Labor Agreement for the _____ Project located in _____, Minnesota with the Duluth Building and Construction Trades Council and further agrees to become a party to and bound to the foregoing Agreement.

This form is to be completed by subcontractor and submitted to the Contractor who shall retain and submit to the Duluth Building and Construction Trades Council upon request.

Attest:

Signed for the subcontractor:

Dated:

Company Name

Company Address

Phone No., Job Site and/or Office

Fax No.

By

Title

**EXHIBIT 1.7.1 - PROPOSAL COVER
SHEET Duluth Seaway Port Authority
East Annex Warehouse Expansion**

Proposer Information:	
Proposer Name	
Mailing Address	
Contact Person	
Contact Person's Phone Number	
Contact Person's E-Mail Address	
Federal ID Number	
Authorized Signature	
Title	

EXHIBIT 1.7.2
TENNESSEN WARNING

DULUTH SEAWAY PORT AUTHORITY
DATA PRACTICES RIGHTS ADVISORY/TENNESSEN WARNING

The information that you are asked to provide is classified by state law as either public, private, or confidential. Public data is information that can be given to the public. Private data is information that generally cannot be given to the public but can be given to the subject of the data. Confidential data is information that generally cannot be given to either the public or the subject of the data.

Our purpose and intended use of this information is to consider your proposal to provide Construction Management At Risk services.

You are not legally required to provide this information.

You may refuse to provide this information.

The consequences of supplying or refusing to supply data are that your request or application may not be considered, or it may be denied.

Other persons or entities may be authorized by law to receive this information including Authority legal counsel, representatives of the State of Minnesota, Port Development Assistance participant, Authority's architect and Authority's accountant and others as required by a court order.

The undersigned has read this advisory and understands it.

Applicant Name (Please Print)

Date

Applicant Signature

**EXHIBIT 4.1 – 2016 STRUCTURAL CONDITION SURVEY AND WAREHOUSE
ADDITION CONCEPT PLAN
East Annex Warehouse Expansion**

Duluth Port Authority Structural Condition Survey NCE Job # 16-313

Building Name: East Warehouse Annex Year Built: 2001-2002
Building ID#: 1120. Drawings Available: Yes X No__
Date of Inspection: July 14, 2016 Critical Deficiency Notices: Yes No X
Inspection By: JW, JP
Number of Levels: 1 Condition Assessment: 7

Building History: The building was designed in 2001 as a New East Warehouse for the Seaway Port Authority. Damberg Scott Gerzina Wagner and Northland Consulting Engineers were the Architect and Engineer of Record respectively. In 2006 an enclosure was constructed over the rail loading dock on the west side of the building. DSGW and NCE were the architect and engineer of record for that structure as well.

Building Description: The structure is single level metal building supplied by American Buildings. Overall footprint is 240' by 370' with the long dimension running in the north-south direction. The enclosed rail loading dock is 40' wide by 370'. Total enclosed area is approximately 103,600 square feet with warehouse accounting for 88,800 square feet of that total.

Foundations are pile supported cast in place concrete spread footings at all column locations. Along exterior walls cast-in-place concrete grade beams span between the spread footings to support the 8" reinforced concrete masonry walls that extend above grade. The metal walls of the superstructure are supported from these walls. The rail loading dock enclosure is founded on cast in place concrete pile supported piers. The metal walls of the enclosure are supported off these foundations. The floor away from the loading dock is a reinforced 7" concrete slab on grade. Loading dock slabs are reinforced structural slabs spanning between pile supported grade beams and footings.

Structural framing is welded and cold rolled material typical of engineered steel buildings. The gable roof is standing seam metal roofing with fiberglass insulation sandwiched between the roof panels and the steel roof purlins. The wall panels are steel ribbed with supporting girts spanning between columns.

Summary of Findings: Long term wear and tear damage and localized staining (without associated damage) from water infiltration are prevalent in the walls. The potential for long term corrosion in the roof panel is present with accumulations of seagull associated debris on the roof. One structural column is in need of repair. The roof purlins may be underbraced for heavy snow loads though current performance does not indicate problems.

Recommendations and Conclusions: The building is in good to very good condition. without significant structural problems. No major renovation is needed at this time to correct structural deficiencies.

Items requiring maintenance or monitoring are as follows:

1. Roof panels: I recommend that the roof be power washed annually to remove debris left by birds. Corrosion is related to the long term deposition of this debris and an annual cleaning, while not insignificant would "reset" the clock on a regular basis.
2. Walls: Remove vegetation from the face of east exterior wall. Replace missing fasteners and secure metal panels to base girt at the tops of masonry. Replace two fallen light fixtures on west facing wall. Waterproof penetrations of all light fixtures to prevent moisture migration. Construct barricades along west wall of railroad dock enclosure to prevent continued snow plow damage.
3. Purlin Bracing: Install additional purlin bracing to resist purlin rollover during snow accumulation.
4. Structural Column: Repair ovalized structural column and protective barrier. Column could be repaired by extending barrier vertically to fully encase oval section, fill interior with pumped grout. Or replace damaged section as was done in previous column repair.

Critical Deficiency Notices: None

Roof

Membrane and deck: Metal, standing seam	Condition: 7
Roof Structure: Steel	Condition : 8

The roof framing consists of cold rolled 9 ½" Z-shaped purlins. These purlins span between the moment frames, typically a distance of 30'. The plans show that the snow load capacity is 40 pounds per square foot. This load is less than currently required by the Minnesota State Building Code (42 psf plus drift).

The steel structure is in very good to excellent condition. I did not see evidence of corrosion or excessive deflection from structural underperformance.

The roof membrane is a standing seam metal roof. The design plans call for it to be a galvanized aluminum (Galvalume). The main concern with this roof material is the surface corrosion taking place from seagull droppings and long term nests. Bird droppings turn into salt and ammonia. After rains they form acid that degrades the galvanized coating and eventually attacks the steel itself.

At this time the corrosion level is not great, certainly not as seen in the next door East Warehouse building. This is probably due to the relative difference age between the two structures and possibly a more superior material quality over the older East Warehouse.

To date the incidences of leaks have been low. Annual inspections and repairs by local roofers have kept the problems under control.

Exterior Wall/Façade

Wall Construction: Masonry/Steel Condition: 6

The exterior walls are concrete grade beams spanning between spread footings at the columns. The grade beam terminates near grade and supports 8" reinforced concrete masonry followed by the steel ribbed superstructure walls. Other than the weight of the building materials the exterior walls are not load bearing. The exterior walls are uninsulated. Liner panels are on lower portions of the walls from top of the masonry to the steel structure.

Moisture penetration is occurring on the concrete masonry resulting in stains on the interior and exterior faces. Spalling of masonry is not a problem to date as found in the older East Warehouse. Sources of leakage are the numerous wall seams and fasteners, wall penetrations, migration upwards from the grade around the wall base. Exterior light fixtures also appear to be sources of entry, particularly on the north end wall. Two light fixtures on the west side wall have fallen to the ground and need replacing. Numerous areas of metal ribbed panels and occasional areas of the masonry have been damaged from wear and tear usage. In particular the west facing wall of the rail enclosure is severely dented from snow plows pushing snow against the wall.

Vegetation is beginning to conceal the lower portions of the east wall. The vegetation should be brushed back to allow masonry full exposure to the drying sun.

Foundations

Exterior Foundation Wall Construction: Concrete Condition: 8
Interior Foundation Construction: Concrete Condition: 8

The exterior foundation walls are pile supported cast in place concrete spread footings with interconnecting grade beams that support the exterior walls. Lines of interior concrete footings support the column lines that run down the north-south length of the structure. Piling are steel pipe piles driven to a 48 ton capacity. There are typically four piles beneath each exterior wall column footing and three beneath the interior column line footings. I did not see evidence of settlement in the pile foundation.

The concrete slab on grade and structural loading dock slabs are in excellent condition. Though not pile supported the slab on grade shows very little evidence of settlement; just a hint of deflection in the center of panels between pile supported columns. Shrinkage or other cracks of consequence were not observed in slabs throughout the building.

Structural Frame: Steel

Condition: 8

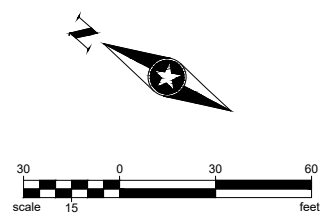
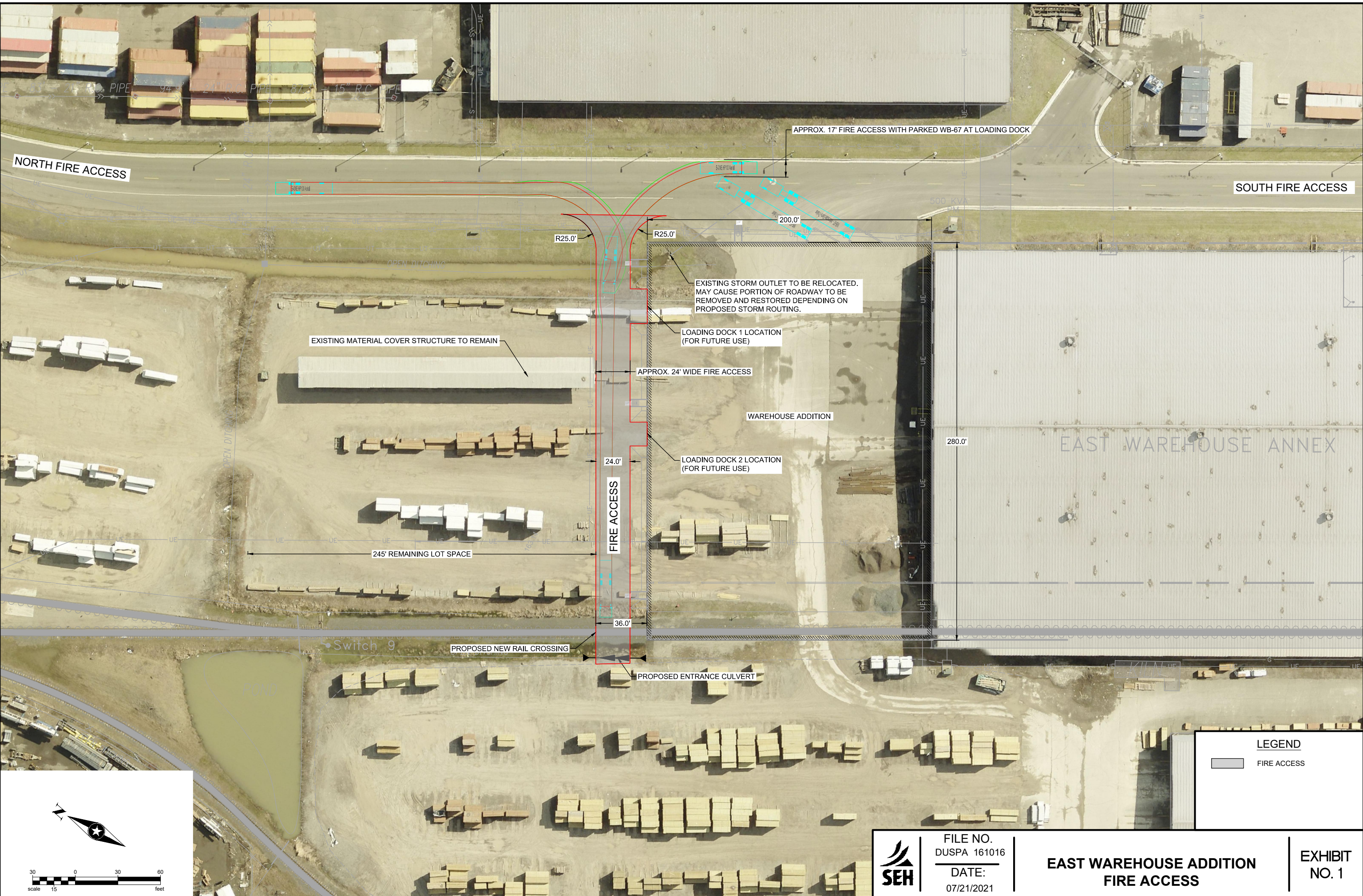
The structural framing consists of welded moment frames at 30' centers for the length of the structure. Tapered columns along the east and west side walls and round columns at 60' intervals along the frames support the welded plate girders. The roof purlins (noted above in Roof section) span between moment frames. End walls are supported by vertical columns at 30' spaces. The structural steel is in very good condition without apparent deformation or corrosion. Light corrosion can be seen in localized areas primarily due to condensation.

Bracing of the purlins appears to be supplied by the standing seam roof only. Building manufacturers contend that this bracing is adequate but experience has shown that articulated clips securing the roof panels to the purlins may not be sufficient under heavy loads. This company has recommended to other owners with similar roof bracing for the Z purlins that additional bracing be considered to prevent purlin roll over (which can occur during periods of heavy snows).

Two columns in the northerly end of the building have been struck by fork lift traffic. Impacts occurred in the lower sections at the concrete and steel protective barrier. One of the columns has been repaired by removing the damaged section and splicing in a

new section. The other remains damaged. It is ovalized directly above the concrete and steel protective barrier. The barrier itself is split vertically along its length and held together with tie straps.

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FILE NO.
DUSPA 161016

DATE:
07/21/2021

**EAST WAREHOUSE ADDITION
FIRE ACCESS**

**EXHIBIT
NO. 1**

Duluth Seaway Port Authority

Proposed Addition to East Warehouse

DSGW Architects
September 18, 2015

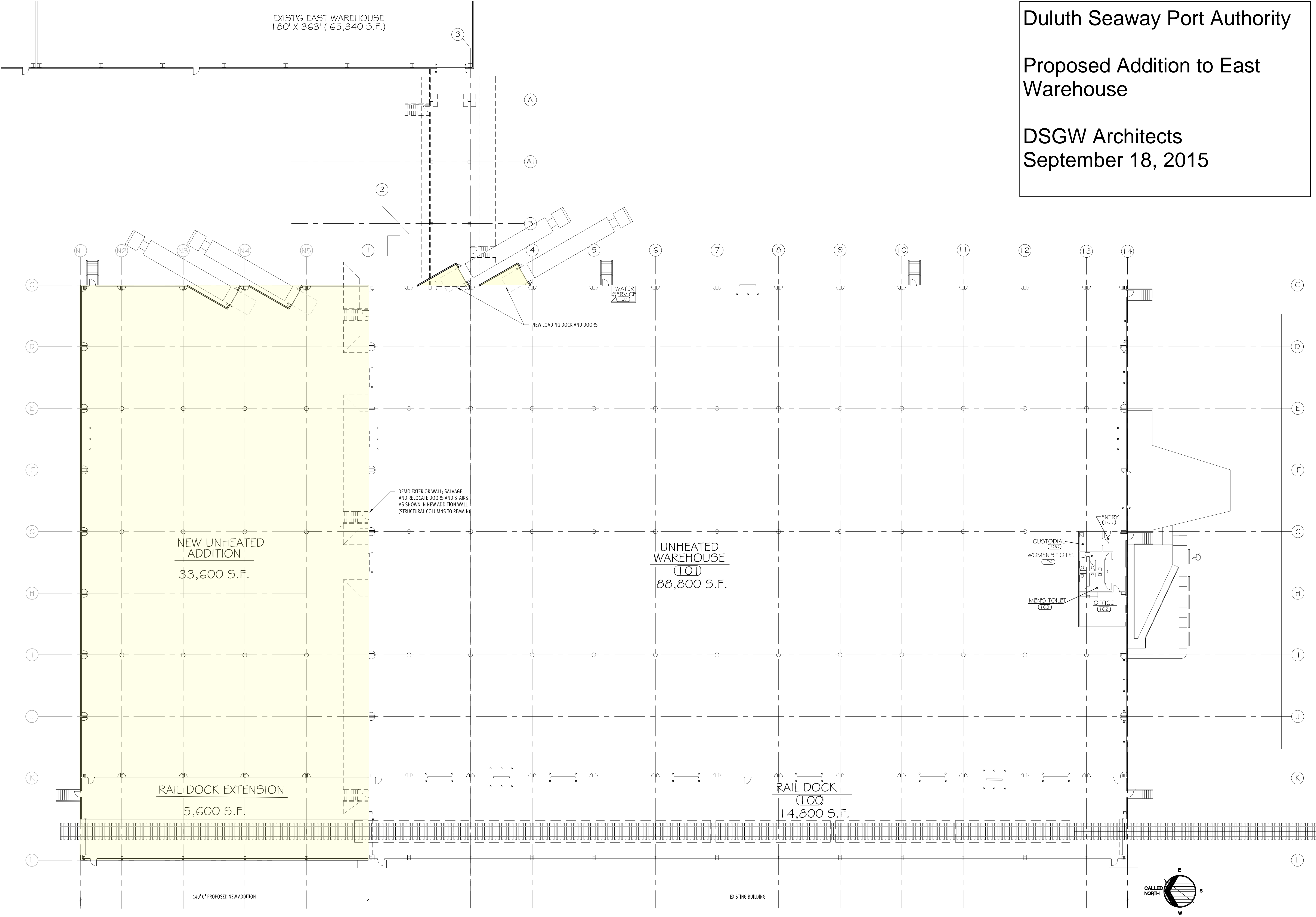


EXHIBIT 4.3.1 - AIA DOCUMENT A-133 2019



AIA[®] Document A133[™] – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

and the Construction Manager:
(Name, legal status, address, and other information)

for the following Project:
(Name, location, and detailed description)

The Architect:
(Name, legal status, address, and other information)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201[™]–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Construction Manager agree as follows.

Init.

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