

**CITY OF FERNDALE  
REQUEST FOR COUNCIL ACTION**

**FROM:** Byron A. Photiades, DPW Director

**SUBJECT:** Approval of Invoice for New Heater for Pump Station

**SUMMARY & BACKGROUND:**

The heat unit at the pump station had cracks in the heat exchanger and needed to be replaced. Siemens Building Technologies, our heating and cooling contractor, installed a new 125,000 BTU unit heater for a cost of \$3,385. The expense would be charged to the Water and Sewer Fund, Capital, account number 592-000-977.

Attachments: Invoice from Siemens

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**COUNCIL AGENDA DATE:** November 10, 2008

**CITY ATTORNEY REVIEW:** N/A

**FINANCE DIRECTOR REVIEW:** JCHubanks, 11/3/08

**CITY MANAGER APPROVAL:** Robert J. Bruner, Jr.

**COMMENTS:**

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**RECOMMENDED ACTION:**

Moved by , seconded by , to approve the invoice from Siemens for \$3,385 for replacing the heat unit at the pump station and to charge the expense to the Water and Sewer Fund, Capital, account number 592-000-977.





**SERVICE  
PROPOSAL**

City of Ferndale pump station  
Attn: Jerald Allen  
521 E. Camborne  
Ferndale, Michigan 48220

No. 7-30  
Date: July 30, 2008  
Limiting Date: August 30, 2008

**Project:** Install a new unit heater for the pump station  
**Proposal:** Siemens will provide labor & material to install a new Reznor unit heater 125,000 BTU at the pump station. The old unit has cracks in the heat exchanger. Allow four weeks for delivery.  
Sell Price: \$3385.00

Wiring by Siemens Building Technologies, Inc.     Wiring by others     No wiring required

*The Terms and Conditions of Sale shown on the attached are a part hereof*

**Terms of Payment:**

Net 30 day's  
 No Retainage

Proposal Accepted:  
Siemens Building Technologies, Inc. is authorized to proceed with the work as proposed.

Proposal Submitted:  
Siemens Building Technologies, Inc.

Purchaser	<u>CITY OF FERNDALE</u>	Seller	_____
By	<u>Jerald E. Allen</u>	By	<u>Vance D'Onofrio</u>
Title	<u>Water System Supervisor</u>	Title	<u>Account Engineer</u>
Date	<u>7/30/08</u>	Date	<u>July 30, 2008</u>

# SIEMENS

## TERMS AND CONDITIONS OF SALE (Service Sales)

By accepting this proposal, Purchaser agrees to be bound by the following terms and conditions unless otherwise indicated herein:

1. **SCOPE OF WORK** This proposal is based upon straight time labor and excludes all plastering, patching and painting. Any request by the Purchaser for overtime work shall be considered an extra. In the devices such as valves, dampers, humidifiers, immersion wells (separable sockets), pressure taps, liquid flow switches, orifice plates, orifice flanges, etc., which may be furnished hereunder shall be distributed and installed by others under Siemens Building Technologies, Inc. (hereinafter call "Seller") supervision and at no additional cost to Seller. Purchaser agrees to provide Seller with required field utilities (electricity, toilets, drinking water, project hoist and elevator service, etc.) Seller agrees at all times to keep the job site clean of debris arising out of its own operations, and Purchasing shall in no event backcharge Seller for Purchaser's cleanup costs without Seller's written consent.
2. **REMITTANCES** All invoices shall be due and payable in United States currency, free of exchange, collection, or any other charges, upon receipt or as otherwise agreed upon and set forth in writing by Seller. The Purchaser, if so requested agrees to furnish Seller with all information including financial statements, necessary to make a proper credit appraisal. Refusal to supply such information may cause this proposal to be withdrawn. Terms of payment originally granted are subject to the approval of continued credit status. Prices are subject to correction for error.
3. **PAYMENTS** Seller reserves the right to render invoices from time to time as the work progresses, which shall be due and payable as provided in the paragraph entitled "Remittances". If the Purchaser becomes overdue in any progress payment, including retention, Seller shall be entitled to suspend work, entitled to interest at the annual rate of 18% or the maximum rate permitted by the laws of the State of Illinois, and/or avail itself of other legal remedies.
4. **INCREASED COSTS** The price specified in this proposal is based upon labor, material and equipment costs ("Base Costs") in effect on the date hereof. Seller shall be reimbursed for costs incurred in excess of Base Costs, plus reasonable overhead and profit, provided such excess costs are incurred for reasons beyond the control of Seller.  
  
If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of Seller, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, Seller shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of materials or equipment permanently unavailable and cost of a reasonably available substitute therefor.
5. **MATERIALS** Seller will immediately undertake to purchase the materials required by the contract and will suitably insure and store the materials on the job site or at other storage facilities. Purchaser agrees to pay for said materials when delivered to the job site or other storage facilities and to pay for the cost of insurance and the cost of storage for said materials.
6. **WARRANTY** Seller warrants that the equipment furnished by it shall be free from defects in material and workmanship arising from normal usage for a period of one (1) year from delivery of said equipment, or if installed by Seller for a period of one (1) year from installation. For equipment installed by Seller, if Purchaser provides written notice to Seller of any such defect within thirty (30) days after the appearance or discovery of such defect, Seller shall, at its option, promptly repair or replace the defective equipment. For equipment not installed by Seller, if Purchaser returns the defective equipment to Seller within thirty (30) days after appearance or discovery of such defect, Seller shall, at its option, promptly repair or replace the defective equipment and return said equipment to Purchaser. All transportation charges incurred in connection with the warranty for equipment not installed by Seller shall be borne by Purchaser. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE. Seller assumes no responsibility for repairs made on Seller's equipment unless done by Seller's authorized personnel, or by written authority from Seller. Seller makes no guarantee with respect to material not manufactured by it.
7. **PURCHASER'S REMEDIES** The Purchaser's remedies with respect to equipment found to be defective in material or workmanship shall be limited exclusively to the right of repair or replacement of such defective equipment. IN NO EVENT SHALL SELLER BE LIABLE FOR CLAIMS (BASED UPON BREACH OF IMPLIED WARRANTY) FOR ANY OTHER DAMAGES, WHETHER DIRECT, IMMEDIATE, FORESEEABLE, CONSEQUENTIAL, OR SPECIAL OR FOR ANY EXPENSES INCURRED BY REASON OF THE USE OR MISUSE OF EQUIPMENT WHICH DOES OR DOES NOT CONFORM TO THE TERMS AND CONDITIONS OF ANY CONTRACT RESULTING FROM THIS PROPOSAL.
8. **TAXES** The amount of any future sales, use, occupancy, excise, or other tax, federal, state, or local which Seller hereafter shall be obligated legally to pay, either on its own behalf or on behalf of the Purchaser or otherwise, with respect to the material covered by this proposal, shall be added to such prices and paid by the Purchaser.
9. **LOSS, DAMAGE OR DELAYS** Seller shall not be liable for any loss, delay, injury or damage that may be caused by circumstances beyond its control including, but not restricted to acts of God, war, civil commotion, acts of government, fire theft, corrosion, floods, freeze-ups, strikes, lockouts, differences with workmen, riots, explosions, quarantine restrictions, delays in transportation, shortage of vehicles, fuel, labor or materials, or malicious mischief. IN NO EVENT SHALL SELLER BE LIABLE FOR BUSINESS INTERRUPTION LOSSES OR CONSEQUENTIAL OR SPECULATIVE DAMAGES, but this sentence shall not relieve Seller of liability for damage to property or injury to persons resulting from accidents caused directly by the negligence of Seller in performance or failure of performance of its obligations under this agreement.
10. **GOVERNING LAW** Any contract resulting from this proposal shall be governed by, construed, and enforced in accordance with the laws of the State of Illinois.
11. **PATENT INFRINGEMENT** Seller will hold its Purchaser and the Owner harmless from infringement of any United States patent covering equipment of its manufacture. This, of necessity, is limited to the equipment per se and cannot be extended to applications of such equipment in a system, except in writing by an officer of Seller. The Purchaser and Owner shall advise Seller immediately in the event any claims of infringement are brought to their attention.
12. **ACCEPTANCE OF TERMS** This proposal shall become a binding contract between the Purchaser and Seller when accepted in writing by the Purchaser. Such acceptance shall be with the mutual understanding that the terms and conditions of this proposal are a part thereof with the same effect as though signed by both parties named herein and shall prevail over any inconsistent provision of said order.
13. **ATTORNEYS' FEES** Purchaser agrees that he will pay and reimburse Seller for any and all reasonable attorneys' fees which are incurred by Seller in the collection of amounts due and payable hereunder.
14. **INSURANCE** Insurance coverage in excess of Seller's standard limits will be furnished when requested and required. No credit will be given or premium paid by Seller for insurance afforded by others.
15. **CANCELLATION AND SUSPENSION** Any contract resulting from this proposal is subject to cancellation or instructions or suspect work only upon agreement to pay Seller's adjustment charge.
16. **CERTIFICATION** The person whose signature appears on the attached hereof hereby certifies that, to his best knowledge and belief, the annexed bid is not the result of any agreement, arrangement or understanding between the bidder and any other manufacturer or seller of automatic temperature control systems and that the prices, terms or conditions thereof have not been communicated by or on behalf of the bidder to any such person and will not be communicated to any such person prior to the official opening of said bid.