

# **Duluth Transit Authority**

## **REQUEST for PROPOSALS**

**FOR**

**Mobile Application Development Services**

**April 25, 2019**

**Duluth Transit Authority**

2402 W. Michigan St · Duluth, MN 55806

(218) 623-4329 fax: (218) 722-4428

email: [nbrown@duluthtransit.com](mailto:nbrown@duluthtransit.com)

## Duluth Transit Authority Request for Proposals Mobile Application Development Services

The Duluth Transit Authority hereby requests written Proposals for the provision of Mobile Application Development Services.

Background information, description of the project scope of work and submission requirements may be obtained by calling, emailing or writing the Duluth Transit Authority, Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806; 218-623-4329, or [nbrown@duluthtransit.com](mailto:nbrown@duluthtransit.com). Proposal packages will be mailed or emailed to all interested parties.

Proposals must be received no later than **3:00 p.m., Thursday, June 20, 2019**.

The DTA encourages the participation of small and disadvantaged business enterprises, and affirmatively assures that equal opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, gender, marital status, disability, or age.

This request does not obligate the DTA to complete the work contemplated in this notice and reserves the right to accept or reject any or all proposals, or waive any minor informalities for good cause upon a finding that it is in the public interest to do so. All expenses incurred in response to this notice shall be borne by the responder.

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Mobile Application Development Services**

Procurement # 040-19-0005

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## Section 1 General Conditions

### G-1 REQUEST FOR PROPOSALS

- a) Proposals are requested for Mobile Application Development Services for the Duluth Transit Authority, 2402 West Michigan Street, Duluth, MN 55806.
- b) Proposals shall be on the proposed rates and costs for the project under the requirements and conditions set forth herein, which shall be considered an essential part of the Contract Documents.
- c) Proposal prices shall be good for 90 days after the Proposal opening.
- d) The DTA shall not be under any obligation for payment of precontractual expenses, including expenses for preparing or submitting a Proposal in response to this request, negotiating with the DTA on any matter related to this Proposal, and/or other expenses incurred by the Proposer prior to the date of award.
- e) Proposals are due at **3:00 p.m. on Thursday, June 20, 2019** at the DTA offices, 2402 West Michigan Street, Duluth, MN 55806.
- f) The DTA will hold a **pre-proposal conference** on **Tuesday, May 14, 2019** at **10:00 a.m.** in the DTA office, 2402 West Michigan Street, Duluth, MN 55806. Those who are unable to attend in person may contact the Procurement Manager at 218-623-4329 for conference call information.
- g) The DTA intends to award the contract to the responsible proposer as early as **August 1, 2019**.
- h) Throughout these specifications the words equipment, materials, and work can be interpreted as interchangeable.
- i) The Minnesota Department of Transportation is or will be providing funding for this project in the amount of \$265,000. Federal Transit Administration is or will be providing ongoing assistance for this project; the Catalog of Federal Domestic Assistance (CFDA) number is 20.507, Federal Transit Formula Grants.

### G-2 INQUIRIES

All inquiries and other correspondence relating to this Request for Proposals shall be with the Procurement Manager and addressed to the DTA Procurement Manager via email, [nbrown@duluthtransit.com](mailto:nbrown@duluthtransit.com), or regular mail, Duluth Transit Authority, attention Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806.

### G-3 DEFINITION OF TERMS

Whenever the following terms are used in these Proposal specifications, the intent and meaning of them shall be interpreted as follows:

- a) DTA, customer, buyer, or Operator shall mean the DTA.
- b) Project Manager shall mean Heath Hickok for all work performed.
- c) Manufacturer, Vendor, Proposer, or Contractor, Consultant shall mean that firm submitting a responsive Proposal and subsequently receiving the contract award from the DTA as the contractor as detailed in these specifications.

### G-4 SUBSTITUTIONS AND OR EQUAL

- a) Where proprietary names are used in these specifications, it is understood that they are followed by the words "or equal".

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- b) Prime contractors and /or subcontractors may make appointments to discuss these specifications. This, however, does not relieve them from the written, documented request required by paragraph c) below. Where prior approval is called for in the specifications it means prior to Proposal opening. Minutes of discussions and responses to questions will be provided to all potential Proposers in an addendum.
- c) Requests for approved equals, clarifications of specifications, and protest of specifications must be received by the Procurement Manager in writing no later than **June 5, 2019**. Any request for an approved equal must be fully supported with technical data, test results, or other pertinent information as evidence that the substitute offered is equal to or better than the specifications that pertain to an item under consideration. The supporting evidence for the approved equal must be submitted with the request for approval. All requests must be submitted via email or US Mail unless otherwise approved by DTA in writing.
- d) The replies to request under paragraph c) above will be emailed, mailed or faxed out on **June 7, 2019** to all prospective Proposers.
- e) Changes to the specifications will be made only by written addendum. Addendum will be posted on the DTA website at [www.duluthtransit.com](http://www.duluthtransit.com). It is the Proposers responsibility to obtain all documents available for this procurement.

**G-5 SELECTION CRITERIA**

The DTA will make the award to the responsible Proposer whose Proposal is most advantageous to the DTA.

**G-6 PREPARATION OF PROPOSAL**

Proposals must be submitted on the forms attached. All blanks in the Proposal form must be completed with ink or typewriter. Proposals containing alterations or erasures may be rejected unless the alteration or erasure is corrected by crossing out the error, inserting the correction adjacent thereto with ink or typed and initialing the correction in ink by the person signing the Proposal. In the event any price term is expressed by the Proposer in both written and numerical form, the written representation shall govern in the event of an inconsistency.

Proposals shall not stipulate any condition not contained in the specifications and other documents submitted for Proposal.

Each Proposal and all papers bound and attached thereto, together with the Proposal security, shall be placed and securely sealed in an envelope marked **"Mobile Application Development Services"** and mailed or delivered to:

Procurement Manager  
Duluth Transit Authority  
2402 West Michigan Street  
Duluth MN 55806

Proposals must be received by the proposal deadline. Time means local time in Duluth, Minnesota. Proposals received after such time will not be considered. The

DTA reserves the right to accept or reject any and/or all Proposals in the best interest of the DTA.

No Proposal may be modified after submission except by written modification physically received by the DTA prior to the time set for the opening of Proposals. Modifications must be signed by the person submitting the Proposal or accompanied by an explanation as to why it is not, and must indicate that it modifies the original Proposal. Modifications shall be submitted in a securely sealed envelope marked as indicated on the Proposal Form.

**G-7 WITHDRAWAL OF PROPOSALS**

A proposer may withdraw his Proposal at any time before the time set for the opening of the Proposals only by a writing addressed to the DTA marked "WITHDRAWAL OF PROPOSAL" and physically received by the DTA prior to the time for the opening of Proposals.

**G-8 CONSIDERATION OF PROPOSAL**

The DTA reserves the right, in the determination of the most, responsive and responsible proposer, to consider the ultimate economy of the Proposal within the guidelines of these specifications, the best interests of the DTA and such other factors as may be reasonably determined to affect the ultimate economy of the award as stipulated in the Technical Specifications.

**G-9 CONTRACT FORM AND CHANGES**

The chosen proposer, within ten (10) days after the award of the contract from the DTA shall sign the formal contract.

A sample Contract is included in this RFP. Any proposed change in this Contract shall be submitted to the DTA for its prior approval prior to submission of the Proposal. Only written change orders, amendments or addenda, signed by the General Manager of the DTA, shall be binding upon the DTA.

**G-10 BONDING REQUIREMENTS**

No bonds are required.

**G-11 PRICE COMPLETE**

The price quoted in any Proposal submitted shall include all items of services, labor, material, alterations, tools, equipment and other costs necessary to fully complete the production and delivery of the equipment or services pursuant to these specifications. It is the intention of these specifications to provide and require complete equipment and/or services of the type prescribed herein. Any items omitted from the specifications which are clearly necessary for the performance of the contract shall be considered included in the Proposal specifications although not directly specified or called for in these specifications. No advantage shall be taken by the Proposer in the omission of any part or detail which goes to make the equipment complete and ready for service or use, or to perform the services as herein required.

**G-12 DOCUMENTATION**

The Contractor shall provide a complete listing of all products used.

**G-13 PROTEST PROCEDURES**

Protests will only be accepted from prospective Proposers whose direct economic interest would be affected by the award of a contract or refusal to award a contract. The General Manager will consider all such protests, whether submitted before or after the award of a contract. If oral objections are raised and the matter cannot be resolved to the satisfaction of the objector, a written protest shall be required before any further consideration is given. Protest submissions should be concise, logically arranged, and clearly state the grounds for the protest. Protest must include at least the following information:

- " Name, address, and telephone number of protestor
- " Identification of the solicitation or contract number
- " A detailed statement of the legal and factual grounds of protest including copies of relevant documents
- " A statement as to what relief is requested

All protest documents received by the General Manager shall be stamped with date and time received and logged into a protest file folder with a copy to the Master File.

**PROTESTS BEFORE AWARD**

Protests before award must be submitted within the time as specified herein. If the written protest is not received by the time specified, the evaluation process shall continue in the normal manner unless the Finance Director, upon investigation, finds that remedial action is desirable, in which event such action shall be taken.

The protests addressing the adequacy of Request for Proposals, including, without limitation, the pre-award procedure, the Instructions to Bidders or Proposers, General Terms and Conditions, Technical Specifications and Scope of Work, must be filed at the Finance Department no later than three days before the scheduled opening date of the bid or proposal. Thereafter, such issues are deemed waived by all interested parties.

Notice of protest and the basis therefor shall be given to all bidders or proposers. In addition, when a protest against the making of an award is received and the Finance Director determines to withhold the award pending disposition of the protest, the bidders or proposers whose proposals might become eligible for award shall be requested, before expiration of the time for acceptance of their proposals, to extend the time for acceptance (with consent of sureties, if any) to avoid the need for readvertising.

When a written protest against the making of an award is received, award shall not be made until five days after the matter is resolved, unless the General Manager determines that:

- " the items to be procured are urgently required; or
- " delivery or performance will be unduly delayed by failure to make the award promptly; or
- " failure to make prompt award will otherwise cause undue harm to DTA or the State or the Federal Government.

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In the event the General Manager determines that the award is to be made during the five-day period or during the pendency of protest, he/she shall notify the FTA prior to make such award. FTA preserves the right not to participate in such procurement.

If award is made, the Finance Director shall document the file to explain the need for an award, and shall give written notice of the decision to proceed with the award to the protestor and, as appropriate, to others concerned.

### PROTESTS AFTER AWARD

Protests against award must be filed at the Finance Department within five days immediately following the award. The Finance Director shall review the protests. The contractor shall be furnished with the notice of protest and the basis therefor. Also, when it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to DTA's interest, the Finance Director shall inform the contractor that DTA will not be responsible if the award is set aside and that the contractor proceeds with performance at his/her own risk.

### DECISION ON PROTEST

The General Manager shall render his/her decision in writing within 14 days from the receipt of the written protest and shall provide written notice of such decision to all interested parties.

Following an adverse decision by the General Manager, the protestor may file a protest with FTA. For details, see FTA Circular 4220.1F, as amended, which states that FTA will only review protests regarding the alleged failure of a grantee (here, the DTA) to have written protest procedures or alleged failure to follow such procedures.

### **G-14 ORGANIZATIONAL CONFLICTS OF INTEREST**

1. An organizational conflict of interest means that because of other activities or relationships with other persons or entities, a Contractor is unable, or potentially unable to render impartial assistance or advice to the DTA, or the Contractor's objectivity in performing the contract work is, or might be otherwise impaired, or the Contractor has an unfair competitive advantage. Organizational conflict of interest includes situations where the capacity of a Contractor (including the Contractor's executives, directors, consultants, subsidiaries, parent companies or subcontractors) to give impartial, technically sound advice or objective assistance is or may be impaired or may otherwise result in a biased work product because of any past, present or planned interest, financial or otherwise, in the DTA.

2. The Contractor is responsible for maintaining and providing up to date conflict of interest information to the DTA's Director of Finance. If, after award of this contract or task order, the Contractor discovers a conflict of interest with respect to this contract or task order which could not reasonably have been known prior to award, or if any additional conflicts or potential conflicts arise after award, the Contractor shall give written notice to the DTA's Director of Finance as set forth below.

3. The Contractor's notice called for in paragraph 2 above shall describe the actual, apparent or potential conflict of interest, the action(s) the Contractor has taken or proposes to take to avoid or mitigate any conflict, and shall set forth any other information which the Contractor believes would be helpful to the DTA's Director of Finance in analyzing the situation.



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4. The Contractor has the responsibility of formulating and forwarding a proposed mitigation plan to the DTA's Director of Finance for review and consideration. This responsibility arises when the Contractor first learns of an actual, apparent, or potential conflict of interest. Corporate counsel review of the proposed mitigation plan is necessary to ensure a timely review and final determination by the DTA's Director of Finance.

5. If the DTA's Director of Finance, in his/her discretion, determines that the Contractor's actual, apparent or potential conflict of interest remains, or the measures proposed are insufficient to avoid or mitigate the conflict, the DTA's Director of Finance will direct a course of action to the Contractor designed to avoid, neutralize, or mitigate the conflict of interest. If the parties fail to reach agreement on a course of action, or if having reached such agreement the Contractor fails to strictly adhere to such agreement during the remaining period of contract performance, the DTA's Director of Finance has the discretion to terminate the contract for default. No determination by the DTA's Director of Finance under this clause shall be reviewable under FAR Clause 52.233-1, Disputes Clause (May 2014), which is also incorporated by reference herein.

6. The Contractor's misrepresentation of facts in connection with a conflict of interest reported or a Contractor's failure to disclose a conflict of interest as required shall be a basis for default termination of this contract.

#### **G-15 TAXES**

The DTA is exempt from payment of the Federal excise, transportation tax, Minnesota State sales tax and City of Duluth City sales tax.

#### **G-16 SUBCONTRACTORS**

The Proposer shall disclose all subcontractors and their involvement in the project at the time of proposal submittal. The Contractor shall insert the required Federal and State provisions in every subcontract.

#### **G-17 MINNESOTA NONDISCRIMINATION REQUIREMENTS**

In accordance with Minnesota §181.59, **DISCRIMINATION ON ACCOUNT OF RACE, CREED, OR COLOR PROHIBITED IN CONTRACT+**

The Contractor hereby agrees and shall cause this provision to be inserted in every subcontract the following:

- (1) that, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
- (2) that no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
- (3) that a violation of this section is a misdemeanor; and
- (4) that this contract may be canceled or terminated by the state, county, city, or the Duluth Transit Authority, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this Contract.

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**G-18. SINGLE RESPONSE**

If only one Proposal is received in response to this RFP, a detailed cost/price analysis may be requested of the Proposer. A cost or cost and price analysis and evaluation, and/or audit of the cost may be performed in order to determine if the price is fair and reasonable. If the DTA Procurement Manager determines a cost analysis is required, the Proposer must be prepared to provide, upon request, cost summaries of estimated costs (i.e. labor, equipment, supplies, overhead, etc.) and documentation supporting all cost elements.

**SIGNIFICANT DATES OF PROCUREMENT**

<b>Item</b>	<b>Date</b>	<b>Time</b>
Date of Release	April 25, 2019	
Preproposal Meeting	May 14, 2019	10:00 am
Request for Clarifications	June 5, 2019	3:00 pm
Responses for Clarifications	June 7, 2019	3:00 pm
Proposal Opening	June 20, 2019	3:00 pm
Interviews (if necessary)	July 8-18 2019	
Award	August 2019	

# FEDERAL TRANSIT ADMINISTRATION

## Contract Clauses

### A.1 ACCESS TO RECORDS 49 U.S.C. § 5325(g)

#### Applicability to Contracts

The record keeping and access requirements extend to all third-party contractors and their contracts at every tier and subrecipients and subcontract at every tier.

#### Flow Down

The record keeping and access requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

#### Clause Language

- a. Records Retention. The Contractor will retain, and will requires its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract; including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation claims or exceptions related thereto.
- c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this Contract as reasonably may be required.

### A.2 BONDING REQUIREMENTS 2 CFR §200.325, 31 CFR Part 223

Does not apply to this procurement

### A.3 BUS TESTING

49 U.S.C. 5318(E), 49 CFR Part 665  
Does not apply to this procurement

### A.4 BUY AMERICA REQUIREMENTS 49 U.S.C. 5323 (J), 49 CFR Part 661

Does not apply to this procurement

### A.5 CARGO PREFERENCE REQUIREMENTS 46 U.S.C. §55.05 46 C.F.R. Part 381

Does not apply to this procurement

### A.6 CHARTER SERVICE

49 U.S.C.5323(d) and (r)  
49 C.F.R. Part 604

Does not apply to this procurement

### A.7 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

49 U.S.C §§7401-7671q  
33 U.S.C §§1251-1387

2 C.F.R. Part 200, Appendix II (G)  
Does not apply to this procurement

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**A.8 CIVIL RIGHTS LAWS AND REGULATIONS**

**Applicability to Contracts**

Federal Civil Rights laws and regulations apply to all contracts.

**Flow Down**

The Civil Rights requirements flow down to all third-party contractors and their contract at every tier.

**Model Clause/Language**

**Civil Rights and Equal Opportunity**

The Duluth Transit Authority is an Equal Opportunity Employer. As such, the Duluth Transit Authority agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Duluth Transit Authority agrees to comply with the requirements of 49 U.S.C. §5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. §5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, 41 C.F.R. Chapter 60, and Executive Order No. 11246, Equal Employment Opportunity in Federal Employment, September 24, 1965, 42 U.S.C. §2000e note, as amended by any later Ex Order that amends or supersedes it, referenced in 42 U.S.C. §2000e note. The Contractor agrees to take affirmative action to ensure that applicants re employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, Age Discrimination in Employment Act, 29 C.F.R. Part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6101 *et. Seq.*, U.S. Health and Human Services regulations, Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. Part 90, and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for the reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12101 *et. Seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §4151 *et. Seq.*, and Federal transit law at 49 U.S.C. §4332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**A.9 DISADVANTAGED BUSINESS ENTERPRISE (DBE)**  
**49 CFR Part 26**

**Flow Down**

The DBE contracting requirements flow down to all third party contractors and their contracts at every tier. It is the recipient's and prime contractor's responsibility to ensure the DBE requirements are applied across the board to all subrecipients/contractors/subcontractors. Should a subcontractor fail to comply with DBE regulations, FTA would look to the recipient to make sure it intervenes to monitor compliance. The onus for compliance is on the recipient. For all DOT-assisted contracts, each FTA recipient must include assurance that third party contractors will comply with the DTA program requirements of 49 C.F.R Part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts.

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**Clause/Language**

It is the policy of the Duluth Transit Authority and the United States Department of Transportation (~~DOT~~) that Disadvantaged Business Enterprises (~~DBE~~), as defined herein and in the Federal regulations published at 49 C.F.R. Part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the Duluth Transit Authority to:

1. ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The Duluth Transit Authority shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, the Duluth Transit Authority may consider during its review of the Bidder/Offeror's submission package, the Bidder/Offeror/s documented history of non-compliance with DBE requirements on previous contracts with the Duluth Transit Authority.

**Contractor Assurance**

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Duluth Transit Authority deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. §26.13(b).

**DBE Participation**

For purposes of this Contract, the Duluth Transit Authority will only accept DBEs who are:

1. Certified at the time of the bid opening or proposal evaluation by the Unified Certification Program; or
2. An out of state firm who has been certified by either a local government, state government or Federal government entity authorized to certify DBE status or an agency whose DBE certification process has received FTA approval; or
3. Certified by another agency approved by the Duluth Transit Authority.

**DBE Participation Goal**

There is no DBE participation goal for this Contract.

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Duluth Transit Authority or in accordance with state statutes, whichever if more restrictive. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days (or in accordance with state law, whichever is more restrictive) after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify Duluth Transit Authority, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Duluth Transit Authority.

**A.10 EMPLOYEE PROTECTIONS**

49 U.S.C. §5333(a), 40 U.S.C. §§3141-3148  
29 C.F.R. Part 5, 18 U.S.C. §874

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29 C.F.R. Part 3, 40 U.S.C. §§3701-3708, 29 C.F.R. Part 1926

**Applicability to Contracts**

Certain employee protections apply to all FTA funded contracts with particular emphasis on construction related projects.

**Flow Down**

These requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontractors at every tier. The Davis-Bacon Act and the Copeland Anti-Kickback Act apply to all prime construction, alteration or repair contracts in excess of \$2,000. The Contract Work Hours and Safety Standards Act apply to all FTA funded contracts in excess of \$100,000 that involve the employment of mechanics or laborers.

**Model Clause/Language**

**Prevailing Wage and Anti-Kickback**

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland Anti-Kickback Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction. In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland Anti-Kickback Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States. The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

**Contract Work Hours and Safety Standards**

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime

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Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

**Contract Work Hours and Safety Standards for Awards Not Involving Construction**

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. DOL regulations, Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act), 29 C.F.R. part 5.

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

**A.11 ENERGY CONSERVATION REQUIREMENTS**

42 U.S.C. 6321 *et seq.*

49 CFR Part 622, Subpart C

**Applicability to Contracts**

The Energy Conservation requirements are applicable to all contracts.

**Flow Down** These requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontractors at every tier.

**Model Clause/Language**

**Energy Conservation** . The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**A.12 FLY AMERICA**

49 U.S.C. §40118, 41 C.F.R. Part 301-10

48 C.F.R. Part 47.4

Does not apply to this procurement

**A.13 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

2 C.F.R. Part 180, 2 C.F.R. Part 1200, 2 C.F.R. §200.213

2 C.F.R. Part 200, Appendix II (I)

Executive Order 12549, Executive Order 12689

**Background and Applicability**

A contract award (of any tier) in an amount expected to equal or exceed \$25,000 or a contract award at any tier for a federally required audit (irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180. The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Recipients, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions (b) collecting a certification from that person; or (c) adding a clause or condition to the contract or subcontract.

**Flow Down**

Recipients, contractors, and subcontractors who enter into covered transactions with a participant at the next lower level, must require that participant to: (a) comply with subpart C of 2 C.F.R. part 180, as supplemented by

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2 C.F.R. part 1200; and (b) pass the requirement to comply with subpart C of 2 C.F.R. part 180 to each person with whom the participant enters into a covered transaction at the next lower tier.

**Model Clause/Language**

**Debarment, Suspension, Ineligibility and Voluntary Exclusion**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, Nonprocurement Suspension and Debarment, 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Duluth Transit Authority. If it is later determined by the Duluth Transit Authority that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Duluth Transit Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**A. 14 LOBBYING RESTRICTIONS**

**31 U.S.C. 1352, 2 CFR §200.450**

**2 C.F.R. Part 200 Appendix II (J), 49 C.F.R. Part 20**

**Applicability to Contracts**

The lobbying requirements apply to all contracts and subcontracts of \$100,000 or more at any tier under a Federal grant. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this agreement, the payor must complete and submit the Standard Form -LLL, Disclosure Form to Report Lobbying in accordance with its instructions.

**Flow Down**

The lobbying requirements mandate the maximum flow down pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. §1352(b)(5).

**Lobbying Restrictions**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.



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3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**A.15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

**Applicability to Contracts**

The No Obligation clause applies to all third-party contracts that are federally funded.

**Flow Down**

The No Obligation clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

**No Federal Government Obligation to Third Parties.**

The DTA and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the DTA, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**A.16 PATENT RIGHTS AND RIGHTS IN DATA**

2 C.F.R. part 200, Appendix II (F)

37 C.F.R. part 401

Does not apply to this procurement

**A.17 PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES**

49 U.S.C. 5323 (m), 49 C.F.R. Part 663

Does not apply to this procurement

**A.18 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

49 U.S.C. § 5323(l) (1), 31 U.S.C. §§ 3801-3812

18 U.S.C. § 1001, 49 C.F.R. part 31

**Applicability to Contracts**

The Program Fraud clause applies to all third-party contracts that are federally funded.

**Flow Down**

The Program Fraud clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier. These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

**Program Fraud and False or Fraudulent Statements or Related Acts**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that

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is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**A.19 PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS**

49 U.S.C. § 5333(b) (3)(c), 29 C.F.R. part 215  
Does not apply to this procurement

**A.20 RECYCLED PRODUCTS**

42 U.S.C. § 6962 , 40 C.F.R. part 247  
2 C.F.R. part § 200.322

**Applicability to Contracts**

The Resource Conservation and Recovery Act, as amended, (42 U.S.C. § 6962 *et seq.*), requires States and local governmental authorities to provide a competitive preference to products and services that conserve natural resources, protect the environment, and are energy efficient. Recipients are required to procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.

**Flow Down**

These requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier where the value of an EPA designated item exceeds \$10,000.

**Model Clause/Language**

**Recovered Materials**

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), Comprehensive Procurement Guideline for Products Containing Recovered Materials, 40 C.F.R. part 247.

**A.21 SAFE OPERATION OF MOTOR VEHICLES**

23 U.S.C. part 402, Executive Order No. 13043  
Executive Order No. 13513, U.S. DOT Order No. 3902.10

**Applicability to Contracts**

The Safe Operation of Motor Vehicles requirements apply to all federally funded third party contracts. In compliance with Federal Executive Order No. 13043, Increasing Seat Belt Use in the United States, April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third-party contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third-party subcontract involving the project. Additionally, recipients are required by FTA to include a Distracted Driving clause that addresses distracted driving, including text messaging in each of its third-party agreements supported with Federal assistance.

**Flow Down Requirements**

The Safe Operation of Motor Vehicles requirements flow down to all third-party contractors at every tier.

**Safe Operation of Motor Vehicles**

**Seat Belt Use**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms company-owned and company-leased refer to vehicles owned or leased either by the Contractor or the Duluth Transit Authority.

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**Distracted Driving**

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

**A.22 SCHOOL BUS OPERATIONS**

49 U.S.C. 5323(f), 49 C.F.R. part 605  
Does not apply to this procurement

**A.23 SEISMIC SAFETY**

42 U.S.C. 7701 *et seq.*, 49 C.F.R. part 41  
Executive Order (E.O.) 12699  
Does not apply to this procurement

**A.24 SUBSTANCE ABUSE REQUIREMENTS**

49 U.S.C. § 5331, 49 C.F.R. part 655  
49 C.F.R. part 40  
Does not apply to this contract

**A.25 TERMINATION**

2 C.F.R. § 200.339, 2 C.F.R. part 200, Appendix II (B)

**Applicability to Contracts**

All contracts in excess of \$10,000 must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.

**Flow Down**

For all contracts in excess of \$10,000, the Termination clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

**Model Clause/Language**

**Termination for Convenience (General Provision)**

The Duluth Transit Authority may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Duluth Transit Authority's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Duluth Transit Authority to be paid the Contractor. If the Contractor has any property in its possession belonging to the Duluth Transit Authority, the Contractor will account for the same, and dispose of it in the manner the Duluth Transit Authority directs.

**Termination for Default [Breach or Cause] (General Provision)**

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Duluth Transit Authority may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Duluth Transit Authority that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Duluth Transit Authority, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

**Opportunity to Cure (General Provision)**

The Duluth Transit Authority, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions to cure the defect.

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If Contractor fails to remedy to the Duluth Transit Authority's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from the Duluth Transit Authority setting forth the nature of said breach or default, the Duluth Transit Authority shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the Duluth Transit Authority from also pursuing all available remedies against Contractor and its sureties for said breach or default.

**Waiver of Remedies for any Breach**

In the event that the Duluth Transit Authority elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by the Duluth Transit Authority shall not limit the Duluth Transit Authority's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

**Termination for Default (Supplies and Service)**

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Duluth Transit Authority may terminate this contract for default. The Duluth Transit Authority shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Duluth Transit Authority.

**A.26 VIOLATION AND BREACH OF CONTRACT**

2 C.F.R. § 200.326, 2 C.F.R. part 200, Appendix II (A)

**Applicability to Contracts**

All contracts in excess of the Simplified Acquisition Threshold (currently set at \$150,000) shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanction and penalties as appropriate.

**Flow Down**

The Violations and Breach of Contracts clause flow down to all third party contractors and their contracts at every tier.

**Model Clause**

**Rights and Remedies of the Agency**

The DTA shall have the following rights in the event that the DTA deems the Contractor guilty of a breach of any term under this contract.

1. The right to take over and complete the work or any part thereof as an agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include failure to perform services as proposed, failure of the resulting to perform as represented in the Contractor's RFP response, failure to meet proposed timelines unless approved in writing by the DTA Project Manager.

**Rights and Remedies of the Contractor**

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which be committed by the DTA, the Contractor expressly agrees that no default, act or omission of the DTA shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the DTA directs the Contractor to do so) or to suspend or abandon performance.

**Remedies**

Substantial failure of the Contractor to complete the Project in accordance with the terms of this agreement will be a default of this Agreement. In the event of a default, the DTA will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by

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the Contractor before the DTA takes action contemplated herein, the DTA will provide the Contractor with sixty (60) days written notice that the DTA considers that such a breach has occurred and will provide the Contractor with a reasonable period of time to respond and to take necessary corrective action.

### **Disputes**

• **Example 1:** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the DTA's General Manager. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the General Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence of support on its position. The decision of the DTA General Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

• **Example 2:** The DTA and the Contractor intend to resolve all disputes under this Agreement to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staff, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within the DTA and the Contractor's organization.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the DTA's direction or decisions made thereof.

### **Performance during Dispute**

Unless otherwise directed by the DTA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

### **Claims for Damages**

Should either party to the Contract suffer injury or damages to person or property because of any act or omission of the party or any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

### **Remedies**

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the DTA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the DTA is located.

### **Rights and Remedies**

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the DTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed to in writing.

**DULUTH TRANSIT AUTHORITY**

**CONTRACT FOR**

**Mobile Application Development Services**

**April 25, 2019**

**Duluth Transit Authority City of Duluth  
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Contract Example for Proposal Purposes

This contract, made as of \_\_\_\_\_, 2019 by and between \_\_\_\_\_ a \_\_\_\_\_ (Corporation, LLC, etc.) located at \_\_\_\_\_, hereafter referred to as "~~%Contractor+~~" and the Duluth Transit Authority, 2402 W. Michigan St., Duluth, MN, hereafter referred to as "~~%DTA+~~". The DTA and the Contractor are parties ("~~%Parties+~~") to this contract ("~~%Contract+~~").

**ARTICLE 1                              The Contract Documents**

The Contract Documents in priority order consist of the FTA Contract Clauses, this Contract; Request for Proposals (Procurement # 040-18-0029) dated April 25, 2019, General Special and Technical Specifications, and all addenda and modifications thereto issued prior to the execution of the Contract; and the Contractor's Proposal including required certificates; all as fully a part of the Contract as if attached to this Contract or repeated herein.

**ARTICLE 2                              Scope of Professional Services**

Contractor will perform the services identified in its proposal dated \_\_\_\_\_, 2019 (the "~~%Proposal+~~") attached hereto and made a part hereof, and provide other professional services generally related thereto as the DTA staff may from time to time request. In the event of any conflict between the terms of the Proposal and this Contract, the terms and conditions of this Contract shall be deemed controlling.

**ARTICLE 3                              Professional Fees and Payment**

In consideration of the provision of the services referenced in Article 2 above in an acceptable manner, the DTA hereby agrees to reimburse Contractor for said services set forth in the Proposal attached hereto and made a part hereof to complete the services. Requests for reimbursement of expenses shall be made no more frequently than monthly and shall be accompanied by such documentation that the DTA shall reasonably request, including demonstration of milestones accomplished sufficient to secure progress payments.

Terms of payment shall be thirty (30) days net from the conclusion of the month for which payment is due, unless a discount for earlier payment is solicited by the DTA and offered by the Proposer. Payment does not imply acceptance of work. The granting of any progress payment or payments by DTA, or the receipt thereof by the Contractor, shall not constitute in any sense acceptance of the work or any portion thereof, and shall in no way lessen the ability of the Contractor to replace unsatisfactory work or material, though the unsatisfactory character of such work may not have been apparent or detected at the time such payment was made. Materials, components or workmanship which does not conform to the instruction of these Contract requirements and specifications or are not equal to the samples submitted to and approved by the DTA Project Manager will be rejected and shall be replaced by the Contractor without delay. The DTA may withhold payment for Contractor's services where the services are in dispute, where the services or any claimed reimbursable expenses are not documented or warranted, or when the service was not performed in accordance with the terms of the Contract Documents.

Pay applications must be forwarded to the DTA Finance Director, 2402 West Michigan Street, Duluth, MN 55806.

**ARTICLE 4                              Assignability**

Contractor shall not in any way assign or transfer any of its rights or interests under this Contract in any way whatsoever without the prior written consent of the Duluth Transit Authority General Manager.

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**ARTICLE 5 Termination of Service**

The DTA may, by giving written notice specifying the effective date thereof, terminate this Contract in whole or in part without cause. In the event of termination, all property and finished or unfinished documents and other writings prepared by Contractor under this Contractor shall become the property of the DTA and Contractor shall promptly deliver the same to the DTA. Contractor shall be entitled to compensation for services properly performed by it to and including the date written notice of termination of this Contract, including reimbursable expenses.

**ARTICLE 6 Changes to the Contract**

The DTA or the Contractor may, from time to time, request changes in the scope of the services to be performed hereunder. Such changes, including the increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the DTA and the Contractor, shall be incorporated in written amendments to the Contract.

**ARTICLE 7 Standard of Performance**

The Contractor agrees that all services to be provided to DTA pursuant to this Contract shall be in accordance with generally accepted standards of the profession for provision of services of this type.

**ARTICLE 8 Reports and Inspection**

**a. Establishment and Maintenance of Records**

Records shall be maintained by the Contractor in accordance with the requirements prescribed by the DTA and with respect to all matters covered by this Contract. Such records shall be maintained for a period of six (6) years after receipt of final payment under this project.

**b. Documentation of Costs.**

Contractor will ensure that all costs shall be supported by properly executed payrolls, time reports, invoices, contracts, vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

**c. Reports and information.**

Contractor shall be responsible for furnishing to the DTA records, data and information as the DTA may require, pertaining to matters covered by this Contract.

**d. Audits and Inspections**

Contractor shall ensure that at any time during normal business hours and as often as the DTA may deem necessary, there shall be made available to the DTA for examination, all of its records with respect to all matters covered by this Contract. Contractor will also permit the DTA to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Contract.

**e. Confidentiality of Information**

All reports, data, information, documentation and material given or prepared by the Contractor pursuant to this Contract will be confidential and will not be released by the Contractor without prior authorization from the DTA except as required for the performance of Contractor's services or as required by law.

**f. Ownership of Data**

All notes, reports, design plans, specifications, special studies, records and other data prepared under this Contract shall become the property of DTA when prepared and shall be delivered to the DTA upon completion or termination of the services of Contractor or at such earlier time as requested by the DTA.



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**ARTICLE 9 Indemnification**

The Contractor shall defend, indemnify and save the DTA, ATE Management of Duluth, First Transit, Inc. and the State of Minnesota, harmless from all costs, charges, damages, and loss of any kind that may grow out of the matter covered by this Contract. Said obligation does not include indemnification of the DTA, ATE Management of Duluth, First Transit, Inc., and the State of Minnesota for claims of liability arising out of the sole negligent or intentional acts or omissions of the DTA, ATE Management of Duluth, First Transit, Inc., and the State of Minnesota but shall include but not be limited to, the obligation to defend, indemnify and save harmless the DTA, ATE Management of Duluth, First Transit, Inc., and the State of Minnesota in all cases where claims of liability against the DTA, ATE Management of Duluth, First Transit, Inc., and the State of Minnesota arise out of acts or omissions of DTA, ATE Management of Duluth, First Transit, Inc., and the State of Minnesota which are derivative of the negligence or intentional acts or omissions of the Contractor such as, and including but not limited to, the failure to supervise, the failure to warn, the failure to prevent such act or omission by Contractor and other such source of liability. In addition, Contractor will comply with all local, state and federal laws, rules and regulations applicable to this Contract and to the work to be done and things to be supplied hereunder.

**ARTICLE 10 Insurance**

a. Prior to the execution of the Contract, the Contractor shall provide the following minimum amounts of insurance from insurance companies authorized to do business in the State of Minnesota, with an ~~AM~~ BEST+rating of A-(minus), Financial Size Category (FSC) VII or better, which insurance shall indemnify Contractor and DTA, ATE Management of Duluth, First Transit, Inc., and the State of Minnesota from all liability described in the paragraph above.

(1) Workers~~q~~compensation insurance for all of its employees, and in case of any work subcontracted, will require its subcontractor(s) to provide Workers~~q~~Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer~~s~~ Liability Insurance; minimum limits as follows:

- \$100,000 Bodily Injury by Disease per employee
- \$500,000 Bodily Injury by Disease aggregate
- \$100,000 Bodily Injury by Accident

(2) Commercial General Liability Insurance: the Contractor will maintain insurance protecting the Contractor from claims for damages for bodily injury, including sickness or disease, death and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor pursuant to the Contract. Minimum limits shall be:

- \$1,500,000 per occurrence
- \$3,000,000 annual aggregate
- \$3,000,000 annual aggregate, Products/Completed Operations

The following coverages must be included:

- Premises and Operations, Bodily Injury and Property Damage
- Personal and Advertising Injury
- Blanket Contractual Liability
- Products and Completed Operations Liability

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- Duluth Transit Authority, ATE Management of Duluth, First Transit, Inc., and the State of Minnesota shall be named as Additional Insured to the extent permitted by law.

- (3) Commercial Automobile Liability Insurance: The Contractor shall be required to maintain insurance protecting the Contractor from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired and non-owned vehicles which may arise from operations under the Contract, and in case any work is subcontracted, the Contractor must require the subcontractor to provide Commercial Automobile Liability insurance. Insurance minimum limits shall be \$2,000,000 per occurrence, Combined Single limit for Bodily Injury and Property Damage. Owned, Hired and Non-Owned Vehicle must also be included.

Contractor to provide Certificate of Insurance evidencing such coverage with 30-days notice of cancellation, non-renewal or material change provisions included. The DTA does not represent or guarantee that these types or limits of coverage are adequate to protect the Contractor's interests and liabilities.

Any deductible will be the sole responsibility of the Contractor and may not exceed \$50,000 without the written approval of the DTA General Manager. If the Contractor desires authority from the DTA for a higher deductible amount, the Contractor shall make such request in writing, specifying the amount of the desired deductible and provide financial documentation acceptable to the DTA General Manager from its own resources. The DTA will treat such financial statements as non-public data to the extent permitted by the Minnesota Government Data Practices Act.

*\*An umbrella policy with a "following form" provision is acceptable if written verification is provided that the underlying policy names the DTA, ATE Management, Inc., First Transit Inc., and the State of Minnesota as an additional insured.*

- (4) The retroactive or prior acts date of coverage must not be after the effective date of the Contract, and the Contractor must maintain such coverage for a period of at least three years following the completion of work. If such insurance is discontinued, then extended reporting period coverage must be obtained by the Contractor to fulfill this requirement.
- (5) Additional Insurance Conditions:
- The Contractor's policy(ies) will be primary insurance to any other valid and collectible insurance available to the DTA with respect to any claim arising out of the Contractor's performance under this Contract.
  - If the Contractor receives a cancellation notice from an insurance carrier affording coverage herein, the Contractor agrees to notify the DTA General Manager within five business days with a copy of the cancellation notice, unless the Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the DTA.
  - The Contractor is responsible for payment of Contract related insurance premiums and deductibles.

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-if the Contractor is self-insured, a Certificate of Self-Insurance must be provided to the DTA at the time of Contract execution.

-The Contractor's policy(ies) must include legal defense fees in addition to its liability policy limits above;

- b. Contractor shall be required to provide insurance meeting the requirements of this Paragraph unless Contractor successfully demonstrates to the satisfaction of the City Attorney, in the exercise of his or her discretion, that such insurance is not reasonably available in the market. If Contractor demonstrates to the satisfaction of the City Attorney that such insurance is not reasonably available, the City Attorney may approve an alternative form of insurance which is reasonably available in the market which he or she deems to provide the highest level of insurance protection to the DTA.
- c. The DTA reserves the right to immediately terminate the Contract if the Contractor is not in compliance with the insurance requirements, and the DTA retains all rights to pursue any legal remedies against the Contractor. All insurance policies must be open to inspection by the DTA, and copies of policies must be submitted to the DTA upon request by the DTA General Manager

**ARTICLE 11 Rules and Regulations**

Contractor agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, the State of Minnesota, the City of Duluth, and their respective agencies which are applicable to its activities under this Contract, along with the rules and requirements of the DTA as they apply to the facilities under management by Contractor.

**ARTICLE 12 Independent Contractor**

It is agreed that nothing herein contained is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the Parties hereto or of constituting the Contractor as an agent, representative or employee of the DTA for any purpose or in any manner whatsoever. Contractor and any officers or employees thereof shall not be considered an employee of the DTA, and any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of Contractor arising out of employment or alleged employment, including without limitation, claims of discrimination against the DTA, its officers, agents, contractors and employees shall in no way be the responsibility of the DTA. Contractor and its officers, agents, contractors and employees shall not be entitled to any compensation rights or benefits of any hospital care, sick leave and vacation pay, Worker's Compensation, Unemployment Insurance, disability pay or severance pay. Furthermore, the DTA shall not in any way, be responsible to defend, indemnify or save harmless Contractor from liability or judgments arising out of the intentional or negligent acts or omissions of Contractor or any team member while performing the work specified by this Contract.

**ARTICLE 13 Rights and Remedies**

The duties and obligations imposed by the Contract and the rights and remedies available hereunder shall be in addition to and not in limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

Failure of the DTA to act shall in no way constitute a waiver of any right or duty afforded to it under the Contract, nor shall any such action or failure to act constitute an approval of or an acquiescence in any breach of this Contract, except as may be specifically agreed to by the DTA.

**ARTICLE 14 Delays**

Contractor shall notify DTA in writing of any delays, including all relevant details, immediately upon encountering any difficulties which threaten to delay the timely performance of this Contract, and may

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at that time or subsequently request an extension of the delivery date or schedule. However, such notification or request or acceptance of delinquent equipment shall not constitute acceptance of the delay, or request for extension, without written acceptance by DTA as a change in the Contract.

**ARTICLE 15 State, Federal, OSHA Safety Requirements**

All work performed under this Contract shall conform to all latest local, state and federal safety requirements, and shall, in all cases, meet OSHA requirements. It shall be the Contractor's responsibility to ensure complete compliance with these requirements.

**ARTICLE 16 Severability**

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Contract.

**ARTICLE 17 Waiver**

Any waiver by either party of any provision of this Contract shall not imply a subsequent waiver of that nor any other provision.

**ARTICLE 18 Communications**

Communications in connection with this Contract shall be in writing and shall be delivered personally; by e-mail, facsimile, or by regular, registered, or certified mail addressed to the officer(s) or employee(s) of the DTA and of the Contractor designated to receive such communications. Telephone calls may be used to expedite communications but shall not be official communication unless confirmed in writing.

Designation for DTA

Designation for Contractor

Chris Belden, Director of Planning

\_\_\_\_\_

**ARTICLE 19 Extent of Agreement**

The Contract document represents the entire and integrated agreement between the DTA and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. The Contract documents may be amended only by written instrument signed by both DTA and Contractor.

**ARTICLE 20 Governing Law**

Unless otherwise specified, this Contract shall be governed by the applicable laws of the City of Duluth and State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in the court located in St. Louis County, Minnesota. However, litigation in Federal Courts involving the parties shall be in the appropriate federal court in the State of Minnesota.

**ARTICLE 21 Cancellation**

The DTA shall have the right to cancel this Contract if the DTA's governing body does not appropriate moneys to the department or agency in an amount equal to the cost of this Contract.

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This Contract entered into as of the day and year first written above.

Duluth Transit Authority

Contractor:

\_\_\_\_\_  
General Manager

\_\_\_\_\_  
Its \_\_\_\_\_

**Duluth Transit Authority  
PROPOSAL SHEETS  
Mobile Application Development Services**

**Section 4**

**FORMAL PROPOSAL SHEET**

DTA % Mobile Application Development Services+

NOTE: All Proposals must be written, signed and transmitted in a sealed envelope, plainly marked with Proposal number, subject matter and opening date.

**Return two copies of the Proposal, one unbound, with Descriptive Literature, and one electronic copy on a jump drive or CD.**

**PROPOSAL GUARANTEE REQUIREMENTS: Not Required.**

Proposals: ALL fees, delivery, and installation must be included.

TAX: Federal Excise Tax Exemption Account No. 41740056K; The DTA is State and City Tax Exempted.

**Proposals should include the following:**

1. A schedule of fees to develop and deploy a mobile application in accordance with the terms and conditions herein.
2. A schedule of hourly rates for key personnel.
3. A schedule of ongoing expenses for the first five years, including host fees, storage fees, etc.
4. A list of licensing fees and ongoing maintenance expenses broken down by year for the first five years.
5. A schedule of fees for ongoing technical support.
6. Any other costs not previously noted.
7. A summary of the total cost for the project

Firm Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

CITY STATE ZIP CODE

By: \_\_\_\_\_  
(PRINT NAME) TITLE PHONE NO.

Signature \_\_\_\_\_

Date: \_\_\_\_\_

Addendum Acknowledgment  
Number Date Recd

\_\_\_\_\_  
\_\_\_\_\_

#### 4.1. **Proof of Responsibility Statement**

The Duluth Transit Authority requires anyone submitting a bid or proposal to complete a sworn statement consisting of information relating to their capacity to complete the work requested, including financial stability, equipment, experience in the work prescribed, etc. If the Duluth Transit Authority is not satisfied with the sufficiency of the answers to the questionnaire and financial statement, it may reject the bid or disregard the same or require additional information. Attach separate sheets as necessary.

##### Statement of Bidder Qualifications and Responsibility

1. Name of Bidder or Proposer: \_\_\_\_\_
2. Address: \_\_\_\_\_
3. Legal form of company (partnership, corporation, joint venture, etc.) \_\_\_\_\_ (If a joint venture, identify the members of the joint venture and provide all information required in this section for each member.)
4. When Organized: \_\_\_\_\_
5. Where Incorporated (as applicable): \_\_\_\_\_
6. How many years has the firm or organization been engaged in the contracting business under the present firm name? \_\_\_\_\_

Questions 7-10: If the answer is ~~Yes~~ please provide details in a separate attachment.

7. Have you ever failed to complete any work awarded to you? No \_\_\_ Yes \_\_\_
8. Have you ever defaulted on a contract? No \_\_\_ Yes \_\_\_
9. Have you ever been sued for services you provided? No \_\_\_ Yes \_\_\_
10. Has your firm been charged with or convicted of, a violation of a wage schedule?  
No \_\_\_ Yes \_\_\_
11. Does your organization possess all valid licenses, registrations and certifications required by federal, state, county or city law necessary for the work it seeks to perform? No \_\_\_ Yes \_\_\_
12. Has your organization had any type of business, contracting or trade license, certification or registration revoked or suspended in the last three years? No \_\_\_ Yes \_\_\_ If yes, please provide details on separate sheet.
13. Is your firm or organization a part of a multi-entity corporation, a wholly-owned subsidiary, or more than 51% owned by another firm or organization? No \_\_\_ Yes \_\_\_ If yes, provide documentation on the parent organization, audited statements of financial standing, working capital financing, authorization to enter into contracts, and other proof of responsibility.
14. Does your firm have experience in similar type of projects or work, and have sufficient equipment, personnel, expertise, and financial reserves to perform the work successfully? No \_\_\_ Yes \_\_\_ (If no, please explain on a separate sheet. If yes, please provide the names and contact information of three (3) references.)
15. Has your firm or organization been a debtor in a bankruptcy proceeding in the last ten years? No \_\_\_ Yes \_\_\_ If yes, on a separate sheet of paper titled ~~B~~Bankruptcy Information+, state date, court of jurisdiction, amount of liabilities and amount of assets.
16. List the average range of annual gross receipts of the firm or organization for the past three years:
 

___ Less than \$500,000	___ \$500,000 to \$1 million
___ between \$1 million and \$5 million	___ between \$5 million and \$10 million
___ between \$10 million and \$15 million	___ above \$15 million



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17. Identify any conditions (e.g., pending litigation, planned office closures, impending merger, etc.) that may impede the proposed firm or organization's ability to complete the work.

18. Please provide a Proof of Responsibility Statement for each subcontractor or supplier providing goods or services in excess of fifty thousand dollars (\$50,000.00) listed in the bid or proposal.

**Warranty:**

The Contractor,

- (i) if it is a corporation, is duly incorporated, organized, validly existing and in good standing as a corporation under of the laws of the jurisdiction of its incorporation;
- (ii) if it is a partnership, non-profit organization, individual or sole proprietorship, is duly organized and validly existing under the laws of the jurisdiction in which it was organized;
- (iii) is duly qualified and in good standing under the laws of each jurisdiction where its existing ownership, lease, or operation of property in the conduct of its business requires, and
- (iv) has the power and legal right to conduct the business in which it is currently engaged and
- (v) attests that the execution, delivery and performance of the Contract does not and will not violate any provision of any applicable existing law, regulation or of any order, judgment, award or decree of any court or government applicable to the Contractor or the charter or by-laws of the Contractor or any mortgage, indenture, or other obligation.

Signed:

\_\_\_\_\_

Title \_\_\_\_\_

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**4.2. Small or Disadvantaged Business Enterprise, Veteran-owned Business (including Service Disabled Veteran Business Enterprises)**

1. Is the Contractor's firm or organization registered as a Small Business under the Small Business Administration's 8(a) Business Development Program, HUBZone business, or other development program through the SBA?

No \_\_\_ Yes \_\_\_ (If yes, please provide a copy of the registration.)

2. Is the Contractor's firm or organization certified or registered as a Small Business, a Disadvantaged Business Enterprise, or a Veteran-owned business (including Service-Disabled Veteran-owned business) by a government agency authorized to certify or register the above noted entities?

No \_\_\_ Yes \_\_\_ (If yes, please provide details and copies of the applicable registration or certification.)

The Contractor agrees to take all necessary steps to ensure that DBEs have the opportunity to compete for and perform work under this Contract.

The Contractor or Subcontractor shall not discriminate on basis of race, color, national origin or gender in the performance of this contract. Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT assisted contracts. Failure by the Contractor or Subcontractor to carry out these requirements is a material breach of the contract, which may result in the termination of this contract or such other remedy as the DTA deems appropriate.

Signed this \_\_\_ day of \_\_\_\_\_, 20\_\_\_:

\_\_\_\_\_

Title \_\_\_\_\_

**4.3 Subcontractors and Suppliers Listing**

List each subcontractor and/or supplier included in the bid or proposal, and include a Proof of Responsibility Statement for each subcontractor (of any tier) or supplier proposing to provide services or goods in excess of fifty thousand dollars (\$50,000. 00.) Subcontractors or Suppliers that are registered or certified S/DBEs must provide proof and the name of the certifying agency **prior to commencing work.**

Subcontractor: \_\_\_\_\_ Type of work: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Subcontractor: \_\_\_\_\_ Type of work: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Subcontractor: \_\_\_\_\_ Type of work: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Subcontractor: \_\_\_\_\_ Type of work: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Subcontractor: \_\_\_\_\_ Type of work: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Supplier: \_\_\_\_\_ Type of supply: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Supplier: \_\_\_\_\_ Type of supply: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Supplier: \_\_\_\_\_ Type of supply: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Supplier: \_\_\_\_\_ Type of supply: \_\_\_\_\_  
S/DBE or Veteran owned? \_\_\_\_\_

Changes to this list must be in writing and approved by the Duluth Transit Authority **prior to the commencement of subcontractor or supplier's work.**

Signed: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**SECTION 5 REQUIRED CERTIFICATES**

**Certificate A. AFFIDAVIT OF NONCOLUSION**

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

That I am the bidder (if the bidder is an individual), a partner of the bidder (if the bidder is a partnership), or an officer or employee of the bidding corporation, have authority to sign on its behalf (if the bidder is a corporation);

That the attached bid or bids have been arrived at by the bidder independently, and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other vendor of materials, supplies, equipment, or services described in the invitation to bid, designed to limit independent bidding or competition;

That the contents of the bid or bids have not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the bid or bids, and will not be communicated to any such person prior to the official opening of the bid or bids; and

That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Additionally;

The \_\_\_\_\_ hereby certifies it is /is not (circle one)  
Company Name

included on the United States Comptroller General's consolidated list of persons or firms currently debarred for violations of various public contracts incorporating labor standards provisions.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

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Certificate B. **DEBARRED BIDDERS**

**Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters:**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, Nonprocurement Suspension and Debarment, 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in ay federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Duluth Transit Authority. If it is later determined by the Duluth Transit Authority that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Duluth Transit Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_, 20\_\_

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Certificate C. **Anti-Lobbying Disclosure**

APPENDIX A, 49 CFR PART 20- CERTIFICATION REGARDING LOBBYING  
Certification for Contracts, Grants, Loans, and Cooperative Agreements  
***(To be submitted with each bid or offer exceeding \$100,000)***

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, %Disclosure Form to Report Lobbying, +in accordance with its instructions.
  3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

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**D. COMPLIANCE WITH SPECIFICATIONS  
Certificate**

The proposer hereby states that it will comply with the technical specifications issued by the Duluth Transit Authority in all areas except those where approved equals were granted by the purchaser (s).

SIGNED \_\_\_\_\_

FIRM NAME \_\_\_\_\_

**Duluth Transit Authority City of Duluth  
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**Certificate E**

The respondent hereby states that it has read and will comply the DTA's Vendor Code of Ethics and Organizational Conflict of Interest (both on the DTA website) as well as the applicable Federal Clauses and Requirements contained herein.

SIGNED \_\_\_\_\_

FIRM NAME \_\_\_\_\_



**Duluth Transit Authority City of Duluth  
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**Certificate F**

In accordance with Minnesota §181.59, ~~no~~ **DISCRIMINATION ON ACCOUNT OF RACE, CREED, OR COLOR PROHIBITED IN CONTRACT+**

The Contractor hereby agrees and shall cause this provision to be inserted in every subcontract the following:

(1) that, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;

(2) that no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;

(3) that a violation of this section is a misdemeanor; and

(4) that this contract may be canceled or terminated by the state, county, city, or the Duluth Transit Authority, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

\_\_\_\_\_ Signature of Contractor ~~or~~ Authorized Official

\_\_\_\_\_ Name and Title of Contractor ~~or~~ Authorized Official

\_\_\_\_\_ Date

# **TECHNICAL SPECIFICATIONS**

FOR

# **Mobile Application Development Services**

## **Section 6 TECHNICAL SPECIFICATIONS, SCOPE OF WORK**

### **A. Background**

The Duluth Transit Authority (DTA) is a public transportation bus system that operates fixed route and paratransit services seven days a week, 365 days a year. The DTA is seeking qualified firms to assist the DTA in implementing a mobile application (mobile app or App) for riders to use for route planning, real time bus tracking, receive updates on DTA routes, etc. The DTA's new website is currently in development and expected to be unveiled in second quarter of 2019. The target date for release of the App is after the website, but prior to January 31, 2020. The DTA is also in the process of evaluating an option for an electronic ticketing system accessible via a mobile device.

The new DTA website will be a Progressive Web Application to better serve the more than 80% of customers who access the website via a mobile device. The App must be compatible with the website with a similar look and feel and provide additional features and services. Respondents will be able to review the new website and given contract information to the website developer for technical and aesthetics questions. The website will feature a GTFS-RT feed for real time bus location information; this feature is also required on the mobile application.

The DTA will provide the feature requirements and design specifications for all applications. The Contractor will provide technical services to implement and release mobile applications for the Apple and Android operating systems and make them available for free download in the Apple iTunes App store and the Android Google Play Store at the same time. The DTA will be the owner of the applications, including all materials, branding, and graphics.

### **B. Features of the Mobile Application**

1. Real time tracking and route information
2. Trip planning, including maps
3. User account
4. Push notifications from DTA to the customer
5. Customer relations portal
5. Intuitive navigation features that do not require a stylus to access details
6. Able to report metrics on App usage to the DTA Project Manager
7. Operating System requirements of Android Version 4.0 and later, iOS: 7 and later

### **C. Summary of Functional Requirements of the App:**

1. Must be able to share information via all mobile devices and must be able to provide geolocation information to phones with GPS capability. The app will identify customer's current location, set origin point for planned trips, locate transit stops, stations and other amenities designated by the DTA, and alert the customer while in transit of their stop based on the user's preference.
2. The DTA has approximately 1,550 stops with unique number identifiers to be used in the App. The App will allow customers to set favorite locations, stops and routes. Customers will not be required to know the number identifier of the stop in order to set preferences for favorites, but may also use address and landmarks.

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3. Must provide real-time tracking and route information, bus arrival predictions.
4. For smart phones (iPhone and Android), the App must provide an interface that shows steady vehicle movement without reloading. Vehicles within the system must move fluidly, without hopping or jumping from location to location. The App must provide geolocation to allow riders to identify their location on a map. Riders should see their location on the map and the location should move as the customer's location changes.
5. The trip planner must allow users to easily plan trips using addresses, intersections, and landmarks in the DTA system.
6. Must display fare cost by trip.
7. The App must allow users to view static bus schedules offline.
8. The App must provide free to download native iPhone applications and native Android applications.
9. The App must provide an optional notification platform for riders that provides distributed information from DTA system administrators regarding DTA operations. The notification platform must also provide a system outside of the App that is capable of providing a push notification to riders without activating the ringer.
10. The App must allow riders to set an automatic notification when their vehicle is predicted to arrive in a predetermined interval set by the rider.
11. The system must provide robust alert systems, including the ability to see alerts at any time, and to push notifications outside of the app. Announcements must be able to be tagged as ~~urgent~~+or ~~not urgent~~+, changing the display of each announcement to the rider.
12. Alerts options include audio, vibration, text, etc.
13. Logos and brands must match the DTA's website.
14. The App must not interfere with any of the DTA's current infrastructure components.
15. The App must follow DTA security requirements, and must provide role-based access, password management controls and audit controls.
16. The App must be compatible with mobile device screen readers such as Apple Voiceover and Android Talkback, along with all ADA requirements.
17. The App must permit links to third party apps for real-time bus location services, mobile payment services, and other services that the DTA deems beneficial to the transit customer.

#### **D. Design**

Vendor will do all wire frame designs and graphics in compliance with the DTA style guide. The DTA will have final approval of the design, and may request up to three (3) edits and changes before final approval.

#### **E. Implementation**

1. Contractor shall provide a functional Beta test of the specified applications for testing purposes. The Beta environment will be tested by a team designated by the DTA to review features, report bugs and make change recommendations. The DTA may also elect to make the test environment public for comment prior to go live. Contractor should plan for multiple QA sessions, including user acceptance and prototype builds will be needed prior to final release.

A final version of the App will be submitted for public distribution.

#### **F. Content Management**

1. Content must be easily reviewed and edited by DTA staff without special tools or training. Software will provide automatic spell and grammar check. The Project Manager or Administrator must be able to update the content automatically upon approval.
2. The App must have the ability to be translated into common languages. Contractor shall provide the means and for language translation.

#### **G. Technical Support**

1. Contractor must provide 24-7 support when needed in case of emergencies, and must be accessible via phone, web and email.
2. Turnaround response time of vendor for any mission critical component of the system may not exceed four (4) hours without written approval from the DTA Project Manager.
3. Support must be available during normal business hours. Standby support shall be available at all other times, including nights, weekends and holidays.
4. Contractor must offer an online reporting system for trouble ticket submission and troubleshooting and must have a standby support member available at all times.
5. Contractor must offer a dedicated service agent for provision of all system updates, including building the system updates.
6. Contractor must offer a dedicated data team for changes to routes and stops, and must allow unlimited changes to all routes and stops made through the dedicated data team.
7. Contractor shall include all software upgrades in its initial proposal for a period of three (3) years after the installation of the software.

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8. Any maintenance fees, license fees or other fees associated with this App shall be inclusive of the fees for Technical Support.
9. Contractor shall provide bug fixes, corrections, modifications, enhancements, upgrades and new releases to the App to ensure:
  - a. the functionality of the App as described herein is available to the users
  - b. the functionality of the App is in accordance with the warranties and representations set forth herein, including, but not limited to, the App conforming in all material respects to the Specifications, functions, descriptions, standards, and criteria set forth herein
  - c. The solution will work with all versions of iPhones and Android devices and all Internet browsers
  - d. Maintenance fees (if any) shall include all fees for maintenance of the App, ongoing reporting requirements, technical support, etc.
10. Required Notice of Maintenance. Unless otherwise agreed to by Customer on a case by case basis, Contractor shall provide no less than thirty (30) calendar days prior written notice to the DTA Project Manager of all non-emergency maintenance to be performed on the App. The written notice shall include a detailed description of all maintenance to be performed. For emergency maintenance, Contractor shall provide as much prior notice as commercially practicable to the DTA Project Manager and shall provide a detailed description of all maintenance performed no greater than one (1) calendar day following the implementation of emergency maintenance.
11. Acceptance of Non-Emergency Maintenance. Unless as otherwise agreed to by the DTA Project Manager on a case by case basis, for non-emergency maintenance, Customer shall have a ten (10) business day period to test any maintenance changes prior to Contractor introducing such maintenance changes into production (the ~~Maintenance Acceptance Period~~). In the event that the DTA Project Manager rejects, for good cause, any maintenance changes during the Maintenance Acceptance Period,

#### **H. Warranty**

The Contractor will provide a minimum of a 1-year warranty on all software and hardware to be supplied by the Contractor. Terms and conditions of the warranty must be provided at the time of Proposal submittal.

#### **I. Training**

1. Contractor must offer training to all system administrators and designated DTA personnel. Additional training must be available as needed for future trainees.
2. The Contractor shall provide additional training at no additional cost if major modifications are made to the App after the initial training due to upgrades or changes made under Warranty, or delays in the APP deployment after the initial training for a period of more than three (3) months for which the Contractor is responsible.

#### **J. Hosted Services**

1. Contractor must provide full data access in relational format or comparable, upon request without additional cost.
2. System integration through standard web services or other http-based APIs is preferred.

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3. The system should provide authentication methods.
4. All premise security questions apply to the hosted services.
5. Independently verified security audits should be accessible for DTA review upon request.

**K. Hardware Requirements**

Contractor will provide a list of all hardware requirements for the proposed App, including servers, and an associated cost in the Cost Proposal.

**L. Cloud Based Apps**

1. The method and means of providing the App shall be under the exclusive control, management and supervision of the Contractor in compliance with the specifications herein. Except as otherwise agreed to, the services provided in the App shall be provided solely within the continental United States and on computing and data storage devices residing therein.
2. Subcontractors. The Contractor shall not enter into any subcontracts for the performance of the App, or assign or transfer any of its rights or obligations under this Contract without the DTA Project Manager's prior written consent. Any attempt to do so shall be void and without further effect and shall be a material breach of this Contract. Contractor's use of subcontractors shall not relieve the Contractor of any of its duties or obligations under this Contract.
3. Where the App or any web services affiliated with the Contractor contains any offensive content or portrays the DTA in a disparaging way, as solely determined by the DTA General Manager, the Contractor shall immediately remove the offensive or disparaging content and the DTA shall have the right, at the DTA General Manager's sole discretion, to either immediately terminate this Contract and be entitled to the return of any prepaid fees as liquidated damages and not as a penalty, or obtain or retain all fees paid or payable for the then-current term, as liquidated damages and not as a penalty, associated with any services corresponding to the offending or disparaging content.
4. Storage. The App shall include the applicable allocation of base data storage to support the App. Contractor shall immediately notify the DTA Project Manager when the DTA has reached eight percent (80%) of the DTA's then current data storage maximum (if applicable). Within five (5) calendar days of the DTA's request, Contractor will make additional storage available to the DTA at rates not greater than those preferred rates provided to other users similar in size and scope.
5. At the time of proposal submittal, Contractor shall provide to the DTA a copy of its disaster recovery plan for both the Contractor site and the DTA App. The DTA will consider this plan as part of the evaluation.

**M. Termination Services**

1. Commencing upon any termination of this Contract for any reason, the Contractor shall provide the DTA, at the DTA Project Manager's option and expense, all necessary assistance (except as ordinarily be provided as services under this Contract) to allow the licenses to continue without interruption or adverse effect to the DTA and to facilitate an

orderly transition to a replacement system (~~Termination Assistance~~). At the written request of the DTA Project Manager, given at least thirty (30) days prior to the expiration of the term of this Contract, Contractor shall continue to provide the DTA all licenses and services at the rates set forth in this Contract for a maximum period of six (6) months. As part of the Termination Assistance, the Contractor shall assist the DTA Project Manager to develop a plan for the transition of all App services from the Contractor to the DTA or its designee on a reasonable schedule developed by the Contractor and the DTA Project Manager.

2. Prior to providing any Termination Assistance, Contractor shall provide the DTA Project Manager with a good faith estimate of all such expenses and charges, including, without limitation, charges for custom programming services. The DTA understands that all expenses and charges for Termination Assistance shall be computed in accordance with Contractor's then current rates for such projects, materials and services. Notwithstanding the foregoing, if this Contract is terminated due to an uncured Contractor breach, Termination Assistance shall be provided at no additional cost to the DTA. Nothing contained herein shall obligate the DTA to accept Termination Assistance.

**N. Proprietary Rights**

1. The DTA acknowledges that, in the course of performing the services in this Contract, the Contractor may use software and related processes, instructions, methods, and techniques that have been previously developed by the Contractor (collectively the ~~Pre-existing Materials~~), which shall include services) and that the same shall remain the sole and exclusive property of the Contractor.
2. No License Except as expressly set forth herein, no license is granted by either party to the other with respect to confidential information or Pre-Existing Materials. Nothing in this Contract shall be construed to grant either party any ownership or other interest in confidential information or Pre-Existing Materials, except as may be provided under a license specifically applicable to such confidential information or Pre-existing Materials.
3. The provisions of this Section shall survive the termination of this Contract.
4. Indemnification The Contractor agrees to indemnify, defend and hold harmless the DTA, ATE Management of Duluth and First Transit, Inc., from and against any and all claims, including reasonable attorney's fees, costs and expenses incidental thereto, which may be suffered by, incurred by, accrued against, charged to or recoverable from the DTA by reason of any claim arising out of or relating to the services provided herein infringing or misappropriating any United States or foreign patent, copyright, trade secret, trademark or other proprietary right. In the event the Contractor is enjoined from providing the services herein and such injunction is not dissolved within thirty (30) calendar days, or in the event that the Contractor is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any patent, copyright, trade secret, trademark or other proprietary right in the access or use of the services provided herein, then Contractor shall, at its sole cost and expense:



- a) obtain for the Customer the right to continue using such services as provided herein
- b) replace or modify such services as provided herein so they do not infringe upon or misappropriate such proprietary rights and is free to be used by the DTA, or
- c) in the event that the Contractor is unable or determines in its reasonable judgement, that it is commercially unreasonable to do either of the aforementioned, Contractor shall reimburse the DTA any prepaid fees and the full cost of any transition services, including the purchase of new software, hardware or other goods and services to receive the services as provided herein.

**O. Rights In Data**

The DTA must maintain ownership of all data, formatting scrips, design templates and domain where they are not already open source product. A list of all source materials used will include freeware and shareware scripts along with accurate links to those authors and to locations within the App where that source material is utilized. Please describe the purchase and/or licensing options offered for rights to data, scripts, underlying tools, HTML, design templates, etc. for the benefit of the DTA.

**P. Licensing and Maintenance Agreements**

The Proposer must submit with the Proposal, sample licensing and maintenance agreements. These agreements must include all associated costs of licensing as well as the ongoing support the Contractor would provide to the DTA once the project is complete.

**Q. Project Meetings**

The Contractor will provide at least a weekly communication with the Project team, which includes the DTA Project Manager, the Contractor's Project Lead, and additional key staff identified by the Contractor and the DTA. Meetings will be hosted at the DTA offices, and may be conducted by telephone or tele-video conference during DTA business hours.

The selected Contractor shall meet in person with the DTA Project Manager and key staff for at least three meetings, at kick off, at Beta testing, and just prior to Go Live date. The cost of these meetings shall be included in the Proposer's Cost Proposal, including all travel costs and incidentals. No per diem will be paid for these meetings. Additional meetings may be requested at the DTA Project Manager's discretions, the cost of which will be agreed upon at the time of the request.

**R. Preliminary Timeline**

1. Project must be completed no later than March 31, 2020. Proposer shall provide, at the time of Proposal submittal, a proposed timeline along with interim milestones such as design approval, QA testing, etc. noted. This will become a material consideration in the evaluation process.

**S. Other Project Requirements**

1. No substitution of the Contractor's Project Manager shall be made without the DTA's Project Manager. The DTA may request one change in the Contractor's Project Manager during the course of the Project without cause or penalty. Thereafter, changes

in the Project Manager must be mutually agreed upon by the DTA Project Manager and the Contractor.

2. The Contractor shall provide documentation to illustrate whether each project requirement is met and the process, feature or device used to meet it.
3. Proposer will complete Appendix A as part of their Proposal, noting all exceptions and capabilities. This Appendix will be considered as part of the evaluation.
4. Change Order Procedure. The DTA may, by written order, make changes to the Project that are germane to the Scope of Work. If any such change causes an increase or decrease in the cost of, or the time required for the Project, within three (3) days of the written order, the Contractor will request and adjustment to the Contract amount and/or schedule, and provide a written summary of labor hours, materials, overhead and profit, for DTA review. The DTA may request additional information, data or other materials to evaluate the justification for the changes in cost or timeline, which Contractor will promptly provide to the DTA.

If the DTA Procurement Manager decides that the facts justify it, the DTA shall make an equitable adjustment to the Contract price, the delivery schedule, or both, and shall modify the Contract accordingly. Failure of the Contractor to submit a timely notice of the change could constitute a waiver of claim for an equitable adjustment. Contractor shall continue Contract performance without delays during the change order process. If conditions warrant, the DTA may receive and act on proposed changes at any time prior to final payment.

## **SECTION 7      COST PROPOSAL**

**Proposals should include the following:**

1. A schedule of fees to develop and deploy a mobile application in accordance with the terms and conditions herein.
2. A schedule of hourly rates for key personnel
3. A schedule of ongoing expenses for the first five years, including host fees, storage fees, etc.
4. A list of licensing fees and ongoing maintenance expenses broken down by year for the first five years.
5. A schedule of fees for ongoing technical support.
6. Any other costs not previously noted.
7. A summary of the total proposed cost of the Project.

## **SECTION 8.      CONTENT OF PROPOSAL**

1. Provide an introduction of the Proposer and the key members who may be involved in this Project. Describe any primary business experience of the Proposer, contact information and other information the Proposer might deem introductory in nature.
2. The Proposer shall provide a description of any direct experience similar in nature, scope and complexity to that required by this RFP. Include the experience and role of each staff person that will be involved in the Project.

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3. Included with the Proposal shall be a minimum of three (3) references for similar types of work. References in transportation services will be accepted as %similar types of work+for this RFP.
4. Provide two copies of the proposal, one unbound, and one electronic copy on either a jump drive or CD. Faxed or emailed submittals will not be accepted.

## **SECTION 9: EVALUATION CRITERIA**

All proposals will be evaluated based on the technical and professional expertise and the experience of the Contractor, the proposed method and the procedures for completion of the work, past work experience, and the cost of the Proposal.

1. Contractor must provide information regarding their background in mobile application development and deployment, references and other information that may be valuable in evaluating their Proposal. Vendor must demonstrate its ability to provide the DTA with the proposed services in a timely fashion, have acceptable accounting practices, and have the special service capabilities to meet the needs of the DTA.
2. The DTA will make the award to the responsible Proposer whose Proposal is most advantageous to the DTA. The Evaluation Committee may not necessarily make a recommendation to award to the Proposer with the highest technical ranking, nor make a recommendation to award to the Proposer with the lowest price proposal, if doing so would not be in the best interest of the DTA.
3. All responses to this RFP will be reviewed for completeness prior to referral to the selection committee. A committee consisting of DTA representatives and/or others will then evaluate all responses for technical qualifications.

### **4. Evaluation Details**

A. Qualifications and Ability to Perform Needed Services 40%  
The technical qualifications and experience of the Consultant will be determined by the following factors:

- The overall experience of the Consultant in transit Mobile Applications
- Reliability, ease of use
- References
- Compatibility with DTA systems, including TransitMaster

B. Cost 30%

C. Experience with Similar Projects 25%

- Portfolio containing examples of previous work.
- Experience with government entities, nonprofits
- Experienced working with story boards, and script writing
- Experienced in working with voice over talent

D. Other Relevant matters 5%

Other relevant matters may include the clarity and completeness of the Proposal and the apparent general understanding of the work to be performed.

E. As Proposals are considered by the DTA to be more equal in their technical merit, the evaluated cost or price becomes more important so that when technical Proposals are evaluated as essentially equal, cost or price may be the deciding factor.

F. At the DTA's option, may elect to interview Proposers or seek further information before awarding the Contract.

## **SECTION 10 GENERAL INFORMATION**

1. Issuing Office: the DTA issues this RFP.
2. Incurring Costs: The DTA is not liable for any cost incurred by Responders prior to final execution of the Contract. Costs incurred to prepare a response are the responsibility of the Responder.
3. Economy of Preparation: Responses should be prepared simply and economically, providing a straightforward, concise, unambiguous description of the Responder's ability to meet the requirements of RFP. Two copies are required, one unbound with original signatures, and one electronic copy on a jump drive or CD.
4. Disposition of Responses: All materials submitted in response to this RFP will become property of the DTA and will become public record after an evaluation process is completed and an award decision made, subject to 49 U.S.C 5325(b)(2)(D).

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**Appendix A**

To be completed and submitted by Contractor at the time of Proposal

<b>Functional Requirement Fully Compliant, Fully Compliant with additional configuration, or Custom</b>	<b>Vendor Capabilities</b>			<b>Exceptions / Clarification</b>
	<i>Full Comp</i>	<i>FC with Add</i>	<i>Custom and Cost</i>	
<b>1. Functionality</b>				
Able to share information via all mobile devices				
Able to provide geolocation information to phones with GPS capability				
Able to identify the customer's current location to set origin point for planned trips				
Able to locate transit stops based on stop number, or address or landmark				
Able to alert the customer while in transit of their stop based on the user's preference				
Able to provide real time tracking and arrival predictions				
Provides an interface showing steady vehicle movement without hopping or jumping				
Interface will provide geolocation to identify rider's location on a map; the location should move as the rider's location changes				
Trip planner must allow for using addresses, intersections, and landmarks				
Must be able to display fare cost by trip				
Allow users to view static bus schedules offline				
Free download of native iPhone and Android applications				
Provide an opt-in platform for DTA information				
Able to provide an automatic notification when a rider's vehicle is predicted to arrive at a predetermined interval set by the rider				
Alerts may be audio, vibration or text				

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<b>Functional Requirement Fully Compliant, Fully Compliant with additional configuration, or Custom</b>	<b>Vendor Capabilities</b>			<b>Exceptions / Clarification</b>
	<i>Full Comp</i>	<i>FC with Add</i>	<i>Custom and Cost</i>	
Able to provide role-based access, password management controls and audit controls				
Compatible with mobile device screen readers such as Apple Voiceover and Android Talkback				
ADA compliant				
Content management does not require special programs				
Able to update content automatically				
Able to translate the App into other languages				
Able to provide 24-7 support				
Online reporting system for trouble ticket submission				
Dedicated service agent for system updates				
Allow unlimited changes to routes and stops				
Hosted Service				
Full data access in relational format				
Integration through standard web services				
Authentication methods				
Availability of independent security audits				
Cloud based Apps				
Means and methods under exclusive control of Contractor				
Storage capability and notification				
Disaster recovery plan				
Termination services				