



Duluth Transit Authority
REQUEST FOR PROPOSALS
Cellular Mobile Routers

FROM: Duluth Transit Authority
2402 West Michigan Street
Duluth, MN 55806

DATE: November 5, 2020

PROJECT: Cellular Mobile Routers

You are invited to submit Proposals for the purchase of Cellular Mobile Routers for Duluth Transit Authority (DTA) transit buses.

Proposals will be received until 2:00 p.m. on **Tuesday, November 24, 2020**.

Proposal Information:

1. Duluth Transit Authority (DTA) is seeking eighty-one (81) Cellular Mobile Routers for DTA transit buses.
2. Proposal form must be signed by an authorized employee of the organization/company.
3. In submitting a Proposal, the Proposer agrees that acceptance of its Proposals by DTA within a thirty (30) day period after Proposal due date constitutes a Contract.
4. The DTA intends to award a Contract as early as December 2, 2020.
5. The Federal Transit Administration is providing funding for this project; the Catalog of Federal Domestic Assistance (CFDA) number is 20.500.
6. When signed on behalf of Organization/Company and accepted by the DTA, this pricing form, the Proposal documents, including any amendments thereto, the Proposer's representations and certifications submitted as part of its Proposal, and any other data submitted by the Proposer as part of, or subsequent to, submittal of its Proposal shall form a binding Contract between Duluth Transit Authority and the Proposer for provision of cellular mobile router pricing as specified therein.
7. The DTA is committed to ensuring that no person is excluded from participation in, or denied the benefits of its programs and services on the basis of race, creed, color, national origin, sex, age, disability, or veterans status, and encourages the participation of small and disadvantaged business enterprises in the performance of this Contract.
8. The DTA reserves the right to accept or reject any and/or all Proposals.
9. Contractor shall review the DTA's Vendor Code of Ethics, Organizational Conflict of Interest, and protest procedures on the DTA website at www.duluthtransit.com.
10. Proposals are to be submitted on or before the due date and time herein via email to nbrown@duluthtransit.com or mail or delivery to: DTA Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806.. Time means local time in Duluth, Minnesota. Proposals received after the due date and time will not be considered.

I. Section 1. General Conditions

- a. Proposal prices shall be good for ninety days after the Proposal opening.
- b. The DTA shall not pay or reimburse any of Proposer's pre-contract expenses, including expenses for preparing or submitting a Proposal in response to this request, negotiating with the DTA on any matter related to this Request for Proposal, and/or other expenses incurred by the Proposer prior to the date of award.
- c. All inquiries or correspondence relating to this Request for Proposal must be addressed to the Procurement Manager via email, nbrown@duluthtransit.com, or regular mail, Duluth Transit Authority, attention Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806.
- d. Where proprietary names are used in these specifications, it is understood that they are followed by the words "or equal."
- e. Contractors and/or subcontractors may make appointments to discuss these specifications. This, however, does not relieve them from the written documented request required below. Where prior approval is called for in the specifications, it means prior to Proposal opening.
- f. Requests for approved equals, clarifications of specifications, and protest of specifications must be received by the Procurement Manager no later than 2:00 p.m. on Thursday, November 12, 2020. 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 (preferred) to nbrown@duluthtransit.com or US Mail unless otherwise approved by DTA in writing.
- g. Replies to requests for approved equals will be emailed, mailed or faxed out on Friday, November 13, 2020 to all prospective Proposers.
- h. Changes to the specifications will only be made by written addendum. Addenda will be posted on the DTA website at www.duluthtransit.com. It is the Proposer's responsibility to obtain all documents available for this procurement.
- i. 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.
- j. The DTA project manager for this project is Aleda Johnson, Director of IT.
- k. **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 DTA General Manager will be date-and-time stamped and logged into a protest file folder with a copy to the Master File.

1. 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 the Request for Proposal, including, without limitation, the pre-award procedure, the Instructions to 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 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, 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 re-advertising.

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:

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

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.

2. 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.

3. 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.

1. Conflict 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.

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.

II. Section 2. Technical/Special Specifications, Cellular Mobile Routers

- a. The Duluth Transit Authority (DTA) is seeking Proposals for a firm-fixed price contract for the provision of eighty-one (81) cellular wireless routers to equip our fleet of transit vehicles. Approved equipment is the CradlePoint IBR 1700 or approved equal.
- b. The routers will be deployed on DTA heavy duty vehicles to provide cellular connectivity from Masabi Validators to the Masabi Back-End via the FirstNet Ready Cellular Solution.
- c. Project includes programming of the routers, antennae and appropriate cabling on 68 Gillig heavy duty buses, 7 Proterra Catalyst E2 buses, and 2 trolleys manufactured by Hometown Trolley, and three spare routers to be retained by DTA.
- d. The DTA is requesting a separate price for installation of the routers and antenna. Alternatively, Respondent may provide a cost for training DTA staff to install the routers and antenna on each bus type, Gillig, Proterra and Hometown trolleys. Award of the installation shall be at the sole discretion of the DTA. Evaluation of the costs shall include the cost of the routers and associated equipment. Installation costs shall be considered separately.
- e. Manufacturers requesting an approved equal must ship a router to the DTA at their own expense, with a prepaid return shipping box. Testing will be completed and returned within 5 days.

Router must be mailed to:

Duluth Transit Authority
Procurement Manager
2402 W Michigan St
Duluth MN 55806

No postage due deliveries will be accepted.

- f. Respondents must provide a summary of five-year costs for operation and maintenance of the routers, including all licensing, software maintenance, and other costs applicable to the procurement and operation of the routers.
- g. The Contractor shall provide three references at the time of Proposal submittal.
- h. The Respondent will provide a separate cost to train the trainer in programming the routers, in lieu of programming all routers.

III. Section 3 Quantities

DTA anticipates purchasing the following quantities:

Quantity	Description
81/EA	Exterior Rugged Antenna, 6 in 1 dome, contains six isolated high performance antenna elements in a single housing for optimal coverage; two ultra-wideband elements spanning 698-2700MHz support MiMo/diversity at LTE frequencies; a high performance GNSS antenna with an integrated 26db gain LNA, and three dual band 2.4/5GHz WiFi elements that provide 3x3 MiMo WiFi
81/EA	Mounting Bracket, high performance multi-network vehicle router.

81/EA	Rugged Router/Modem - high performance LTE/FirstNet Ready ó Advanced vehicle multi-networking platform, purpose built to provide secure, always-on connectivity for mission critical applications in public safety, transit and field services. Extensible multi-network connectivity, offers dual LTE ó Advanced with Band 14 options, Dual Concurrent Gigabit WiFi and Gigabit Ethernet, with extensions to Land Mobile Radio (LMR) and satellite systems. Wireless Router, WWAN, minimum 4-port switch, GigE, Digital input/output, analog input, Bluetooth.
	AC Adaptor ó 12VDC ó 10 Foot
	Software/Support including cloudó Combining responsive customer support with cloud-based network management tools, extended hardware support and on-going enterprise network support. Includes but is not limited to the following: 5 year support, licensing, replacement, e-mail consulting, phone consulting, technical support, Software application support, Web support and new releases updates.
	Professional Service Device Deployment (Remote)
	All cables and connectors included in installation of fleet
	Testing of service area
	Setup/programming of Routers within Network Management Tool (can be remote)
	Setup/programming of Router for fixed route fleet, i.e. Vehicle ID, etc. (can be remote)
	Training/troubleshooting of Router within Network Management Tool (can be remote)
Optional	Training on installation of Router and antennae (on the roof) with applicable cabling and power on Full Fleet, Proterra, Gillig and a Hometown Trolley (must be onsite)
Optional	Installation of Routers and antennae (on the roof) with applicable cabling and power on (3) Fleet types, Proterra, Gillig and a Hometown Trolley with staff shadowing you (must be onsite)

IV. Section 4 Warranty

All products must be warranted for a minimum period of one (1) year from the date of delivery acceptance against defects in material, or within such longer period of time as may be prescribed by law or by the terms of any other applicable warranty period as specified or required herein.

Proposer, at its sole expense, shall remedy all defects due to faulty materials, equipment, or workmanship which appears within said warranty period. Replacement parts shall be made available for at least 10 years after the purchase of Routers.

V. Section 5 Delivery Requirements

Delivery Schedule: Equipment shall be delivered within 30-45 calendar days of contract award notification. Proposer shall promptly communicate any estimated time of arrival (ETA) exceptions with DTA so an alternative plan can be developed to DTA's satisfaction.

Delivery Location: 2402 W Michigan St, Duluth MN 55806

Time: Deliveries must be made during normal working hours, Monday ó Friday, 8:00 am ó 3:00 pm CST.

Extension and Delays: DTA reserves the right to extend delivery, postpone delivery, or reschedule delivery. No delay shall be granted in connection with the acts, omissions, negligence, or mistakes of Proposer, its agents or suppliers. Unless contrary to other parts of the Contract, if the goods or the tender of delivery fail in any respect to conform to this Contract, DTA may: 1) reject the whole; or 2) accept the whole; or 3) accept a partial delivery and reject the rest.

VI. Section 6 Shipping

Errors: Proposer agrees that shipping errors will be at the expense of the Proposer (i.e. Proposer ships a product to DTA that was not ordered). Proposer will pay for return shipment at the convenience of DTA.

Defective Goods: Proposer agrees to pay for the return shipment on goods that arrive in a defective or inoperable condition and shall arrange for return shipment of any damaged goods.

Restocking Fees: May only be charged on products ordered, delivered and accepted by DTA. Restocking fees in excess of 15% will not be allowed and may be waived at Proposer's option.

VII. Section 7 Other Deliverables

Upon contract execution, Proposer shall furnish DTA with the following documents:

- Warranties
- Product Manuals and Literature

VIII. Section 8 Proposal Form and Certificate

NOTE: All Proposals must be written, signed and transmitted via email in a .pdf attachment to nbrown@duluthtransit.com. **Return one copy of the Proposal with Descriptive Literature**

Cost per unit for eighty one Cellular Mobile Routers, including antenna, cables, all other associated equipment, and delivery:

\$ _____ Each

Option: Cost for Installation of the Cellular Mobile Routers, including antennas:

\$ _____ Each

Cost for training DTA staff for installation of Cellular Mobile Routers, antennas and associated equipment for three types of vehicles, Gillig, Proterra, and Hometown Trolley)

\$ _____ Each

Cost for training DTA staff for Network Management Tool:

\$ _____ Lump Sum

Cost for training DTA staff for programming Cellular Mobile Routers:

\$ _____ Lump Sum

Cost for licenses (if any):

Year 1 _____

Year 2 _____

Year 3 _____

Year 4 _____

Year 5 _____

Cost for Software Maintenance (if any):

Year 1 _____

Year 2 _____

Year 3 _____

Year 4 _____

Year 5 _____

Other costs not specified herein: Please provide a separate summary of all other costs.

Proposer must separately submit all details of proposed unit, including warranty, information, and timeline for delivery. Please attached signed Certificates A-E attached herein.

Signed: _____ Title: _____

Company Name: _____ Phone: _____

Address: _____

Email (required): _____ Date: _____

Certificate A. AFFIDAVIT OF NONCOLLUSION

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);

1. 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
Authorized Representative

Date

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 Government-wide 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.

Print Name and Title
Authorized Representative

Signature

Certificate C. Code of Ethics and Organizational Conflict of Interest

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.

Print Name and Title
Authorized Representative
FIRM NAME _____

Signature

Certificate D. **ANTI-LOBBYING DISCLOSURE**

APPENDIX A, 49 CFR PART 206 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

Certificate E. COMBATING RACE AND SEX STEREOTYPING

During the performance of this contract, the contractor agrees as follows:

1. The contractor shall not use any workplace training that inculcates in its employees any form of race and sex stereotyping or any form of race or sex scapegoating, including concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual's moral character is necessarily determined by his or her race or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (h) meritocracy or traits such as hard work ethic are racist or sexist, or were created by a particular race to oppress another race. The term "race or sex stereotyping" means ascribing character traits, values, moral and ethical codes, privileges, status or beliefs to a race or sex, or to an individual because of his or her race or sex, and the term "race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.
2. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under the Executive Order of September 22, 2020, entitled Combating Race and Sex Stereotyping, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
3. In the event of the contractor's noncompliance with the requirements of paragraphs (1), (2), and (4), or with any rules, regulations, or orders that may be promulgated in accordance with the Executive Order of September 22, 2020, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided by any rules, regulations, or orders the Secretary of Labor has issued or adopted pursuant to Executive Order 11246, including subpart D of that order.
4. The contractor will include the provisions of paragraphs (1) through (4) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Print Name and Title
Authorized Representative

Signature

IX. Section 9 Federal Transit Administration Contract Clauses

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

- 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.

2) CIVIL RIGHTS LAWS AND REGULATIONS

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.

- a. **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.
- b. **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 Executive 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.
- c. **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 if 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.

- d. **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.

3) DISADVANTAGED BUSINESS ENTERPRISE (DBE) - 49 CFR Part 26

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 is 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.

4) 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; 29 C.F.R. Part 3, 40 U.S.C. §§3701-3708, 29 C.F.R. Part 1926

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.

5) ENERGY CONSERVATION REQUIREMENTS - 42 U.S.C. 6321 et seq. 49 CFR Part 622, Subpart C

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.

6) 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

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 Government wide 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.

7) LOBBYING RESTRICTIONS - 31 U.S.C. § 1352 2 C.F.R. § 200.450 2 C.F.R. part 200 appendix II (J) 49 C.F.R. part 20

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.
 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.

8) NO 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 Recipient, 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.

9) 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

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 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.

10) RECYCLED PRODUCTS - 42 U.S.C. § 6962, 40 C.F.R. part 247; 2 C.F.R. part § 200.322

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.

11) 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

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.

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.

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

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.

13) COMBATING RACE AND SEX STEREOTYPING Executive Order 13950

During the performance of this contract, the contractor agrees as follows:

1. The contractor shall not use any workplace training that inculcates in its employees any form of race and sex stereotyping or any form of race or sex scapegoating, including concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual's moral character is necessarily determined by his or her race or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her sex; or (h) meritocracy or traits such as hard work ethic are racist or sexist, or were created by a particular race to oppress another race. The term "race or sex stereotyping" means ascribing character traits, values, moral and ethical codes, privileges, status or beliefs to a race or sex, or to an individual because of his or her race or sex, and the term "race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.

2. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under the Executive Order of September 22, 2020, entitled Combating Race and Sex Stereotyping, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

3. In the event of the contractor's noncompliance with the requirements of paragraphs (1), (2), and (4), or with any rules, regulations, or orders that may be promulgated in accordance with the Executive Order of September 22, 2020, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive

Order 11246, and such other sanctions may be imposed and remedies invoked as provided by any rules, regulations, or orders the Secretary of Labor has issued or adopted pursuant to Executive Order 11246, including subpart D of that order.

4. The contractor will include the provisions of paragraphs (1) through (4) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.ö

X. SECTION 10: EVALUATION CRITERIA

- 1. Vendor must demonstrate its ability to supply DTA with proposed equipment in a timely manner as ordered, able to provide installation and programming support, and equipment and support that will last for the life of the bus, a minimum of twelve years.
- 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.

Evaluation Criteria:

A. Cost	40%
B. Ability to supply needed products and services	30%
C. Quality of products and Services offered	25%
D. Other Relevant matters	5%

A. Cost

Except when it is determined not to be in the DTA's best interests, the DTA will evaluate offers by adding the total price the equipment, licenses, software maintenance and all other costs for the Routers. The cost for installation will be evaluated separately. Evaluation of options will not obligate the DTA to exercise the option.

B. Ability to supply products and services

The technical qualifications and experience of the Vendor will be determined by the following factors:

- É The overall experience of the Vendor in providing the equipment in a timely manner
- É Ability to provide ongoing support for maintenance and troubleshooting

C. Quality of Products and Services

Besides the quality of the equipment offered, the ability to meet the DTA's timeline for supplying the Routers and supporting installation and programming.

D. Expertise, qualifications, and reliability of the firm

The expertise and professional level of the individuals proposed to conduct the work for the DTA, as well as the systems and technology will be evaluated.

E. Other Relevant matters

Other relevant matters may include references, the clarity and completeness of the proposal and the apparent general understanding of the work to be performed, etc.

F. 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.

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