



Duluth Transit Authority

REQUEST for PROPOSALS

FOR

TEXT MESSAGING SERVICES

August 16, 2022

Duluth Transit Authority

2402 W. Michigan St · Duluth, MN 55806

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

email: nbrown@duluthtransit.com

Duluth Transit Authority Request for Proposals TEXT MESSAGING SERVICES

The Duluth Transit Authority hereby requests written Proposals from qualified firms to add a text messaging feature for the My DTA App to provide arrival predictions for buses arriving at DTA bus stops.

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. Proposal packages will be mailed or emailed to all interested parties.

Proposals must be received no later than **1:00 p.m., Thursday, September 8, 2022**.

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.

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Section 1 General Conditions

G-1 REQUEST FOR PROPOSALS

- 1) Proposals are requested from qualified firms to develop and deliver a real time “where’s my bus” text messaging feature for the DTA mobile application.
- 2) 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.
- 3) Proposal prices shall be good for 90 days after the Proposal due date.
- 4) 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.
- 5) Proposals are due at **1:00 p.m. on Thursday, September 8, 2022** at the DTA offices. 2402 West Michigan Street, Duluth, MN 55806.
- 6) The DTA will hold a virtual **pre-proposal conference** on **Thursday, August 25, 2022** at **1:00 p.m.** Attendance is not mandatory, but strongly encouraged. Contact the Procurement Manager at nbrown@duluthtransit.com or 218-623-4329 for an invitation.
- 7) The DTA intends to award the Contract to the responsible Proposer in the best interests of the DTA as early as **September 20, 2022**.
- 8) Throughout these specifications the words equipment, materials, and work can be interpreted as interchangeable.
- 9) Federal Transit Administration and the Minnesota Department of Transportation is or will be providing ongoing assistance for this project, MN DOT grant #1028484.
- 10) 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, or regular mail, Duluth Transit Authority, attention Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806.
- 11) Proposals must be submitted on the forms attached. All blanks in the forms must be completed. 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 and initialing the correction in ink by the person signing the Proposal.
- 12) Proposals shall not stipulate any condition not contained in the specifications and other documents submitted for review unless approved in writing by the Procurement Manager prior to submittal of the Proposal.
- 13) The Proposal and all forms attached thereto, shall be compiled in a .pdf attachment in an email labeled “Text Messaging Services” and emailed to nbrown@duluthtransit.com. Proposal must be received by the 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 or all Proposals.
- 14) Protests of this procurement will only be accepted from prospective bidders or offerors whose direct economic interest would be affected by the award of the work. Protest instructions can be found at the Duluth Transit Authority website, www.duluthtransit.com.
- 15) The DTA is exempt from payment of Federal excise tax, transportation tax, Minnesota State sales tax and City of Duluth sales tax. Please note Minnesota Department of Revenue Notice #17-10, ‘Sales and Use Tax’ for further information.

Section 2 FEDERAL TRANSIT ADMINISTRATION

Contract Clauses

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

- a. Records Retention. The Contractor will retain, and will require 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 CIVIL RIGHTS LAWS AND REGULATIONS

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.

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§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.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's"), 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's 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

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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.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

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.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.

A.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 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

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\$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.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.

A.8 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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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.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

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.

A.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.

A.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

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.

A.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.

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.

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. 13 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) *Definitions.* As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

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(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the DTA on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#). This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

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(c) *Exceptions*. This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

A. 15 Notice of Legal Agreement or Litigation

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

Contractor shall promptly notify the Duluth Transit Authority of any current or prospective legal matter that may affect the Duluth Transit Authority or the Federal Government. Legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Duluth Transit Authority or the Federal Government as a party to litigation or any legal agreement in any forum for any reason.

This notification provision applies to instances of false claims under the False Claims Act, or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Contractor is subject to this Agreement between the Contractor and the Duluth Transit Authority or the Federal Transit Administration, or an agreement involving a principal, officer, employee, agent or subcontractor of the Contractor. Knowledge, as it is

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used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer to information without delay and without change.

The Contractor agrees to include the above clause 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.

DULUTH TRANSIT AUTHORITY

CONTRACT (Example) FOR

Text Messaging Services

August 16, 2022

**Duluth Transit Authority
Text Messaging Services**

052-22-8484.5

CONTRACT FOR PROFESSIONAL SERVICES (example for RFP)

THIS CONTRACT, by and between the Duluth Transit Authority, an authority of the City of Duluth, Minnesota, located at 2402 West Michigan Street, Duluth, MN 55806, hereinafter referred to as "DTA", and _____, ("Consultant"), a _____ (LLC, corporation) located at _____.

WHEREAS, the DTA desires to utilize Consultant's professional services for Text Messaging Services; and

WHEREAS, Consultant has represented that it is qualified and willing to perform these services under the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereto agree as follows:

Article I. Contract Documents

The Contract Documents in priority order consist of Federal Transit Administration Contract Clauses, this Contract; Request for Proposals (Procurement #052-22-8484.5) dated August 16, 2022, General, Special and Technical Specifications; all addenda issued prior to and all modifications issued after execution of the Contract; the executed Proposal form and Required Certificates, all as fully part of the Contract as if attached to this Contract or repeated herein.

Article II. Scope, Fees and Payment

Consultant will perform the services identified in its proposal dated _____, 2022 (the "Proposal"). In consideration of the provision of the services referenced in Article I above in an acceptable manner, the DTA hereby agrees to reimburse Consultant for said services as set for herein. Consultant shall invoice the DTA for services provided based on actual and allowable costs. Requests for reimbursements shall be made no more frequently than monthly and shall be accompanied by supporting documentation providing evidence of hours worked and associated hourly rates as set forth herein, as well as any documentation of actual costs incurred and paid by Consultant in performing the services hereunder, and such other documentation as the DTA shall reasonably request. DTA may withhold payment for Consultant's services where the services are in dispute, where the services or claimed reimbursable expenses are not documented or warranted, or when the service was not performed in accordance with the Contract Documents.

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A final invoice will be submitted by the Consultant within thirty (30) days of termination of this Contract. Upon receipt of said request and the appropriate documentation, the DTA shall promptly reimburse Consultant for the approved expenses in the amounts set forth herein.

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

Article III. Assignability

Consultant shall not assign or transfer any of its rights or interests under this Contract in any way whatsoever, without the prior written consent of the DTA's General Manager.

Article IV. Term

This Contract shall be effective upon "Notice to Proceed" from the DTA, and shall remain in effect until December 31, 2025 unless otherwise terminated as provided herein.

The DTA may, at its sole discretion, extend the term of this Contract for a period of three years beginning January 1, 2026 through December 31, 2028, upon written notice from the DTA Procurement Manager. If the DTA extends the term of this Contract in accordance with the foregoing, all of the terms and conditions of this Contract shall continue, in full force and effect, except that payments to the Consultant shall be increased as set forth in the Consultant's proposal.

Article V. Standard of Performance

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

Article VI. Reports and Inspection

A. Establishment and Maintenance of Records

Records shall be maintained by the Consultant 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 Contract.

B. Documentation of Costs.

Consultant 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 Agreement shall be clearly identified and readily accessible.

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C. Reports and Information.

Consultant 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 Inspection.

Consultant 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. Consultant 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. Minnesota Government Data Practices Act. Consultant must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the DTA under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by Consultant under this Agreement. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by the Consultant. If Consultant receives a request to release the data referred to in this clause, Consultant must immediately notify the DTA General Manager and consult with the DTA as to how Consultant should respond to the request. Consultant's response to the request must comply with applicable 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 the DTA when prepared, and shall be delivered to the DTA General Manager upon completion or termination of the service of Consultant or at such earlier time as requested by the DTA.

Article VII. 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 Consultant as an agent, representative or employee of the DTA for any purpose or in any manner whatsoever. Consultant 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 Consultant 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. Consultant and its officers, agents, contractors and employees shall not be entitled to any compensation or rights or benefits of any hospital care, sick leave and vacation pay, Worker's Compensation, Unemployment Insurance, disability pay or severance pay. Furthermore, DTA shall not, in any way, be responsible to defend, indemnify or save harmless Consultant from liability or

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judgments arising out of the intentional or negligent acts or omissions of Consultant while performing the work specified by this Contract.

Article VIII. Subcontractors

- A. Disclosure. Consultant shall disclose all subcontractors it desires to perform work under this Contract at the time of execution of this Agreement. Thereafter Consultant shall promptly report any desired changes to the subcontractors of any tier in accordance with FTA requirements. Such changes shall also require the prior written approval of the DTA General Manager. Consultant shall insert the required Federal and State provisions into every subcontract of any tier in accordance with FTA requirements.
- B. Prompt Payment to Subcontractors. Consultant shall pay any subcontractor or material supplier within ten (10) days of receipt by the party responsible for payment of payment of undisputed services provided by the party requesting payment.

Article IX. Indemnity and Insurance

- A. Indemnity. The Consultant shall defend, indemnify and save harmless, the DTA, ATE Management of Duluth, and FirstGroup Management, Inc., from all costs, charges, damages and loss of any kind that may grow out of the matters covered by this Contract. Said obligation does not include indemnification of the DTA, ATE Management of Duluth and FirstGroup Management, Inc. for claims of liability arising out of the sole negligent or intentional acts or omissions of the DTA, ATE Management of Duluth and FirstGroup Management, Inc., but shall include, but be limited to, the obligation to defend, indemnify and save harmless the DTA, ATE Management of Duluth and FirstGroup Management, Inc. which are derivative of the negligence or intentional acts or omissions of Consultant, 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 Consultant and other such source of liability. In addition, Consultant will comply with all local, state and federal laws, rules and regulations applicable to this Agreement and to the work to be done and things to be supplied hereunder.
- B. Insurance. During the term of this Contract, Consultant shall provide General Liability and Automobile Liability Insurance with limits not less than \$1,500,000 Single Limit, and shall be with a company approved by the DTA; and shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, Automobile Liability and Contractual Liability. Consultant shall also provide Professional Liability Insurance in an amount not less than \$1,500,000 Single Limit, provided further that in the event the professional malpractice insurance is in the form of claims made insurance, thirty days' notice prior to any cancellation or modification shall be required, and in such event, Consultant agrees to provide the DTA with either evidence of new insurance coverage conforming to the provisions of this paragraph which will provide unbroken protection to the DTA, ATE Management of Duluth, and FirstGroup Management, Inc., or in the alternative, to purchase at its cost,

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extended coverage under the old policy for the period of the statute of repose runs; the protection to be provided by said claims made insurance shall remain in place until the running of the statute of repose for claims related to this Contract.

C. The Duluth Transit Authority, ATE Management of Duluth, and FirstGroup Management, Inc. shall be named as an Additional Insured under the General Liability, Excess Umbrella Liability (An Umbrella policy with a "following form" provision is acceptable if written verification is provided that the underlying policy names the DTA, ATE Management of Duluth, and FirstGroup Management, Inc. as an additional insured) and Automobile Liability, or as an alternate, Consultant may provide Owners-Contractors Protective policy, naming itself, the Duluth Transit Authority, ATE Management of Duluth, and FirstGroup Management, Inc., as additional insured. Consultant shall also provide evidence of Statutory Minnesota Worker's Compensation Insurance if applicable. Consultant shall 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 Consultant's interests and liabilities.

D. The form of the certificate or insurance shall contain an unconditional requirement that the insurer must notify the DTA without fail not less than thirty (30) days prior to any cancellation, non-renewal or modification of the policy or coverage's evidenced by said certificate and shall further provide that failure to give such notice to the DTA will render any such change or changes in said policy or coverages ineffective as against the DTA, ATE Management of Duluth, and FirstGroup Management, Inc.

E. The DTA shall be entitled to copies of all insurance policies or certificates of insurance required by the Agreement evidencing that the DTA, ATE Management of Duluth, and FirstGroup Management, Inc. are so protected.

Article X. Rules and Regulations

Consultant 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 the DTA and their respective agencies which are applicable to its activities under this Contract.

Article XI. Notices

Telephone calls may be used to expedite communications, but shall not be official communication unless confirmed in writing. Notice to the DTA or Consultant provided for herein shall be sufficient if sent by the regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

Duluth Transit Authority
General Manager

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2402 West Michigan Street
Duluth, MN 55806

Consultant:

Article XII. Waiver

Any waiver by either party of any provision of this Contract shall not imply a subsequent waiver of that or any other provision.

Article XIII. Applicable Law

This Contract, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota.

Article XIV. 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 XV. No Third Party Rights

This Contract is to be constructed and understood solely as a Contract between the DA and the Consultant and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that he or she is a third-party beneficiary of this Contract or of any of the terms and conditions hereof, which, as between the DTA and the Consultant, may be waived at any time by mutual agreement.

Article XVI. Entire Agreement

It is understood and agreed that the entire agreement of the parties is contained herein and that this Contract supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment to this Contract shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

Article XVII. Counterparts

This Contract may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute

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but one and the same instrument. Signatures to this Contract transmitted by facsimile, by electronic mail in "portable document format" (.pdf) or by another other electronic means which preserves the original graphic and pictorial appearance of the Contract shall have the same effect as physical delivery of the paper document bearing the original signature.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

Duluth Transit Authority

By _____
General Manager

Dated _____

Company

BY _____

Title: _____

Dated _____

TEXT MESSAGING SERVICES

PROPOSAL SHEETS

August 16, 2022

Section 4 **FORMAL PROPOSAL SHEET**

NOTE: All Proposals must be written, signed and transmitted in a .pdf format emailed with the Proposal number in the subject line of an email addressed to nbrown@duluthtransit.com. Include Descriptive Literature as an attachment to the email.

Proposals must include the following:

- a. Proposed services in accordance with Section D of the Technical Specifications herein**
- b. An overview of the company a summary of past experience, and three references**
- c. The Proposal Sheets and Required Certificates herein signed by the Respondent.**
- d. Any other information the Proposer can supply to assist the DTA with evaluating the Proposal**
- e. A detailed cost proposal broken down by start up fees, itemized costs for licensing, hosting and maintenance, as applicable, and all other costs to provide a fully functional system in accordance with the specifications herein for the first three years of the Contract and the percent increase for the first three-year option period in accordance with the instructions herein.**

Firm Name: _____

Mailing Address:
Rec'd _____

Addendum Acknowledgment
Number Date

CITY STATE ZIP CODE

SAM Unique Identifier: _____

By: _____
(PRINT NAME) TITLE

PHONE NO. _____

Signature

Date: _____ email: _____

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 proposal 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 7-13: 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 ___
- 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 "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
- 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.

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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 _____

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. 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

1. 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 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.

SIGNED _____

FIRM NAME _____

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Certificate B. COMPLIANCE WITH SPECIFICATIONS

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 DTA.

SIGNED _____

FIRM NAME _____

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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Certificate D. 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.

SIGNED _____

FIRM NAME _____

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Certificate E. PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) *Definitions.* As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment;
or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

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(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the DTA on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#). This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) *Reporting requirement.*

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are

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established procedures for reporting the information. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

_____ Signature of Contractor’s Authorized Official

_____ Name and Title of Contractor’s Authorized Official

_____ Date

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Certificate F. Notice of Legal Agreement or Litigation

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

Contractor shall promptly notify the Duluth Transit Authority of any current or prospective legal matter that may affect the Duluth Transit Authority or the Federal Government. Legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Duluth Transit Authority or the Federal Government as a party to litigation or any legal agreement in any forum for any reason.

This notification provision applies to instances of false claims under the False Claims Act, or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Contractor is subject to this Agreement between the Contractor and the Duluth Transit Authority or the Federal Transit Administration, or an agreement involving a principal, officer, employee, agent or subcontractor of the Contractor. Knowledge, as it is used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer to information without delay and without change.

The Contractor agrees to include the above clause 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.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

TECHNICAL SPECIFICATIONS

FOR

TEXT MESSAGING SERVICES

August 16, 2022

Section 6 TECHNICAL SPECIFICATIONS FOR Text Messaging Services

A. Background

The Duluth Transit Authority (“DTA”) would like to implement a real time “where is my bus” text messaging feature to connect transit customers with accurate, highly reliable real time arrival predictions for the next buses arriving to that particular stop. The goal of this project is to offer customers a simple messaging system to advise the customer on the predicted arrival time for the next three buses will be at the customer’s stop.

B. DTA Operations

The DTA operates 14 routes in Duluth, Hermantown and Proctor, MN, with two of those routes in Superior, WI. The DTA also has a summer trolley line that generally runs from Memorial Day to Labor Day. After a Comprehensive Operational Analysis, the DTA is implementing a network redesign to streamline routes and increase frequencies on our highest ridership corridors for more efficient operations. The changes will roll out second quarter of 2023.

There are approximately 800 bus stops in the DTA system; peak service requires 43 buses. Service is from 5:00 a.m. until midnight weekdays, 6:00 a.m. to midnight on Saturday and Sundays.

Each bus stop has a unique identification number such as 2-1468. The DTA is interested in learning if there is an option available to include alpha characters in the bus stop ID, or it is only available with numeric characters.

C. Scope

1. The selected Contractor will provide a turnkey system (“System”) to integrate the DTA’s existing AVL and GTFS-RT information with the text messaging. The System data, with predictions, must be made available in GTFS-real time format that is synced with the DTA’s GTFS data. The GTFS-RT feed is available on the DTA website at <https://www.duluthtransit.com/home/doing-business/developer-resources/>. Real time data should also be available in a human readable format such as JavaScript Object Notification (JSON).
2. The System will be hosted by the Contractor; no system software or servers will be maintained by the DTA.
3. The Subscription period for the SMS service will be for a period of three years, with three options of three years each. Respondents will provide a Cost Proposal with itemized costs for the first Contract period through December 31, 2025 and a percent increase in itemized costs for the option period of January 1, 2026 through December 31, 2028. Costs for the option period of January 1, 2029 through December 31, 2031 shall be negotiated at the time the DTA exercises the renewal.
4. The selected Contractor will also provide reporting tools to the DTA for analysis and evaluation of data on the number of requests by bus stop ID.

5. The DTA will not accept technologies that do not integrate via a software development kit (“SDK”) or an automated programming interface (“API”), are not scalable, and/or require additional hardware on vehicles.
6. The System will accept the DTA GTFS data automatically and will combine multiple vehicle position feeds in real time for maximum accuracy. Changes to the DTA data will be updated at least daily. The DTA may, at its option, request a demonstration of the accuracy of the predicted arrival time data of the Proposed System.
7. The System will include unlimited storage of DTA AVL data and processing, and will accept the data even when there is insufficient information, such as route assignment, for tracking and reporting.

D. Proposal Submission Requirements

1. The Respondent shall provide the DTA with a summary of the proposed System, including, but not limited to:
 - a list of features and capabilities provided for the customer
 - examples of the SMS text
 - a detailed list of any equipment to be purchased by the DTA to support the System, including model, cost, warranty information and costs for any extended warranties available
 - a detailed summary of the equipment and technical provisions of the System that will be installed at the DTA or on DTA vehicles
 - an explanation of the accuracy of the predictive arrival time
 - a list of all feeds it can accept and export
 - a summary of the accuracy of the real time arrival predictions
 - a summary of the reporting capabilities of the System, including any ad hoc reporting
 - details on how the SMS are accessed by the customer and DTA administrative staff
 - an overview of the recovery process in the event of a System outage
2. The Respondent will also provide the following information in its submittal:
 - Detail the number of users allowed, permissions and abilities within the software that are programmable by the DTA
 - A description of how software updates are conducted, and the planned number of updates for the first and second year of the Subscription period.
 - A description of the timeline, and strategy for project completion, testing and acceptance.
 - A description of initial training offered by the Contractor, as well as ongoing support.
 - A summary of reliability of the System, including uptime, troubleshooting, verification of the accuracy of the data, escalation of customer service issues and other ongoing support offered by the Contractor to support the System for the duration of the Contract.
3. In addition to the Technical capabilities of the System, the Respondent will submit a brief overview of the Company, past experience and three references of other transit systems using the system.
4. Should the Respondent have any exceptions to the RFP or additional provisions they would like the DTA to consider, they should first seek clarification through the question and answer process. Any exceptions or additional provisions still remaining at the time of submission must be submitted with the Proposal and cross referenced with the RFP, including the Proposer’s rationale for making them.

The DTA reserves the right to reject any and all vendor-proposed exceptions or additional provisions to the RFP without comment.

E. Cost Proposal

The Respondent will provide a detailed Cost Proposal that includes one-time start up fees, itemized costs for licensing and other ongoing costs to host and maintain the System, equipment warranty costs, costs for periodic upgrades if not included in the license, and all other costs applicable to the DTA for a fully operational system for the first three years of the Contract, and the percent increase in costs for the first three-year option period.

Additional years will be negotiated by the parties upon expiration of the initial option period.

F. Evaluation

1. All responsive and responsible responses to this RFP will be reviewed for completeness prior to being referred to the Evaluation Committee. A Committee consisting of DTA representatives and/or other will then evaluate the responses for technical qualifications and consistency with specifications.

2. Evaluation Criteria

A. Technical capability of the Proposed System	35%
B. Quality of the Products and Services offered	30%
C. Qualifications and experience of the Proposed team	20%
D. On-going support, reliability of the Proposed System	10%
E. References, other relevant matters	5%

A. The Committee will evaluate the Proposed System against the DTA's expectations for the System, including the technical details, compatibility with the DTA's customer service objectives, ease of use.

B. The Committee will evaluate the quality of the Proposed products and services offered, including reliability, independent equipment ratings, warranty, and other quality related items.

C. The Committee will evaluate the quality of the Proposed team, including past experience with implementing a similar System in other transit agencies, and ability of the team to meet the deadlines for the project.

D. The Committee will evaluate the ongoing support for the Proposed System, including training, the implementation plan, availability of updates, reliability of the System, and recovery time in the event of a System failure.

E. The Committee will evaluate the references of the Offeror, and other relevant matters such as past performance with the DTA, use of subcontractors, the apparent general understanding of the work to be performed and other matters deemed relevant to the Committee.

3. Cost. The Committee will evaluate the reasonableness of the Cost Proposal, including ongoing costs. As Proposals are considered by the DTA Evaluation Committee to be more

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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.

4. The Committee may interview Offerors, and/or Offerors may be asked to provide a demonstration of their Proposed product at the sole discretion of the Evaluation Committee.
5. The Committee may elect to award a Contract without conducting interviews or a demonstration, at its sole discretion.