



Duluth Transit Authority

REQUEST for PROPOSALS

FOR

Supply and Install Telecommunications System

February 22, 2023

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 Supply and Install Telecommunications System

The Duluth Transit Authority hereby requests sealed Proposals from experienced firms to design and install a cost-efficient Telecommunications System.

Proposals must be received no later than **2:00 p.m. on Wednesday, March 15, 2023**. Specifications may be emailed or mailed to prospective Proposers. Contact (218) 623-4329 or nbrown@duluthtransit.com for more information.

The DTA hereby notifies all respondents that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, no person will be discriminated against on the grounds of race, color, creed, national origin, sex, age or disability in consideration for an award. The DTA encourages the participation of small and disadvantaged business enterprises.

The DTA reserves the right to accept or reject any or all responses, or waive any informalities in the best interest of the DTA.

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Section 1. **General Conditions**

G-1 **REQUEST FOR PROPOSALS**

- a) Proposals are requested from qualified firms to design and install a Telecommunications System for DTA facilities.
- b) Proposal shall be on the Proposed rates and costs for the Project under the requirements and conditions set forth herein, which shall be considered an essential part of the Contract Documents.
- c) Prices shall be good for a period of 180 days after Proposal opening.
- d) The DTA shall not be under any obligation for payment of precontractual expenses, including expenses for preparing or submitting a Proposal in response to this request, negotiating with the DTA on any matter related to this Proposal, and/or other expense incurred by the Proposer prior to the date of award.
- e) This project is funded in part by a grant from the Federal Transit Administration, Assistance Listing number 20.507.
- f) The DTA intends to award the contract to the responsible Proposer as early as March 29, 2023.
- g) The DTA reserves the right to accept and/or refuse any or all Proposals, to add or delete work without penalty, in the interest of the Duluth Transit Authority.

G-2 **INQUIRIES**

All inquiries and other correspondence relating to this Request for Proposals ("RFP") shall be with the Procurement Manager via email at nbrown@duluthtransit.com (preferred) or regular mail to Duluth Transit Authority Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806.

G-3 **DEFINITION OF TERMS**

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

- a. DTA, customer, buyer, or Operator shall mean the DTA.
- b. Project Manager shall mean Aleda Johnson, Director of IT.
- c. Manufacturer, Vendor, Proposer, or Contractor shall mean that firm submitting a responsive Proposal and subsequently receiving the contract award from the DTA as the contractor as detailed in these specifications.
- d. Throughout these specifications, the words "equipment", "materials", and "work" can be interpreted as interchangeable.

G-4 **SUBSTITUTIONS AND OR EQUAL**

- a) Where proprietary names are used in these specifications, it is understood that they are followed by the words "or equal".
- b) Please note that DTA personnel are NOT allowed to discuss the RFP with anyone, including Proposers, before the Proposal submission deadline without permission, except that prime contractors and /or subcontractors may make appointments to discuss these specifications with the Procurement Manager. This, however, does not relieve them from the written, documented request required by paragraph c) below. Where prior approval is called for in the specifications it means prior to Proposal opening.
- c) Requests for approved equals, clarifications of specifications, and protest of specifications must be received by the Procurement Manager in writing via email (preferred) or regular mail no later than **2:00 p.m. on Wednesday, March 8, 2023**. 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) or US Mail unless otherwise approved by DTA in writing.

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- d) The replies to request under paragraph c) above will be emailed, mailed or faxed out on **Thursday, March 9, 2023** to all prospective Proposers.
- e) Changes to the specifications will be made **only** 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 for this procurement.

G-5 PREPARATION OF PROPOSAL

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

Proposals and other documents submitted by the Proposer shall not stipulate any condition not contained in the specifications.

Each Proposal and all papers bound and attached thereto, shall be attached in a .pdf attachment to an email marked: "**Telecommunications System**" and delivered to nbrown@duluthtransit.com, (preferred) or in a securely sealed envelope delivered to:

DTA Procurement Manager
2402 West Michigan Street
Duluth MN 55806

Proposals must be received no later than **2:00 p.m. on Wednesday, March 15, 2023**. Time means local time in Duluth, Minnesota. Proposals received after such time will not be considered. The DTA reserves the right to accept or reject any and/or all Proposals in the best interest of the Authority.

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

G-6 WITHDRAWAL OF PROPOSALS

A Proposer may withdraw its Proposal at any time before the time set for the opening of the Proposals only in writing addressed to the DTA marked "WITHDRAWAL OF PROPOSAL" and physically received by the DTA Procurement Manager prior to the time for the opening of Proposals.

G-7 CONSIDERATION OF PROPOSAL

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

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.

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The DTA may accept all or any part of a Proposal, cancel the RFP, issue subsequent RFPs, or waive any errors or informalities in any Proposal, in the best interest of the DTA.

G-8 PROPOSAL DOCUMENTS, ADDENDA

It is the Proposer's responsibility to assure the receipt of all procurement documents, including addenda, pertaining to this Request for Proposals. All documents will be posted online at www.duluthtransit.com/doingbusinesswithus. In addition, Proposers may inspect and/or obtain copies of the Proposal documents at the DTA offices, 2402 West Michigan Street, Duluth, MN 55806, during business hours. The DTA may, at its sole discretion, limit the number of people at one time inspecting the Proposal documents, and/or may require Proposers to wear protective personal equipment, including high visibility vests or other PPE that may be reasonably necessary to ensure safety of DTA staff and Proposers.

G-9 PROPOSAL CONTENTS CERTIFICATION

By submitting a Proposal, the Proposer warrants that the information provided is true, correct and reliable for purposes of Contract award. The submission of inaccurate or misleading information may be grounds for disqualification from Contract award and may be subject the Proposer to suspension or debarment proceedings, as well as other remedies available to the DTA.

G-10 CONTRACT FORM AND CHANGES

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

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

G-11 BONDING REQUIREMENTS

Proposers must provide a certified check or Bond in the amount of five percent (5%) of the total Proposal price at the time of Proposal submittal. A one hundred percent (100%) performance and payment bond is required from the successful Proposer in accordance with the requirements herein.

G-12 FIELD MEASUREMENTS

The Proposer is solely responsible for determining the actual field measurement of the project area prior to Proposal submission. Proposers must satisfy themselves by examination of the Contract Documents, the work site and the conditions and obstacles to be encountered in the field, and by any such other means as may be necessary, as to the accuracy of the schedule of quantities of the work to be done and the intent of the Contract Documents. After submission of the Proposal, no complaint nor claim that there was any misunderstanding as to the quantities, conditions or nature of the work will be entertained and no extra compensation will be allowed by reason of any matter or thing concerning which Proposer might have been informed of prior to Proposal submission.

Proposer acknowledges and agrees that it will not and cannot assume conditions affecting the work based upon documents and information provided by the DTA or representations and statements made by DTA personnel. The DTA assumes no responsibility for any conclusions or interpretations made by the Proposer based on the information made available by the DTA. Nor does the DTA assume responsibility for any understanding reached or representations made concerning conditions which can affect the work by any of its officers or agents before the execution of the Contract, unless that understanding or representation is expressly stated in this Contract.

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G-13 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 pursuant to these specifications. It is the intention of these specifications to provide and require complete equipment of the type prescribed herein. Any items omitted from the specifications which are clearly necessary for the operation of such equipment 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, manufacturer or supplier in the omission of any part or detail which goes to make the equipment complete and ready for service or use.

G-14 STATE, FEDERAL, OSHA SAFETY REQUIREMENTS

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

G-15 DISPOSITION OF RESPONSES

All materials submitted in response to this RFP will become the property of the DTA, and will become public record in accordance with Minnesota Statutes §13.591 after the award process is complete. Pursuant to the statute, If a Proposer submits information in response to this RFP that it believes to be trade secret materials as defined by the Minnesota Government Data Practices Act, Minnesota Statutes §13.37, the Proposer must:

- Clearly mark all trade secret materials in its Proposal at the time of Proposal submittal
- Include a statement with the Proposal justifying the trade secret designation for each item;
- Respondent may not declare the entire Proposal confidential; and
- Defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the DTA and ATE Management of Duluth, Inc., and their agents and employees, from any judgements or damages awarded against the DTA and ATE Management of Duluth, Inc., in favor of the party requesting the materials, and all and all costs connected with that defense. This indemnification survives the DTA's award of a Contract. In submitting a Proposal in response to this RFP, the Proposer agrees that this indemnification survives as long as the trade secret materials are in possession of the DTA. DTA is required to keep all basic documents related to its contracts, including responses to RFPs, for a minimum of seven years. Notwithstanding the above, the above DTA may determine those items marked as trade secret materials to be public under MN Government Data Practices Act Minnesota Statutes, Chapter 13.

G-16 PROTEST PROCEDURES

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

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

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

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

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

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

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

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

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

PROTESTS AFTER AWARD

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

DECISION ON PROTEST

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

Following an adverse decision by the General Manager, the protestor may file a protest with FTA. For details, see FTA Circular 4220.1F, as amended, and 2 C.F.R. Part 200.318(k) which states that FTA will not substitute its judgment for that of the DTA unless the matter is primarily a Federal concern.

G-17 ORGANIZATION CONFLICTS OF INTEREST

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- a. An organization 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. The Contractor's misrepresentation of facts in connection with a conflict of interest reported or a Contractor's failure to disclose a conflict of interest as required shall be a basis for default termination of this contract.

G-18 TAXES

Taxes. The DTA is NOT appointing the Contractor as its purchasing agent under MN Department of Revenue Notice #17-10, "Sales and Use Tax-Construction Contracts with Exempt Entities". The Contractor will pay all sales, consumer, use and similar taxes for the material and work provided herein.

For those contracts funded by the State of Minnesota and subject to the MN Department of Revenue requirements, an IC-134 form is required prior to final payment.

Unless a Certificate of Exemption is provided, any out of state Proposer receiving a Proposal award will have eight percent (8%) retained from invoice payments on any contracts over \$50,000. Submit a signed copy from the State of Minnesota when submitting Payment and Performance Bonds. This form may be found at the following web address:
<http://taxes.state.mn.us.formsandinstructions/sde.pdf>

G.19 PROMPT PAYMENT TO SUBCONTRACTORS.

In accordance with Minnesota § 337.10 (3), Contractor shall pay any subcontractor or material supplier within ten (10) days of receipt by the party responsible for payment of payment of

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undisputed services provided by the party requesting payment. The Contractor shall pay interest of at least one and one-half percent (1-1/2%) per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the party responsible for payment shall pay the actual penalty due to the party requesting payment. A party requesting payment who prevails in a civil action to collect interest penalties from a party responsible for payment must be awarded its costs and disbursements, including attorney's fees incurred in bringing the action.

Contractor shall further require this provision to be included in all contracts between subcontractors and sub-subcontractors of any tier.

G-20 SUBCONTRACTOR REPORTING

- a. The Proposer shall disclose all subcontractors and their involvement in the project at the time of bid submittal.
- b. The Contractor shall ensure that procurement activities for its Subcontractors (of any tier) and Suppliers on the project comply with the DTA's guidelines and requirements. The DTA reserves the right to reject any Subcontractor (of any tier) or Supplier without cause, and prior to award, upon notice from the DTA, Contractor shall seek a different Subcontractor or Supplier in compliance with the above provisions.
- c. The Contractor shall insert the required Federal and State provisions in every subcontract, along with copy of the applicable prevailing wage determination(s) and require submission of weekly reports in accordance with specifications herein.
- d. If any Subcontractor employed by the Contractor or any person employed by the Contractor or by a Subcontractor fails to perform assigned Work in a proper and skillful manner, or becomes intemperate, disorderly, abusive, or harassing, the Contractor shall remove that Subcontractor or person from the project as directed in writing by the DTA. The Contractor shall not employ that Subcontractor or person again on any portion of the project unless otherwise approved by the DTA in writing. If the Contractor fails to provide suitable and sufficient personnel for the proper execution of the Work, the DTA may suspend the Work until the Contractor complies with the direction from the DTA.
- e. Contractor shall provide with each pay application submitted to the DTA, a separate, itemized summary of all retainage Contractor has withheld from subcontractors and suppliers on the project.
- f. Contractor shall provide a copy to the DTA of any notices to proceed, default notifications, notice to cure, termination notices, lien waivers, contract close-out documents, notice of acceptance, or other correspondence with Subcontractors (of any tier) and suppliers relevant to the project.
- g. In the event a subcontractor (of any tier) or supplier is found in default of any applicable federal, state or local law, ordinance, regulation or requirement promulgated by any agency as it relates to the project, or in default of their contract, Contractor shall immediately report such default to the DTA in writing along with any documents, reports or other information pertinent to the default.

G-21 REQUIRED INSPECTIONS

The Contractor is responsible for requesting and scheduling any required building code inspections for all work on the project, including work completed by any subcontractor of any tier, and shall provide the DTA with a copy of all inspection reports.

G-22 MINNESOTA NONDISCRIMINATION REQUIREMENTS

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

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

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

G-23 SINGLE RESPONSE

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

SIGNIFICANT DATES OF PROCUREMENT

Item	Date	Time
Date of Release	February 22, 2023	
Preproposal Meeting	March 1, 2023	1:00 pm
Request for Clarifications	March 8, 2023	3:00 pm
Responses for Clarifications	March 9, 2023	3:00 pm
Proposal Opening	March 15, 2023	2:00 pm
Award	March 29, 2023	

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Section 2.**FEDERAL TRANSIT ADMINISTRATION****Contract Clauses**

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

Clause Language

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

**A.2 BONDING REQUIREMENTS
2 CFR §200.325
31 CFR Part 223**

Bond Requirements

Proposers shall furnish a bid guaranty in the form of a bid bond, or certified treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the Duluth Transit Authority. The amount of such guaranty shall be equal to 5% of the total bid price for bids over one hundred seventy-five thousand dollars (\$175,000.00).

In submitting this bid, it is understood and agreed by Bidder that the Duluth Transit Authority reserves the right to reject any and all bids, or part of any bid, and it is agreed that the bid may not be withdrawn for a period of ninety (90) days subsequent to the opening of bids, without the written consent of the Duluth Transit Authority.

It is also understood and agreed that if the undersigned Bidder should withdraw any part of all of his bid within ninety (90) days after the bid opening without the written consent of the Duluth Transit Authority, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance as provided herein, it shall forfeit its bid guaranty to the extent the Duluth Transit Authority damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security thereof.

It is further understood and agreed that to the extend the defaulting bidder's bid guaranty shall prove inadequate to fully recompense the Duluth Transit Authority for any damages occasioned by default, then the undersigned Bidder agrees to indemnify the Duluth Transit Authority and pay over to the Duluth Transit Authority the difference between the bid guarantee and the Duluth Transit Authority's total damages so as to make the Duluth Transit Authority whole.

The undersigned understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee

A Performance Guarantee in the amount of one hundred percent (100%) of the Contract value for contracts over one hundred thousand dollars (\$100,000) is required by the Duluth Transit Authority to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Duluth Transit Authority within ten (10) business days from Contract execution. The Duluth Transit Authority requires all Performance Bonds to be provided by a fully qualified surety company acceptable to

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the Duluth Transit Authority and listed as a company currently authorized under 31 C.F.R. Part 22 as possessing a Certificate of Authority as described hereunder. The Duluth Transit Authority may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal one hundred percent (100%) of the increase in the Contract price. The Duluth Transit Authority may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder or Proposer shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder or Proposer. The Irrevocable Stand-By Letter of Credit will only be accepted by the Duluth Transit Authority if:

1. A bank in good standing issues it. The Duluth Transit Authority will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Duluth Transit Authority is identified as the Beneficiary.
5. It is in an amount equal to **100%** of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract.
7. The expiration date of the Letter of Credit coincides with the terms of this Contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Duluth Transit Authority and the Contractor for the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft similar to the forms attached herein to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds

A Labor and Materials Payment Bond equal to the full value of the Contract must be furnished by the Contractor to the Duluth Transit Authority as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to the Duluth Transit Authority and listed as a company currently authorized under 31 CFR Part 223 as possessing a Certificate of Authority as described thereunder.

Sample Bond Certifications

Performance Guarantee Certification

The undersigned hereby certifies that the Bidder shall provide a Performance Guarantee in accordance with the Specifications.

Designate below which form of Performance Guarantee shall be provided: (example only)

_____ Performance Bond
_____ Irrevocable Stand-By-Letter of Credit

BIDDER'S NAME: _____

Authorized Signature: _____

Title: _____

Performance Bond (example)

KNOW ALL MEN BY THESE PRESENTS: that _____ (insert full name and address and legal title of Contractor) as Principal, hereinafter called Contractor, and

_____ (insert full name and address or legal title of Surety) as Surety, hereinafter called Surety, are held and firmly bound unto the Duluth Transit Authority as Obligee, hereinafter called DTA, in the amount of _____ dollars (\$) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

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Whereas, Contractor has by written agreement dated _____, entered into a contract with the Duluth Transit Authority for Contract Number _____, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Duluth Transit Authority.

Whenever Contractor shall be, and is declared by the Duluth Transit Authority to be in default under the Contract, the Duluth Transit Authority have performed the Duluth Transit Authority's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or if the Duluth Transit Authority elects, upon determination by the Duluth Transit Authority and Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and the Duluth Transit Authority, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, the amount set forth in the first paragraph hereof. The term "balance of the contract price" as used in this paragraph, shall mean the total amount payable by the Duluth Transit Authority to the Contractor and any amendments thereto, less the amount properly paid by the Duluth Transit Authority to the Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Duluth Transit Authority or the heirs, executors, administrators or successors of the Duluth Transit Authority.

Signed and sealed this _____ day of _____.

PRINCIPAL

_____(example)_____(seal)
_____(title)

WITNESS

_____(example)_____
_____(Title)

SURETY

(SEAL)

Attach hereto proof of authority of officers or agents to sign bond.

Irrevocable Stand-By Letter of Credit Certificate (example)

The undersigned states that he/she is _____ (Title) of the _____ (Name of Beneficiary), known as the "Beneficiary" and hereby certifies on behalf of the Beneficiary to _____ (Name of Issuing Bank) known as the "Bank" with Reference to Irrevocable Standby Letter of Credit No. _____ Issued by the Bank ("Letter of Credit") that:

1. The undersigned is duly authorized to execute and deliver this certificate on behalf of the Beneficiary.
2. The Beneficiary is making a drawing under the Letter of Credit.
3. An Event of Default has occurred under Contract number _____
4. The amount of the draft presented with this certificate does not exceed the total maximum amount drawable today under the Letter of Credit as provided therein.

IN WITNESS WHEREOF, this certificate is executed this _____ day of _____.

(NAME OF BENEFICIARY)

By: _____ (example)

ITS: _____

Bank Draft (example)

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FOR VALUE RECEIVED

Pay on presentment to _____ (Name of Beneficiary) the sum of _____ dollars (\$)
 Charge the Account of _____ (Name of Issuing Bank) Irrevocably Standby Letter of Credit
 No. _____, dated _____.
 To _____ (Name of Issuing Bank)

NAME OF BENEFICIARY

By _____ (example)
 Its _____

A.3 BUS TESTING

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

A.4 BUY AMERICA REQUIREMENTS

49 U.S.C. 5323 (J), 49 CFR Part 661

Buy America

The Contractor agrees to comply with 49 U.S.C. 5323 (j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless all steel, iron and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by the FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. §661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. §661.11.

The Bidder or Offeror must submit to the Duluth Transit Authority the appropriate Buy America certification below with its bid or offer. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

In accordance with 49 C.F.R. §661.6, for the procurement of steel, iron or manufactured products, use the certification below.

Certificate of Compliance with Buy America Requirements. (example)

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.

Certificate of Non-Compliance with Buy America Requirements. (example)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for a n exception to the requirement pursuant to 49 U.S.C. 5323 (j)(2) as amended, and applicable regulations in 49 C.F.R. §661.7.

A.5 CARGO PREFERENCE REQUIREMENTS

46 U.S.C. §55.05

46 C.F.R. Part 381

Cargo Preference- Use of United States-Flag Vessels

The Contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) days following the date of loading of shipments originating outside of the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration,

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Washington DC, 20590 and to the FTA recipient (through the contractor in the case of a sub-contractor's bill-of-lading); and

c. to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material or commodities by ocean vessel.

A.6 CHARTER SERVICE

49 U.S.C.5323(d) and (r)

49 C.F.R. Part 604

Does not apply to this procurement

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

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

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

The Contractor agrees:

1. It will not use any violating facilities
2. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
3. It will report violations of use of prohibited facilities to FTA; and
4. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§7401-7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§1251-1387.)

A.8 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 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 be employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6101 *et. Seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for the reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12101 *et. Seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §4151 *et. Seq.*, and Federal transit law at 49 U.S.C. §4332, the Contractor agrees that it will not

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discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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
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.

A.10 EMPLOYEE PROTECTIONS

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

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

Prevailing Wage and Anti-Kickback

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

Contract Work Hours and Safety Standards

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

In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

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

Contract Work Hours and Safety Standards for Awards Not Involving Construction

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

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social

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security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

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

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

A.11 ENERGY CONSERVATION REQUIREMENTS

**42 U.S.C. 6321 et seq.
49 CFR Part 622, Subpart C**

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

A.12 FLY AMERICA

**49 U.S.C. §40118, 41 C.F.R. Part 301-10
48 C.F.R. Part 47.4**

Does not apply to this procurement

A.13 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

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

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

Executive Order 12549, Executive Order 12689

Debarment, Suspension, Ineligibility and Voluntary Exclusion

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

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

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

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

The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

A. 14 LOBBYING RESTRICTIONS

**31 U.S.C. 1352, 2 CFR §200.450
2 C.F.R. Part 200 Appendix II (J), 49 C.F.R. Part 20**

Lobbying Restrictions

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

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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.15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Federal Government Obligation to Third Parties.

The Recipient 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.

A.16 PATENT RIGHTS AND RIGHTS IN DATA

2 C.F.R. part 200, Appendix II (F); 37 C.F.R. part 401

Does not apply to this procurement

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

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

Does not apply to this procurement

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

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

18 U.S.C. § 1001, 49 C.F.R. part 31

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.

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The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

A.19 PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

49 U.S.C. § 5333(b) ("13(c)", 29 C.F.R. part 215

Does not apply to this procurement

A.20 RECYCLED PRODUCTS

42 U.S.C. § 6962 , 40 C.F.R. part 247

2 C.F.R. part § 200.322

Recovered Materials

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

A.21 SAFE OPERATION OF MOTOR VEHICLES

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

Executive Order No. 13513, U.S. DOT Order No. 3902.10

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.22 SCHOOL BUS OPERATIONS

49 U.S.C. 5323(f), 49 C.F.R. part 605

Does not apply to this procurement

A.23 SEISMIC SAFETY

42 U.S.C. 7701 *et seq.*, 49 C.F.R. part 41 Executive Order (E.O.) 12699

Does not apply to this procurement

A.24 SUBSTANCE ABUSE REQUIREMENTS

49 U.S.C. § 5331, 49 C.F.R. part 655 49 C.F.R. part 40

Does not apply to this procurement

A.25 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.

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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.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision 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. In this event, the Duluth Transit Authority may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Duluth Transit Authority resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Duluth Transit Authority in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God or Nature, acts of the Duluth Transit Authority, acts of another contractor in the performance of a contract with the Duluth Transit Authority acts of another contractor in the performance of a contract with the Duluth Transit Authority, epidemics, quarantine restrictions, strikes, freight embargoes; and

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2. The Contractor, within three (3) days from the beginning of any delay, notifies the Duluth Transit Authority in writing of the causes of delay. If, in the judgment of the Duluth Transit Authority, the delay is excusable, the time for completing the work shall be extended. The judgment of the Duluth Transit Authority shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Duluth Transit Authority.

A.26 VIOLATION AND BREACH OF CONTRACT

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

Rights and Remedies of the Duluth Transit Authority

The Duluth Transit Authority shall have the following rights in the event that the Duluth Transit Authority deems the Contractor guilty of a breach of any term under the Contract.

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

For purposes of this Contract, breach shall include, but not be limited to, failure to proceed with Work, failure to perform, failure to supervise, failure to comply with Duluth Transit Authority written directives in accordance with this Contract.

Rights and Remedies of Contractor

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

Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the Duluth Transit Authority will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the Duluth Transit Authority takes action contemplated herein, the Duluth Transit Authority will provide the Contractor with sixty (60) days written notice that the Duluth Transit Authority considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

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

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

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

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

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Performance during Dispute

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

Claims for Damages

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

Remedies

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

Rights and Remedies

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

**A. 27 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—

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(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);

(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

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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 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. 29) 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.

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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.

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DULUTH TRANSIT AUTHORITY

CONTRACT (example for Proposal purposes)

TELECOMMUNICATIONS SYSTEM

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Section 3. Contract (example for Proposal)

This Contract, made this ____ day of ____, 2023, by and between ____, a ____ (corporation) ____, hereafter referred to as "Contractor", and the Duluth Transit Authority, 2402 W. Michigan St., Duluth, MN, hereafter referred to as "DTA". The DTA and Contractor agree as set forth below.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents in priority order consist of this FTA Contract Clauses, this Contract and amendments thereto; Request for Proposals (Procurement # 041-23-2021.1) dated February 22, 2023 including the General, Special and Technical Specifications and Drawings; prevailing wage schedules, all addenda and modifications thereto issued prior to the execution of the Contract; the Contractor's Proposal, including Required Certificates; all as fully a part of the Contract as if attached to this Contract or repeated herein.

ARTICLE 2 THE WORK

The Contractor shall perform the work required by the Contract Documents for this Request for Proposals in accordance with the generally accepted standards of the profession for services of this type.

ARTICLE 3 TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

The Work to be performed under this Contract shall begin upon "notice to proceed" from the DTA and completed no later than December 31, 2027, unless otherwise terminated as set forth herein.

Option to Extend: The DTA, may, at its sole discretion, extend the term of this contract for a period of five years, from January 1, 2028 through December 31, 2032 upon written notice from the DTA Procurement Manager no later than December 1, 2027. 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, unmodified, in full force and effect, except that payment to the Contractor shall be increased as set forth in the Contractor's Proposal.

ARTICLE 4 CONTRACT SUM

The DTA shall pay the Contractor in current funds for the performance of the work, subject to additions and deductions by Change Orders as provided in the Contract Documents in the amount accepted.

ARTICLE 5 PAYMENTS TO CONTRACTOR

No advance payments are permitted. The DTA will only pay for materials received or services rendered, including mobilization costs.

The DTA will reimburse Contractor based on monthly billings for service. DTA may withhold payment for Contractor's services where the services are in dispute, where the services or any claimed reimbursable expenses are not documented or warranted, or when the service was not performed in accordance with the terms of the Contract Documents. Retainage will be held on construction and installation payments until all conditions of final payment are met.

Terms of payment shall be thirty (30) days net from the conclusion of the month for which payment is due, unless a discount for earlier payment is solicited by the DTA and offered by the Contractor.

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Payment does not imply acceptance of work. The granting of any progress payment or payments by the DTA, or receipt thereof by Contractor, shall not constitute in any sense acceptance of the work or any portion thereof, and shall in no way lessen the requirement of the Contractor to replace unsatisfactory work or material, though the unsatisfactory character of such work or material may not have been apparent or detected at the time such payment was made. Material, components or workmanship which does not conform to the instructions of these Contract requirements or specifications which are not equal to the samples submitted to and approved by the DTA Project Manager will be rejected and shall be replaced by the Contractor without delay. The DTA may withhold payment for Contractor's service where the services are in dispute, where the services or any claimed reimbursable expenses are not documented or warranted, or when the service was not performed in accordance with the terms of the Contract Documents.

ARTICLE 6 INVOICES

All invoices shall include supporting documentation of the quantities and details to the DTA's Director of Finance's satisfaction to support the pay request. Invoices should be forwarded to:

Duluth Transit Authority
Director of Finance
2402 West Michigan Street
Duluth, MN 55806

ARTICLE 7 DELAYS

Contractor shall notify DTA in writing of any delays, including all relevant details, immediately upon encountering any difficulties which threaten to delay the timely performance of this Contract, and may at that time or subsequently request an extension of the delivery date or schedule. However, such notification or request or acceptance of belated equipment shall not constitute acceptance of the delay or request for extension, without written acceptance by DTA as a change in the Contract.

ARTICLE 8 ASSIGNABILITY

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

ARTICLE 9 CONTRACT CHANGES

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

ARTICLE 10 INDEMNIFICATION

The Contractor shall defend, indemnify and save the DTA and ATE Management of Duluth harmless from all costs, charges, damages, and loss of any kind that may grow out of the matter covered by this Contract. Said obligation does not include indemnification of the DTA and ATE Management of Duluth Inc. for claims of liability arising out of the sole negligent or intentional acts or omissions of DTA and ATE Management of Duluth, Inc., but shall include, but not be limited to, the obligation to defend, indemnify and save harmless the DTA and ATE Management of Duluth, Inc. in all cases where claims of liability against the DTA and ATE Management of Duluth, Inc. arise out of acts or omissions of DTA and ATE Management of Duluth, Inc. which are derivative of the negligent or intentional acts or omissions of Contractor, such as, and including but not limited to, the failure to

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supervise, the failure to warn, the failure to prevent such act or omission by Contractor and other of such source of liability. In addition, Contractor will comply with all local, state and federal laws, rules and regulations applicable to this Contract and to the work to be done and things to be supplied hereunder.

ARTICLE 11 PATENT INFRINGEMENT

DTA acknowledges that, in the course of performing the services in the Contract, the Contractor may use software and related processes, instructions, methods and techniques that have been previously developed by the Contractor (collectively the "Pre-existing Materials", which shall include the services), and that the same shall remain the sole and exclusive property of the Contractor. Except as expressly set forth herein, no license is granted by either party to the other with respect to confidential information or Pre-existing Materials. Nothing in this Contract shall be construed to grant either party any ownership or other interest in confidential information or Pre-existing Materials, except as may be provided under a license specifically applicable to such information or materials. The provisions of this Section will survive the completion or termination of this Contract.

The Contractor agrees to indemnify, defend and hold harmless the DTA and ATE Management of Duluth, Inc. from and against any and all claims, including reasonable attorney's fees, costs and expenses incidental thereto, which may be suffered by, incurred by, accrued against, charged to or recoverable from the DTA and ATE Management of Duluth, Inc. by reason of any claim arising out of or relating to the services provided herein infringing or misappropriating any United States or foreign patent, copyright, trade secret, trademark, or other proprietary right. In the event that the Contractor is enjoined from providing the services herein and such injunction is not dissolved within thirty (30) calendar days, or in the event that the Contractor is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any patent, copyright, trade secret, trademark, or other proprietary right in the access or use of the services provided herein, then Contractor shall, at its sole cost and expense, (a) obtain for the DTA and ATE Management of Duluth, Inc. the right to continue using such services as provided herein, (b) replace or modify such services as provided herein so they do not infringe upon or misappropriate such proprietary rights and is free to be used by the DTA and ATE Management of Duluth, Inc., or (c) in the event that the Contractor is unable or determines in its reasonable judgement, that it is commercially unreasonable to do either of the aforementioned, Contractor shall reimburse the DTA any prepaid fees and full cost of any transition services, including the purchase of new software, hardware, or other goods and services to receive the services as provided herein.

ARTICLE 12 INSURANCE

a. Contractor shall provide the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota, which insurance shall indemnify Contractor and the DTA and ATE Management of Duluth, Inc. from all liability described in the paragraph above.

- (1) Workers' compensation in accordance with the laws of the state of Minnesota.
- (2) Public Liability and Automobile Liability Insurance with limits not less than \$1,500,000 Single Limit and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance, shall be in a company approved by the DTA; and shall provide for the following: Liability for

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Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability.

- (3) DTA and ATE Management of Duluth, Inc. shall be named as an **Additional Insured** under the Public Liability, Excess/Umbrella Liability* and Automobile Liability, or as an alternate, Contractor may provide Owners-Contractors Protective policy, naming itself and the DTA and ATE Management of Duluth, Inc. Contractor shall also provide evidence of Statutory Minnesota Worker's Compensation Insurance. Contractor to provide Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation, non-renewal or material change provisions included. The DTA does not represent or guarantee that these types or limits of coverage are adequate to protect the Contractor's interests and liabilities.

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

- (4) If a certificate of insurance is provided, the form of the certificate shall contain an unconditional requirement that the insurer notify the DTA without fail not less than thirty (30) days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to DTA will render any such change or changes in said policy or coverages ineffective as against the DTA and ATE Management of Duluth, Inc.
- b. The insurance required herein shall be maintained in full force and effect during the life of this Contract and shall protect Contractor, its employees, agents and representatives from claims and damages including but not limited to personal injury and death and any act or failure to act by Contractor, its employees, agents and representatives in the negligent performance of work covered by this Contract.
- c. Certificates showing that Contractor is carrying the above described insurance in the specified amounts shall be furnished to the DTA prior to the execution of this Contract and a certificate showing continued maintenance of such insurance shall be on file with the DTA during the term of this Contract.
- d. Contractor shall be required to provide insurance meeting the requirements of this Paragraph unless Contractor successfully demonstrates to the satisfaction of the City Attorney, in the exercise of his or her discretion, that such insurance is not reasonably available in the market. If Contractor demonstrates to the satisfaction of the City Attorney that such insurance is not reasonably available, the City Attorney may approve an alternative form of insurance which is reasonably available in the market which he or she deems to provide the highest level of insurance protection to the DTA and ATE Management of Duluth.

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ARTICLE 13 RECORDS AND INSPECTIONS

- a. **Establishment and Maintenance of Records**
Records shall be maintained by Contractor in accordance with requirements prescribed by DTA and with respect to all matters covered by this Contract. Such records shall be maintained for a period of six (6) years after receipt of final payment under this Project.
- b. **Documentation of Costs**
Contractor will ensure that all costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.
- c. **Reports and Information**
Contractor shall be responsible for furnishing to DTA records, data and information as DTA may require pertaining to matters covered by this Contract.
- d. **Audits and Inspections**
Contractor shall ensure that at any time during normal business hours and as often as DTA may deem necessary, there shall be made available to DTA for examination, all of its records with respect to all matters covered by this Contract. Contractor will also permit DTA to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, and other data relating to all matters covered by this Contract.
- e. **Confidentiality of Information**
Contractor 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 Contract, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by Contractor under this Contract. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by the Contractor. If Contractor receives a request to release the data referred to in this clause, Contractor must immediately notify the DTA and consult with the DTA as to how Contractor should respond to the request. Contractor's response to the request must comply with applicable law.
- f. **Ownership of Data**
All survey notes, reports, design plans, specifications, special studies, records and other data prepared under this Contract shall become the property of DTA when prepared and shall be delivered to the DTA upon completion or termination of the services of Contractor or at such earlier time as requested by the DTA.

ARTICLE 14 INDEPENDENT CONTRACTOR

That at all times and for all purposes hereunder, Contractor shall be an independent contractor and is not an employee of the DTA for any purpose. No statement contained in this Contract shall be construed so as to find Contractor to be an employee of the DTA, and Contractor shall not be entitled to any of the rights, privileges, or benefits of employees of the DTA, including, but not limited to,

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workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.

ARTICLE 15 COMMUNICATIONS

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

Designation for DTA

Designation for Proposer

Aleda Johnson, Director of IT

ARTICLE 16 FORCE MAJUERE

Except with respect to defaults of subcontractors, the Contractor shall not be liable for any guaranteed payments to the DTA if the failure to perform the Contract arises out of causes beyond the Contract and without the fault or negligence of the Contractor. Such causes must be clearly documented to the satisfaction of the DTA Director of Finance, and may include, but are not limited to, acts of God or the public enemy, acts of the U.S. Government in its sovereign capacity or the DTA in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes not within the control of the Contractor, freight embargoes, inability to obtain raw materials, or inability to obtain supplies. In every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and without fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, or for guaranteed payments to the DTA, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the Contract requirements.

ARTICLE 17 EXTENT OF AGREEMENT

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

ARTICLE 18 GOVERNING LAW

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

ARTICLE 19 RIGHTS AND REMEDIES

The duties and obligations imposed by the Contract and the rights and remedies available hereunder shall be in addition to any duties, obligations, rights and remedies otherwise imposed or available by law.

ARTICLE 20 NO THIRD-PARTY RIGHTS

This Contract is to be construed and understood solely as a Contract between the DTA and the Contractor and shall not be deemed to create any rights in any other person. No person shall have

**Duluth Transit Authority
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the right to make claim that she or he is a third-party beneficiary of this Contract or of any of the terms and conditions hereof, which, as between the DTA and Contractor, may be waived at any time by mutual agreement.

ARTICLE 21 CANCELLATION

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

ARTICLE 22 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 23 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 but one and the same instrument. Signatures to this Contract transmitted by facsimile, by electronic mail in "portable document format" ("pdf") or by any 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.

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

Duluth Transit Authority

Contractor:

General Manager

Its _____

PROPOSAL SHEETS

DULUTH TRANSIT AUTHORITY

Telecommunications System

February 22, 2023

**Duluth Transit Authority
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Proposers shall include a summary of their firm and the Proposed system and its costs as follows:

REQUIRED SUBMITTALS

- a. A summary of the system, including all software and hardware required to implement the system.
- b. A completed Vendor Compliance Questionnaire.
- c. A proposed timeline for installation, testing and go live.
- d. A copy of license and maintenance agreements.
- e. A list of planned upgrades for the next two years (as applicable).
- f. Samples of the reporting metrics from the System.
- g. An itemized Cost Proposal and the Cost Proposal Sheet included herein.
- h. Three references with contact information.
- i. All required forms and certifications herein.

Firm Name: _____

Mailing Address:

CITY

STATE

ZIP CODE

Addendum Acknowledgment
Number Date Rec'd

By: _____
(PRINT NAME) TITLE

PHONE NO.

Signature: _____

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Cost Proposal Sheet

Supplier Name

Onetime Costs	Year 1	Year 2	Year 3	Year 4	Year 5
Software Licensing	\$0	\$0	\$0	\$0	\$0
Hardware	\$0	\$0	\$0	\$0	\$0
Project Management	\$0	\$0	\$0	\$0	\$0
Design	\$0	\$0	\$0	\$0	\$0
Build	\$0	\$0	\$0	\$0	\$0
Implement	\$0	\$0	\$0	\$0	\$0
Testing	\$0	\$0	\$0	\$0	\$0
Training	\$0	\$0	\$0	\$0	\$0
Go-Live	\$0	\$0	\$0	\$0	\$0
Post Go Live Support	\$0	\$0	\$0	\$0	\$0
Total Onetime Cost	\$0	\$0	\$0	\$0	\$0

Recurring Costs	Year 1	Year 2	Year 3	Year 4	Year 5
Transactional Cost (if applicable)	\$0	\$0	\$0	\$0	\$0
Long Terms Storage for Data	\$0	\$0	\$0	\$0	\$0
Annual Maintenance	\$0	\$0	\$0	\$0	\$0
Customer Service	\$0	\$0	\$0	\$0	\$0
Business Customer Support	\$0	\$0	\$0	\$0	\$0
Technical Customer Support	\$0	\$0	\$0	\$0	\$0
Total Recurring Cost	\$0	\$0	\$0	\$0	\$0

Other Costs (if applicable)	Year 1	Year 2	Year 3	Year 4	Year 5
Vendor Enrollment Cost	\$0	\$0	\$0	\$0	\$0
Vendor per Transaction Cost	\$0	\$0	\$0	\$0	\$0
E-Invoice Conversion Cost	\$0	\$0	\$0	\$0	\$0
Total Other Cost	\$0	\$0	\$0	\$0	\$0

Pricing for up to eight (8) additional one (1) year periods: Please provide pricing methodology.

Consulting / O&M Rates

Please provide rate sheets for typical job classifications used in this type of work.

These rates MAY be used to calculate costs for future enhancements to this solution.

**Duluth Transit Authority
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4.1 Proof of Responsibility Statement

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

Statement of Bidder Qualifications and Responsibility

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

Questions 7-13: 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

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

1. Is the Contractor's firm or organization registered as a Small Business under the Small Business Administration's 8(a) Business Development Program, HUBZone business, or other development program through the SBA? No____ Yes____ (If yes, please provide a copy of the registration.)
2. Is the Contractor's firm or organization certified or registered as a Small Business, a Disadvantaged Business Enterprise, or a Veteran-owned business (including Service-Disabled Veteran-owned business) by a government agency authorized to certify or register the above noted entities?

No ____ Yes____ (If yes, please provide details and copies of the applicable registration or certification.)

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

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

Signed this ____ day of _____, 20____:

Title _____

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4.3

Subcontractors and Suppliers Listing

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

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

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

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

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

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

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

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

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

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

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

Signed: _____

Firm Name: _____

Section 5.

REQUIRED CERTIFICATES

Certificate A. DEBARRED BIDDERS

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

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

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

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

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

The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Print Name and Title

Signature

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Certificate B COMPLIANCE WITH SPECIFICATIONS

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

SIGNED _____

FIRM NAME _____

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Certificate C. BUY AMERICA CERTIFICATION

Applicable for proposals over \$150,000.

Proposals or Offers not accompanied by a completed Buy America certification will be rejected as nonresponsive. Complete only one certification, Certificate of Compliance or Certificate of Non-Compliance with Buy America Requirements

In accordance with 49 C.F.R. § 661.6, for the procurement of steel, iron or manufactured products, use the certifications below.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

OR

(Do not complete this certification if you have certified that the products meet the Buy America Requirements above.)

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

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CERTIFICATE D. **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

**Duluth Transit Authority
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Certificate E. 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 _____

**Duluth Transit Authority
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Certificate F: 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);

(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

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(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 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:

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(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.

SIGNED _____

FIRM NAME _____

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Certificate G 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.

SIGNED _____

FIRM NAME _____

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Certificate H. Performance and Payment Guaranty

Performance Guarantee Certification

The undersigned hereby certifies that the Bidder or Proposer shall provide a Performance and Payment Guarantee in accordance with the Specifications upon award.

Designate below which form of Performance and Payment Guarantee shall be provided:

_____ Performance and Payment Bond

_____ Irrevocable Stand-By-Letter of Credit

PROPOSER'S NAME: _____

Authorized Signature: _____

Title: _____

Date: _____

SPECIAL AND TECHNICAL SPECIFICATIONS

FOR

TELECOMMUNICATIONS SYSTEM

February 22, 2023

Section 6. SPECIAL/TECHNICAL SPECIFICATIONS

A. GENERAL INFORMATION

1. The Duluth Transit Authority is soliciting Proposals to design and install a turnkey replacement Telecommunications System for DTA facilities. The current software and hardware is 13 years old and is no longer meeting the DTA's operational needs. The DTA wishes to upgrade the system to meet current and future needs.
2. Proposers must be able to demonstrate at least three years' experience in the past five years in similar work, preferably in a government setting.
3. There will be a preproposal meeting at **1:00 p.m. on Wednesday, March 1, 2023**. Attendance is not mandatory, but strongly encouraged. Email nbrown@duluthtransit.com or call 218-623-4329 for an invitation and/or to arrange a tour of the DTA facilities identified in this RFP. Visitors must comply with all DTA safety and security measures, including wearing a high visibility vest in vehicle movement areas.
4. Project Management: The DTA will provide a project manager who will provide ongoing project monitoring and will serve as the bidder's liaison with the DTA. The Project Manager for the DTA will be Aleda Johnson. There will be a Technical Advisory Group working with the project that will include other DTA staff.
5. Proposals must be accompanied by a Proposal security of five percent (5%) of the total Proposal amount in the form of a check, certified cashier's check, or bid bond payable to the Duluth Transit Authority. Such deposits will be held by the DTA until all Proposals submitted have been reviewed and have either been rejected or a Contract has been awarded. The Proposal deposit of the successful Proposer will be held until the Contract is duly executed. Proposal deposits will be returned to the unsuccessful Proposer(s) as soon as possible after award of the Contract.
6. Prior to beginning work, the Contractor shall attend a mandatory preconstruction meeting with designated DTA staff to establish schedule, contact information, staging, work progression, approval process, change order procedures, etc., to ensure a timely and successful Project.
7. Contractor shall obtain any and all applicable permits required for the work and shall provide a copy of them to the DTA prior to commencing work, along with any MSDS sheets or other documents related to the materials used in the work, as applicable. Permit fees are the responsibility of the Contractor. Contractor is solely responsible for all inspections that may be required by local authorities for the work under this Contract.
8. Staging areas are limited and must be approved prior to project commencement. Temporary storage on the interior of the building may be permitted upon approval of the DTA Project Manager.
9. Meetings: Upon commencement of work, Contractor shall attend meetings at least weekly with DTA representatives, as may be requested by the DTA Project Manager. Meetings may be conducted virtually upon approval of the DTA Project Manager. Cost of these meetings shall be included in the Proposed cost for the project. Per diem expenses will not be paid.

10. Substantial Completion: Substantial Completion occurs when all work is sufficiently complete to allow the DTA full use of the system for its intended purpose, and such terms of work that remain to be done are minor in nature and can be accomplished without significant interference to DTA operations. The DTA will supply written notification of the date of Substantial Completion.
11. Project Schedule: The Project Schedule will have periodic milestones for completion throughout the Project, including preliminary design, final design, installation of hardware and software, as applicable, testing, implementation and close out. The Contractor shall periodically update the Project Schedule for DTA review and approval.
12. All materials used in the Project must be new and in sufficient quantity to complete the Project in its entirety. No reconditioned equipment will be accepted. Any items damaged during shipment or installation must be replaced with new items at the Contractor's sole cost and expense.
13. Please note that the prevailing wage schedule attached to the Proposal document indicates that prevailing labor hours are defined in accordance with MN Statute 177.42(4): eight hours per day or forty hours per week. Contractors with workers who work four (4) ten-hour days must pay overtime for any hours over 8 hours per day, regardless of how many hours they work in a week. For example, if a worker works one ten-hour day in a week, they must be paid at rate of regular pay for eight hours, and time and half for two hours. Questions on this requirement can be directed to the DTA at nbrown@duluthtransit.com or 218-623-4329.
14. The DTA will withhold five percent retainage on invoiced amounts until the Project is completed and accepted by the DTA.
15. In conjunction with this Project, the DTA is separately soliciting proposals for an Interactive Voice Response ("IVR") system to support DTA paratransit services. The Contractor shall cooperate with the DTA and separate contractors whose work might overlap with the Contractor's work. If the Contractor claims that delay or additional cost is involved because of such action by the DTA, the Contractor shall make such claim as provided herein.
16. The DTA reserves the right to keep all existing equipment it desires for possible reuse or sale. If the equipment is retained by the DTA, Contractor shall remove the equipment undamaged and place them on a pallet as directed by the DTA Project Manager. Contractor shall dispose of any equipment that the DTA does not retain at Contractor's expense.
17. Contractor shall coordinate work hours and the work progression with DTA Project Manager to ensure as little inconvenience to DTA operations as possible.
18. Upon completion of work, Contractor shall participate in a joint meeting with DTA staff to review completed work and prepare a punch list for Contractor. Contractor shall immediately commence work on punch list items and shall complete the punch list work in a timely manner.
19. Project must be completed by August 31, 2023, unless otherwise approved by the DTA Procurement Manager. Failure to complete the work in a timely manner may cause penalties under this Contract, up to, and including, termination.
20. The method and means of providing the Proposed solution shall be under the exclusive control, management and supervision of the Contractor, in compliance with the specifications herein. Except

as otherwise agreed to, the services provided in the Project shall be provided solely from within the continental United States and on computing and data storage devices residing therein.

21. Subcontractors. Contractor shall not enter into any subcontracts for the performance of the Solution or assign or transfer any of its rights or obligations under this Contract without Customers prior written consent; any attempt to do so shall be void and without further effect and shall be a material breach of this Contract. Contractor's use of subcontractors shall not relieve the Contractor of any of its duties or obligations under this Contract.

22. Where the Proposed solution or any web services affiliated with the Contractor contains offensive content or portrays the Customer in a disparaging way, as solely determined by the Customer, the Contractor shall immediately remove the offensive or disparaging content and Customer shall have the right, at Customer's sole discretion, to either immediately terminate this Contract and be entitled to the return of any prepaid fees, as liquidated damages and not as a penalty, or, obtain or retain, as the case may be, all fees paid or payable for the then-current term, as liquidated damages and not as a penalty, associated with any services corresponding to the offending or disparaging content.

23. The Proposer will identify and describe all deliverables to be provided.

24. The selected Contractor is solely responsible for the complete turn-key engineering of the Proposed Telecommunication System and all interconnecting facilities.

B. DTA EXISTING TELECOMMUNICATIONS SYSTEM

1. The DTA existing phone system comprises the MINIMUM requirements for the DTA. Respondents to this RFP must meet or exceed the standards and specifications of the existing DTA Phone System. Respondents are requested to specifically identify those items that do not meet this minimum standard.
2. The system will serve 3 buildings:
 - a. The DTA Operations Center, 2402 West Michigan Street, Duluth, MN 55806. The Operations Center houses all DTA vehicles, administrative staff, and maintenance department.
 - b. The Duluth Transportation Center (DTC), 228 West Michigan Street, Duluth, MN 55802. This building serves as the DTA's primary transit hub serving 3 million customers per year. It also houses a secure bike storage area, a Jefferson Lines booth, as well as a Duluth Police Department substation.

There are also three stories of public parking at the DTC that requires telephone connectivity for emergency code blue stations and parking equipment.

- c. Transit Center East ("TCE"), 214 West Superior Street, Duluth, MN 55802. TCE is joined to DTC via a skywalk and includes commercial rental space on each of the three floors of the building.

2. Definitions

PBX – Private Branch Exchange (2, one at DTC)
 SIP – Session Initiation Protocol
 VLAN – Virtual LAN
 LAN – Local Area Network

Trunking – point-to-point link between two network devices that carry more than one VLAN
 QSIG – ISDN based signaling protocol for signaling between private branch exchanges in a private integrated services network (PISN)

WAN – Wide Area Network

3. Current Phone System Features:

Avaya IP Office Manager

IP Office 500 V2

IP Office version 9.1.500.145

Voicemail Pro version 9.1.12.0 build 6

Phone Operator Training Solution – switchboard with trainer able to hear

Recorded Phone Lines – Customer Service, STRIDE, and Driver's Line

Messages sync with email

SIP Gatekeeper and Gateway for converged communication, IP Server with Quality of Service (QoS)

SIP trunking (licensed feature), SIP extension for cellular tablets

Voicemail – 37 phones currently

Voicemail forward to email, outside access

Trunking, SAVE Line has 4 lines, business line has 5 lines, analog, digital and VoIP trunks.

Conference Bridge, currently 2

Accommodate 3 locations, DTA, DTC and TCE

Automatic Transfer selection for Customer Care, STRIDE, etc. via hitting a button

On-Premises Solution

Setup Holiday messages, timed messages for service

SAVE Line and Business Line, welcome message setup are not the same, programmable separate

Business Line, dial by first name, know extension

Queue jumping, dials first phone operator 3 rings, then second operator, then third operator

Night button to turn phone operators over to dispatch

Full PBX, caller ID, call forwarding, conference calling, voice messaging and more

All offices have individual phone extensions

Voice digital and analog lines, IP hard and soft phones wired and wireless

QSIG Networking, interoperate with other PABX's (license feature)

Backup Solutions in case of WAN Outage between sites

Headsets for phones option for both wireless and wired, dispatch and phone operators

Wireless communication in dispatch and phone operators for multiple operators at single location

Three Code Blue stations for emergency calls from DTC

One Parking Ramp Pay Station - DTC

Switchboard phones – quantity 3 at DTA, 2 at DTC, 1 at TCE

Currently technology shares ethernet ports with data devices via a switch port on the back of the phone

Current solution interfaces with analog, digital T1 and SIP connectivity

Phone Features: Call Log, Speaker Phone, Do Not Disturb (DND), Mute, Headset

Locations and Inventory:

DTA – 2402 W Michigan St, Duluth MN 55806

PoE

Charter to TCE, EOC – 2Mbps/2Mbps Ethernet over Coax

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VoIP Phones 4 pair, Cat 5e, Analog and Digital extensions require 1 pair. T1 connections require 2 pair.

DID numbers, quantity 67

2 Way DID Trunks with PRI, quantity 14

Analog Lines, quantity 5 (3 DTA, 2 TCE)

Digital Lines, quantity 13

Fractional T1

1 Phone Server

DTC – 228 W Michigan St, Duluth MN 55802

PoE

Fiber Connection to DTA

TCE – 214 W Superior St, Duluth MN 55802

PoE

Charter EOC Connection to DTA, – 2Mbps/2Mbps Ethernet over Coax

C. SCOPE OF WORK

In addition to our base system the DTA is requesting the following information on the Proposed system, responses to these requests must be included in the attached Vendor Compliance Matrix:

- Call Time in Queue
- Reporting: call time, dropped calls, call duration, call volume, etc.
- Expand on conference room features for 3 conference rooms (recording, voice tracking, etc.) SMS, Email, Voicemail, Video Messaging Options
- GUI – workstation or application
- Ease of transferring calls
- Expansion of system to scale up to 20% additional user capacity and how to add additional sites
- Would like to return a call from an outside caller direct from the call log, the 9 stops this now
- Option to not have caller number, time/date before the actual voicemail
- Deleting voice message on email will also do the same on the Telecommunications server.
- Adding more recorded lines/extensions with 21-day retention (currently there are three recorded lines, however for some reasons, not all calls have been properly recorded).
- Existing phone numbers shall be maintained.
- Existing extension numbers shall be maintained
- On-Premises VoIP Solution, Hosted VoIP Solution or Hybrid IP System, Cloud based solution.

D. CLOUD BASED SOLUTIONS

Please respond to the following items included in the attached Vendor Compliance Matrix.

Responses will be considered in the Evaluation process:

1. The method and means of providing the Solution shall be under the exclusive control, management and supervision of the Contractor, in compliance with the specifications herein. Except as otherwise agreed to, the services provided in the Solution shall be provided solely from within the continental United States and on computing and data storage devices residing therein.

2. Where the Solution or any web services affiliated with the Contractor contains offensive content or portrays the DTA in a disparaging way, as solely determined by the DTA General Manager, the Contractor shall immediately remove the offensive or disparaging content and DTA shall have the right, at DTA General Manager's sole discretion, to either immediately terminate this Contract and be entitled to the return of any prepaid fees, as liquidated damages and not as a penalty, or, obtain or retain, as the case may be, all fees paid or payable for the then-current term, as liquidated damages and not as a penalty, associated with any services corresponding to the offending or disparaging content.
3. Upon request by the DTA Project Manager, Contractor shall provide to DTA a copy of its disaster recovery plan for both the vendor site and the DTA site.

E. SECURITY

1. Please complete the attached Vendor Security Questionnaire with details on the Proposed System's security measures. This information will be considered in the Evaluation process.

F. CONTRACT CLOSEOUT

1. Prior to final payment, Contractor must submit the following:
 - a. A complete set of record ("as-built") drawings and submit them to the DTA.
 - b. Certified payrolls and lien waivers from the prime contractors and all subcontractors and/or suppliers.
 - c. A completed IC 134 form from the Minnesota Department of Revenue.
 - d. Copies of all local inspection reports, as applicable.
 - e. A statement that all punch list items are complete and accepted by the DTA Project Manager.
 - f. A final invoice including retainage, as applicable.
 - g. Provide in a rigid binder, three (3) sets of equipment and system operating bulletins and instructions, including parts lists, maintenance manuals, system diagrams and electrical and control schematics (as applicable.)
 - h. Maintenance Data: Contractor shall provide maintenance and inspection data, replacement part numbers and availability and service location and telephone number.
 - i. Prior to DTA's acceptance of the completed work, deliver to the DTA the Contractor's guarantee and manufacturer's guarantee and warrantee certificates for equipment and materials.
 - j. Clean up. Before acceptance of the work, the Contractor shall clean the work site and all grounds occupied in connection with the work of all rubbish, excess materials, temporary structures, and equipment, and all parts of the work shall be left in a neat and presentable condition. Full compensation for cleaning up as herein specified shall be considered as included in the prices paid for the Contract items of work and no additional allowance will be made therefore.

G. COST PROPOSAL

1. The Proposer will prepare a Cost Proposal using the following:
 - Software and Hardware:
 - Clearly specify each piece of hardware (server, switches, proprietary hardware) with model numbers and software with version numbers. List must be complete and include all costs.
 - Planned/warranted lifespan (based on the manufacturer or creator's intention to support) of hardware
 - All quantities of equipment (hardware, software, licenses)
 - Licenses with costs
 - Implementation costs

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- Maintenance or support contracts, etc.
- Maintenance requirements and size of windows to perform maintenance
 - Maintenance and Warranty: A complete maintenance and warranty agreement, as well as quote, must be included as part of the Respondent's Proposal.

2. The Proposer must provide a cost summary with an annual cost breakdown, including total capital cost as well as operation and maintenance costs for the next five (5) years. The estimated annual cost of operations and maintenance should be listed and described. The cost shall detail all anticipated sources of recurring costs, including, but not limited to: royalties, software license fees, technical support, training, rentals, anticipated replacements, and estimates of non-provider costs such as cellular service.

H. PROPOSAL EVALUATION CRITERIA

1. Proposal Evaluation: All Proposal received by the deadline will be evaluated by the designated selection committee members. In some instances, an interview/demo may be part of the evaluation process. A 100-point scale will be used to create the final evaluation recommendation. The factors and weighting on which Proposals will be judged are:

1	<u>Proposed System:</u> All parts of the Respondent's Proposal will be evaluated to determine if the Proposed Solution meets the specifications herein and is capable of meeting the DTA's future needs. Evaluation will include the Vendor Compliance Matrix and the Vendor Security Questionnaire.	40 points
2	<u>Project Team:</u> Do the qualifications of key personnel to be assigned to the project coincide with tasks listed in the Scope of Work? Do assigned personnel and sub-consultants have requisite education, experience, and professional qualifications? Does the firm's organizational structure show sufficient depth for its present workload?	20 points
3	<u>Firm Profile:</u> Does the firm offer the breadth and quality of services required for the types of projects listed in the Scope of Work?	15 points
4	<u>Relevant Project Experience:</u> Has the firm demonstrated the ability to successfully provide services for projects of a similar complexity and nature as described herein? Have they provided similar services to other government agencies? Does the relevant project experience include services to transit agencies?	20 points
5	<u>References, other:</u> Are the firm's references from past clients and associates favorable? Does the firm show financial and operational stability?	5 points

Total of 100 possible points

3. The Proposal selected shall provide a cost-effective approach that best meets the DTA's stated requirements; however, the lowest price Proposal will not necessarily be selected. Bids deemed not responsive will not be considered.

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4. If the costs exceed the funds available for this project, the DTA may, at their sole discretion, remove some components from the requirements and/or technology options that would not otherwise affect the functionality of the System(s).
5. Oral Presentation: Respondents may be required to make an oral presentation on their Proposal to the DTA. Such presentations provide an opportunity for the Proposer to clarify the Proposal to ensure thorough mutual understanding. The DTA will schedule any required presentations.

I. EVALUATION OF THE COST PROPOSAL

1. Evaluation of the Cost Proposal shall be on the following basis:
Unacceptable, Marginal, Acceptable, Highly Acceptable, or Outstanding based on the technical merits of the Proposal and the Project Budget.
2. Evaluation of costs will include evaluation of future costs of the System, as determined by the Evaluation Committee.
3. All costs related to the Proposal will be evaluated. 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 Cost Proposal if doing so would not be in the best interests of the DTA.

J. REQUIRED SUBMITTALS

1. Respondents must include the following in their response:
 - a. A summary of the system, including all software and hardware required to implement the system.
 - b. A completed Vendor Compliance Matrix and Vendor Security Questionnaire.
 - c. A proposed timeline for installation, testing and go live.
 - d. A copy of license and maintenance agreements.
 - e. A list of planned upgrades for the next two years (as applicable).
 - f. Samples of the reporting metrics from the System.
 - g. An itemized Cost Proposal and the Cost Proposal Sheet included herein.
 - h. Three references with contact information.
 - i. All required forms and certifications herein.

Section 7.**WAGE REQUIREMENTS**

1. This contract is subject to the requirements of 49 U.S.C. §5333(a), the Davis-Bacon Act, the U.S. Department of Labor Fair Labor Standards Act, and the implementing regulations of the Department of Labor at 29 CFR Part 5. The Contractor shall comply with and assure compliance with all applicable wage regulations, and shall not cause the Owners to be in violation of same.
2. The Contractor hereby agrees that all persons employed by it in the performance of work covered by prevailing wage classifications shall be paid wages which are not less than the prevailing wage rates which are attached to this contract and incorporated herein by reference.
3. The Contractor hereby agrees to keep and to require all subcontractors to keep full and accurate records for a period of not less than six (6) years, clearly indicating the name and trade or occupation of every laborer, worker or mechanic employed by him in connection with the project and an accurate record of the number of hours worked by each employee and the actual wages paid therefore.
4. The Owner shall post any applicable prevailing wage determinations at the project site and/or at a place normally used to post public notices. The Contractor is responsible for providing the prevailing wage scale as provided in the contract at the job site to all subcontractors. These hours, rates and classifications must be posted on the project by the Contractor in at least one conspicuous place for the information of employees and all employees of subcontractor(s) working on the project.
5. Certified WEEKLY payroll reports are required and are to be submitted to the Duluth Transit Authority for all Contractor and subcontractor covered work in accordance with Duluth Transit Authority Certified Payroll Checklist.
6. Overtime Basis
All hours worked in excess of eight (8) hours per day or forty (40) hours per week shall be paid at a rate of one and one half (1 ½) times the basic hourly rate.

POSTED WAGE SCALE

Department of Labor General Decision Number MN 20230129 Prevailing Wage Decision dated 1/20/2023 is attached and incorporated herein. Wage decisions are subject to change due to lock-in rules and revisions near the Proposal opening.

Minnesota Department of Labor and Industry Prevailing Wages for State-funded Construction Projects, Construction Type, Commercial, County Number 69, St. Louis County, effective 12-12-2022 is attached and incorporated herein.

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"General Decision Number: MN20230129 01/20/2023

Superseded General Decision Number: MN20220129

State: Minnesota

Construction Type: Building

County: St Louis County in Minnesota.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<p>. Executive Order 14026 generally applies to the contract.</p> <p>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</p>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<p>. Executive Order 13658 generally applies to the contract.</p> <p>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on</p>

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	that contract in 2023.	
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The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/06/2023
1	01/20/2023

ASBE0034-001 06/13/2022	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 41.00	37.99

BOIL0647-008 04/01/2021	Rates	Fringes
BOILERMAKER.....	\$ 40.94	28.44

BRMN0001-010 05/02/2022	Rates	Fringes
BRICKLAYER.....	\$ 40.71	29.42

BRMN0001-019 05/01/2018	Rates	Fringes
TILE FINISHER.....	\$ 25.13	5.54
TILE SETTER.....	\$ 25.89	24.34

CARP0361-008 05/02/2022	Rates	Fringes
CARPENTER (Includes Drywall Hanging, and Form Work, and Excludes Soft Floor Layer).....	\$ 33.74	25.20
SOFT FLOOR LAYER.....	\$ 38.91	22.03

ELEC0242-002 05/31/2021	Rates	Fringes
ELECTRICIAN.....	\$ 41.37	28.81

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ENGI0049-019 05/01/2020	Rates	Fringes
POWER EQUIPMENT OPERATOR		
Bulldozer.....\$ 40.93		21.70
Crane.....\$ 42.35		21.70
Drill.....\$ 40.93		21.70
Forklift.....\$ 40.93		21.70
Loader.....\$ 40.93		21.70
Oiler.....\$ 38.30		21.70
Roller.....\$ 40.93		21.70

IRON0512-025 05/01/2022	Rates	Fringes
IRONWORKER (Structural and Reinforcing).....\$ 36.94		33.11

LABO1091-025 05/01/2020	Rates	Fringes
LABORER		
Asbestos Abatement (Removal from Ceilings, Floors, and Walls).....\$ 34.73		16.40
Common or General.....\$ 30.17		16.17
Mason Tender - Brick/Cement/Concrete.....\$ 27.99		15.32
Pipelayer.....\$ 35.68		16.92

PAIN0106-007 05/02/2022	Rates	Fringes
GLAZIER.....\$ 34.14		23.36

PAIN0106-009 05/03/2021	Rates	Fringes
DRYWALL FINISHER/TAPER.....\$ 33.04		22.34

PAIN0386-010 05/01/2014	Rates	Fringes
PAINTER (Spray).....\$ 25.08		13.99

PLAS0633-008 05/01/2021	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...\$ 35.76		20.88

PLAS0633-011 05/01/2021	Rates	Fringes

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PLASTERER.....	\$ 36.24	21.13

PLUM0011-007 05/02/2022	Rates	Fringes
PIPEFITTER (Includes HVAC Pipe Installation and Excludes HVAC Unit Installation).....	\$ 45.32	24.78
PLUMBER (Excludes HVAC Pipe and Unit Installation).....	\$ 45.32	24.78

ROOF0096-019 07/01/2022	Rates	Fringes
ROOFER.....	\$ 38.47	19.80

* SHEE0010-034 04/02/2022	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct and Unit Installation).....	\$ 40.03	29.73

* UAVG-MN-0024 01/01/2019	Rates	Fringes
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 36.89	20.30

* UAVG-MN-0025 01/01/2019	Rates	Fringes
PAINTER (Brush and Roller).....	\$ 29.50	17.64

SUMN2015-064 06/22/2018	Rates	Fringes
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 32.03	14.80
TRUCK DRIVER: Dump Truck.....	\$ 23.43	12.33

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56

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hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four-letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates.

Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
 - * an existing published wage determination
 - * a survey underlying a wage determination
 - * a Wage and Hour Division letter setting forth a position on a wage determination matter
 - * a conformance (additional classification and rate) ruling

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On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

**MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY PREVAILING WAGES FOR STATE
FUNDED CONSTRUCTION PROJECTS****THIS NOTICE MUST BE POSTED ON THE JOBSITE IN A CONSPICUOUS PLACE****Construction Type: Commercial****County Number: 69**

County Name: ST. LOUIS

Effective: 2022-12-12

This project is covered by Minnesota prevailing wage statutes. Wage rates listed below are the minimum hourly rates to be paid on this project.

All hours worked in excess of eight (8) hours per day or forty (40) hours per week shall be paid at a rate of one and one half (1 1/2) times the basic hourly rate. *Note: Overtime pay after eight (8) hours on the project must be paid even if the worker does not exceed forty (40) hours in the work week.*

Violations should be reported to:

Department of Labor and Industry
Prevailing Wage Section
443 Lafayette Road N
St Paul, MN 55155
(651) 284-5091
DLI.PrevWage@state.mn.us

* Indicates that adjacent county rates were used for the labor class listed.

County: ST. LOUIS (69)

	<u>LABOR CODE AND CLASS</u>	<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
LABORERS (101 - 112) (SPECIAL CRAFTS 701 - 730)					
101	LABORER, COMMON (GENERAL LABOR WORK)	2022-12-12	29.92	21.69	51.61

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	<u>LABOR CODE AND CLASS</u>	<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
102	LABORER, SKILLED (ASSISTING SKILLED CRAFT JOURNEYMAN)	2022-12-12	29.92	21.69	51.61
103	LABORER, LANDSCAPING (GARDENER, SOD LAYER AND NURSERY OPERATOR)	2022-12-12	26.89	19.31	46.20
104*	FLAG PERSON	2022-12-12	29.92	21.69	51.61
105	WATCH PERSON	2022-12-12	26.37	20.94	47.31
106	BLASTER	2022-12-12	27.22	19.29	46.51
107	PIPELAYER (WATER, SEWER AND GAS)	2022-12-12	39.03	22.67	61.70
108	TUNNEL MINER	FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVIEWAGE@STATE.MN.US			
109	UNDERGROUND AND OPEN DITCH LABORER (EIGHT FEET BELOW STARTING GRADE LEVEL)	2022-12-12	37.03	22.67	59.70
110	SURVEY FIELD TECHNICIAN (OPERATE TOTAL STATION, GPS RECEIVER, LEVEL, ROD OR RANGE POLES, STEEL TAPE MEASUREMENT; MARK AND DRIVE STAKES; HAND OR POWER DIGGING FOR AND IDENTIFICATION OF MARKERS OR MONUMENTS; PERFORM AND CHECK CALCULATIONS; REVIEW AND UNDERSTAND CONSTRUCTION PLANS AND LAND SURVEY MATERIALS). THIS CLASSIFICATION DOES NOT APPLY TO THE WORK PERFORMED ON A PREVAILING WAGE PROJECT BY A LAND SURVEYOR WHO IS LICENSED PURSUANT TO MINNESOTA STATUTES, SECTIONS 326.02 TO 326.15.	2022-12-12	29.92	21.69	51.61

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<u>LABOR CODE AND CLASS</u>	<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
111* TRAFFIC CONTROL PERSON (TEMPORARY SIGNAGE)	2022-12-12	28.72	20.94	49.66
SPECIAL EQUIPMENT (201 - 204)				
201 ARTICULATED HAULER	2022-12-12	41.73	22.85	64.58
202 BOOM TRUCK	2022-12-12	41.73	22.85	64.58
203* LANDSCAPING EQUIPMENT, INCLUDES HYDRO SEEDER OR MULCHER, SOD ROLLER, FARM TRACTOR WITH ATTACHMENT SPECIFICALLY SEEDING, SODDING, OR PLANT, AND TWO-FRAMED FORKLIFT (EXCLUDING FRONT, POSIT- TRACK, AND SKID STEER LOADERS), NO EARTHWORK OR GRADING FOR ELEVATIONS	2022-12-12	24.00	16.96	40.96
204 OFF-ROAD TRUCK	2022-12-12	33.65	19.95	53.60
205 PAVEMENT MARKING OR MARKING REMOVAL EQUIPMENT (ONE OR TWO PERSON OPERATORS); SELF-PROPELLED TRUCK OR TRAILER MOUNTED UNITS.	2022-12-12	26.91	19.87	46.78
HIGHWAY/HEAVY POWER EQUIPMENT OPERATOR				
GROUP 2	2022-12-12	42.14	23.45	65.59
	2023-05-01	43.38	25.00	68.38
306 GRADER OR MOTOR PATROL				
308 TUGBOAT 100 H.P. AND OVER WHEN LICENSE REQUIRED (HIGHWAY AND HEAVY ONLY)				
GROUP 3	2022-12-	41.59	23.45	65.04

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<u>LABOR CODE AND CLASS</u>		<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
		12			
		2023-05-01	42.81	25.00	67.81
309	ASPHALT BITUMINOUS STABILIZER PLANT				
310	CABLEWAY				
312	DERRICK (GUY OR STIFFLEG)(POWER)(SKIDS OR STATIONARY) (HIGHWAY AND HEAVY ONLY)				
314	DREDGE OR ENGINEERS, DREDGE (POWER) AND ENGINEER				
316	LOCOMOTIVE CRANE OPERATOR				
320	TANDEM SCRAPER				
322	TUGBOAT 100 H.P AND OVER (HIGHWAY AND HEAVY ONLY)				
GROUP 4		2022-12-12	41.29	23.45	64.74
		2023-05-01	42.49	25.00	67.49
323	AIR TRACK ROCK DRILL				
324	AUTOMATIC ROAD MACHINE (CMI OR SIMILAR) (HIGHWAY AND HEAVY ONLY)				
325	BACKFILLER OPERATOR				
327	BITUMINOUS ROLLERS, RUBBER TIRED OR STEEL DRUMMED (EIGHT TONS AND OVER)				
328	BITUMINOUS SPREADER AND FINISHING MACHINES (POWER), INCLUDING PAVERS, MACRO SURFACING AND MICRO SURFACING, OR SIMILAR TYPES (OPERATOR AND SCREED PERSON)				
329	BROKK OR R.T.C. REMOTE CONTROL OR SIMILAR TYPE WITH ALL ATTACHMENTS				
330	CAT CHALLENGER TRACTORS OR SIMILAR TYPES PULLING ROCK WAGONS, BULLDOZERS AND SCRAPERS				
331	CHIP HARVESTER AND TREE CUTTER				
332	CONCRETE DISTRIBUTOR AND SPREADER FINISHING MACHINE, LONGITUDINAL FLOAT, JOINT MACHINE, AND SPRAY MACHINE				
334	CONCRETE MOBIL (HIGHWAY AND HEAVY ONLY)				
335	CRUSHING PLANT (GRAVEL AND STONE) OR GRAVEL WASHING, CRUSHING AND SCREENING PLANT				
336	CURB MACHINE				
337	DIRECTIONAL BORING MACHINE				
338	DOPE MACHINE (PIPELINE)				
340	DUAL TRACTOR				
341	ELEVATING GRADER				
345	GPS REMOTE OPERATING OF EQUIPMENT				
347	HYDRAULIC TREE PLANTER				

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<u>LABOR CODE AND CLASS</u>	<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
348 LAUNCHER PERSON (TANKER PERSON OR PILOT LICENSE)				
349 LOCOMOTIVE (HIGHWAY AND HEAVY ONLY)				
350 MILLING, GRINDING, PLANNING, FINE GRADE, OR TRIMMER MACHINE				
352 PAVEMENT BREAKER OR TAMPING MACHINE (POWER DRIVEN) MIGHTY MITE OR SIMILAR TYPE				
354 PIPELINE WRAPPING, CLEANING OR BENDING MACHINE				
356 POWER ACTUATED HORIZONTAL BORING MACHINE, OVER SIX INCHES				
357 PUGMILL				
359 RUBBER-TIRED FARM TRACTOR WITH BACKHOE INCLUDING ATTACHMENTS (HIGHWAY AND HEAVY ONLY)				
360 SCRAPER				
361 SELF-PROPELLED SOIL STABILIZER				
362 SLIP FORM (POWER DRIVEN) (PAVING)				
363 TIE TAMPER AND BALLAST MACHINE				
365 TRACTOR, WHEEL TYPE, OVER 50 H.P. WITH PTO UNRELATED TO LANDSCAPING (HIGHWAY AND HEAVY ONLY)				
367 TUB GRINDER, MORBARK, OR SIMILAR TYPE				
GROUP 5	2022-12-12	38.25	23.45	61.70
	2023-05-01	39.33	25.00	64.33
370 BITUMINOUS ROLLER (UNDER EIGHT TONS)				
371 CONCRETE SAW (MULTIPLE BLADE) (POWER OPERATED)				
372 FORM TRENCH DIGGER (POWER)				
375 HYDRAULIC LOG SPLITTER				
376 LOADER (BARBER GREENE OR SIMILAR TYPE)				
377 POST HOLE DRIVING MACHINE/POST HOLE AUGER				
379 POWER ACTUATED JACK				
381 SELF-PROPELLED CHIP SPREADER (FLAHERTY OR SIMILAR)				
382 SHEEP FOOT COMPACTOR WITH BLADE . 200 H.P. AND OVER				
383 SHOULDERING MACHINE (POWER) APSCO OR SIMILAR TYPE INCLUDING SELF- PROPELLED SAND AND CHIP SPREADER				
384 STUMP CHIPPER AND TREE CHIPPER				
385 TREE FARMER (MACHINE)				
GROUP 6	2022-12-12	37.04	23.45	60.49
	2023-05-01	38.06	25.00	63.06

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	<u>LABOR CODE AND CLASS</u>	<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
387	CAT, CHALLENGER, OR SIMILAR TYPE OF TRACTORS, WHEN PULLING DISK OR ROLLER				
389	DREDGE DECK HAND				
391	GRAVEL SCREENING PLANT (PORTABLE NOT CRUSHING OR WASHING)				
393	LEVER PERSON				
395	POWER SWEEPER				
396	SHEEP FOOT ROLLER AND ROLLERS ON GRAVEL COMPACTION, INCLUDING VIBRATING ROLLERS				
397	TRACTOR, WHEEL TYPE, OVER 50 H.P., UNRELATED TO LANDSCAPING				

COMMERCIAL POWER EQUIPMENT OPERATOR

GROUP 1		2022-12-12	47.83	23.65	71.48
		2023-05-01	49.25	25.20	74.45
501	HELICOPTER PILOT (COMMERCIAL CONSTRUCTION ONLY)				
502	TOWER CRANE 250 FEET AND OVER (COMMERCIAL CONSTRUCTION ONLY)				
503	TRUCK CRAWLER CRANE WITH 200 FEET OF BOOM AND OVER, INCLUDING JIB (COMMERCIAL CONSTRUCTION ONLY)				
GROUP 2		2022-12-12	47.48	23.65	71.13
		2023-05-01	48.88	25.20	74.08
504	CONCRETE PUMP WITH 50 METERS/164 FEET OF BOOM AND OVER (COMMERCIAL CONSTRUCTION ONLY)				
505	PILE DRIVING WHEN THREE DRUMS IN USE (COMMERCIAL CONSTRUCTION ONLY)				
506	TOWER CRANE 200 FEET AND OVER (COMMERCIAL CONSTRUCTION ONLY)				
507	TRUCK OR CRAWLER CRANE WITH 150 FEET OF BOOM UP TO AND NOT INCLUDING 200 FEET, INCLUDING JIB (COMMERCIAL CONSTRUCTION ONLY)				
GROUP 3		2022-12-12	46.01	23.65	69.66
		2023-05-01	47.35	25.20	72.55
508	ALL-TERRAIN VEHICLE CRANES (COMMERCIAL CONSTRUCTION ONLY)				
509	CONCRETE PUMP 32-49 METERS/102-164 FEET (COMMERCIAL CONSTRUCTION ONLY)				
510	DERRICK (GUY & STIFFLEG) (COMMERCIAL CONSTRUCTION ONLY)				

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<u>LABOR CODE AND CLASS</u>		<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
511	STATIONARY TOWER CRANE UP TO 200 FEET				
512	SELF-ERECTING TOWER CRANE 100 FEET AND OVER MEASURED FROM BOOM FOOT PIN (COMMERCIAL CONSTRUCTION ONLY)				
513	TRAVELING TOWER CRANE (COMMERCIAL CONSTRUCTION ONLY)				
514	TRUCK OR CRAWLER CRANE UP TO AND NOT INCLUDING 150 FEET OF BOOM, INCLUDING JIB (COMMERCIAL CONSTRUCTION ONLY)				
GROUP 4		2022-12-12	45.66	23.65	69.31
		2023-05-01	46.99	25.20	72.19
515	CRAWLER BACKHOE INCLUDING ATTACHMENTS (COMMERCIAL CONSTRUCTION ONLY)				
516	FIREPERSON, CHIEF BOILER LICENSE (COMMERCIAL CONSTRUCTION ONLY)				
517	HOIST ENGINEER (THREE DRUMS OR MORE) (COMMERCIAL CONSTRUCTION ONLY)				
518	LOCOMOTIVE (COMMERCIAL CONSTRUCTION ONLY)				
519	OVERHEAD CRANE (INSIDE BUILDING PERIMETER) (COMMERCIAL CONSTRUCTION ONLY)				
520	TRACTOR . BOOM TYPE (COMMERCIAL CONSTRUCTION ONLY)				
GROUP 5		2022-12-12	43.67	23.65	67.32
		2023-05-01	44.91	25.20	70.11
521	AIR COMPRESSOR 450 CFM OR OVER (TWO OR MORE MACHINES) (COMMERCIAL CONSTRUCTION ONLY)				
522	CONCRETE MIXER (COMMERCIAL CONSTRUCTION ONLY)				
523	CONCRETE PUMP UP TO 31 METERS/101 FEET OF BOOM				
524	DRILL RIGS, HEAVY ROTARY OR CHURN OR CABLE DRILL WHEN USED FOR CAISSON FOR ELEVATOR OR BUILDING CONSTRUCTION (COMMERCIAL CONSTRUCTION ONLY)				
525	FORKLIFT (COMMERCIAL CONSTRUCTION ONLY)				
526	FRONT END, SKID STEER 1 C YD AND OVER				
527	HOIST ENGINEER (ONE OR TWO DRUMS) (COMMERCIAL CONSTRUCTION ONLY)				
528	MECHANIC-WELDER (ON POWER EQUIPMENT) (COMMERCIAL CONSTRUCTION ONLY)				
529	POWER PLANT (100 KW AND OVER OR MULTIPLES EQUAL TO 100KW AND OVER) (COMMERCIAL CONSTRUCTION ONLY)				
530	PUMP OPERATOR AND/OR CONVEYOR (TWO OR MORE MACHINES) (COMMERCIAL CONSTRUCTION ONLY)				
531	SELF-ERECTING TOWER CRANE UNDER 100 FEET MEASURED FROM BOOM FOOT				

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<u>LABOR CODE AND CLASS</u>	<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
PIN (COMMERCIAL CONSTRUCTION ONLY)				
532 STRADDLE CARRIER (COMMERCIAL CONSTRUCTION ONLY)				
533 TRACTOR OVER D2 (COMMERCIAL CONSTRUCTION ONLY)				
534 WELL POINT PUMP (COMMERCIAL CONSTRUCTION ONLY)				
GROUP 6	2022-12-12	42.10	23.65	65.75
	2023-05-01	43.28	25.20	68.48
535 CONCRETE BATCH PLANT (COMMERCIAL CONSTRUCTION ONLY)				
536 FIREPERSON, FIRST CLASS BOILER LICENSE (COMMERCIAL CONSTRUCTION ONLY)				
537 FRONT END, SKID STEER UP TO 1 C YD				
538 GUNITE MACHINE (COMMERCIAL CONSTRUCTION ONLY)				
539 TRACTOR OPERATOR D2 OR SIMILAR SIZE (COMMERCIAL CONSTRUCTION ONLY)				
540 TRENCHING MACHINE (SEWER, WATER, GAS) EXCLUDES WALK BEHIND TRENCHER				
GROUP 7	2022-12-12	40.93	23.65	64.58
	2023-05-01	42.06	25.20	67.26
541 AIR COMPRESSOR 600 CFM OR OVER (COMMERCIAL CONSTRUCTION ONLY)				
542 BRAKEPERSON (COMMERCIAL CONSTRUCTION ONLY)				
543 CONCRETE PUMP/PUMPCRETE OR COMPLACO TYPE (COMMERCIAL CONSTRUCTION ONLY)				
544 FIREPERSON, TEMPORARY HEAT SECOND CLASS BOILER LICENSE (COMMERCIAL CONSTRUCTION ONLY)				
545 OILER (POWER SHOVEL, CRANE, TRUCK CRANE, DRAGLINE, CRUSHERS AND MILLING MACHINES, OR OTHER SIMILAR POWER EQUIPMENT) (COMMERCIAL CONSTRUCTION ONLY)				
546 PICK UP SWEEPER (ONE CUBIC YARD HOPPER CAPACITY) (COMMERCIAL CONSTRUCTION ONLY)				
547 PUMP AND/OR CONVEYOR (COMMERCIAL CONSTRUCTION ONLY)				
GROUP 8	2022-12-12	38.84	23.65	62.49
	2023-05-01	39.88	25.20	65.08
548 ELEVATOR OPERATOR (COMMERCIAL CONSTRUCTION ONLY)				
549 GREASER (COMMERCIAL CONSTRUCTION ONLY)				
550 MECHANICAL SPACE HEATER (TEMPORARY HEAT NO BOILER LICENSE REQUIRED)				

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LABOR CODE AND CLASS**EFFECT
DATE****BASIC
RATE****FRINGE
RATE****TOTAL
RATE**

(COMMERCIAL CONSTRUCTION ONLY)

TRUCK DRIVERS

GROUP 1 *	2022-12-12	34.85	21.75	56.60
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601 MECHANIC . WELDER

602 TRACTOR TRAILER DRIVER

603 TRUCK DRIVER (HAULING MACHINERY INCLUDING OPERATION OF HAND AND POWER OPERATED WINCHES)

GROUP 2 *	2022-12-12	34.30	21.75	56.05
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604 FOUR OR MORE AXLE UNIT, STRAIGHT BODY TRUCK

GROUP 3	2022-12-12	33.00	19.95	52.95
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605 BITUMINOUS DISTRIBUTOR DRIVER

606 BITUMINOUS DISTRIBUTOR (ONE PERSON OPERATION)

607 THREE AXLE UNITS

GROUP 4 *	2022-12-12	25.10	10.85	35.95
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608 BITUMINOUS DISTRIBUTOR SPRAY OPERATOR (REAR AND OILER)

609 DUMP PERSON

610 GREASER

611 PILOT CAR DRIVER

612 RUBBER-TIRED, SELF-PROPELLED PACKER UNDER 8 TONS

613 TWO AXLE UNIT

614 SLURRY OPERATOR

615 TANK TRUCK HELPER (GAS, OIL, ROAD OIL, AND WATER)

616 TRACTOR OPERATOR, UNDER 50 H.P.

SPECIAL CRAFTS

701 HEATING AND FROST INSULATORS	2022-12-12	47.01	21.00	68.01
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702 BOILERMAKERS	2022-12-12	41.94	29.99	71.93
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<u>LABOR CODE AND CLASS</u>		<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
703	BRICKLAYERS	2022-12-12	34.80	32.35	67.15
704	CARPENTERS	2022-12-12	33.24	23.89	57.13
705	CARPET LAYERS (LINOLEUM)	2022-12-12	38.91	22.03	60.94
		2023-06-01	42.16	22.03	64.19
706	CEMENT MASONS	2022-12-12	37.46	21.13	58.59
707	ELECTRICIANS	2022-12-12	43.14	29.81	72.95
		2023-05-28	45.79	29.81	75.60
708	ELEVATOR CONSTRUCTORS	2022-12-12	55.10	42.99	98.09
		2023-01-01	57.49	43.71	101.20
709	GLAZIERS	2022-12-12	34.14	24.20	58.34
		2023-05-01	36.09	24.20	60.29
710*	LATHERS	2022-12-12	31.44	18.43	49.87
712	IRONWORKERS	2022-12-12	36.94	33.11	70.05
		2023-05-01	40.14	33.11	73.25
714	MILLWRIGHT	2022-12-12	37.13	25.33	62.46
		2023-05-01	39.18	25.33	64.51

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<u>LABOR CODE AND CLASS</u>		<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
		01			
715	PAINTERS (INCLUDING HAND BRUSHED, HAND SPRAYED, AND THE TAPING OF PAVEMENT MARKINGS)	2022-12- 12	34.59	23.44	58.03
		2023-05- 01	36.59	23.44	60.03
716	PILEDRIIVER (INCLUDING VIBRATORY DRIVER OR EXTRACTOR FOR PILING AND SHEETING OPERATIONS)	2022-12- 12	42.15	26.04	68.19
717	PIPEFITTERS . STEAMFITTERS	2022-12- 12	42.55	24.95	67.50
		2023-05- 01	44.75	24.95	69.70
718	PLASTERERS	2022-12- 12	37.24	22.13	59.37
		2023-05- 01	39.34	22.13	61.47
719	PLUMBERS	2022-12- 12	42.55	24.95	67.50
		2023-05- 01	44.75	24.95	69.70
720	ROOFER	2022-12- 12	38.47	19.74	58.21
		2023-07- 01	40.72	19.74	60.46
721	SHEET METAL WORKERS	2022-12- 12	40.03	29.75	69.78
		2023-05- 01	42.83	29.75	72.58
722*	SPRINKLER FITTERS	2022-12- 12	39.18	23.22	62.40
723	TERRAZZO WORKERS	2022-12-	41.96	22.50	64.46

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<u>LABOR CODE AND CLASS</u>		<u>EFFECT DATE</u>	<u>BASIC RATE</u>	<u>FRINGE RATE</u>	<u>TOTAL RATE</u>
		12			
724	TILE SETTERS	2022-12-12	31.36	29.40	60.76
		2023-05-01	34.61	29.40	64.01
725	TILE FINISHERS	2022-12-12	24.19	21.32	45.51
		2023-05-01	26.79	21.32	48.11
726	DRYWALL TAPER	2022-12-12	34.59	23.44	58.03
		2023-05-01	36.59	23.44	60.03
727	WIRING SYSTEM TECHNICIAN	2022-12-12	43.52	20.49	64.01
		2023-07-01	44.61	21.69	66.30
728	WIRING SYSTEMS INSTALLER	2022-12-12	30.49	16.84	47.33
		2023-07-01	31.25	17.69	48.94
729	ASBESTOS ABATEMENT WORKER	2022-12-12	35.13	21.55	56.68
		2023-01-01	36.13	22.45	58.58
730	SIGN ERECTOR	2022-12-12	31.07	18.75	49.82