



Duluth Transit Authority

REQUEST for BIDS

FOR

Overhead Heater Replacements

June 15, 2023

Duluth Transit Authority

2402 W. Michigan St · Duluth, MN 55806

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

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**Duluth Transit Authority
Overhead Heater Replacements**

041-23-2021.9

**Duluth Transit Authority
Request for Bids
Overhead Heater Replacements**

The Duluth Transit Authority hereby requests sealed bids from qualified contractors to remove and replace four sets of overhead heaters at the DTA Operations Center located at 2402 West Michigan Street, Duluth, MN 55806. Scope of work includes removal and disposal of existing heaters, wiring, plumbing and installation of new heaters, commissioning and training.

Bids must be received no later than **2:00 p.m. on Wednesday, July 5, 2023**. Specifications may be emailed or mailed to prospective bidders, or picked up at 2402 West Michigan Street, Duluth, MN 55806. Contact (218) 623-4329 or nbrown@duluthtransit.com for more information.

The DTA affirmatively assures that equal opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, gender, marital status, disability, or age, and encourages participation of small or disadvantaged business enterprises in DTA contracts. The DTA reserves the right to accept or reject any and/or all bids in the best interest of the Authority.

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Section 1.

General Conditions

G-1 REQUEST FOR BIDS

- a) Bids are requested from experienced firms to supply and install four sets of overhead heaters at the Duluth Transit Authority ("DTA") Operations Center, 2402 West Michigan Street, Duluth, MN 55806.
- b) This project is funded in part by a grant from the Federal Transit Administration, Assistance number 20.507.
- c) Bids shall be on the basis of total project costs for the project under the following requirements and conditions, which shall be considered an essential part of the Contract Documents.
- d) The DTA reserves the right to accept and/or refuse any or all Bids, to add or delete work without penalty, in the interest of the DTA.
- e) Bidder will bear all costs incurred in responding to this RFB.
- f) Bid prices shall be good for ninety (90) days after the Bid opening.
- g) The DTA intends to choose the lowest responsive and responsible Bidder as early as July 11, 2023.

G-2 INQUIRIES

All inquiries and other correspondence relating to this request for bids should be emailed to nbrown@duluthtransit.com and copied to jarnold@duluthtransit.com, or addressed to: Duluth Transit Authority Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806, 218-623-4329.

G-3 DEFINITION OF TERMS

Whenever the following terms are used in these bid 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 Mr. Mark Ness, Director of Maintenance.
- c. Manufacturer, Vendor, Bidder, or Contractor shall mean that firm submitting the lowest, responsive, and responsible Bid and subsequently receiving the Contract award from the DTA as detailed in these specifications.

G-4 SUBSTITUTIONS AND OR EQUAL

- a) Where proprietary names are used in these specifications, it is understood that they are followed by the words "or equal".
- b) Please note that DTA personnel are NOT allowed to discuss the RFB with anyone, including Bidders, before the Bid 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 Bid opening. Minutes of discussions and responses to questions will be provided to all Bidders in the form of an addendum to this RFB.
- 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 **1:00 p.m. on Monday, June 26 , 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 or US Mail unless otherwise approved by the DTA Procurement Manager in writing.

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- d) The replies to request under paragraph c) above will be posted in the form of an addendum to this RFB on the DTA website at www.duluthtransit.com/doingbusinesswithus on **Tuesday, June 27, 2023**.
- e) Changes to the specifications will be made **only** by **written** addendum.

G-5 SELECTION CRITERIA

The DTA will choose based on the lowest responsive and responsible Bidder.

G-6 PREPARATION OF BID

Bids must be submitted on the forms attached. All blanks in the Bid form must be completed with ink or typewriter. Bids 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 Bid. In the event any price term is expressed by the Bidder in both written and numerical form, the **written** representation shall govern in the event of an inconsistency.

Bids shall not stipulate any condition not contained in the specifications and other documents submitted for Bid.

Each Bid and all papers bound and attached thereto, shall be emailed to nbrown@duluthtransit.com, with a cc to jarnold@duluthtransit.com, or placed and securely sealed in an envelope marked: **"Overhead Heater Replacements"** and mailed or delivered to:

DTA Procurement Manager
2402 West Michigan Street
Duluth MN 55806

Bids must be received no later than **2:00 p.m. on Wednesday, July 5, 2023**. Time means local time in Duluth, Minnesota. Late Bids will not be considered. Fax Bids will not be considered. The DTA reserves the right to accept or reject any and/or all Bids in the best interest of the Authority.

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

G-7 WITHDRAWAL OF BIDS

A Bidder may withdraw its Bid at any time before the time set for the opening of the Bids only in writing addressed to the DTA marked "WITHDRAWAL OF BID" and emailed or physically received to the DTA Procurement Manager prior to the time for the opening of Bids.

G-8 CONSIDERATION OF BID

The DTA reserves the right, in the determination of the lowest, responsive and responsible Bidder, to consider the ultimate economy of the Bid within the guidelines of these specifications, to reject any and/or all Bids, including, but not limited to the determination that the Bid was incomplete, non-responsive, obscure or lacking the necessary details and specificity, that the Bidder lacks qualifications, experience and/or responsibility necessary to provide the goods and services, or that Bidder failed or neglected to complete and submit any information within the time specified. The DTA may cancel the RFB, issue subsequent RFBs, or waive any errors or informalities in any Bid, in the best interests of the DTA.

G-9 ADDENDA

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It is the Bidder's responsibility to assure the receipt of all addenda to this Request for Bids. All documents will be posted online at www.duluthtransit.com/doingbusinesswithus. In addition, Bidders may inspect the Bid documents at the DTA offices, 2402 West Michigan Street, Duluth, MN 55806, during business hours.

G-10 BID CONTENTS CERTIFICATION

By submitting a Bid, the Bidder 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 Bidder to suspension or debarment proceedings, as well as other remedies available to the DTA or the Minnesota Department of Transportation.

G-11 CONTRACT FORM AND CHANGES

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

The chosen Bidder, within ten days after the award of the Contract from the DTA shall sign the formal Contract or purchase agreement.

G-12 BONDING REQUIREMENTS

No bonds are required for this project.

G-13 PRICE COMPLETE

The price quoted in any Bid 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 Bid specifications although not directly specified or called for in these specifications. No advantage shall be taken by the Bidder, 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 BIDS

All materials submitted in response to this RFB 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.

G-16 PROTEST PROCEDURES

Protests will only be accepted from prospective bidders 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:

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

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

PROTESTS BEFORE AWARD

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

The protests addressing the adequacy of 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.

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DECISION ON PROTEST

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

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

G-17 ORGANIZATION CONFLICTS OF INTEREST

- 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

The DTA is exempt from payment of the Federal excise, transportation tax, Minnesota State sales tax and City of Duluth City sales tax for services. Contractor shall include all applicable sales or use taxes as required under MN Department of Revenue guidelines and MN Statute 297A.61, subd.58. Projects utilizing state of Minnesota also require a Minnesota Form IC 134 form with the final pay application.

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Unless a Certificate of Exemption is provided, any out of state bidder receiving a Bid 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 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 Bidder 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 Procurement Manager, 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 into every subcontract, along with the applicable prevailing wage determination(s) and require submission of weekly reports in accordance with the specifications herein.
- d. If any Subcontractor employed by the Contractor or any person employed by the Contractor or by a Subcontractor fails to perform the 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 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.

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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 RESPONSIBLE CONTRACTOR

Respondents to this solicitation document shall submit a signed statement under oath by an owner or officer verifying compliance with each of the minimum criteria for a “responsible contractor” found in Minnesota Statutes, section 16C.285 subdivision 3. The term “responsible contractor” means a contractor as defined in Minnesota Statutes section 16C.285, subdivision 3.

Any prime contractor or subcontractor that does not meet the minimum criteria in Minnesota Statutes, section 16C.285 subdivision 3, or fails to verify that it meets those criteria is not a responsible contractor and is not eligible to be awarded the construction contract for the project or to perform work on the project.

G-23 SINGLE RESPONSE

If only one Bid is received in response to this RFB, a detailed cost/price analysis may be requested of the Bidder. 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 Bidder 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.

G-24 NO ENDORSEMENT

The Contractor must not claim that the DTA endorses the Contractor’s products or services.

SIGNIFICANT DATES OF PROCUREMENT

Item	Date	Time
Date of Release	June 15, 2023	
Prebid Meeting	June 26, 2023	1:00 p.m.
Request for Clarifications	June 26, 2023	2:00 p.m.
Response to Clarifications	June 27, 2023	2:00 p.m.
Bid Opening	July 5, 2023	2:00 p.m.
Award	July 11, 2023	

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Section 2.

FEDERAL TRANSIT ADMINISTRATION

Contract Clauses

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

Clause

a. Records Retention. The Contractor will retain, and will requires its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract; including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this Contract as reasonably may be required.

A.2 BONDING REQUIREMENTS 2 CFR §200.325, 31 CFR Part 223 Does not apply to this procurement

A.3 BUS TESTING 49 U.S.C. 5318(E), 49 CFR Part 665 Does not apply to this procurement

A.4 BUY AMERICA REQUIREMENTS 49 U.S.C. 5323 (J), 49 CFR Part 661 Does not apply to this procurement

A.5 CARGO PREFERENCE REQUIREMENTS 46 U.S.C. §55.05, 46 C.F.R. Part 381 Does not apply to this procurement

A.6 CHARTER SERVICE 49 U.S.C.5323(d) and (r), 49 C.F.R. Part 604 Does not apply to this procurement

A.7 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT 49 U.S.C §§7401-7671q, 33 U.S.C §§1251-1387, 2 C.F.R. Part 200, Appendix II (G)

Clause:

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

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

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

Clause

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

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

Clause

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

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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.

A.11 ENERGY CONSERVATION REQUIREMENTS
42 U.S.C. 6321 et seq, 49 CFR Part 622, Subpart C

Clause

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

Clause

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:

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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

Does not apply to this procurement

A.15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Clause

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.

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.

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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

Clause

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

Safe Operation of Motor Vehicles

Seat Belt Use

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

Distracted Driving

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

A.22 SCHOOL BUS OPERATIONS

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

A.23 SEISMIC SAFETY

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

A.24 SUBSTANCE ABUSE REQUIREMENTS

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

A.25 TERMINATION

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

Clause

Termination for Convenience (General Provision)

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

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

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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
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

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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)
Does not apply to this procurement

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—

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

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

(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

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(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. 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

Overhead Heater Replacements

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Section 3. Contract (example for bidding)

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 Federal Transit Administration Contract Clause, this Contract; Request for Bids (Procurement # 041-23-2021.9) dated June 15, 2023, General, Special and Technical Specifications and Drawings; prevailing wage schedules, all addenda issued prior to and all modifications issued after execution of the Contract; and the Contractor's executed Bid form and 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 Bids for the provision of Overhead Heater Replacements 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 October 31, 2023, unless otherwise terminated as set forth herein.

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

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 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.

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.

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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 CONTRACTOR 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 9 INDEMNIFICATION

The Contractor shall defend, indemnify and save the DTA and ATE Management of Duluth, Inc., harmless from all costs, charges, damages, and loss arising out of Contractor's acts and omissions in the performance of this Contract. Said obligation does not include indemnification of the DTA and ATE Management of Duluth Inc. for claims of liability arising solely out of the negligent or intentional acts or omissions of the DTA and /or ATE Management of Duluth, Inc. In additions, Contractor will comply with all local, state and federal laws, rules and regulations applicable to this Contract and to the work to be done and things to be supplied hereunder.

ARTICLE 10 INSURANCE

a. 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, 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) Commercial General Liability and Automobile Liability Insurance, with limits not less than **\$2,000,000** Single Limit or \$1 million Single Limit and \$1 million umbrella with a form following provision.

(3) DTA and ATE Management of Duluth, Inc. shall be included by way of a blanket endorsement as an **Additional Insured** under the Commercial General Liability, and Automobile Liability, or as an alternate, Contractor may provide Owners-Contractors

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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. 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.*

- 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. Contractor will give DTA 30-day notice prior to cancellation, modification or non-renewal of the above coverages.
- 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. The Contractor's policy(ies) will be primary to any other valid and collectible insurance available to the DTA with respect to any claim arising out of the performance under this Contract.
- e. The Contractor is responsible for payment of Contract-related insurance premiums and deductibles.
- f. If the Contractor is self-insured, a letter of Self-Insurance must be provided to the DTA, for the DTA's approval in a form and amount acceptable to the City Attorney.
- g. The Contractor's policy(ies) must include legal defense fees in addition to its liability limits, with the exception of Professional or Technical Errors and Omissions insurance.

ARTICLE 11 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 Contract.
- 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

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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, records of personnel, conditions of employment, and other data relating to all matters covered by this Contract.

e. **Minnesota Government Data Practices Act**

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 General Manager 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 12 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, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.

ARTICLE 13 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 Bidder

Mark Ness, Director of Maintenance

ARTICLE 14 SUBCONTRACTING AND ASSIGNMENTS

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Contractor shall not subcontract or assign this Contract or any portion thereof without the prior written approval of the DTA General Manager.

ARTICLE 15 RULES AND REGULATIONS

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

ARTICLE 16 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 17 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 18 RIGHTS AND REMEDIES

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

ARTICLE 19 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 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 20 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 21 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 22 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

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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.

By: Duluth Transit Authority

By:

General Manager

Title: _____

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BID SHEETS

DULUTH TRANSIT AUTHORITY

Overhead Heater Replacements

June 15, 2023

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Section 4. FORMAL BID SHEET

Bids: All prices must be complete so that the system is 100% operational. **ALL applicable fees, delivery, and installation must be included.**

Price to supply and install all equipment and materials to remove five heaters and install eight overhead heaters in accordance with the specifications herein:

\$ _____

Brand of heaters: _____

Btu/h: _____

Price written in numbers: _____

Firm Name: _____

Mailing Address:

CITY

STATE

ZIP CODE

By: _____
(PRINT NAME) TITLE

Signature: _____

Email _____

Addendum Acknowledgment
Number Date Rec'd

PHONE NO. _____

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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? _____
7. System for Award Management Unique ID Number _____

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

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

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

Warranty:

The Contractor,

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

Signed:

Title _____

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

1. Is the Contractor's firm or organization registered as a Small Business under the Small Business Administration's 8(a) Business Development Program, HUBZone business, or other development program through the SBA? No ____ Yes ____ (If yes, please provide a copy of the registration.)
2. Is the Contractor's firm or organization certified or registered as a Small Business, a Disadvantaged Business Enterprise, or a Veteran-owned business (including Service-Disabled Veteran-owned business) by a government agency authorized to certify or register the above noted entities?

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

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

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

Signed this ____ day of _____, 20____:

Title _____

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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: _____

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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 any federally assisted Award.

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

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

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

Print Name and Title

Signature

**Duluth Transit Authority
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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. Code of Ethics and Organizational Conflict of Interest

The respondent hereby states that it has read and will comply with 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 D. 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 E. RESPONSIBLE CONTRACTOR MINNESOTA STATUTE, SECTION 16C.285

Applicable to prime contracts and subcontracts over \$50,000.

Respondents to this solicitation document shall submit a signed statement under oath by an owner or officer verifying compliance with each of the minimum criteria in Minnesota Statutes, section 16C.285. The term "responsible contractor" means as contractor as defined in Minnesota Statutes section 16C.285, subdivision 3.

Any prime contractor or subcontractor that does not meet the minimum criteria in Minnesota Statutes, section 16C.285 subdivision 3, or fails to verify that it meets those criteria is not a responsible contractor and is not eligible to be awarded the construction contract for the project or to perform work on the project.

The bidder hereby states that is in compliance with each of the minimum criteria in Minnesota Statutes, section 16C.285. A false statement under oath verifying compliance with any of the minimum criteria shall render the prime contractor or subcontractor that makes the false statement ineligible to be awarded a construction contract on the project and may result in termination of a contract awarded to a prime contractor or subcontractor that submits a false statement.

A prime contractor shall submit to the Owner upon request copies of the signed verifications of compliance from all subcontractors of any tier pursuant to Minnesota Statutes, section 16C.285, subdivision 3, clause 7.

The contractor hereby agrees and shall cause this provision to be inserted in every subcontract as required pursuant to Minnesota Statutes, section 16C.285.

SIGNED _____

TITLE _____

FIRM NAME _____

Subscribed and sworn to before me
this ____ day of _____, 2023

Notary Public

My Commission Expires _____, 20

TECHNICAL AND SPECIAL SPECIFICATIONS

FOR

Overhead Heater Replacements

June 15, 2023

**Duluth Transit Authority
Overhead Heater Replacements**

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SECTION 6. TECHNICAL/SPECIAL SPECIFICATIONS

A. General

1. The Duluth Transit Authority Operations Center located at 2402 West Michigan Street, Duluth, MN, is approximately 43 years old. The building houses the DTA administrative offices, maintenance office and bus storage facility. The bus storage and maintenance areas have a total of four overhead doors for bus entry and exit. Three of the doors rely on a LI Swing high-mounted vertical heaters, 665,000 Btu/h, with a 2-inch hot water supply and 2-inch hot water returns using heated glycol from the central boiler system located at each exit door for temperature recovery during cold weather. The fourth door has two high mount heaters that were installed about 15 years ago. The heaters are reaching the end of their useful life and are in need of replacement.
2. In lieu of the large heaters at three doors, the DTA would like to convert them to two sets of heaters, a minimum of 600,000 Btu/h each, at each door similar to the main entrance door. One heater will be programmed to provide recovery heat when a door is open for a short period of time or in moderate weather, the second heater at each door is to be programmed to provide supplemental heat if the door is open longer. The fourth door will require both heaters to be replaced.
3. The DTA has contracted with a third party to remove the existing ethylene glycol from the heat distribution pipes and replace it with propylene glycol, and would like the heaters replaced when the system is drained. Replacement heaters must be horizontal, high mount heaters; two heaters for each door; a total of five heaters will be removed and eight heaters will be installed.
4. DTA is seeking qualified firms to provide all labor, materials and tools to remove and dispose of five existing heaters and install eight new heaters. All equipment and materials supplied must be commercial grade equipment suitable for a heavy use industrial setting.
5. Bidders must be able to demonstrate at least three (3) years' experience in the past five (5) years in similar work and must supply three (3) references with the Bid. Bidders that are unable to demonstrate previous experience will be deemed "non-responsible" and their Bid will be rejected. Contractors who have failed to perform similar projects satisfactorily or to complete similar projects on time may be disqualified at the sole discretion of the DTA.
6. The Bidder is solely responsible for determining the actual field measurement of the project area prior to Bid submission. Bidders 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 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 Bid, 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 shall be allowed by reason of any matter or thing concerning which Bidder might have informed himself prior to Bidding.
7. There will be a prebid meeting at **1:00 p.m. on Thursday, June 22, 2023**. Attendance is not mandatory, but strongly encouraged. Interested parties may make arrangements to tour the work area by contacting the Procurement Manager; contact 218-623-4329 or nbrown@duluthtransit.com for an appointment.

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8. There is no DBE goal on this project. However, interested contractors are strongly encouraged to utilize small or disadvantaged business enterprises in the performance of this project.
9. Please note that the prevailing wage schedule attached to the bid 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.
10. 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. All persons must wear a high-visibility vest while in work areas.
11. 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 other documents related to the materials used in the work, as applicable. Permit fees are the responsibility of the Contractor.
12. Change Orders. Any change to the signed contract must be approved by the DTA Project Manager, in writing, prior to the commencement of the change. All changes, amendments, additions or deletions to the original contract requested by the Contractor must be described in a Change Order request, with supporting documentation and any necessary increase or decrease in contract price indicated. These changes will include applicable project extension time requests. The DTA shall have ten (10) days to review and respond to such request.
13. 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 Project Manager.
14. Work shall comply with the latest applicable standards for this type of work, including applicable of the:
 - International Building Code (IBC)
 - American National Standards Institute, (ANSI)
 - American Society for Testing and Materials (ASTM)
15. Any materials or equipment supplied by the Contractor that does not meet the specifications herein may be rejected. The Contractor will promptly replace any parts or materials that were rejected with those items that comply with these specifications and resubmit them for approval prior to installation.
16. Contractor will warrant all products for a minimum of five years and workmanship for a period of one-year from the date of DTA acceptance, or the manufacturer's warranty, whichever is longer. All manufacturer's warranty will be transferred to the DTA upon DTA project acceptance.
17. If permit or code violations are discovered in any work performed by the Contractor under this Contract, the Contractor shall immediately correct all violations at no cost to the DTA; this provision shall survive the termination of this Contract.

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18. Invoices must be signed by an authorized officer of the Contractor and shall be itemized with a schedule of values, including change orders, as applicable. Data in the schedule of values shall include a dollar value in each line item for each portion of the work performed and for stored products.

19. All materials used in the project must be new and in sufficient quantity to complete the project in its entirety. Any items damaged during shipment or installation must be replaced with new items at the Contractor's sole cost and expense.

20. Contractor shall provide all temporary protection requirements for work areas during and after installation.

21. Contractor and any subcontractors shall provide all necessary safety equipment to perform the work in accordance with OSHA standards, and shall be solely responsible for enforcing those standards. The DTA reserves the right to halt work if in its sole discretion, safety or security protocols or weather conditions are not adequate to perform the work. No additional compensation shall be afforded to the Contractor in the event the DTA suspends work due to safety, security or weather conditions. Contractor shall promptly rectify any identified shortcomings to the DTA's satisfaction prior to resuming work.

22. Contractor shall remove and dispose all construction debris daily. Placement of dumpsters must be approved by the DTA Project Managers prior to delivery. Dumpsters must be removed from DTA property prior to the request for final payment or ten (10) days after work is complete, whichever is sooner.

23. Upon completion of work, Contractor shall participate in a joint walk-through with DTA staff to review completed work and prepare a punch list for Contractor to complete work. Contractor shall immediately commence work on punch list items, and shall complete the punch list work in a timely manner.

24. Upon conclusion of the project, Contractor shall supply a complete summary of all work completed, warranty documents and other maintenance documents as may be provided by the manufacturer.

25. The DTA will withhold five percent (5%) retainage on invoiced amounts until the project is completed and accepted by the DTA. 25. Project must be completed by October 31, 2023, unless otherwise approved by the Project Manager. Failure to complete the work in a timely manner may cause penalties under this contract, up to, and including, termination.

B. TECHNICAL SPECIFICATIONS

1. Contractor will coordinate with the glycol removal contractor on timing of draining the heat system. Contractor will not cause delays in any other work being performed in the building by other parties.

2. Prior to commencing work, Contractor will provide cut sheets and manufacturer's warranty documents to the Director of Maintenance for review and approval. Materials that do not meet these specifications will be rejected.

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3. Horizontal, high-mount unit heaters, a minimum of 600,000 Btu/h each, are required. Heaters that do not require specialized filters or extensive preventative maintenance are preferred.
4. Three phase power is available at each door to connect the heaters.
5. Heater fan must be a minimum of 30-inches in diameter and a minimum of 10,000 cfm air flow.
6. Contractor will remove the existing heaters and dispose of the three large heaters and retain the two heaters at the main entrance for DTA use.
7. Contractor will mount two new overhead hydronic heaters, a minimum of 600,000 Btu each, at each overhead door. Mounts must be of sufficient strength to meet manufacturer's requirements.
8. Contractor will provide all wiring and plumbing connections to ensure that the heaters are fully operational.
9. Contractor will commission the heaters in accordance with DTA and manufacturers' requirements, and provide training to DTA staff on maintenance and operation of the heaters.
10. Contractor will not be permitted to use the DTA lift. Contractor must supply its own lift at its own expense.

C. PRIOR TO FINAL PAYMENT, CONTRACTOR SHALL SUBMIT THE FOLLOWING:

1. A complete set of record ("as-built") drawings to the DTA Project Manager.
2. A copy of all warranty certifications from the manufacturer to the DTA Project Manager, as applicable.
3. Certified payrolls and lien waivers from the prime contractors and all subcontractors and/or suppliers.
4. A completed IC134 form.
5. Copies of all local inspection reports, as applicable.
6. A statement that all punch list items are complete and accepted by the DTA Project Manager.
7. A final invoice including retainage, as applicable.
8. 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. Cost 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.

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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, and Minnesota Statute 177.41 and 177.43, and the rates as set by the MN Department of Labor and Industry. 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.
7. The Contractor is required to pay the highest of the two wage scales.

POSTED WAGE SCALE

Department of Labor General Decision Number MN 20230129 Prevailing Wage Decision dated 05/19/2023 is attached and incorporated herein. Wage decisions are subject to change due to lock-in rules and revisions near the bid opening.

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

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General Decision Number: MN20230129 05/19/2023

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).

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

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		if it is higher) for all	
		hours spent performing on	
		that contract in 2023.	

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
2	05/19/2023

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

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SOFT FLOOR LAYER.....	\$ 38.91	22.03
<hr/>		
ELEC0242-002 05/31/2021	Rates	Fringes
ELECTRICIAN.....	\$ 41.37	28.81
<hr/>		
ENGI0049-019 05/01/2020	Rates	Fringes
<hr/>		
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
<hr/>		
IRON0512-025 05/01/2022	Rates	Fringes
<hr/>		
IRONWORKER (Structural and Reinforcing).....	\$ 36.94	33.11
<hr/>		
* LAB01091-025 05/01/2022	Rates	Fringes
<hr/>		
LABORER		
Asbestos Abatement (Removal from Ceilings, Floors, and Walls).....	\$ 35.13	21.55
Common or General.....	\$ 29.92	21.69
Mason Tender - Brick/Cement/Concrete.....	\$ 30.62	21.69
Pipelayer.....	\$ 39.03	22.64
<hr/>		
* PAIN0106-007 05/01/2023	Rates	Fringes
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GLAZIER.....	\$ 34.62	25.57
<hr/>		
* PAIN0106-009 05/02/2022	Rates	Fringes
<hr/>		
DRYWALL FINISHER/TAPER.....	\$ 33.99	23.45
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* PAIN0386-010 05/02/2022	Rates	Fringes
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PAINTER (Spray).....	\$ 40.48	25.27
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PLAS0633-008 05/01/2021	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER....\$ 35.76		20.88

PLAS0633-011 05/01/2021	Rates	Fringes
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 01/01/2023	Rates	Fringes
OPERATOR: Backhoe/Excavator/Trackhoe.....\$ 42.34		23.50

* UAVG-MN-0025 01/01/2023	Rates	Fringes
PAINTER (Brush and Roller).....\$ 33.17		23.45

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 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

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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

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- 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

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

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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"

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**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 Revised: 2023-02-13

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.PREVIEWWAGE@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	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>
PROJECT BY A LAND SURVEYOR WHO IS LICENSED PURSUANT TO MINNESOTA STATUTES, SECTIONS 326.02 TO 326.15.					
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

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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>
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		2022-12-12	41.59	23.45	65.04
		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				

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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>
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				
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

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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>
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
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)				

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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>
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)				
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)				

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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>
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 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)				

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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) (COMMERCIAL CONSTRUCTION ONLY)				
TRUCK DRIVERS				
GROUP 1 *	2022-12-12	34.85	21.75	56.60
601 MECHANIC . WELDER				

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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
604	FOUR OR MORE AXLE UNIT, STRAIGHT BODY TRUCK				
GROUP 3		2022-12-12	33.00	19.95	52.95
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
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
702	BOILERMAKERS	2022-12-12	41.94	29.99	71.93
703	BRICKLAYERS	2022-12-	38.62	31.26	69.88

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		12			
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

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714	MILLWRIGHT	2022-12-12	37.13	25.33	62.46
		2023-05-01	39.18	25.33	64.51
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

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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	2022-12-12	41.96	22.50	64.46
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

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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